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# REFORMING NORTH CAROLINA'S GENERAL ASSEMBLY

PROMOTING ACCOUNTABILITY AND  
RESPONSIVENESS IN THE STATE'S  
CITIZEN LEGISLATURE

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# **Reforming North Carolina's General Assembly**

Promoting Accountability and Responsiveness  
in the State's Citizen Legislature

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# Executive Summary

In this report, we evaluate several opportunities for making the North Carolina General Assembly more transparent, effective, and responsive to the public.

Specifically, areas under consideration include leadership term limits, session length limits, legislative pay, and government transparency.

## Leadership Term Limits

Term limits are nothing new. The Framers of the U.S. Constitution considered but did not adopt them, partly because members of the House of Representatives serve two-year terms of office and because there was a custom of elected leaders rotating offices at the time. In the 1990s, the push for congressional term limits spread to state legislatures, and states started enacting legislative term limits. Today, 16 states have some form of term limits for legislators.

A growing number of states have implemented term limits specifically for legislative leaders, independent of any term limits for legislators in general. As with how the 22nd Amendment was passed after Franklin D. Roosevelt was elected to four terms, many states that imposed legislative leadership term limits did so after leaders who had served for decades left office.

Nineteen legislative chambers across 14 states in the United States have leadership term limits. Only Maine imposes leadership term limits by statute. Most of the rest impose limits by tradition or chamber rule, which can easily be changed if a powerful leader wants to keep the position. One chamber, the Oklahoma House, imposes leadership term limits by Republican Party caucus rule, meaning there is no limit if Democrats take the majority.

An added concern in North Carolina about the power of long-serving legislative leaders is that our constitutional order gives those leaders some appointment powers usually associated with governors.

Eight-year lifetime term limits for speakers of the House and presidents pro tempore of the Senate would address an overconcentration of power caused by legislative leaders clinging to their positions for a decade or more. Allowing a freer leadership rotation will enable the General Assembly to consider new ideas better and make old rivalries and conflicts less likely to derail policy considerations. Unlike general term limits, leadership limits do not restrict voters' choices.

While some legislators resist the idea of leadership term limits, the idea is overwhelmingly popular with the public.

## Session Length Limits

Legislative sessions in North Carolina have grown longer over the past decade. The norm had long been for the legislature to meet for fewer than 200 legislative days (the days each chamber meets) spread over fewer than 300 calendar days in the two-year legislative biennium. Session length has steadily crept up over much of the past decade to the point where the 2021–22 biennium was 245 legislative days in the House and 246 legislative days in the Senate over 475 calendar days (the 2023–24 biennium is still ongoing at the time of publication).

Those longer sessions are not free. In 2015, well before the 2021–24 inflationary period, it cost taxpayers an estimated \$50,000 per day when the General Assembly was in session.

Thirty-nine states currently have some form of session length limit, 29 of which are imposed in state constitutions. The length limit varies widely, from 60 legislative days per year in Alabama and Wyoming to California's limit, which is so varied and lengthy that it is practically not a limit at all.

Session length limits would impose more regularity on the General Assembly, allowing legislators to better plan their lives, including work at their regular jobs, by reducing scheduling conflicts. Session limits would restore a power balance between legislative leaders and rank-and-file members by reducing the advantage of "strategic patience" that leadership has.

Restricting session length too much, however, has disadvantages. They include potentially shifting power to the executive branch and lobbyists, more missed floor votes over scheduling conflicts with legislators' other duties, and more out-of-session committee work and special sessions.

So, the goal is to right size legislative sessions. June 30 (the day before the start of the fiscal year) is a natural date for the General Assembly to conclude its regular business. Setting a June 30 end date would translate to:

- Long sessions of roughly 90 legislative days spread across 170 calendar days
- Short sessions of approximately 35 legislative days over about 65 calendar days

The General Assembly sometimes needs to meet in special sessions to address veto overrides, state emergencies, or court decisions requiring an immediate legislative response. Even with those sessions, reform would reduce biennial session lengths to about 150 legislative days spread across 250 calendar days per biennium. That was the norm before the recent upward creep in session length.

## **Increase Legislator Pay**

There are opportunity costs associated with serving as a state legislator. The time legislators spend in the General Assembly is not spent working

to support their families. North Carolina has one of the lowest state legislative salaries in the United States at \$13,951. It has not changed since 1995 and is much lower than the median salary for all state legislatures in the United States (\$38,855.50). It is also lower than the \$34,400.50 median salary for hybrid (between part-time and full-time) legislatures, similar to North Carolina's.

North Carolina's mileage reimbursement rate and per-diem compensation for legislators are also comparably low.

The low pay for legislators in North Carolina's General Assembly limits the number of people who can afford to serve, especially considering the increased session lengths requiring members to spend more time on their legislative work. It also makes it harder to recruit candidates, especially those who are not retired or independently wealthy.

Legislators voting to increase their own pay is politically unpopular. They could offset part or all of the increased cost to taxpayers of a salary increase, however, by realizing savings on per diem, mileage, and office expenses through session length limits. Limiting session length as proposed here would allow legislators to raise their salary to \$20,533.70 at zero net cost to taxpayers.

## **Increase Transparency**

The General Assembly generally scores well on transparency measures compared with other state legislatures. While bills and proposed committee substitutes (proposals to alter bill language that can go as far as replacing it with something completely unrelated) can be introduced without warning, no legislation can advance without being first posted on the legislature's website and publicly voted on in both chambers.

Legislators must balance transparency with other considerations, such as protecting constituent privacy and ensuring an opportunity to have honest policymaking discussions. Unfortunately, legislators backslid on transparency when they included a section in the 2023 budget granting themselves

the power to determine if their own records are public, demonstrating the need for more robust institutional support of transparency.

So, the goal is not maximum transparency but the proper balance between transparency and other legitimate concerns. To that end, the General Assembly should:

- Repeal or modify the provision in the 2023 budget that made legislators the sole judges of which documents they produce are public records.
- Put a transparency constitutional amendment on the ballot. The amendment should cover all three branches of state government. It should also require a supermajority for the legislature to exempt itself from transparency laws and include a “clearly outweighing” standard that would favor public disclosure unless the interest served by nondisclosure outweighs that of disclosing a record. Both elements would foster a presumption of transparency.



# Introduction

North Carolina House Speaker Tim Moore told reporters in 2023:

Our state was founded with the notion that the legislative branch would be the branch with the most authority. Our state's not set up with three separate, co-equal branches. It was clearly contemplated and spelled out in the (state) constitution that the legislative branch was to have the most authority because it's the closest to people.<sup>1</sup>

The governor and other elected executive-branch officials are ensconced full-time in Raleigh on four-year terms, dealing broadly with statewide issues and heading entrenched bureaucracies. High-ranking judges, though elected, are at least somewhat insulated from the public through eight-year terms and the tradition in judicial elections of not campaigning on issues or making campaign promises on how they would rule in cases. State legislators serve in Raleigh part-time and spend time with constituents in their communities, whom they must ask for reelection every two years.

As North Carolina's most powerful branch of government, the General Assembly should strive collectively to remain the closest branch to the people, which means ensuring that the closeness individual legislators

have with their constituents can be effectively translated into public policy. To that end, we will investigate how the General Assembly can become more accountable and responsive to North Carolina citizens.

This paper will examine legislative reforms through various research methods. We will consider the history and current practices of the General Assembly and compare those practices with those in other states to gain a broader understanding of how North Carolina's legislature could reform. Toward that end, we will examine historical and legal documents, media accounts, academic articles, and multistate data sources.

In addition, we will use two original data sources. The first is a set of eight confidential interviews we conducted with members of the General Assembly. Those interviews helped us better understand legislators' problems and concerns and helped us develop the instrument for our other original research, a legislator survey. Quotes from those interviews will be found in each chapter to help illustrate the issues legislators face. A fuller description of the legislator interviews and a copy of the interview instrument can be found in Appendix A.

We also surveyed state legislators regarding working conditions in the General Assembly and possible legislative reforms. The survey had a response rate of 23 percent. While that response rate meant a relatively high margin of error (14 percent), it was still helpful in providing information on legislators' opinions in broad strokes. More details on the legislator survey and all responses can be found in Appendix B.

Our research supports four significant areas of reform in the General Assembly:

- Term limits for top leadership positions in the North Carolina House and Senate
- Limits on session lengths, with some flexibility to allow legislators to deal with emergencies or actions by other branches of government
- An increase in legislator pay to broaden who can serve in the General Assembly
- Greater transparency in the legislative process

As seen in the following chapters, our proposed reforms are moderate rather than radical. For example, the proposed limits on leadership terms and session length are designed in part to redistribute power within the General Assembly while not weakening the legislature relative to the other branches of state government.

We are indebted to the John Locke Foundation for providing the support we needed to complete this study. We particularly thank Brian Balfour, Jon Sanders, and Kaitlyn Shepherd for their work to improve this report. Of course, any errors are wholly our own. We are also grateful to the North Carolina General Assembly members who sat down with us for interviews, participated in our legislator survey, or otherwise informed or helped us.

The General Assembly is the most powerful branch of North Carolina government and the branch closest to the people. Legislators should strive to ensure their branch remains open and responsive to the people they represent. The reforms detailed in this report will help them do that.





# LEADERSHIP TERM LIMITS

The concept of term limits is not foreign to American politics. The president of the United States and many governors are subject to limitations on how many terms they can hold office. Throughout the 1990s, large-scale national movements on term limits for Congress brought this issue to the forefront of American politics. While the push for term limits for Congress was ultimately unsuccessful, many states implemented term limits for state legislatures.

The idea of term limits resonated with U.S. citizens during the 1990s and continues to do so today, primarily because elected officials have become entrenched in office. This entrenchment of power can lead to a lack of new ideas, leadership roles based upon seniority, and delayed action on critical issues until after an election cycle. To understand why term limits are popular across party lines, one need only look at how the number of terms served by the average congressional representative has increased over the years.

While term limits would appear to solve many of the issues the average citizen has with Congress and other legislative bodies, there are valid concerns over their implementation. The strongest arguments against term limits would be that they would lead to a loss of institutional knowl-

**"Two-thirds of legislators surveyed for this report said that entrenched leaders wield too much influence in the legislature."**

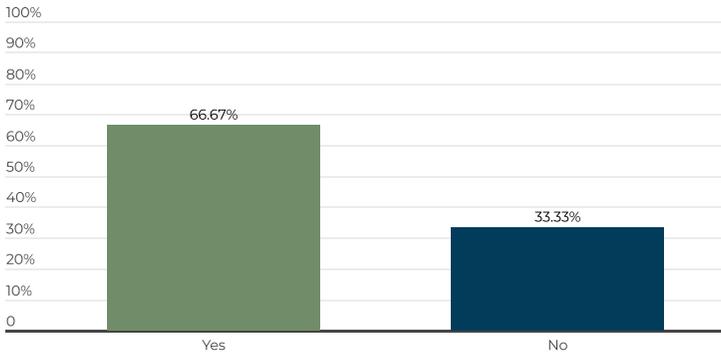
edge and a surrender of power to unelected bureaucrats and lobbyists. Some states have attempted a compromise by implementing term limits specifically for leadership positions.

While they prevent power from stagnating under longstanding leadership, term limits for leadership positions do not limit voters' choices. Such a system is currently implemented in 19 legislative chambers across 14 states in the United States. The limits to how long members may serve in leadership roles range from two to 10 years. States with leadership term limits are distinct from states with standard term limits for legislators, and typically they impose the leadership term limits through customary practice or chamber rule. Maine is the only exception, setting term limits for state House and Senate leadership positions in statute.

Legislators in North Carolina's General Assembly have experienced what happens when the same handful of people hold on to the power of leadership positions for a decade or more. As seen in Figure 1.1, two-thirds of legislators surveyed for this report said that entrenched leaders wield too much influence in the legislature.

**FIGURE 1.1: RESPONSES OF NORTH CAROLINA LEGISLATORS ON WHETHER LEGISLATIVE LEADERS WHO SERVE FOR LONG PERIODS OF TIME HAVE TOO MUCH INFLUENCE IN THE GENERAL ASSEMBLY.**

**Does having the same members in leadership for long periods give them too much influence in the General Assembly?**



Source: John Locke Foundation survey of North Carolina General Assembly members, 2024

There was a similar division of opinion among legislators interviewed for this report. Some believed that having the same people in leadership for long periods can cause the General Assembly to “become stagnated”<sup>2</sup> and that only “a few people ... decide what bills are ever going to get heard.”<sup>3</sup> Others told us that long-serving leaders can better handle “the internal bureaucracy of the legislature”<sup>4</sup> and that people become legislative leaders because “they are very good at what they do.”<sup>5</sup>

North Carolina is a state that puts great emphasis on the power of the state legislature, giving limited power to the state’s highest executive branch positions. The North Carolina governor is the weakest of the 50 governors across the United States. The governor of North Carolina holds only limited veto authority, faces a term limit of two consecutive four-year terms, and has limited appointment power. The power of appointments for the executive branch is shared with the state’s two legislative chambers.

This broad authority to appoint an individual to a board based on the power of one’s office is generally considered an executive power. Housing

this executive authority in legislative leadership positions has led to some boards' composition being divided into thirds among the governor, the speaker of the House, and the president pro tempore of the Senate.

North Carolina severely restricts the governor's authority by limiting the position to two terms in office. This restriction does not apply to the leadership roles of the legislative chambers. This disparity in the longevity of the appointment authority, executive vs. legislative, can be alleviated by restricting legislative leadership positions to the same term restrictions as the governor, limiting a House speaker and a Senate leader to four two-year terms that do not exceed eight years total.

## The History of Term Limits

The question of term limits is not new in the United States; the Founding Fathers were keenly aware of the idea.<sup>6</sup> Alexander Hamilton and James Madison's writings discussed the benefits and disadvantages of term limits in Federalist No. 53 and Federalist No. 62.<sup>7</sup> Though the Federalists were ultimately opposed to term limits, the Anti-Federalists were distinctly in favor of them. Thomas Jefferson spoke heavily in favor of term limits — echoing fears we hear commonly in modern politics — “to prevent every danger which might arise to American freedom by continuing too long in office the members of the Continental Congress.”<sup>8</sup>

Under the Articles of Confederation (1776–89), term limits were in place for members of Congress, stating that “no person shall be capable of being a delegate for more than three years, in any term of six years,”<sup>9</sup> meaning that nobody could serve more than half of a six-year period in Congress. Though the idea of term limits was debated during the Constitutional Convention of 1787, it was ultimately not included in the Constitution due to the belief that “the members of the executive and legislative branches needed to stay in office long enough to develop ‘a knowledge of how t[he] object [of government] can best be obtained.’”<sup>10</sup>

This aligned with the Federalists' line of thought that term limits were an unnecessary practice due to the short, two-term limits for members of

Congress, the unlikeliness that a member would win many elections with these short terms, and the voluntary practice of rotation in state legislatures. The thought process was supported by Pres. George Washington's decision not to seek a third term of office. Other scholars theorize that term limits were not included due to an inability to agree on a length of terms for Congress, preventing their inclusion into the Constitution.<sup>11</sup>

Those involved in politics, particularly those who fall into the more conservative camp, often cite the words of the Federalists when referencing the Founding Fathers' principles. Equal consideration should be given to their counterparts, Anti-Federalists like Thomas Jefferson. In a 1788 letter to Edward Rutledge, Jefferson wrote heavily of his concerns:

I apprehend that the total abandonment of the principle of rotation in the offices of president and senator will end in abuse. But my confidence is that there will for a long time be virtue and good sense enough in our countrymen to correct abuses.<sup>12</sup>

The Anti-Federalists were concerned that a lack of rotation of those who represent the American people would lead to a permanent political class that lived in tandem but separate from the country's people. Ultimately, the Anti-Federalists' advocacy of term limits was dismissed in the 1787 writing of our Constitution, as the idea of such entrenched power did not seem possible under two-year terms and the culture of voluntary rotation.

Though the Anti-Federalists' argument was specific to their views of national bodies, their concerns regarding modern state politics are equally valid, especially regarding the highest offices of the state's legislative chambers.

The debate on term limits resurfaced around the 1940s, in part due to President Franklin D. Roosevelt's decision to break from the tradition set by George Washington of serving only two terms of office as president. Though obscure during that period and with little public outcry behind it, the idea of term limits for presidential candidates was pushed forward. Eventually, it garnered public support through the ratification process of the 22nd Amendment to the U.S. Constitution.<sup>13</sup>

36 states have adopted this principle of two four-year terms for the leader of the executive branch.<sup>14</sup> Most of those states stipulate only that a governor cannot serve a third consecutive term. Virginia is the only state that limits governors to a single four-year term.

Since the passage of the 22nd Amendment in 1951, the discussion over term limits has returned its focus to Congress again. Though bills were introduced, the push for term limits did not get very far. It was not until the mid-1980s and early 1990s when Utah and South Dakota passed resolutions calling for congressional term limits, that the debate picked up steam. A myriad of states introduced resolutions to implement term limits for Congress, and the Republican Party included the policy in its platform in 1988.<sup>15</sup>

These factors helped lead to the high point of the effort for congressional term limits that started in the 1990s. Focusing on congressional term limits led to considering term limits for state legislative bodies. During this time, states began implementing term limits for state legislators.<sup>16</sup> Many states successfully established limits for state legislators while failing to do so for their members of Congress.

Congressional term limits were blocked by the U.S. Supreme Court in the 1995 case of *U.S. Term Limits, Inc. v. Thornton*, which established that states could not set additional qualifications for their members of Congress.<sup>17</sup> Justice John Paul Stevens wrote for the majority that “the Framers decided that the qualifications for service in the Congress of the United States be fixed in the Constitution and be uniform throughout the Nation.”<sup>18</sup> Term limits could be set only by amending the U.S. Constitution, as was done for presidential term limits by passing the 22nd Amendment.

## States that Have Legislative Term Limits

Currently, 16 state legislatures throughout the United States impose term limits on all state legislators, including Maine, California, Colorado, Arkansas, Michigan, Florida, Ohio, Nevada, Montana, Arizona, Missouri, Oklahoma, Nebraska, Louisiana, South Dakota, and North Dakota.

Most of these states passed their legislative term limits in the early to mid-1990s. As recently as 2022, however, North Dakota citizens approved a constitutional amendment for legislative term limits.<sup>19</sup>

Most states that have instituted term limits set them through their states' constitutions. The exceptions are Maine, Louisiana, Wyoming, and California.<sup>20</sup> While the implementation of term limits in some of those cases is through constitutional amendments, the term limits themselves are defined in general statutes rather than in the states' constitutions.

On top of the 16 states that currently have some form of term limits for legislators, six additional states implemented them only to have them retracted either legislatively or through the courts. Two of them, Idaho and Utah, were statute-only term-limit states. They removed term limits through legislative action.<sup>21</sup>

Term limits in Massachusetts, Washington, and Wyoming were overturned by their state supreme courts because they were set through statute rather than constitutional amendment. The courts found that modifying the qualifications for constitutional offices had to be done by revising the state constitution and could not be implemented through statute alone. Oregon's high court ruled that the ballot initiative imposing term limits there had violated the state's single-subject requirement for initiatives.<sup>22</sup>

## Why More States Are Imposing Leadership Term Limits

The concept of term limits specific to leadership roles has become more common over the last decade.

In Jan. 2021, following the resignation of the longest-serving leader of a state legislative chamber in U.S. history, Michael Madigan (D-Illinois), the Illinois House of Representatives adopted a provision limiting the tenure of any speaker to five consecutive two-year terms.<sup>23</sup> Madigan had served 19 terms (38 years) as speaker — including 12 consecutive terms (24 years) — during his political career.

Besides Madigan, there have been others recently who have held a state legislative chamber's top leadership position for over three decades. South Carolina Speaker Solomon Blatt, Maryland Senate Pres. Mike Miller and Lt. Gov. John Wilder of Tennessee each served as their chambers' respective leaders for more than thirty years.<sup>24</sup> (Appointed by the state legislature, the Tennessee lieutenant governor is selected from among the members of the state Senate; Wilder is the longest-serving Senate leader at 36 years of service.)<sup>25</sup>

Former Georgia Speaker Tom Murphy (1973–2002)<sup>26</sup> also hit the three-decade mark as Georgia's speaker before losing his reelection bid in 2002.

Since the 2022 election, a massive turnover has occurred within the top leadership roles within all U.S. territories and state legislatures, with 45 of the 108 chambers under new leadership.<sup>27</sup> This turnover included Oregon

**"Having the same people serving in legislative leadership positions over long periods can increase the chances that personal differences become political impediments."**

Senate Pres. Peter Courtney who stepped down after serving 19 years in that role.<sup>28</sup>

Courtney's stepping down made North Carolina's Senate leader, Phil Berger, the longest-serving current legislative leader in 2023.<sup>29</sup> Berger has been Senate leader for 14 years. His predecessor, Marc Basnight, still holds the record as the longest-serving North Carolina Senate leader at 18 years.<sup>30</sup>

Having the same people serving in legislative leadership positions over long periods can increase the chances that personal differences become political impediments. Observers have blamed some

of the General Assembly's failure to deliver on its policy priorities, despite Republican supermajorities in both chambers, on a "diminished relationship" between Berger and North Carolina House Speaker Tim Moore.<sup>31</sup> One legislator interviewed for this report noted:

I think [passing legislation] becomes more difficult when you have leadership that's been around like Tim and Phil in those

roles for a decade. There’s a lot of old battle scars to deal with between those two[,] and [it] catches up in other people’s issues.<sup>32</sup>

The phenomenon of longstanding leaders of various legislative chambers across the U.S. stepping down has reduced the combined total years of service of the longest-serving legislative leaders by more than 14 years since 2021. This opens an opportunity to address legislative term limits as new leaders emerge across the country before they, in turn, become entrenched.

Nineteen state legislative chambers in 12 states have term limits on legislative leaders (see Table 1.2).<sup>33</sup> One of those chambers, the Wyoming Senate, regulates the terms of legislators through a combination of tradition and chamber rules.

**TABLE 1.1 LEADERSHIP TERM LIMITS BY STATE LEGISLATIVE CHAMBER**

Custom/ Tradition	Chamber Rule	Caucus Rule	Statute
Arkansas House	Arkansas Senate	Oklahoma House	Maine Senate
Connecticut House	Illinois Senate		Maine House
Florida Senate	Illinois House		
Florida House	Minnesota Senate		
Kansas Senate	New York Senate		
Kansas House	South Carolina House		
North Dakota Senate	Wyoming Senate		
North Dakota House			
Wyoming Senate			
Wyoming House			

Source: National Conference of State Legislatures

Seven legislative chambers have created new policies over the last decade on term limits for leadership. They include the Arkansas House, North Dakota Senate, Minnesota Senate, New York Senate, South Carolina House, Illinois Senate, and Illinois House. Most states with term limits for leadership do so through custom or tradition instead of statutes or

rules. By doing so, these practices are bound simply by adherence to honor and can be ignored, as was the case with Kansas in 2021 when Speaker Ron Ryckman sought a third term.<sup>34</sup> North Carolina used to have a tradition of rotating the speaker position in the state House between the eastern and western halves of the state.<sup>35</sup>

Chamber rules, while not as malleable, may be changed at the beginning of any legislative session or suspended. The best course of action would be to follow Maine's example of implementing term limits through statute. While rules and legislation can both be changed by vote, statutes would be more binding because they cannot simply be suspended.

Leadership term limits are considered "less drastic"<sup>36</sup> than general term limits on all legislators. They restrict the choices of legislators rather than of citizens. On the other hand, voters outside the leaders' home districts have no direct control over how long leaders can serve.

That may explain why leadership term limits are popular with North Carolina voters. A September 2023 survey by the polling firm Cygnal (sponsored by *The Carolina Journal*) found that 85 percent of likely voters supported term limits for "the leaders of the North Carolina General Assembly, including the Speaker of the House of Representatives and the President Pro Tempore of the state Senate." When asked how long the top legislative leaders should serve in those roles, the most popular answer was two terms (four years) at 47.1 percent (see Table 1.2).<sup>37</sup>

**TABLE 1.2 NORTH CAROLINA VOTERS' RESPONSES TO POLL QUESTION ON TERM LIMITS FOR LEGISLATIVE LEADERS**

**How many terms do you think should be the maximum limit for the Speaker of the House of Representatives in the state House and the President Pro Tempore of the state Senate?**

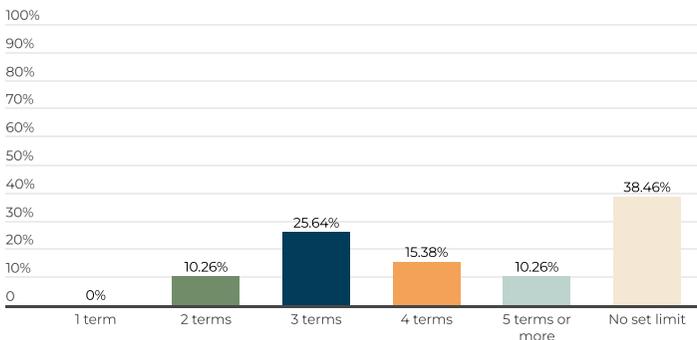
	Freq.	%
No term limits	5	0.9%
One term (two years)	52	8.6%
Two terms (four years)	283	47.1%
Three terms (six years)	110	18.4%
Four terms (eight years)	111	18.5%
Unsure	39	6.5%
Total	600	100.0%

Source: Cygnal

When state legislators were asked a similar question, most also favored term limits (see Figure 1.2). There was disagreement over the exact limit, however.

**FIGURE 1.2 RESPONSES OF NORTH CAROLINA LEGISLATORS ON LEGISLATIVE LEADERSHIP TERM LIMITS**

**How long should someone be able to serve in the General Assembly as House Speaker or Senate President Pro Tempore?**



Source: John Locke Foundation survey of North Carolina General Assembly members, 2024

## North Carolina's Unique Constitution

Since the founding of North Carolina, the state has operated under three different iterations of the state constitution.<sup>38</sup> No matter the iteration, however, it has always favored legislative authority over the executive.<sup>39</sup> From the original constitution written in 1776 to the current constitution adopted in 1971, North Carolina has always had a strong emphasis on legislative authority, with very little authority given to the executive branch in comparison with that afforded by other states.<sup>40</sup>

Under North Carolina's 1776 constitution, neither the governor, secretary of state, treasurer, nor attorney general were elected directly by the voters of North Carolina.<sup>41</sup> Instead, the state legislative body determined their authority and appointment. While executive power has grown since the state's original constitution, the theme of strong legislative authority persists. For example, unlike in many states, in North Carolina, the secretary of state does not oversee the state's election process. Instead, that authority belongs to an independent body known as the State Board of Elections.

The governor's power is further limited by having executive authority shared with nine other statewide elected executive officials (lieutenant governor, secretary of state, state treasurer, state auditor, and heads of the departments of agriculture, insurance, justice, labor, and public instruction). For example, state agricultural policy is mainly enforced by the commissioner of agriculture. Those ten statewide officials form North Carolina's Council of State.<sup>42</sup> Many of North Carolina's current Council of State powers are limited and have few powers specifically laid out in the constitution. The executive branch's powers mostly depend upon the authority that the legislature assigns to executive agencies.<sup>43</sup>

Before 1835, the legislature appointed the governor — as with all other state officials and judges<sup>44</sup> — to single-year terms. Anyone appointed governor could serve no more than three years in any six-year period.<sup>45</sup> The governor's authority has expanded over the years, albeit very slowly. In the 1868 state constitution, the governor's term was increased from

two years to four, and the governor was granted some appointment authority, a power previously held by the legislature. The office of the lieutenant governor was also created in the 1868 constitution.<sup>46</sup> While there were substantial increases in power to the governor's office under Gov. O. Max Gardner (1929–33), such as expanded government appointment positions and state responsibility for public schools,<sup>47</sup> it was not until 1977 when the 1971 state constitution was amended to allow the governor and lieutenant governor to serve two consecutive four-year terms in office.

North Carolina's governor was the last in the U.S. to receive veto power, not receiving such authority until 1996. At that time, every other state governor had possessed veto power for at least 87 years. (The only exceptions are New Mexico, Arizona, Alaska, and Hawaii, which joined the union after 1909, but which granted their governors veto power as soon as they joined.)<sup>48</sup> Even with that expansion to the governor's authority, North Carolina continues to have the weakest governor in the United States.<sup>49</sup>

**"North Carolina's  
governor was the last  
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veto power."**

The North Carolina governor's veto authority does not apply to local bills, constitutional amendments, or redistricting. On top of that, North Carolina is one of only six states whose governor is not permitted a line-item veto.<sup>50</sup> The governor may only veto a bill, sign it, or let it become law without a signature.

The governor of North Carolina is middling in terms of appointment authority, which is split between the chief executive and the legislature.<sup>51</sup> Since 2012, North Carolina has seen frequent movement between the legislature and the governor's office of authority over different appointments, and both Republican Gov. Pat McCrory and Democratic Gov. Roy Cooper have disputed some of these changes. McCrory filed a suit in 2014 looking to define gubernatorial authority to appoint members of some boards instead of the General Assembly.<sup>52</sup> At the same time, the Republican-led legislature moved several appointment authorities to the governor's office under McCrory.

During a special session immediately following the 2016 election, the legislature attempted to reappropriate those appointments back to the legislature. This led to various lawsuits from the new governor, Cooper, to establish that this authority was under the governor.<sup>53</sup> Disputes over appointment authorities have continued into 2024, with conflicts concerning the power to make appointments to the State Board of Elections and various other boards and commissions.<sup>54</sup>

North Carolina's original constitution gave the legislature authority usually vested within a state's top executive, most notably the power of appointments. The governor, as a position appointed by the legislature, lacked power and could not impact legislation through veto. These powers were given to the governor only slowly over the nearly 250 years since the state declared independence from England alongside the other 12 colonies.

The state's heavy emphasis on legislative power and strict limitations on the executive still exist after three different iterations of the state constitution. The power of appointments is held not only by the legislative chambers but also within the positions of the speaker of the House and the president pro tempore of the Senate. These offices carry appointment power outside of lawmaking, allowing them to appoint various boards and commissions, even those outside the legislative body.

This power of appointment to bodies with rulemaking authority is typically seen within the executive branch. A governor's ability to appoint to these bodies is also limited by being restricted to serving a maximum of only two terms, but that restriction does not exist within the leadership roles of the legislature.

## Conclusion

During the 2023 legislative session, both leaders of North Carolina's legislative chambers garnered notoriety for their tenure in office. House Speaker Tim Moore became the longest-serving speaker of the North Carolina House after being speaker for five terms,<sup>55</sup> and Senate leader Phil Berger became the longest-serving legislative leader in the United

States. Moore's decision not to seek reelection leaves an opportunity for new leadership in the state House, which has not occurred in a decade.

North Carolina's legislative leaders are uniquely powerful, including having powers most states reserve for governors. Just as most states impose term limits on governors to prevent an overconcentration of power, North Carolina should join the growing number of states that impose term limits on its top legislative leaders, the speaker of the House and the president pro tempore of the Senate.

Given the malleability of chamber rules, those term limits should, at a minimum, be set in statute. A statutory lifetime limit of four terms for the speaker of the House and president pro tempore of the Senate would match the eight-year maximum

terms for governor. While governors can return to the governor's mansion after a "cooling off" period (as Gov. Jim Hunt Jr. did),<sup>56</sup> legislators' two-year terms and the ability of leaders to rotate powerful positions temporarily within the General Assembly would make lifetime leadership term limits appropriate.

Over the last 10 years, seven state legislative chambers have implemented term limitations for their top leaders, a change that restricts legislators' choices, not voters'. North Carolina should join those states in implementing term limits for the speaker of the House and the president pro tempore of the Senate.

**"A statutory lifetime limit of four terms for the speaker of the House and president pro tempore of the Senate would match the eight-year maximum terms for governor."**





# SESSION LENGTH LIMITS

**N**orth Carolina's General Assembly has traditionally followed a "citizen-legislature" model in which legislative sessions last less than half a year. Over the past decade, however, session lengths have increased.

While unforeseen events, such as court decisions requiring legislative action, can cause legislators to return to Raleigh unexpectedly, the past decade has seen a rise in "regular irregularity" and a creeping extension of session lengths, disrupting legislators' ability to support themselves while serving their constituents. Long session lengths are associated with higher costs, shifts in power away from legislators not in leadership, and more missed days of voting.

North Carolina can reverse these trends through constitutional limits on session length. A moderate limit on session length can save taxpayers money, help restore a more balanced power structure in the General Assembly, and restore the General Assembly's traditional role as a citizen-legislature.

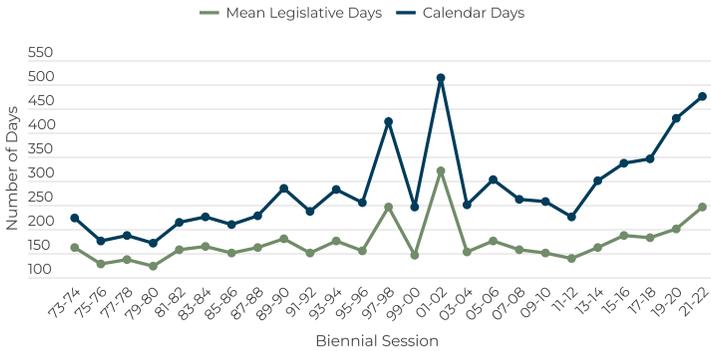
## North Carolina's Lengthening Legislative Sessions

The North Carolina State Constitution states that the General Assembly “shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law.”<sup>57</sup> The biennial session officially starts at noon on the second Wednesday in January in odd-numbered years.<sup>58</sup> It is divided into a long session in odd-numbered years and a short session in even-numbered (election) years. During active phases of those sessions, legislators generally meet in their chambers on Monday evenings, during the days on Tuesdays and Wednesdays, and on Thursday mornings.<sup>59</sup> The legislature does not always meet during regular session periods, however. For example, there is often a gap of several weeks between the official start of the long session and the beginning of legislative meetings in the chambers.<sup>60</sup>

The legislature can return in extra (special) sessions to discuss topics like constitutional amendments or disaster recovery. It can also return in “reconvened” sessions to address unfinished legislative business from the last regular session or consider overrides of vetoed legislation.<sup>61</sup> Since 2013–14, each first (long) session of the biennium has officially lasted only one day for organizational purposes. The actual work of the General Assembly, meanwhile, has started two or three weeks later with the first reconvened session.<sup>62</sup>

Longer sessions have become a new normal for North Carolina's General Assembly. As seen in Figure 2.1, from 1973–74 to 2011–12, the legislature had usually met for fewer than 200 legislative days (the days each chamber meets) spread over fewer than 300 calendar days during a two-year legislative biennium (including long, short, extra, and reconvened sessions).

**FIGURE 2.1 NORTH CAROLINA GENERAL ASSEMBLY BIENNIUM SESSION LENGTH IN LEGISLATIVE AND CALENDAR DAYS, 1973–2022.** (Note: Mean legislative days are the averages of House and Senate legislative days.)



Source: North Carolina General Assembly Library

There were two notable exceptions. The 1997–98 biennium featured an unusually long second (short) session, which ran for about 100 session days over 172 calendar days — about two to three times the typical length of a short session. Redistricting caused a spike in 2001–02, as legislators took about 70 extra session days spread across 197 legislative days to deal with it.<sup>63</sup>

The General Assembly clawed back much of that increased session length from 2005–06 through 2013–14, going down to 139 legislative days and 224 calendar days in the 2011–12 biennium.

But legislative session length creep came back with a vengeance over the past decade, culminating in the 2021 long session being “the first time in state history that a Regular Session was adjourned in a different year than it was convened.”<sup>64</sup> The total length of the 2021–22 biennium was 245 legislative days in the House and 246 legislative days in the Senate over 475 calendar days. While at the time of this writing, the 2023–24 biennium is on pace to be shorter than 2021–22, it will still be well above historical norms because, during the 2023 long session, the legislature failed to enact a budget until several weeks after the start of the fiscal

year.<sup>65</sup> This steady increase in session length without a corresponding rise in legislative pay led one publication to refer to the General Assembly as “North Carolina’s full-time part-time legislature.”<sup>66</sup>

That extra time is not free. In 2015, well before the 2021–24 inflationary period, each day the General Assembly was in session cost taxpayers an

**"In 2015, well before the 2021-24 inflationary period, each day the General Assembly was in session cost taxpayers an estimated \$50,000."**

estimated \$50,000 (including a daily \$17,680 per diem for legislators). As reported in the *Herald*, “‘You could assume the additional cost per day is the additional per diem, supplies, temporary employees, interns, pages and utilities cost, etc., that is required during session,’ said Wesley Taylor in the legislature’s Financial Services Division.”<sup>67</sup>

So, a 240-legislative-day biennial session would have cost about \$5 million more in taxpayer money than a 140-legislative-day session.

The General Assembly’s total expenditures are fixed in the state budget, and the additional expense of more session days does not increase that total.<sup>68</sup> Those added expenses must be covered by reducing expenditures in other areas, such as staffing or constituent services. They also put upward pressure on future budgets to account for the increased costs.

The cost per day of keeping the state legislature in town has only increased since then, and it continues to rise. The General Assembly’s portion of the budget for Fiscal Year (FY) 2022–23 was \$84,474,142.<sup>69</sup> It ballooned to \$100,869,872 for FY 2023–24.<sup>70</sup> While much of that added expense was due to high inflation in recent years, there is little doubt that increased session lengths are pushing part of the increase.

## Session Limits in Other States

The tendency for legislative sessions to stretch out over time is hardly unique to North Carolina. Session lengths increased considerably across

the United States in the 1960s and 1970s as part of a wave of increased professionalism in state legislatures.<sup>71</sup>

Unlike North Carolina, however, most states have developed limits on session length. Currently, 39 states impose some kind of limit on how long regular sessions can be.<sup>72</sup> Of those, 29 have limits set in their constitutions, five by statute, and three by rules set by the legislative chambers (California has session limits set by both their constitution and chamber rules). Another three states have session limits imposed indirectly. For example, the Iowa legislature can meet beyond the limit established by statute, but “legislators will not be paid the per diem for expenses of office” for any days beyond the limit.<sup>73</sup>

Among states with legislative session limits, there are wide variations in terms of permitted session lengths and how those session lengths are measured. Some states measure session length in calendar days. Other states limit the number of days the legislature can be in session (legislative days). Others require legislatures to end their sessions by a prescribed date.<sup>74</sup>

A simplified summary of session length limits and how those limits are imposed is in Table 2.2. Limits for states with defined session end dates were calculated by counting calendar days from the earliest possible session start date until the mandated session end date. States with limited legislative days within limited calendar days were counted based on their legislative day limits. The limit was calculated for two-year periods to allow for direct comparisons with North Carolina’s biennial calendar. California was excluded from the table because its session limits, especially for the House, are so long that there is virtually no limit.

**TABLE 2.1 SUMMARY OF STATES' BIENNIAL SESSION LENGTH LIMITS AND THE DIFFERENT METHODS USED FOR LIMITING SESSION LENGTHS**

Length Limit Per Biennium (Legislative or Calendar Days)	Set by Constitution	Set by Statute	Set by Chamber Rules	Set Indirectly
50 or fewer legislative days	7	1	–	1
50 to 180 legislative days	4	–	–	1
100 or fewer calendar days	12	2	–	–
100 to 530 calendar days	5	2	2	1

Source: National Conference of State Legislatures

Each of North Carolina's immediate neighbors limits legislative sessions, although by different lengths and means. Virginia's constitution limits its sessions to 60 calendar days in even-numbered years and 30 calendar days in odd-numbered years,<sup>75</sup> while Georgia's legislature is constitutionally limited to sessions of 40 legislative days.<sup>76</sup> The Tennessee constitution limits the legislature to an "organizational session of not more than 15 calendar days" followed by no more than 90 legislative days in session over two years.<sup>77</sup> The South Carolina legislature starts its regular session each year on the second Tuesday in January and, by statute, "must adjourn sine die not later than the second Thursday in May."<sup>78</sup>

North Carolina's longer sessions do not necessarily mean that the General Assembly is more effective than other state legislatures. A 2021 study found that North Carolina passed the seventh-fewest bills (129) of the fifty states.<sup>79</sup> 2021 was a long session year in North Carolina. At least as measured by one of the most basic functions of legislatures, other states do not appear to suffer due to their required shorter sessions. Of course, that measure does not speak to the quality of the bills being passed.

## Advantages of Session Limits

Why do most states have formal session limits?

First, as mentioned earlier in this section, reducing the number of extremely long sessions would save taxpayers money through lower legislator per diems, supply costs, extra employee salaries, and utilities.

Session limits would also impose more regularity on the General Assembly. Over the past five biennia, representatives have had long sessions (including extra and reconvening sessions) of 135, 127, 157, 203, and 143 legislative days. That irregularity in the number of days legislators must be in Raleigh makes it more difficult for them to plan for when they can attend to their actual day jobs by which they support themselves and their families.

Longer sessions can increase the number of scheduling conflicts between legislators' General Assembly duties and their work or personal schedules, resulting in more missed days in the legislature. Even if legislative pay were several times more than the current \$13,951 per year, many legislators would have to continue to work elsewhere to support themselves and their families. Regular family events may also pull legislators to their home districts, many of which are hours away from Raleigh. A 2017 study found that "when the session length is longer, a legislator is more likely to miss an entire day of votes."<sup>80</sup> Session limits would help mitigate those problems, letting members of the General Assembly better serve as citizen-legislators.

Long sessions, especially long and undefined sessions, warp power relationships within the legislature and undermine the General Assembly's role as an expression of the will of voters in local districts across the state. Longer sessions give more power to legislators who have the time and financial means to devote themselves to the legislature full-time and year-round. Those legislators have greater "strategic patience" because they can wait out their colleagues until they get their way.

A member of the North Carolina General Assembly interviewed for this report has seen that problem firsthand. The legislator said that legislative

sessions take “as long as any of the people in power” need them to. “I would say this regardless of which party was in power,” the legislator said. “As long as the people in power need to get something they can’t

**“A legislator said that legislative sessions take “as long as any of the people in power” need them to.”**

get any other way than to stretch the session out, there’s no end in sight.”<sup>81</sup>

A 2006 study found that legislative party leaders and committee chairs spent significantly more time in the legislature than rank-and-file members.<sup>82</sup>

Furthermore, legislators with outside employment spent less time working in the legislature than their peers who did not work other jobs.<sup>83</sup> Session limits would help restore a more balanced relationship between leadership and rank-and-file legislators.

Session limits would save taxpayers money, help restore a more balanced power structure in the General Assembly, and restore that body’s traditional role as a citizen-legislature.

## Concerns over Session Limits

While there are benefits to limiting session length, there are potential drawbacks, especially if sessions are scaled back too far.

Paul “Skip” Stam, a former eight-term North Carolina House member who spent a decade in legislative leadership (and who is also a John Locke Foundation board member), saw four potential downsides to session limits:

- Power will shift from regular members to committee chairs and leadership, with more omnibus bills, new provisions slipped into conference reports, and unamendable concurrence votes.
- Power will shift from the legislature to the executive and judicial branches. Executive agencies will acquire more rulemaking powers and will suffer less legislative oversight. Judges will rule on more “ambiguities” in legislation passed at the last minute.

- Power will shift towards lobbyists and organized groups who can influence legislators on legislation before “unorganized groups and individuals” know what is happening in the General Assembly’s shortened session.
- The General Assembly will functionally be “in session” all year, with more committee work between sessions and more “special sessions.” Legislative work will shift to study and select committees, which will likely have more “stacked memberships” than regular committees do.<sup>84</sup>

One concern with limiting session length is that it would give the governor more power in negotiations with the legislature by conferring an advantage in strategic patience. A 2009 study found that legislatures with short session lengths are more likely to “blink first” in budget negotiations with governors (who are always full-time workers):

If one of these legislatures meets for 66 days over a two-year period (a typical session for North Dakota’s legislature), then every extra percentage-point increase in spending proposed by the governor translates into a 0.78% increase in the enacted budget. If a house is similar in all other respects but meets for 263 days per biennium, as Wisconsin did for 1997 and 1998, then a change of 1% in the governor’s proposal yields only an estimated 0.59% change in the budget that the legislature finally enacts. This finding is consistent with our conjecture that a full-time house has the patience to strengthen its bargaining position against the governor[.]<sup>85</sup>

The relatively hectic pace of very short legislative sessions can also increase the number of missed floor votes. The study that found that longer sessions are associated with more missed days at the legislature also found that short sessions are associated with more missed individual floor votes. The authors inferred that legislators in those conditions “find it difficult to accomplish all their duties without leaving the voting floor on occasion.”<sup>86</sup>

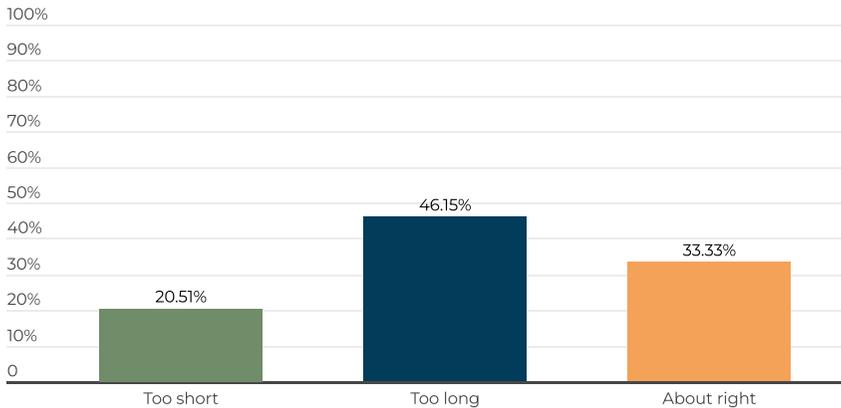
Several legislators interviewed for this report expressed concerns about setting strict session limits. For example, one legislator worried that a

strict deadline would allow some “activist” legislators to hold a budget hostage by “manipulating the deadline and playing politics with it because they know the deadline [is] set in stone.”<sup>87</sup> Other legislators thought that the real problem was not a lack of a session deadline but that lawmakers are not “particularly disciplined in our work”<sup>88</sup> or that, instead of focusing on session length, “a better way to think about it would be how productive we are.”<sup>89</sup>

Perhaps because of those concerns, a majority of legislators who responded to Locke’s survey on the General Assembly, conducted for this report, said that legislative sessions are either about the right length or are too short (Figure 2.2).

**FIGURE 2.2 RESPONSES OF NORTH CAROLINA LEGISLATORS TO WHETHER GENERAL ASSEMBLY SESSIONS ARE TOO SHORT, TOO LONG, OR ABOUT THE RIGHT LENGTH**

**In terms of the work the General Assembly does, do you believe legislative sessions are too short, too long, or about the right length of time?**



Source: John Locke Foundation survey of North Carolina General Assembly members, 2024

So, while there are clear advantages to limiting session lengths, the best solution is not to make sessions as short as possible but to strike the right balance between the advantages and disadvantages of session limits.

## Rightsizing Legislative Sessions

The need for rightsized sessions led several states to expand session lengths without ending limits. For example, Georgia went from 80 to 85 legislative days over two years, while Kansas went from 90 to 120.<sup>90</sup>

North Carolina should aim to find a reasonable balance that provides the benefits of session limits while mitigating the downsides of imposing shorter sessions. This balance could be accomplished by setting reasonable session limits and instituting reforms that allow legislators to do their work more efficiently and effectively. Whatever session limit is set will necessarily be a judgment call. As one legislator said, “I don’t know what the magic number is, but I believe it’s got to be better than an open-ended system that I’ve experienced.”<sup>91</sup>

The General Assembly’s most significant work is the biennial budget, passed in the long session. In North Carolina, each fiscal year starts on July 1. State government will not shut down if the legislature fails to pass a budget by that date. Instead, it will operate at the same level as

set in the previous year’s budget until a new one is passed. Nevertheless, failing to pass a budget on time has numerous consequences, including no adjustments in spending (including cuts where needed) and no pay raises for teachers and state employees.<sup>92</sup>

Unfortunately, failing to pass a budget before the start of the fiscal year has become the norm in North Carolina. Only five budgets have been passed on time since 2000.<sup>93</sup>

For that reason, June 30 (one day before the start of the fiscal year) would be a natural date for the General Assembly to conclude its regular business. With a mid-January start date, it would mean roughly 170 calendar

**"Failing to pass a budget before the start of the fiscal year has become the norm in North Carolina. Only five budgets have been passed on time since 2000."**

days. Assuming that a rush to complete business before the end of the session would cause legislators to meet five days per week instead of the normal three-and-a-half days, the long session would have roughly 90 legislative days.

The short session is called “short” for a reason. During the short session, legislators make adjustments only to the full budget passed during the long session and consider only bills that have advanced through at least one chamber during the long session (with some exceptions, such as constitutional amendments). The short session generally starts in late April or early May. If the formal start of the short session was set for the last Monday in April, a June 30 end date would make a session limit of 62 to 68 calendar days, with the legislature likely meeting for about 35 legislative days.

Combined, the regular session limit for the legislative biennium would be roughly 235 calendar days, of which approximately 125 would be legislative days.

**"The ability to return to extra sessions should not be taken as a license to continue regular sessions by other means."**

Session limits can be imposed through chamber rules, legislation, or constitutional amendment. Chamber rules limiting the legislature are almost useless, however, since legislators can change them with barely any justification — or even none at all. Legislation is a

stronger measure but can be reversed relatively easily, especially if the same party either controls both the governor's mansion and the legislature or holds supermajorities in the General Assembly.

That leaves the blunt instrument of constitutional amendment. Because constitutional amendments are not readily changed with circumstances, some flexibility would need to be built into an amendment limiting session lengths. That flexibility would include the ability to come back into session to handle specific issues, such as veto override votes, court decisions requiring an immediate legislative response, and declared state emergencies.

The ability to return to extra sessions should not be taken as a license to continue regular sessions by other means, however. The General Assembly has already shown itself capable of responding to court orders quickly; for example, legislators completed court-ordered redistricting in less than two weeks in 2019.<sup>94</sup> While the legislature should be able to call itself back into session to respond to a court-ordered change in the law, the business of that session should be limited to responding to that ruling.

Similarly, the General Assembly should also be able to come back into session during declared emergencies to pass necessary spending bills and other related legislation or to determine whether to extend the emergency through an act of law (state law requires such an act to continue an emergency beyond 60 days),<sup>95</sup> but the legislature should remain in session only long enough to deal with the emergency at hand.

A veto override session should take no more than one or two days and deal only with veto override votes.

Even with those restrictions, we should expect extra sessions to be the norm rather than the exception, as they already are. Carefully crafted laws would mean that such sessions would add only a few days, or a couple of weeks at most, to the number of days the General Assembly meets each year. That would increase the average number of legislative days to around 150, spread across 250 calendar days per biennium.

Any advantage in strategic patience the governor may gain from shorter sessions has already been diminished in North Carolina. The General Assembly passed a “Budget Stability and Continuity” provision as part of a spending bill in 2016.<sup>96</sup> The provision requires that state government spending “continue at current levels in the new fiscal year until a spending bill is passed.”<sup>97</sup> In 2019, the General Assembly responded to Gov. Roy Cooper’s budget veto by enacting a series of “mini-budgets,” legislation addressing some areas of government spending while letting others stay at the prior spending levels.<sup>98</sup>

## Conclusion

To restore the General Assembly's traditional role as a citizen-legislature, an amendment imposing session limits should be added to the state constitution. The amendment would have two elements:

- A June 30 deadline to complete both long and short sessions
- Narrowly tailored rules that allow the General Assembly to come back into session to conduct veto override votes, pass laws in response to court decisions, or respond to emergencies

North Carolina has traditionally had a strong legislature. For most of our history, the General Assembly has maintained its strong position without resorting to excessively long legislative sessions. A balanced approach toward limiting the length of legislative sessions can help the legislature keep its citizen-legislature model without disturbing the traditional balance of power with the other branches of government.



# LEGISLATIVE PAY

Potential candidates must consider the opportunity costs before deciding to run for office. They must weigh the time required to be a legislator and the pay received against their circumstances and any other opportunities they may have.

Prior studies have found that the compensation, the personal and financial costs of running for office, and the time required to perform their duties as government officials “may prevent nonelites from running for office.”<sup>99</sup> That has been the experience of some members of North Carolina’s General Assembly, with one legislator saying, “It is not practical for somebody to serve in that particular role at that particular rate unless you’re really wealthy or retired,”<sup>100</sup> although another said, “Nobody even asks” about legislative pay.<sup>101</sup>

Unsurprisingly, lower legislative pay is associated with higher levels of “outside-career behavior” (i.e., spending time working a nonlegislative job).<sup>102</sup>

When legislators' compensation is low but the job responsibilities require a significant time investment, the occupations and income ranges for elected representatives narrow since they limit "who can realistically serve in a legislature."<sup>103</sup> This low-income/high-time requirement favors legislatures that comprise more lawyers, wealthy retirees, and people from other occupations with highly flexible hours. Higher legislative pay is also "associated with statistically significant, but economically small, increases in electoral competitiveness and legislative productivity."<sup>104</sup>

Legislators typically receive three revenue streams as payment for their work as state representatives: salary, mileage reimbursement (cents per mile), and per diem. Of these three streams of revenue, the largest in most states is a legislator's direct salary.<sup>105</sup> It is the funding typically referenced when discussing legislator pay, as it is the only one that is consistent year to year.

Mileage reimbursement must be considered on a case-by-case basis. Per diem is typically tied to the number of days legislators are in session but is received when conducting "business of the state." Members may also opt out of receiving their per diem on a case-by-case basis.

For this study, we focus primarily on potential changes in legislators' direct salary rates but briefly discuss other revenue sources, such as mileage and per diem. Income from reimbursements or stipends on gas and housing are typically secondary factors when considering income. Salary changes have a more direct and visible impact than the inconsistent income from the other revenue sources legislators receive.

## Salary

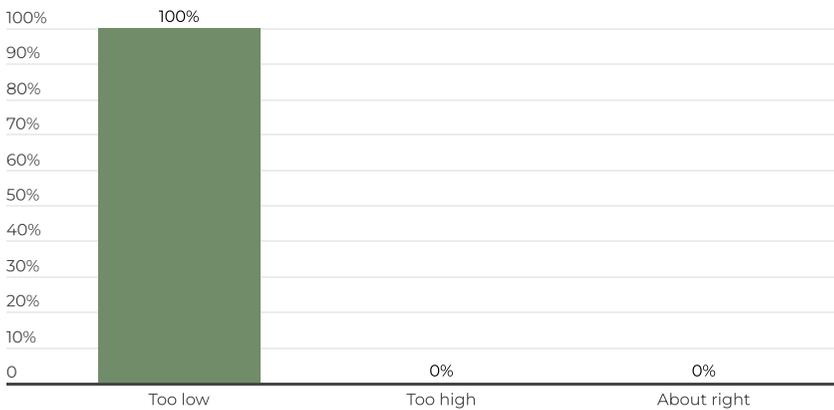
States have various ways of paying legislators for their time in the legislature. The vast majority of states opt for an annual salary for members, with 41 states and five U.S. territories using this payment method.<sup>106</sup> Six states pay legislators a daily salary they may receive when they are in session or attending legislative meetings. Vermont and North Dakota also opt for an attendance-based salary system, though their payments

are calculated weekly and monthly, respectively. North Carolina follows the most common legislative salary process: paying representatives and state senators an annual salary.

Every legislator who responded to our survey said that legislative pay is too low (see Figure 3.1).

**FIGURE 3.1: LEGISLATORS’ RESPONSES TO A SURVEY QUESTION ON LEGISLATIVE PAY**

**Is the salary for members of the General Assembly too low, too high, or about right?**



Source: John Locke Foundation survey of North Carolina General Assembly members, 2024

That sentiment is not just the typical bellyaching for more pay. North Carolina’s legislative salary is one of the lowest in the country, the fifth-lowest amount out of the 46 states and U.S. territories that set an annual salary for legislators. Only Nebraska, South Carolina, Texas, and New Hampshire pay legislators less than North Carolina. New Mexico does not set any salary for its legislators.<sup>107</sup>

Since 1995, North Carolina has maintained an annual salary of \$13,951.00 for legislators.<sup>108</sup> The national median salary for state legislators who receive a yearly salary is \$38,855.50 per year. The average salary sits even higher at \$45,601.10, skewed by pay in the District of Columbia, New York, California, and Pennsylvania, each reaching over \$100,000 annually. One

legislator admitted to being as naive as many North Carolina citizens are regarding legislative pay before being elected to the General Assembly:

It's not my expectation that I will make a livable wage or livable salary with this job. I didn't even ask how much money it paid when I ran the first time because ... I just didn't do it. I mean, I don't think anybody does it for that. Then you get into it and realize you're losing income, right? Or that 105 or [103] dollars a day per diem isn't going to pay for the hotel room [and meals] that you need. That's when you realize, "Oh my gosh, we should be paid more money."<sup>109</sup>

While legislators in North Carolina make roughly a third of the median salary of states that provide legislators an annual salary, the ranking

**"It's not my expectation that I will make a livable wage or livable salary with this job. I didn't even ask how much money it paid when I ran the first time."**

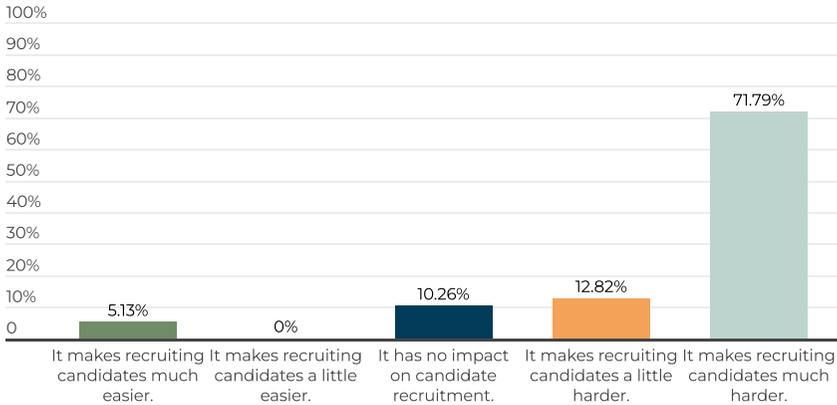
improves a little when we narrow our focus to what the National Conference of State Legislatures calls "hybrid" states, where legislators typically "spend more than two-thirds of a full-time job being legislators."<sup>110</sup> That includes work other than during legislative sessions, such as constituent service,

local meetings, and outside-session committee meetings. The 26 hybrid states have a median compensation of \$32,400.50 per year (two hybrid states, Kentucky and Nevada, pay legislators per day in session).<sup>111</sup> Even then, North Carolina's legislative pay is still well less than half of the median salary of legislators in peer states (\$18,499.50 less).

As seen in Figure 3.2, most legislators believe North Carolina's low legislative pay hurts candidate recruitment. Almost 85 percent of legislators who responded to our survey held that view.

### FIGURE 3.2 LEGISLATORS' RESPONSES TO A SURVEY QUESTION ON THE EFFECT OF LEGISLATIVE SALARIES ON CANDIDATE RECRUITMENT

**What impact, if any, do you think legislative salaries have on recruiting candidates for the General Assembly?**



Source: John Locke Foundation survey of North Carolina General Assembly members, 2024

## Mileage Reimbursement and Other Compensation

Most states tie their mileage reimbursement rate to the federal government’s rate.<sup>112</sup> This federal rate is updated yearly; for example, it grew from 65.5 cents per mile in 2023 to 67 cents per mile in 2024.<sup>113</sup> The IRS assigns the federal government’s rate, which is also used by the private sector, as illustrated by the IRS statement on all rate changes “for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes.”<sup>114</sup>

North Carolina does not attach its mileage rate to the federal government’s, opting to maintain the 1993 federal rate of \$0.29 per mile.<sup>115</sup> Mileage reimbursement is done to offset the costs, including gas and vehicle maintenance, of using one’s personal vehicle for work. North Carolina’s decision to maintain the rate from over 30 years ago creates

a barrier to entry for would-be legislators through the cost of traveling into the state capital, Raleigh.

For example: If the average gas price is \$3.264 (which was the statewide average gas price in August 2024),<sup>116</sup> and the average fuel efficiency of a car is 24.4 miles per gallon (as per U.S. Department of Energy estimates),<sup>117</sup> that would mean the average cost in gas per mile driven (not counting maintenance and other costs) was \$0.134. The other \$0.154 in mileage reimbursement is unlikely to cover the normal wear and tear a vehicle would accrue from traveling back and forth between a member's home and the legislature. A low mileage reimbursement rate disproportionately impacts those whose districts are farther from the state capital.

The legislature should institute one of two fixes for mileage reimbursement. The simplest solution would be to join the other 35 states that tie themselves to the federal rate for mileage reimbursement. Doing so would help offset the cost of traveling across the state and put legislators in line with the reimbursement rates of other North Carolina state officers and employees who currently operate on the IRS mileage rates.<sup>118</sup>

Using the addresses legislators provided to the State Board of Elections when filing for office, we estimated the change to the cost of mileage reimbursement if the state operated under the IRS mileage rate during the 2023–24 session as well as the mileage cost if session limits were in place (see Table 3.1).

**TABLE 3.1 ESTIMATED LEGISLATIVE MILEAGE REIMBURSEMENT COSTS FOR NORTH CAROLINA UNDER CURRENT LAW AND HYPOTHETICAL CHANGES**

Session	Session Weeks	Current State Mileage Costs	Federal Mileage Costs	Difference Between Rates	Base Pay Increase Per Legislator
2023 long session mileage	38	\$414,356.41	\$933,803.22	\$519,446.81	\$3,055.57
2024 short session mileage	10	\$109,041.16	\$256,337.28	\$147,296.12	\$866.45

Session	Session Weeks	Current State Mileage Costs	Federal Mileage Costs	Difference Between Rates	Base Pay Increase Per Legislator
2023–2024 biennium mileage	48	\$523,397.57	\$1,190,140.50	\$666,742.93	\$3,922.02
Ideal long session length mileage	25	\$272,602.90	\$614,344.23	\$341,741.33	\$2,010.24
Ideal short session length mileage	10	\$109,041.16	\$256,337.28	\$147,296.12	\$866.45
Ideal biennium length mileage	35	\$381,644.06	\$870,681.51	\$489,037.45	\$2,876.69
Biennium difference	13	\$141,753.51	\$319,458.99	\$177,705.48	\$1,045.33

*The data are based on one round trip to the General Assembly from legislators’ home addresses per session week. The addresses are from candidates’ filings with the North Carolina State Board of Elections.*

With the legislature staying 38 weeks during the long session in 2023 and 10 weeks during the short session in 2024, the estimated mileage cost would be \$523,397.57 for all members coming into Raleigh every week and their return trips into their districts. Opting into the federal rate would have increased the total reimbursement amount to \$1,190,140.50. It would be the equivalent of an average annual salary increase of \$1,961.01 for legislators during the 2023–24 session.

Under the recommended limits of the long session to 170 calendar days and the short session to 90 calendar days, this cost would be reduced to \$870,681.51. This would not only minimize the fiscal impact of raising legislators’ reimbursement rates to those of other state officials but also reduce individual members’ vehicle maintenance costs by reducing the number of times they travel into Raleigh for sessions.

While this method would alleviate the disproportionate burden on those who live further from the state capital, it likely would not help with candidate recruitment. Typically, reimbursement rates, per diem, and other

benefits are considered secondary to base salary. So, this change would not have the same impact on those who are constrained by the opportunity costs of the state's legislative salary.

Instead of increasing the reimbursement rate to the federal rate, another possible solution would be to allocate the equivalent of that increase to the base salary of legislators while retaining the \$0.29 per mile reimbursement. In effect, this change, if considered along with session length limits suggested in this report, would have the same fiscal impact on the state budget as upping the mileage rate for the long and short sessions while increasing the base salary by \$1,438.35 per year. Nevertheless, while this approach would boost the legislative salary and reduce the fiscal burden of holding legislative office, it would have a greater fiscal benefit to those who live closer to the state capital than the other model.

An additional form of compensation is per diem. North Carolina currently offers a per diem of \$104 per day for meals and lodging.<sup>119</sup> The 2024 federal per-diem rate for Raleigh is \$125, a difference of \$21. Assuming long sessions of 90 legislative days and short sessions of 35 legislative days, as recommended in this report, legislators who do not live within commuting distance would receive an additional \$2,625 per biennium (or an average of \$1,312.50 per year) if the General Assembly set its per diem at the federal level. By comparison, such a reform would have cost \$5,145 per legislator in the 2021–22 biennium, which lasted 245 legislative days.<sup>120</sup>

North Carolina has a fourth revenue stream for members, though this money is tied to the office itself and not considered part of their personal finances. State law provides legislators with an expense allowance for their office at the start of every month.<sup>121</sup>

This funding stream does not transfer funds directly to the members. Instead, it is held by the legislature on behalf of each member. Members' accounts automatically receive these funds each month, and if they are not spent, the state keeps the money. While the statute does guarantee each office a specific amount of funds each month, leadership may allocate additional funds upon request by any individual legislator.

## Potential Cost-Limiting Factors

The debate on professionalizing legislatures is typically viewed as a political landmine. Voters across the United States tend to look unfavorably upon legislative salary increases and have punished legislators who voted to raise their own salaries.<sup>122</sup> North Carolina is no exception. Legislators supporting such legislation would likely undergo attacks from political opposition for using taxpayer money to give themselves raises. Such attacks are typically effective, especially during times of financial instability.<sup>123</sup>

Nevertheless, raising legislative pay would not necessarily mean a larger burden on taxpayers. By restructuring how legislators receive funding, the additional money allocated to legislative compensation could be limited or even cost-neutral. This could be accomplished by marrying legislative salary increases to a reduction in the days legislators receive per-diem compensation.

When analyzing the number of days for regular sessions over the last 20 years, we find that long sessions, on average, last around 120 legislative days, and short sessions last 39 legislative days (see the

section on session length). During sessions, the North Carolina General Assembly typically has members in session for three and a half days per week, during which time they would automatically receive per diem. If we account for the likely situation in which members would be brought in for five days a week at the end of a session, then a session lasting from mid-January to June 30 would provide roughly 90 legislative days for the long session. For the short session, following a traditional short session start time of April with the same hard cutoff of June 30 would lower legislative days to 35 for the session and to 125 across the biennium.

The per-diem expense for a single regular legislative day was \$17,680 in 2015.<sup>124</sup> If the state truncated the long and short sessions, creating a hard deadline of June 30, the reduction of 34 legislative days from the average

**"Raising legislative pay would not necessarily mean a larger burden on taxpayers."**

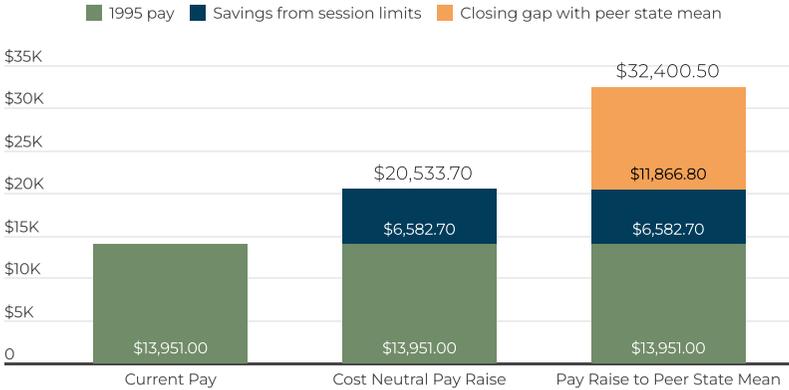
would save \$601,120 for each biennium in per-diem costs alone. Utilizing these savings could fund a \$1,768 annual increase in legislators' salaries and be cost-neutral to taxpayers.

Shortening the sessions would also materialize other cost savings, including mileage, supplies costs, part-time or temporary employee salaries, and utilities. Further increases to legislator salaries could also be considered cost-neutral if other operating costs from those avoided 34 days were shifted into salary. In 2015, the estimated cost per day for the legislature to be in session was \$50,000 (this includes the daily per diem of \$17,680).<sup>125</sup> Adjusted for inflation, the current expense per legislative day of operating the General Assembly is likely closer to \$65,827.<sup>126</sup> Considering these inflation-adjusted 2015 estimates would allow legislators an annual salary increase of up to \$6,582.70 without increasing the burden on taxpayers. It would result in an annual legislative salary of \$20,533.70.

While a model with a net-zero burden to taxpayers is idyllic, legislators could consider implementing a higher base salary of up to \$32,400.50 for members of the General Assembly. This salary would put North Carolina at the median salary of the hybrid legislatures that have an annual salary throughout the United States but still be well below the \$38,855.50 mean salary for all state legislatures. After factoring in the net-zero pay increase, the further increase to \$38,855.50 would cost the state \$2,094,706 annually. That would represent about 0.007 percent of North Carolina's \$30 billion annual budget.<sup>127</sup>

A summary of current legislative pay and salary proposals is in Figure 3.3.

**FIGURE 3.3 COMPARING CURRENT LEGISLATIVE PAY WITH PAY UNDER A COST-NEUTRAL PAY RAISE AND A PAY RAISE THAT WOULD PLACE NORTH CAROLINA AT THE MEAN SALARY FOR PEER STATES**



Data Source: National Conference of State Legislatures and the North Carolina General Assembly Financial Services Division (via The Herald)

## Conclusion

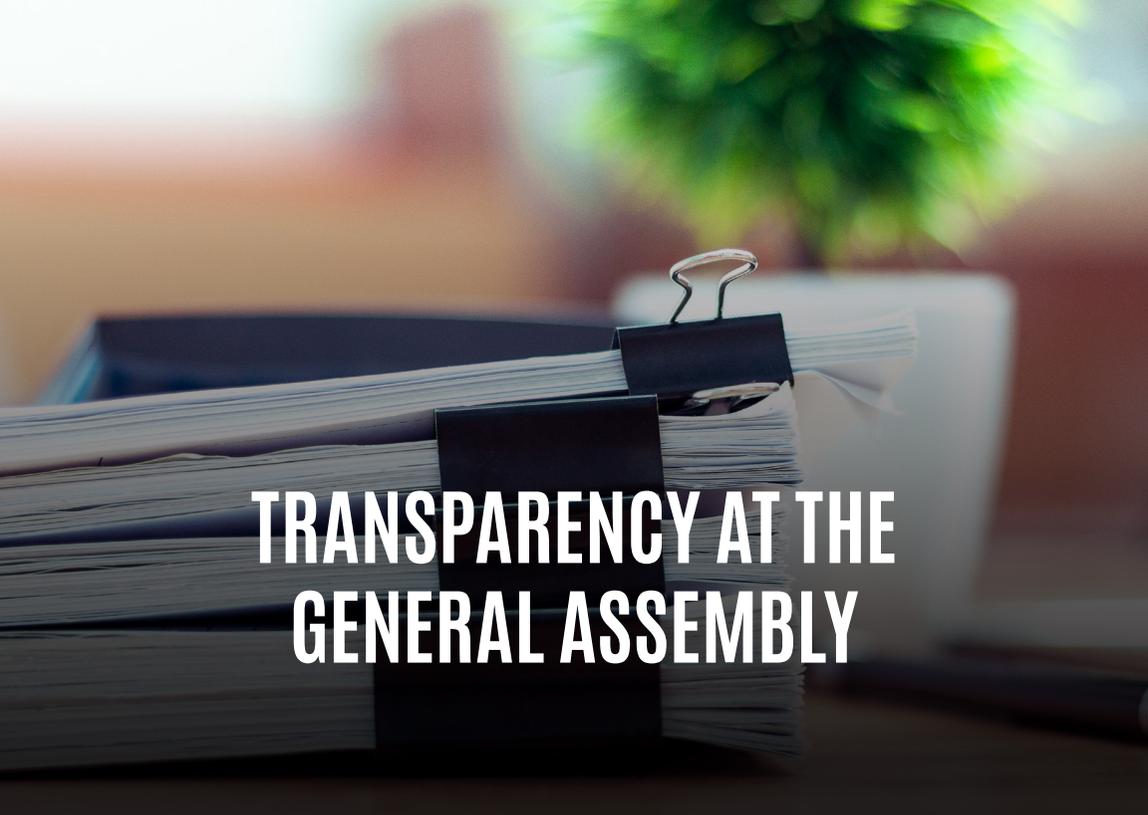
The increase in base salary and the limitation of the time required to perform the duties as a member of the legislature would open the possibility of running for office to more of North Carolina’s citizens. By implementing a session limit and transitioning per-diem reimbursements along with the current mileage reimbursement rate to salary, legislators’ annual salaries could be increased up to \$20,533.70 with no impact on the money allocated to the legislature from the state. This transfer in the funding model would place North Carolina above six more states in legislative salary, moving the state to the 11th lowest in legislative salary (up from the fifth lowest).

A salary of \$32,400.50 for two-thirds of a year’s work would be the equivalent of an annual salary of \$48,600.75. That time accounts not only for work during sessions but also for work in interim committee meetings, special sessions, constituent service, and other duties members have as the local representatives of their communities.

A compromise legislator salary of \$26,000, with the expectation of working two-thirds of the year as a legislator (as is typical for hybrid legislatures),<sup>128</sup> would mean members of the General Assembly neared the current average for the annual per-capita income of North Carolina.<sup>129</sup> Though the Census Bureau put North Carolina's 2022 per-capita income at \$37,641,<sup>130</sup> 2024 data from North Carolina Department of Commerce indicate the average private-sector wage was \$65,409.<sup>131</sup>

The General Assembly should also consider raising the mileage rate for elected officials from \$0.29 to \$0.67 per mile and the per diem from \$104 to \$125 per day.

In our survey of state legislators, 100 percent of the participants indicated that North Carolina's legislative salary is too low. An increase in base salary would allow more North Carolinians to participate in holding state office. Currently, the time required and opportunity costs are too high for people in most professions, thus narrowing the number of people who could reasonably serve in the state legislature. Increasing legislator salaries to somewhere between \$20,533.70 and \$32,400.50 and adjusting mileage and per-diem compensation would help mitigate that.



# TRANSPARENCY AT THE GENERAL ASSEMBLY

Americans have been concerned with government transparency since the founding of our republic. The Revolutionary War-era patriot Patrick Henry noted, “The liberties of a people never were, nor ever will be, secure, when the transactions of their rulers may be concealed from them.”<sup>132</sup> More recently, the public policy nongovernment organization Freedom House noted that transparency and government accountability “ensure that malfeasance is exposed — and that failed or harmful policies are swiftly corrected.”<sup>133</sup>

While there are clear advantages to having more inviolable transparency rules for legislatures, factors such as protecting personnel records and preserving the deliberative process among legislators should also be considered. The goal is to right-size transparency at the General Assembly.

A first step towards finding the right balance between transparency and government effectiveness is for the General Assembly to repeal an

addition to the 2023 state budget that effectively removed all legislator-held documents and communications from the public record. The General Assembly should also propose adding open meetings and public records provisions to the state constitution so that such transparency backsliding would be more difficult in the future.

## The Advantages – and Disadvantages – of Government Transparency

A “robust transparency regime” goes hand in glove with effective democratic governance.<sup>134</sup> If voters are to make meaningful choices at the ballot box to fill elective offices, they must have information about how those offices work. Government transparency helps voters obtain that information. In any republic worth the name, “democratic leaders can never be entirely free from a commitment to truth-telling.”<sup>135</sup>

For those reasons, there is a strong presumption in democratic systems favoring government transparency. To put it more succinctly, citizens have a right to the information their government possesses.

Information is also crucial for life beyond government and politics, especially since government touches almost every aspect of our lives. Government-backed research and goal setting can influence how we keep our homes warm in the winter (and how much we pay for that

**"Citizens have a right to the information their government possesses."**

warmth), what kinds of food or drink are available, and how we raise our children. To give just one example, governments' release of more information is associated with reducing “informational asymmetries” between people,

such as ordinary citizens and political insiders, and, therefore, is linked with increased economic growth.<sup>136</sup>

Roumeen Islam at the World Bank summarized his research on the relationship between government transparency and economic development as “more transparent governments govern better.”<sup>137</sup> Governments

themselves proclaim the virtues of transparency. The Obama White House declared that “Transparency promotes accountability and provides information for citizens about what their Government is doing” and pledged to provide an “unprecedented level of openness in Government.”<sup>138</sup> The Trump<sup>139</sup> and Biden<sup>140</sup> administrations made similar pledges to promote government transparency.

With all the pronouncements extolling the virtues of transparency, one could be forgiven for believing that a maximal transparency regime would be ideal. Transparency is not a panacea for good governance, however, and can even have some drawbacks. For example, state open meetings laws do not cause lawmakers to “align their policy decisions with the public’s preferences,” meaning that transparency does not necessarily translate into laws that better reflect public opinion.<sup>141</sup>

There is also a belief that full transparency limits a free exchange of ideas in the legislative process, especially between legislators and staff members, reducing legislative effectiveness. Preliminary off-the-cuff thoughts about a policy could be stymied if they were subject to public records. However, these preliminary thoughts can nevertheless help push the conversation to a more formal debate that would be a public record.

**"More transparent governments govern better."**

A study of fiscal policy found that “transparency provides safeguards against incompetence or malevolence and allows future governments to correct mistaken policies, but there may be “conflicts with effectiveness.”<sup>142</sup> This perceived conflict between transparency and effectiveness led a Washington state senator to defend a 2018 legislative exemption from that state’s public records law by saying, “Just as important as transparency is the ability of lawmakers to effectively work on behalf of those who sent us here.”<sup>143</sup>

So, shielding at least some legislative procedures can produce benefits in areas of public policy. For example, a study of states’ financial health found that legislative exemptions from transparency laws are associated with states being better able to repay debt.<sup>144</sup>

There is also evidence that transparency does not conflict with legislative effectiveness, however. Recent research has found that, contrary to the views of some politicians, their “ability to effectively work on behalf of their constituents is certainly not hampered—and in some circum-

**“The goal is to provide the most transparency possible, consistent with the need to allow the free exchange of ideas within elected bodies necessary to produce effective governance.”**

stances is even improved—under public scrutiny of their behavior.”<sup>145</sup> Greater transparency was not found to be associated with either legislators enacting fewer bills, increased polarization, or higher levels of party loyalty on roll call votes. An open legislature can still be an effective and efficient legislature.

So, the goal of open meetings and public records laws should not be to dial transparency up to eleven. Instead, the goal is to provide the most transparency possible, consistent with the need to allow the free exchange of ideas within elected bodies necessary to produce effective governance. Striking that balance can make government actions more efficient in the long term by providing better means for the input of public ideas and increasing the legislative process’s overall legitimacy.<sup>146</sup>

## **Transparency at the North Carolina General Assembly**

North Carolina has a pair of laws that promote government transparency. The first is the state’s open meetings law.<sup>147</sup> North Carolina General Statutes (NCGS) § 143-318.10 states that, with some exceptions, “each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting.” The law defines what constitutes an “official meeting” and a “public body” broadly, including a provision stating that a social event for public officials can be considered an official meeting if they use it “to evade the spirit and purposes” of the open meetings law by discussing official business at the event.<sup>148</sup>

There are permitted exceptions. Government bodies can go into closed sessions to discuss personnel issues and legal matters or to prepare negotiations for purchases or other expenditures.<sup>149</sup> In addition to those topic-based exceptions, several government bodies are legally outside the scope of the open meetings law. Those bodies include the Legislative Ethics Committee (which discusses possible ethics violations by legislators) and conference committees (which meet to negotiate differences between House and Senate versions of bills).<sup>150</sup>

North Carolina's public records law also promotes transparency.<sup>151</sup> Chapter 132 of North Carolina's General Statutes is devoted to defining, describing the handling of, and naming exceptions to public records.<sup>152</sup> It opens with an expansive definition of what constitutes a public record:

“Public record” or “public records” shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions.<sup>153</sup>

As with the open meetings law, the public records law has numerous exceptions. Broad exceptions include documents sealed by court orders or containing Social Security numbers, detailed plans or drawings of “public buildings and infrastructure facilities,” or confidential communications between government agencies and their lawyers, among other documents. To make the public records law meaningful, it also provides public access to those documents for “inspection and examination”<sup>154</sup> and requires government agencies to provide copies of records. The fees for those copies cannot exceed the “actual cost to the public agency of making the copy.”<sup>155</sup>

Any individual can request a public record by submitting a public records request form to the appropriate government agency. Many state government agencies have public records request forms on their websites.<sup>156</sup> That said, a member of the public can make a public records request successfully only if

there is a public record to request. Conversations between public officials, for example, are not subject to public records law unless that conversation has

### **It's Not FOIA, but PRR**

The national equivalent of North Carolina's public records law is the Freedom of Information Act (FOIA). It has become common in public policy and media circles to use "FOIA" as a verb (as in "I FOIA'd the Justice Department yesterday").

In North Carolina, we do not "FOIA" records at state and local government agencies; instead, we submit public records requests (PRRs).

been transcribed or recorded. So, public officials can avoid making their communications public by avoiding emails and other forms of writing in favor of face-to-face or phone conversations.

As attorney general and governor, Gov. Roy Cooper was famous for his "out-right avoidance of email," which made it challenging to understand his office's inner workings.<sup>157</sup> Ironically, the Cooper administration faced criticism after re-

leasing text messages, emails, and memos revealing that they used a "pipeline permit as leverage to force Duke into cutting a deal with the state's solar industry."<sup>158</sup>

There is also executive privilege, which keeps some conversations and documents out of the public eye, allowing an executive and advisors to be "free to discuss issues candidly, express opinions, and explore options without fear that those deliberations will later be made public."<sup>159</sup> Judicial deliberations are withheld from the public for similar reasons.<sup>160</sup> There are similar protections for legislative deliberations from public scrutiny. For example, legislators should be able to communicate with staff and work on unfiled drafts of legislation without those becoming public records.

Legislators, judges, and scholars have long expressed concern over the potential chilling effects of government transparency requirements. The deliberative process exemption found in the Freedom of Information Act and virtually every state public records law embodies this fear. Legislators

reason that by protecting pre-decisional records from disclosure, policymakers will feel free to engage in free and open communications uninhibited by the threat of public disclosure of their deliberations.<sup>161</sup> A member of the General Assembly noted the value of such private conversations for the deliberative process:

If you can't have the opportunity to have honest policymaking discussions with people you know in some context, then you're oftentimes not going to get great policy. I think there needs to be some latitude for people to have conversations in private when crafting ideas, having those discussions before something is presented publicly. No decisions are made as a result of this conversation, but having that debate is productive, I think.<sup>162</sup>

That protection of the deliberative process for legislators has an obvious limit. The primary product of legislatures is legislation. Whatever private discussions legislators and their staff have over legislation, all bills must be publicly submitted and voted on in both chambers before becoming law. The General Assembly's website includes features that allow individuals to track bills by bill number or text. Reports generated by those searches include bill sponsors, committee referrals, and votes taken.<sup>163</sup> One legislator interviewed for this report emphasized that secret legislation is impossible:

You know, every piece of legislation that is passed goes in front of the public, and there's a vote in front of the public. There is a chance to debate motions, bills, everything. There's not a utopia where you have a public record where you cut the top of the guy's head off and see every thought they had when they were writing it, which I think is what some people think exists in an e-mail, and it just doesn't .... Or they say where the bill was introduced "in the dark of night" as a PCS [proposed substitute bill]? Nah, that's not the dark of night. It was introduced in a public committee before the world. So, you know, nothing passes that hasn't been seen before.<sup>164</sup>

Another legislator emphasized that "there's a lot of transparency if people are willing to do the leg work," noting that bills are posted online and

that committee meetings and legislative sessions are broadcast live on the General Assembly's website.<sup>165</sup>

Again, the goal is not to make everything that legislators say or do public information. The goal is for the General Assembly to be as transparent as possible while protecting the deliberative process in the legislature.

## How North Carolina Compares with Other States on Transparency

Public knowledge of what is happening in their state legislatures is generally low. Indeed, political scientists have found that “identifying features” of state legislatures include “low levels of transparency, limited public interest, and curtailed statehouse reporting resources.”<sup>166</sup> Of those three features, only the relatively low levels of transparency at state legislatures can be directly affected by public policy.

Every state has laws regarding public records to help members of the public better know what is happening in their governments. Every state except Montana has exceptions carved out for their legislature (among other exceptions), however.<sup>167</sup> Some standard exceptions include unsubmitted drafts of legislation, personnel records, and communications with constituents. North Carolina's General Assembly similarly keeps documents created by legislative employees (which would include draft legislation) and emails with constituents confidential.<sup>168</sup> General Assembly members embrace that constituent protection, with one legislator saying, “We also have an obligation to our constituents to not give personal information.”<sup>169</sup>

North Carolina's General Assembly has a reputation for being relatively open regarding data on bills. A 2019 report by Open States graded state legislatures on public data availability. The grade was based on the availability of information on bills, legislators, committees, votes, and events. State legislatures were judged on how complete their data were, how quickly information was updated, how accessible it was, how long the data were stored, and if data were given in formats that allowed for quick data

processing. The General Assembly was one of eleven state legislatures to earn a grade of “A.” Among North Carolina’s neighbors, Virginia and Georgia also earned A’s, while South Carolina and Tennessee earned C’s.<sup>170</sup>

Another consideration is whether the North Carolina government would be more open if transparency requirements were embedded within the state’s constitution. Seven states explicitly require open meetings and public records in their constitutions: California, Florida, Illinois, Louisiana, Montana, New Hampshire, and North Dakota.<sup>171</sup> A study for the University of Florida’s Brechner Center for Freedom of Information found that at least for lawsuits related to public records, constitutional transparency requirements “rarely seems to produce an outcome clearly different from what a litigant could expect relying on state statutory rights alone,” especially if a state also has a clear statute that judges can use to resolve legal disputes. Nevertheless, a constitutional amendment requiring transparency can be helpful if it contains elements such as a supermajority requirement for legislative exemptions to open meetings or public records laws or a “clearly exceeds” standard that shows a “policy preference in favor of disclosure.”<sup>172</sup>

## The General Assembly Takes a Step Backward in 2023

An incident in 2023 highlighted why stronger transparency protections and perhaps a constitutional transparency requirement are needed. The legislature embedded a provision on page 531 of the biennial budget that functionally exempted itself from public records laws:

Notwithstanding any other provision of this section or order, rules, or regulations promulgated or adopted thereunder, the custodian of any General Assembly record shall determine, in the custodian’s discretion, whether a record is a public record and whether to turn over to the Department of Natural and Cultural Resources, or retain, destroy, sell, loan, or otherwise dispose of, such records. [Section 27.9.(a)]<sup>173</sup>

The same bill said that individual legislators are the custodians of “all documents, supporting documents, drafting requests, and information requests made or received by that legislator while a legislator.” (Section 277.7(e))<sup>174</sup>

In short, an individual legislator would have the legal right to declare any record of theirs off limits to the public, purely at their discretion.

Media organizations and nongovernmental organizations immediately and strongly expressed concern over the change. In just one example, a coalition of organizations, including the heads of the John Locke Foundation and the North Carolina Press Association, stated that the legislative records section inserted into the budget “goes beyond safeguarding legitimate concerns and threatens to undermine the principles of transparency that North Carolina’s public records laws were designed to uphold.”<sup>175</sup>

The likely impetus for the change was a court-ordered round of redistricting the General Assembly would conduct later that fall. Communications about redistricting issues had been held to be “generally public records,”

**"A necessary part of transparency reform will be to undo the damage caused by recent legislation."**

meaning that legislators must make most letters, emails, and other documented communications public upon request.<sup>176</sup>

Screening such communications from public records requests would allow legislators to communicate about redistricting

plans privately, sparing them from potentially embarrassing revelations that could become evidence in lawsuits over maps they drew.

The Society of Professional Journalists (SPJ) gave its annual Black Hole Award to the North Carolina General Assembly in March 2024 for the public record provision of the 2023 budget and for its repeal of a law “requiring redistricting draft maps and communications to be made publicly available.” SPJ Freedom of Information Committee member Howard Goldberg said it was part of a national pattern of state legislators “exempting themselves from accountability to citizens who want to know how their laws are made and who is influencing their lawmakers.”<sup>177</sup>

So, a necessary part of transparency reform will be to undo the damage caused by recent legislation.

## **Rightsizing Transparency at the North Carolina General Assembly**

As previously stated, when considering public records and open meeting laws, the goal is to provide the most transparency possible, consistent with the need to allow the free exchange of ideas within elected bodies necessary to produce effective governance. That is not the maximum transparency position but the one favoring the correct balance between those concerns.

Legislators wrestle with those dueling concerns, as one of the legislators interviewed for this report stated:

It's important that we, as legislators, are open to sharing how we develop policy with the people .... We have to be able to have confidential conversations about topics in order to develop good policies because if you can't have dialogue in some confidential manner with other legislators, that's going to stymie that. On the other hand, once we're developing that, people need to understand how we arrived [at that decision], and so there's a balance there.<sup>178</sup>

The General Assembly is currently out of balance regarding transparency, however. That is why all of this report's recommendations promote greater transparency.

The first step should be to repeal or modify the provision in the 2023 budget that made legislators the sole arbiters of which documents they produce are public records. Senate leader Phil Berger said that the provision was necessitated by a conflict between the North Carolina Department of Natural and Cultural Resources (which archives public records) and legislators over whether that agency had the power to "tell the legislature that certain things have to be saved to be archived."<sup>179</sup> Unfortunately, the provision the legislature added to the budget was

overkill; it affects all legislator-held documents at all times. A narrower provision could have left it up to individual legislators whether to turn over a record to the Department of Natural and Cultural Resources while still subjecting those records to public records requests.

Once the immediate problem has been resolved, the General Assembly can look for long-term solutions that would foster an expectation of transparency for all parts of state government, including the legislature. The strongest form of protecting the public's access to government meetings and documents would be an amendment to the state constitution affirming that right. As previously noted, research for the Brechner Center for Freedom of Information found that constitutional amendments do not generally enhance the public's right to access government information when states also have statutes serving the same purpose. Even so, two elements of a transparency amendment could improve the public's right of access:

1. Requiring a supermajority for the legislature to exempt itself from transparency laws while requiring a simple majority to remove exemptions
2. Including a "clearly outweighing" standard that favors public disclosure unless the interest served by nondisclosure outweighs that of disclosing a record<sup>180</sup>

The first recommended constitutional element may be of limited utility in North Carolina, where partisan supermajorities have become somewhat common. It would, however, at least provide the potential for more deliberations requiring broader consent. That would especially be true when the same party controls both the legislative and executive branches, largely removing the threat of vetoes.

The second recommendation would give those seeking records a more solid footing to overcome government resistance or legislative exceptions to transparency laws. Such a provision would not preclude the legislature from carving out exceptions for personal privacy, personnel matters, private property (such as business secrets held in government

documents), and the pre-decisional deliberative process in all branches of government. Despite such exceptions, Montana's experience with its "clearly outweighing" provision "produced a robust body of case law, most of it coming down on the side of public access."<sup>181</sup>

Both Republicans and Democrats have proposed transparency constitutional amendments in recent years without success.

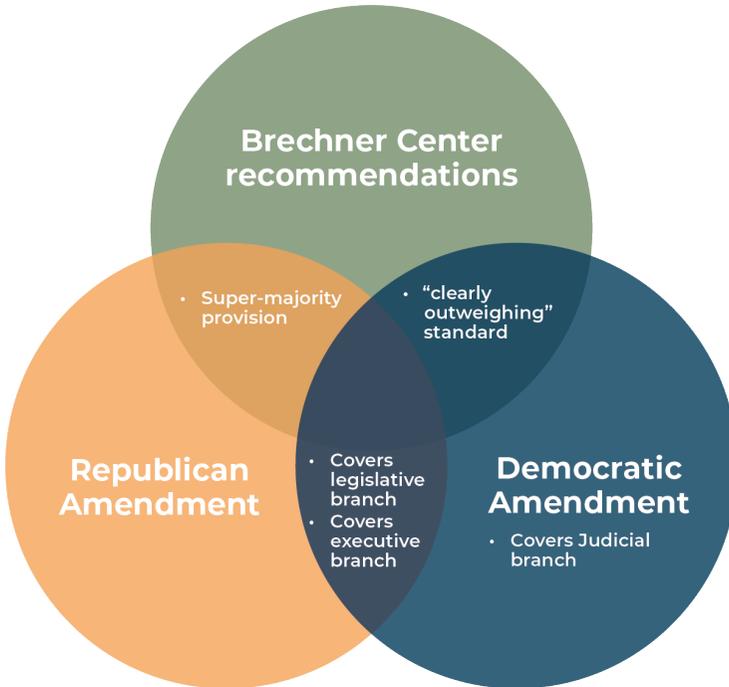
The Republican proposal came as a 2011 proposed committee substitute to an unrelated bill. It would have granted every person the right to "inspect or copy any public record" and asserted that all meetings in which official acts are taken or public business is discussed "shall be open and noticed to the public." The Republican plan "specifically" covered the legislative and executive branches. It would have granted the General Assembly the power to make exceptions if approved by a three-fifths majority of both chambers. It lacked a "clearly outweighing" standard that would create a presumption favoring transparency absent a compelling reason to keep a record out of the public eye.<sup>182</sup>

Democrats proposed their transparency amendment in 2024 in a bid to highlight Republicans' functional exclusion of legislators from the state public records law in 2023.<sup>183</sup> Unlike the Republican proposal, the Democratic plan would allow the legislature to carve out exceptions to transparency laws with a simple majority. It would, however, incorporate the Brechner Center's recommendation for a "clearly outweighing" standard by stating that any statutory or regulatory limitation on transparency must demonstrate "(i) a compelling public interest is protected by the limitation and (ii) the limitation is narrowly tailored to protect the public interest." Unlike the Republican bill, it also would cover the judicial branch, although courts would likely take a broad view of what constitutes a compelling public interest. It is unknown how tolerant the courts would be of other branches carving out similarly broad exceptions for themselves.<sup>184</sup>

Figure 4.1 summarizes the similarities and differences between the Brechner Center's recommendations, the 2011 Republican transparency amendment's provisions, and the 2024 Democratic transparency amendment's provisions.

### FIGURE 4.1 VENN DIAGRAM OF TRANSPARENCY AMENDMENTS

Venn diagram of the similarities and differences between the Brechner Center's constitutional amendment recommendations, the Republican transparency amendment's provisions, and the Democratic transparency amendment's provisions



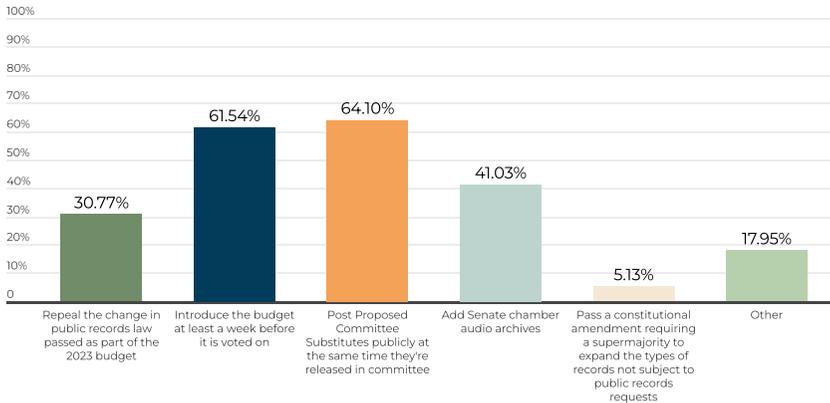
While the Republican constitutional amendment disappeared almost as soon as it appeared, and the Democratic amendment was a political stunt rather than a serious attempt at legislation, both proposals have elements that can and should be incorporated into a serious proposal to expand and protect government transparency, particularly at the General Assembly.

So, we know what the General Assembly *should* do. The question is what the General Assembly *will* do. It may not be easy. As research into the economics of government transparency has found, “Governments release information (on average) not because they necessarily have a desire to be ‘open,’ but because they have to.”<sup>185</sup>

Indeed, in our survey of General Assembly members, repealing the provision allowing legislators to decide if any of their records are public and adding a transparency amendment to the state constitution were the least popular items. The two measures supported by a majority of respondents — introducing budgets at least a week before they are voted on and posting proposed committee substitutes (amended versions of bills offered at the start of committee meetings) — were more about transparency within the General Assembly than they were about transparency to the public. See Figure 4.2 for details.

**FIGURE 4.2 LEGISLATORS' RESPONSES TO A SURVEY QUESTION ON MEASURES TO INCREASE TRANSPARENCY AT THE GENERAL ASSEMBLY.**

**What, if anything, could or should be done to increase transparency at the General Assembly? [Select all that apply]**



Source John Locke Foundation survey of North Carolina General Assembly members, 2024

Nevertheless, the General Assembly has passed transparency laws before, and some combination of political pressure and opportunity can help get a transparency amendment through the legislature.



# Conclusion

Two basic models for what makes a legislature effective are *citizen legislatures*, where legislators meet part-time and spend most of their time back in their home districts, and *professional legislatures*, where legislators work as full-time employees who can devote most of their time to legislative work. Those models fundamentally differ in their assumptions about what makes legislators successful public servants.<sup>186</sup>

Each model also has weaknesses. For example, research from the Goldwater Institute found that “careerism” (based on a measure of legislative salaries, session lengths, and staff size) “reduces economic freedom ... and increases the tax burden.”<sup>187</sup> Nevertheless, other research has shown that “less-professionalized chambers” often find themselves at a disadvantage when negotiating with governors,<sup>188</sup> leading to unnecessary budget increases and sustained vetoes.

An ideal legislature would operate under the best features of both models, counteracting the negative aspects of both to best serve North Carolina’s citizens. To that end, the proposals in this report include a reform that will increase legislative professionalism and several that will promote accountability and allow legislators to be closer to their constituents.

Legislators recognize the need for reform. In March 2023, a bipartisan group of state senators filed a bill as a first step toward reform. Senate Bill 394 (SB 394) would create a “Commission on Legislative Reform”

composed of eight members, four appointed by the speaker of the House and four by the president pro tempore of the Senate.<sup>189</sup>

The commission would:

study and make recommendations regarding modifications to the North Carolina Constitution with regard to:

1. The length of terms for members of the General Assembly.
2. Term limits for members of the General Assembly.
3. Limits on the length of legislative sessions.
4. Legislative compensation.
5. Legislative per diem and mileage allowances.<sup>190</sup>

This report covers three of those areas (session length, compensation, and per diem and mileage allowances). While we believe our recommendations in those areas are practical and achievable as written, we would also welcome a legislative reform commission using them as a starting point for a study. Ideally, legislators would expand the reform commission's mission to include legislative leadership term limits and transparency.

Unfortunately, the reform commission bill was referred to the Senate Committee on Rules and Operations. Bills initially referred to rules committees almost invariably are never seen again, and such was the case with SB 394.<sup>191</sup> Legislators should push for an expanded reform bill in future legislative sessions.

North Carolina has historically had a strong citizen legislature. Instituting leadership term limits, session limits, increased legislator compensation, and constitutionally mandated transparency would help the General Assembly continue that tradition while being more accountable, responsive, and closer to the people they represent.

# Appendices

## Appendix A: Legislator Interviews

We conducted interviews with eight members of the North Carolina General Assembly.

### Interview Purpose and Description

The goal of qualitative data, such as gathered through interviews, was to gain an in-depth understanding of how participants think and to understand the causal mechanisms of what we found through other research.<sup>192</sup> So, we were not concerned about having a representative sample for our interviews. We also knew that getting legislators to take up to 30 minutes to talk with us would be a big ask. Instead of a random sample of legislators, we created a purposeful sample of legislators we believed would be more likely to agree to an interview. (The criteria used to generate the sample cannot be divulged to preserve interviewee confidentiality.) Of the 23 legislators selected for interviews, we were able to interview eight (one interview was cut short and omitted due to a misunderstanding between a researcher and a member's legislative staffer about the nature of the interview). We assigned each participant a random three-digit number for identification.

Interviews were conducted in late April and early May 2024. They were conducted in person, usually in the participants' legislative offices, and

recorded. The interviews were then transcribed by software and John Locke Foundation staff. The recordings were deleted after the transcriptions were complete. The interviews comprised 15 questions created after our initial research on the proposed policy reforms. All questions were open-ended or closed-ended with follow-up questions.

In addition to providing insight into what legislators think about issues affecting working conditions in the General Assembly, the interviews were used to develop a survey of legislators that we conducted in May and June 2024.

The quotes from the legislator interviews have been cleaned somewhat (for example, removing “uhs” and repeated words) to improve readability, but are otherwise verbatim.

The full transcripts of the interviews will not be published to save space and prevent an accidental breach of confidentiality.

### **Interview Opening Script and Questions**

*The following is the opening script that researchers read to interview participants and the questions asked in the interviews:*

This is **(Researcher's name)** with the John Locke Foundation conducting North Carolina Legislative Reform interview with Legislator **(insert number of the member)**. For the purposes of this interview, I will only be referring to the legislators or former legislators by the number they have been randomly assigned.

Legislator **(insert number of the member)** has agreed to participate in this interview and may request a copy of both the recording and the transcript. The John Locke Foundation will store the interview on a OneDrive server only accessible to researchers assigned to the study and will delete it once the study has concluded. Legislator **(insert number)**, do you have any questions before we begin?

How would you describe the job of being a legislator — what are the most important things you should do?

1. What made you want to serve in the General Assembly?
2. What has been your biggest frustration while serving in the General Assembly?
3. Are there barriers, aside from the need to win elections, for people who wish to serve in the General Assembly?
4. In terms of the work the General Assembly does, do you believe legislative sessions are too short, too long, or about the right length of time? Why?
5. What would be the ideal length of time for the long and short sessions? (Can be expressed in calendar days/weeks/months or session days/weeks/months.)
6. Do you believe that the salary for members of the General Assembly is too low, too high, or about right? Why?
7. What impact, if any, do you think legislative salaries have on recruiting candidates for the General Assembly?
8. Do you believe the North Carolina legislature has too much power compared to the other branches, not enough power, or about the right amount of power? Why?
9. Do you believe that legislators, outside of leadership, have a real opportunity to influence policy in the General Assembly? Why?
10. Does having the same members in leadership for long periods of time give them too much influence in the General Assembly? Please explain.
11. What positions in the General Assembly would you define as “leadership?”
12. How often does your office receive public records requests? Roughly, what proportion of those requests does your office fill?
13. What, if anything, could or should be done to increase transparency at the General Assembly?
14. Is there anything else about what we talked about today that you would like to share?

## Appendix B: Legislator Survey

As part of our research on legislative reforms, we surveyed current members of the General Assembly.

### Survey Purpose and Description

We conducted the survey online using SurveyMonkey, to which 39 of 169 members of the General Assembly replied, a response rate of 23.1 percent (one legislator was not counted in the population because he had been newly appointed to fill the remainder of a legislator's term). While the response rate was disappointing, it was also expected. It is similar to the 24.9 percent average response rate found in surveys of national and local legislators in Europe<sup>193</sup> and the 21 percent response rate in a nationwide survey of 2,526 state legislators in the United States in 2000.<sup>194</sup> Like other political elites, state legislators are busy, highly sought-after, and otherwise hard to get. They are also used to being treated as important individuals rather than "just" research participants. For those reasons, research has found that "elite surveys particularly suffer from low response rates as a consequence of these two problems."<sup>195</sup>

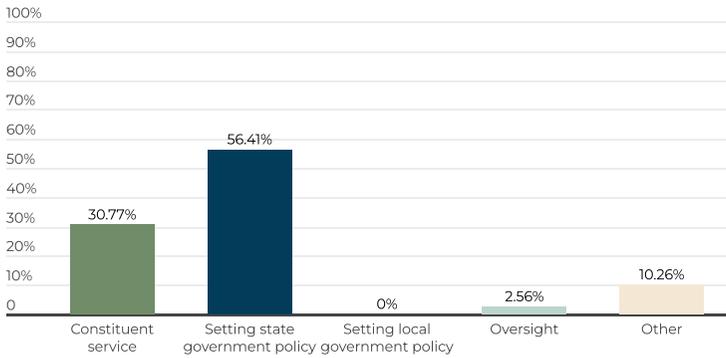
Legislators were invited to take the survey via email, and a link to the survey was embedded in the email. The initial response rate was disappointing, with only ten replies from the 167 members contacted. (As noted previously, one member was excluded because he had been appointed in early 2024. The survey system always bounced the email addresses of two other members.) We adjusted by systematically contacting members an average of twice per week for six weeks. While we had diminishing returns each week, we eventually reached 39 total replies.

While elite surveys with low response rates are usable, the resulting 14 percent margin of error (with a confidence level of 95 percent) meant that we can speak of legislator opinion only broadly. For example, every member surveyed believed that legislative pay is too low, and a substantial majority believed it makes recruiting qualified candidates more difficult. The low response rate also made examining subsets of legislators impractical.

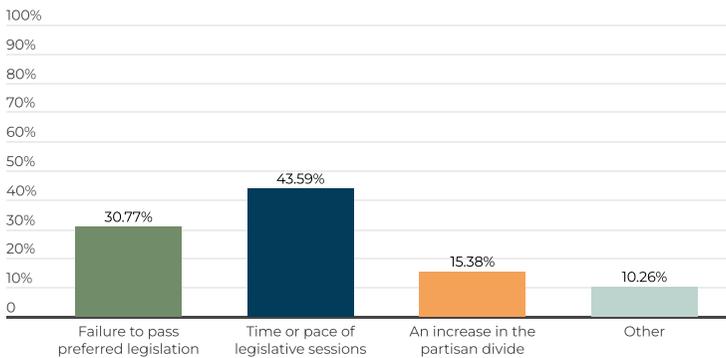
There was also some evidence of selection bias (when survey participants differ significantly from the population being studied), which may have influenced the survey’s outcome. While the divide between the proportion of senators and representatives roughly corresponded to their proportion in the population of all legislators, the proportion of Republicans in the survey (74.4 percent) was much higher than among all legislators (60 percent).

### Survey Questions and Results

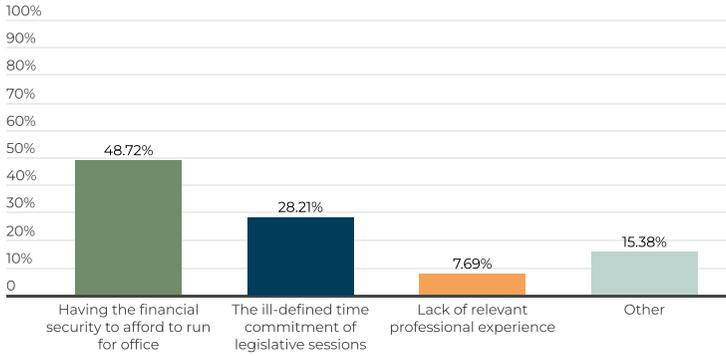
#### What is the most important job of a legislator in the North Carolina General Assembly?



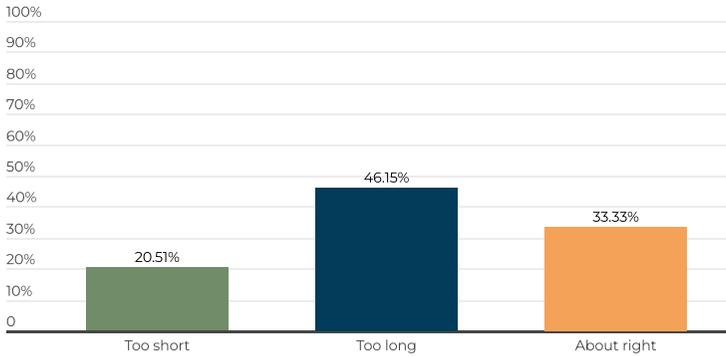
#### What has been your biggest frustration while serving in the General Assembly?



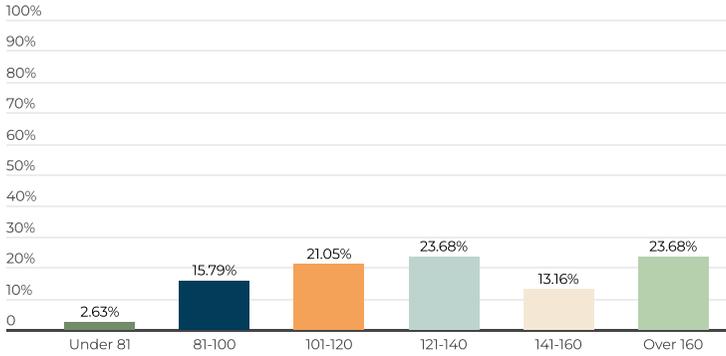
**What is the most significant barrier, aside from the need to win elections, for people who wish to serve in the General Assembly?**



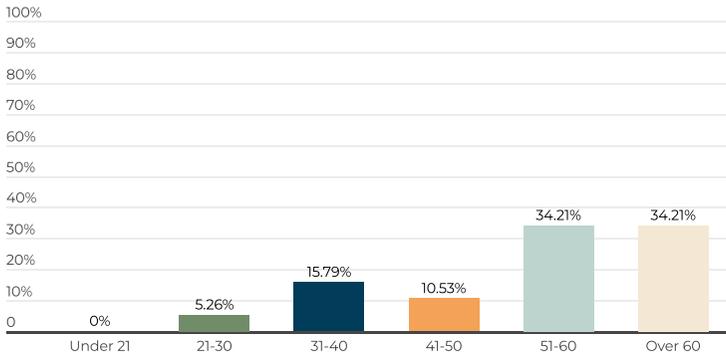
**In terms of the work the General Assembly does, do you believe legislative sessions are too short, too long, or about the right length of time?**



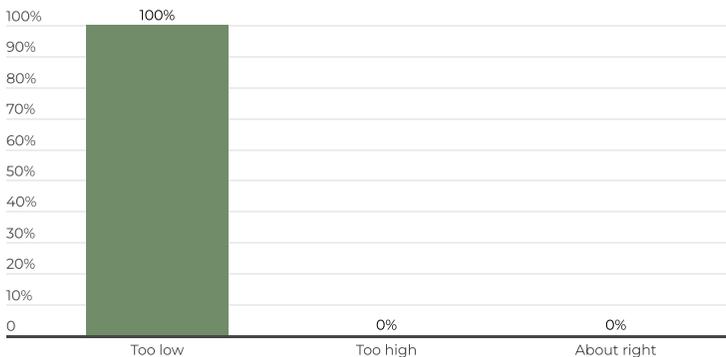
**Given the work that the General Assembly does, what would be the ideal length of time for the long session in legislative days (days on which the legislature meets)?**



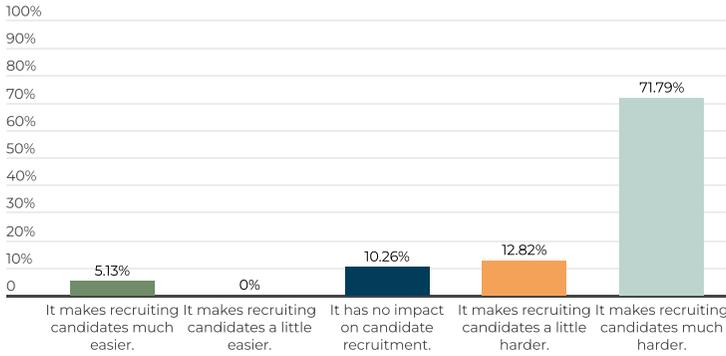
**Given the work that the General Assembly does, what would be the ideal length of time for the short session in legislative days?**



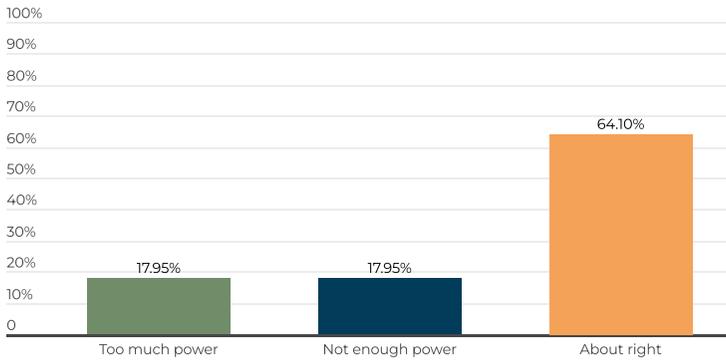
**Is the salary for members of the General Assembly too low, too high, or about right?**



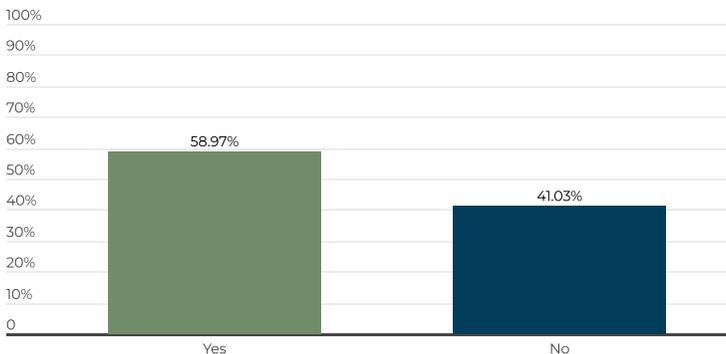
**What impact, if any, do you think legislative salaries have on recruiting candidates for the General Assembly?**



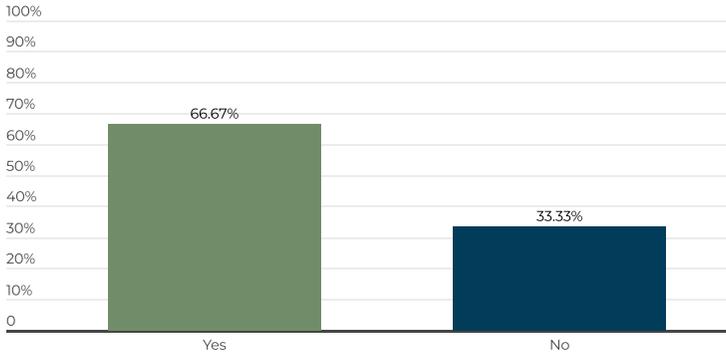
**Do you believe the North Carolina legislature has too much power compared to the other branches, not enough power, or about the right amount of power?**



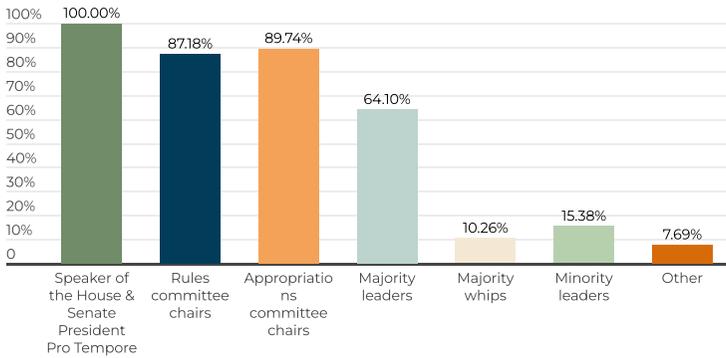
**Do you believe that legislators, outside of leadership, have a real opportunity to influence policy in the General Assembly?**



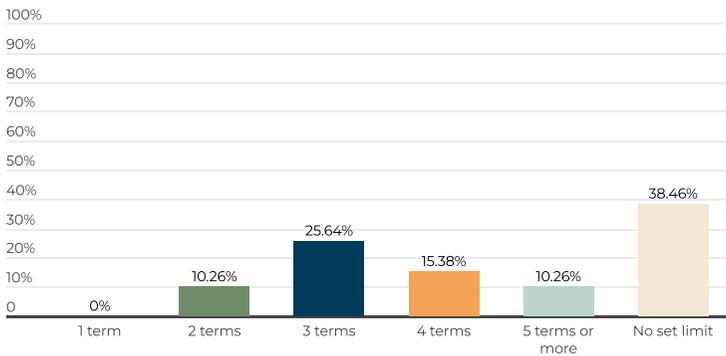
### Does having the same members in leadership for long periods give them too much influence in the General Assembly?



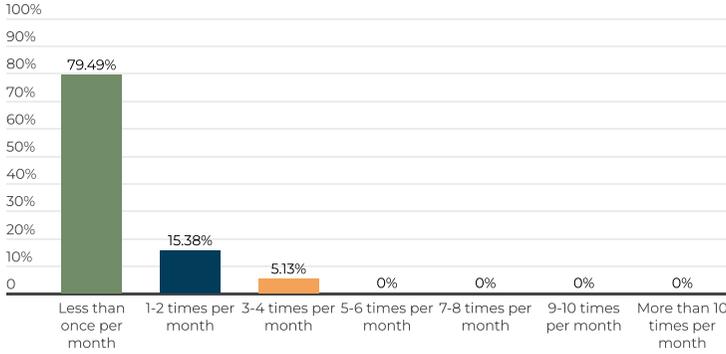
### What positions in the General Assembly would you define as “leadership?” (Check all that apply)



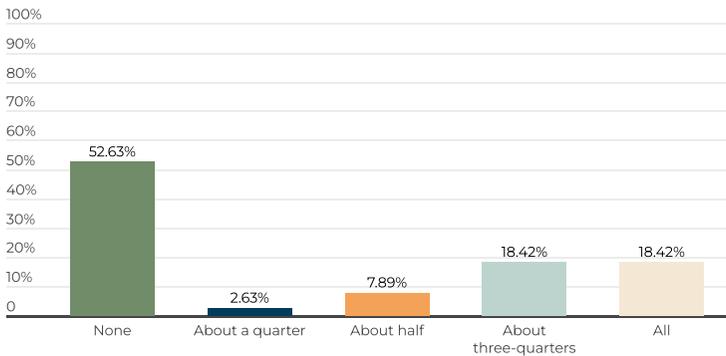
### How long should someone be able to serve in the General Assembly as House Speaker or Senate President Pro Tempore?



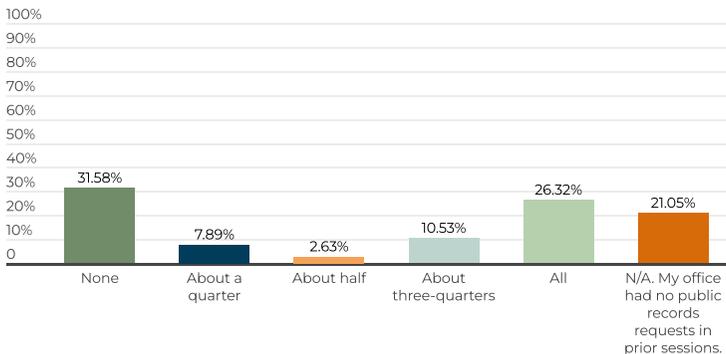
### How often does your office receive public records requests?



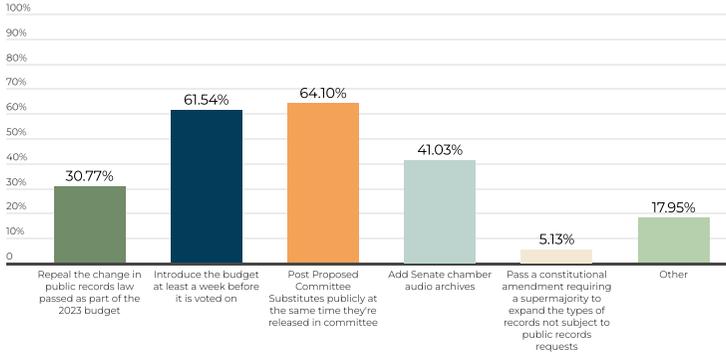
### What proportion of public records requests has your office filled in the current biennial session? [Requests could be unfilled because they ask for inappropriate information or are onerous.]



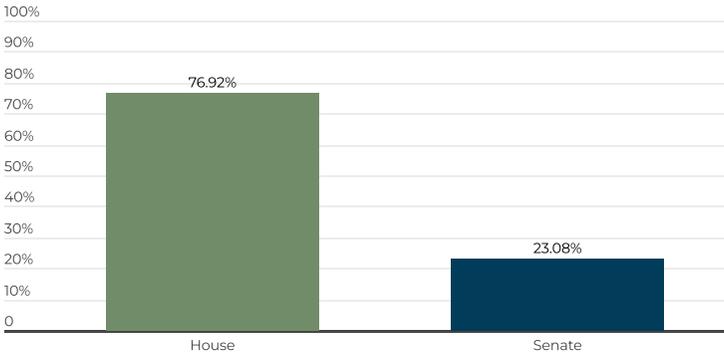
### On average, what proportion of public records requests did your office fill in prior years?



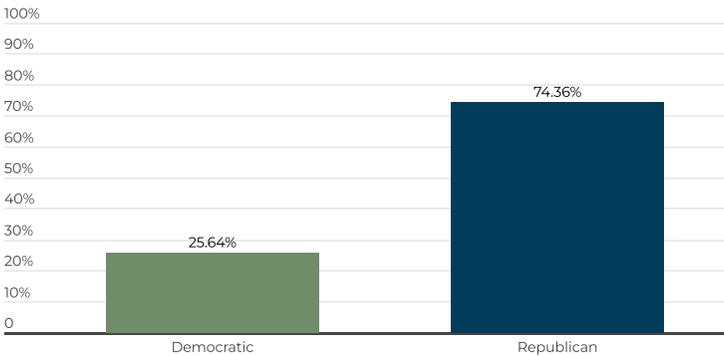
### What, if anything, could or should be done to increase transparency at the General Assembly? [Select all that apply]



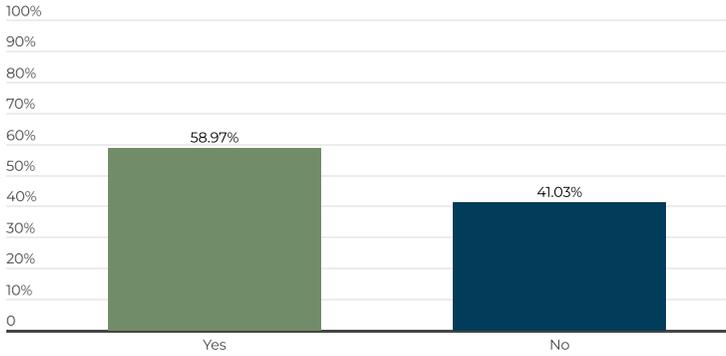
### In which legislative chamber do you currently serve?



### Of which political party are you a member?



**Have you ever held elected office other than in the position in which you currently serve?**



The answers to the 21st question, “Would you like to share anything else about the topics in this survey,” were too varied to provide usable information.

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# ADDENDUM

Please see below for corrections to  
“Reforming North Carolina’s General Assembly”

## **Legislative Salaries**

After publication, the authors became aware that what is listed as an “expense allowance” functions as an additional form of compensation rather than an expense reimbursement.

Each regular member of the General Assembly receives \$6,708 per year from this “expense allowance.” Unspent funds do not return to the General Fund. Compensation received from it is subject to taxes, requires no record of expenses to be filed, and is allocated directly to members with each paycheck. In effect, the “expense allowance” acts as an additional part of a member’s salary

To increase transparency, the General Assembly should recategorize this funding as salary. Doing so would change legislators’ official pay from \$13,951 per year to \$20,659.

## **Savings from Session Limits**

The study’s calculation of savings from session limits mistakenly used legislative days instead of calendar days. The calculated savings should be based on 83 calendar days instead of 34 legislative days. Also, when accounting for the constants of per diems and mileage, a more accurate estimated adjustment for inflation from 2015 to 2024 would be \$59,872.18 instead of the \$65,827.00 previously used. These two factors would move the total savings from the implementation of session limits from \$2,238,118.00 to \$4,968,391.01 per year.

Based on these changes, legislative salary could increase to \$28,566.86 at a net zero cost to taxpayers (instead of the \$20,533.70 cited in the report). Adding the expense allowance mentioned above would result in a legislative salary of \$35,274.86 per year at no additional expense to taxpayers. The authors, however, recommend an annual legislative salary of \$32,400.50 per year, which is the national median salary of hybrid legislatures, and keeping the rest of the savings in the General Fund.

## About the Authors



As Director of the Civitas Center for Public Integrity at the John Locke Foundation, **Dr. Andy Jackson** focuses on government compliance with the law and best practices, particularly regarding election policy and law. He researches and writes on public and election integrity, conducts election analysis, and presents election-related data.

Andy has worked professionally for several political campaigns and organizations, including as the Iowa political coordinator for the Alan Keyes presidential campaign in 1996 and campaign manager for John Tedesco for Superintendent of Public Instruction in 2012. He has also worked as a columnist. His articles have appeared in several North Carolina, national and international publications, including the Korea Times, the Washington Examiner, Real Clear Policy, the Wall Street Journal, and Campaigns & Elections magazine.



As a Research Fellow at Locke's Civitas Center for Public Integrity, **Jim Stirling** focuses on government compliance with the law and best practices, particularly as it pertains to election policy. Jim's primary focus for the Center for Public Integrity is conducting research on election integrity, analysis of election data, and good governance practices on the state and local level.

Before joining Locke, Jim worked with several members of the North Carolina General Assembly; assisting with Boards and Commissions, researching, and drafting of policy at the state Legislature.



## **Our History**

The John Locke Foundation was created in 1990 as an independent, nonprofit think tank that would work “for truth, for freedom, for the future of North Carolina.” The Foundation is named for John Locke (1632-1704), an English philosopher whose writings inspired Thomas Jefferson and the other Founders. The John Locke Foundation is a 501(c)(3) research institute and is funded by thousands of individuals, foundations, and corporations. The Foundation does not accept government funds or contributions to influence its work or the outcomes of its research.

## **Our Vision**

Locke envisions a North Carolina in which liberty and limited, constitutional government are the cornerstones of society so that individuals, families, and institutions can freely shape their own destinies.

## **Our Mission**

Locke’s mission is to be North Carolina’s most influential force driving public policy so North Carolinians flourish in a free and prosperous society.



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