



POLICY REPORT

South Carolina Policy Council

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Shorten South Carolina’s Legislative Session

One of the pillars of republican government is the principle of “separation of powers.” This term refers to the idea that governmental power should be divided into three branches: legislative, executive and judiciary. Here in South Carolina, however, the state constitution concentrates a great deal of power in the Legislature, at the expense of both the executive and judicial branches, as well as ordinary taxpayers. Breaking this power monopoly is essential if South Carolinians are going to take back their state from the politicians and lobbyists that control our government and economy.

One of the Longest Sessions in the Country

Any way you measure it, South Carolina has one of the longest legislative sessions in the country. Legislators meet five months each and every year. In terms of months, that means South Carolina has the longest session in the Southeast (tied for 1st with Tennessee) and the 6th longest in the country (tied with seven other states).

In terms of weeks, South Carolina’s session can be pegged at 21 weeks. That gives us the 2nd longest session in the Southeast and the 14th longest in the country. Excluding the nation’s 10 full-time, professional legislatures, South Carolina has the longest session in the country as measured by months and the 7th longest session in terms of weeks. By comparison, the median length of session for state legislatures is 16 weeks.¹ Thus, South Carolina’s session is more than a month longer than in most states.

How Long Is South Carolina’s Legislative Session?

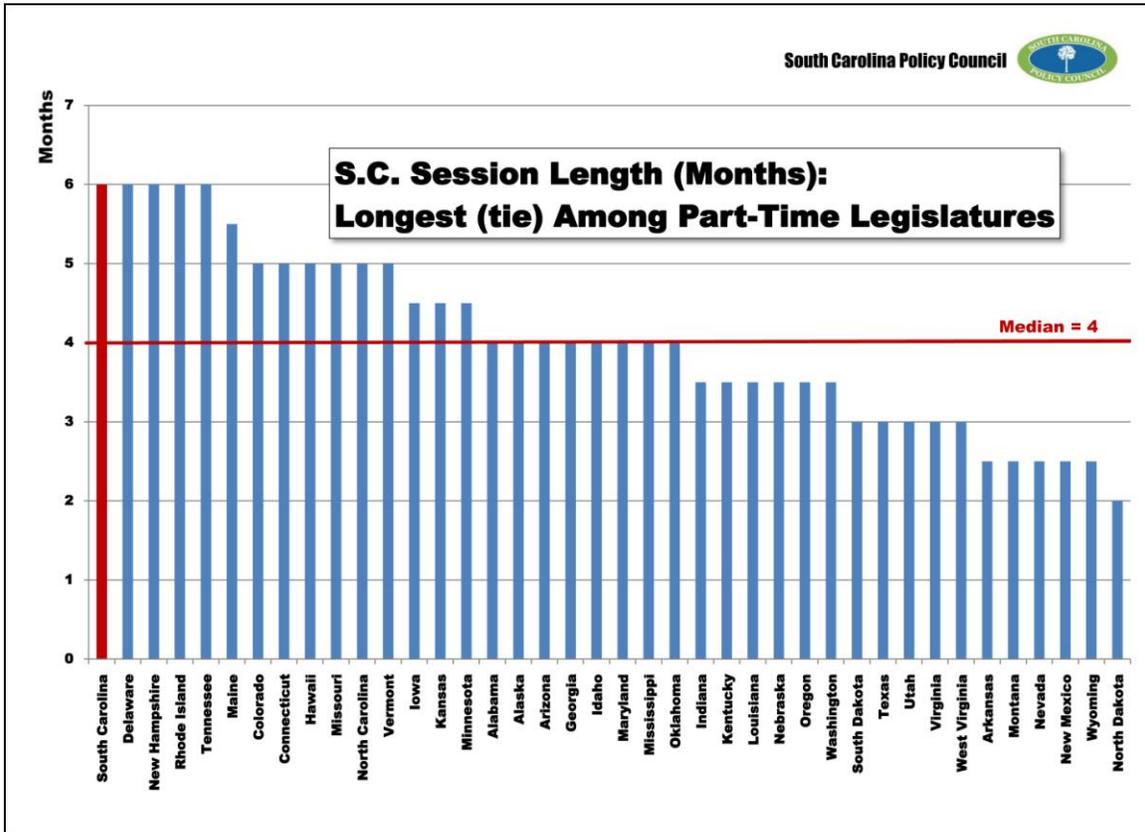
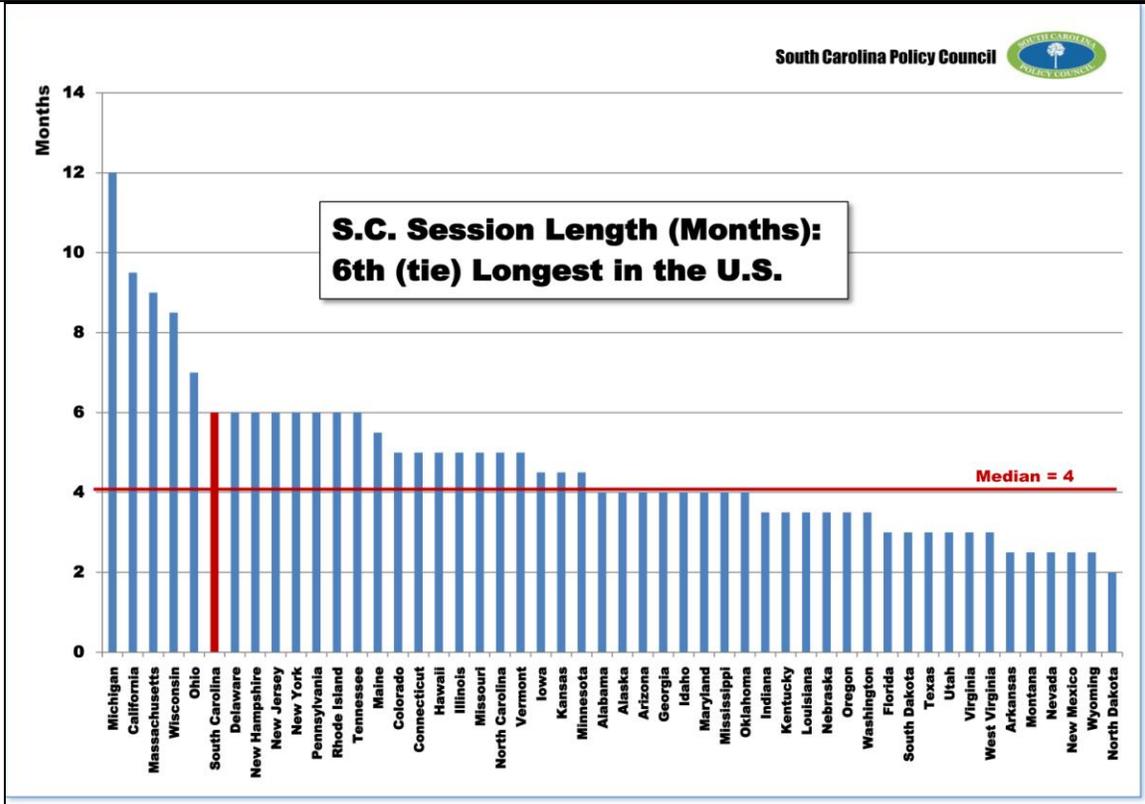
5 months

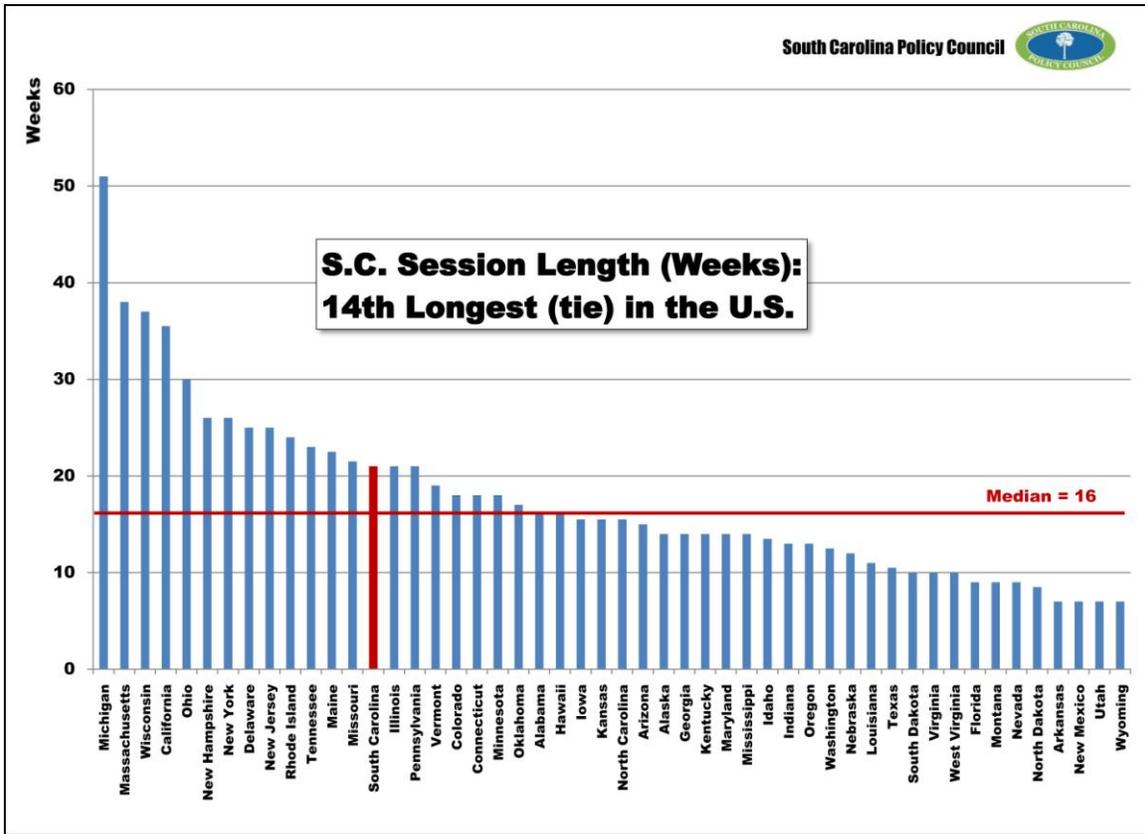
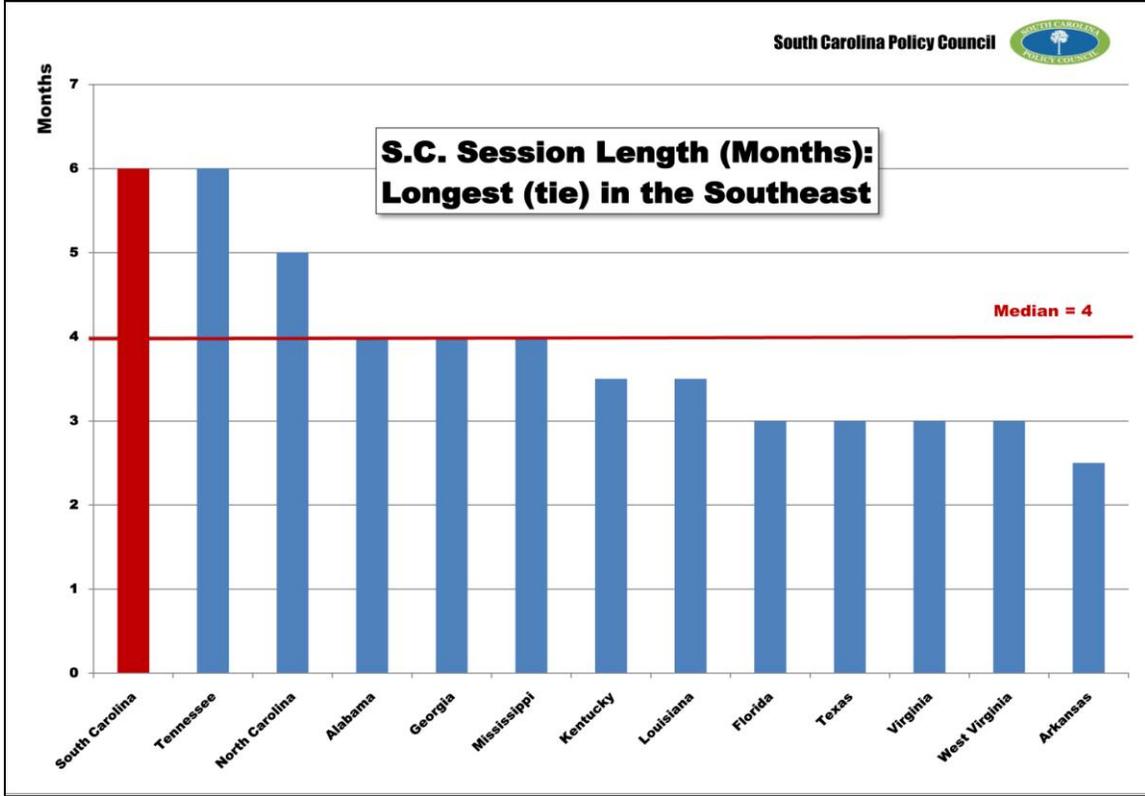
21 weeks

143 calendar days

63 legislative days

¹Length of session is calculated using statutory and constitutional limits for odd and even year sessions. Those states that do not have a statutory or constitutional session limit were asked to identify what their informal cutoff date is for session. Calculations using actual days met for 2009 and 2010 produced similar results and will be released in a forthcoming report. Session months and weeks are defined in the most comprehensive manner possible. For instance, South Carolina’s Legislature meets for three legislative days within a five-day calendar period. These three days are counted as one session week. If a legislature met for only one day a week that one day would also signify a full session week, and so on.





According to [article III, § 9](#) of the state constitution, the annual session of the General Assembly shall convene “on the second Tuesday of January of each year.” But the constitution does not stipulate a limit to the length of session. Rather, state law ([§ 2-1-180](#)) requires that session end by 5 p.m. on the first Thursday in June, unless legislators agree by a two-thirds vote to extend it. For the 118th General Assembly (2009 and 2010) this meant that the Legislature met for 143 calendar days each year.

Professional Legislatures and Career Politicians
Legislatures are usually classified as being either full-time, professional bodies, or part-time, citizen bodies. According to the [National Conference of State Legislatures](#) (NCSL), four states have fully

“professional” legislatures while another six have mostly professional bodies. Six states have fully “citizen” legislatures while eleven more have mostly citizen legislatures. The remaining states, including South Carolina, have “hybrid” legislatures—meaning their legislative bodies display a mix of professional and citizen characteristics.

In practice, the S.C. Legislature convenes five months a year: from January to the beginning of June. Technically, legislators meet three days a week—Tuesday to Thursday—during this time. For the 118th General Assembly Session, they met for an average of 59 working days each year. (These figures are lower than normal because of several “furloughs” taken by the House and Senate.)

The actual number of legislative days, however, is less important than the fact that session takes up nearly half a year. In practice, this means South Carolina *does* have a largely professional legislature. Most South Carolinians cannot work only Mondays and Fridays (not to mention travel time) for five months out of the year. At the minimum, then, being a state legislator requires a five-month, full-time commitment. But, in essence, this five-month commitment is not much different than an entire year. Again, most people cannot take five months off from work or other commitments each year. And this does not even take into account the time needed to campaign for office and run in primary and general elections. Thus South Carolina’s five-month-long session bars most ordinary citizens from being lawmakers.

- In 2010, Virginia’s General Assembly only stayed in session 46 days.
- In 2010, Mississippi’s General Assembly only stayed in session 45 days.
- In 2010, Arkansas’ General Assembly only stayed in session 45 days.

It is to be expected that citizens will serve in public office for a short time only and “called for the most part from pursuits of a private nature, continued in appointment for a short time, and led by no permanent motive to devote the intervals of public occupation to a study of the laws.”

James Madison,
[The Federalist Papers](#), No. 62

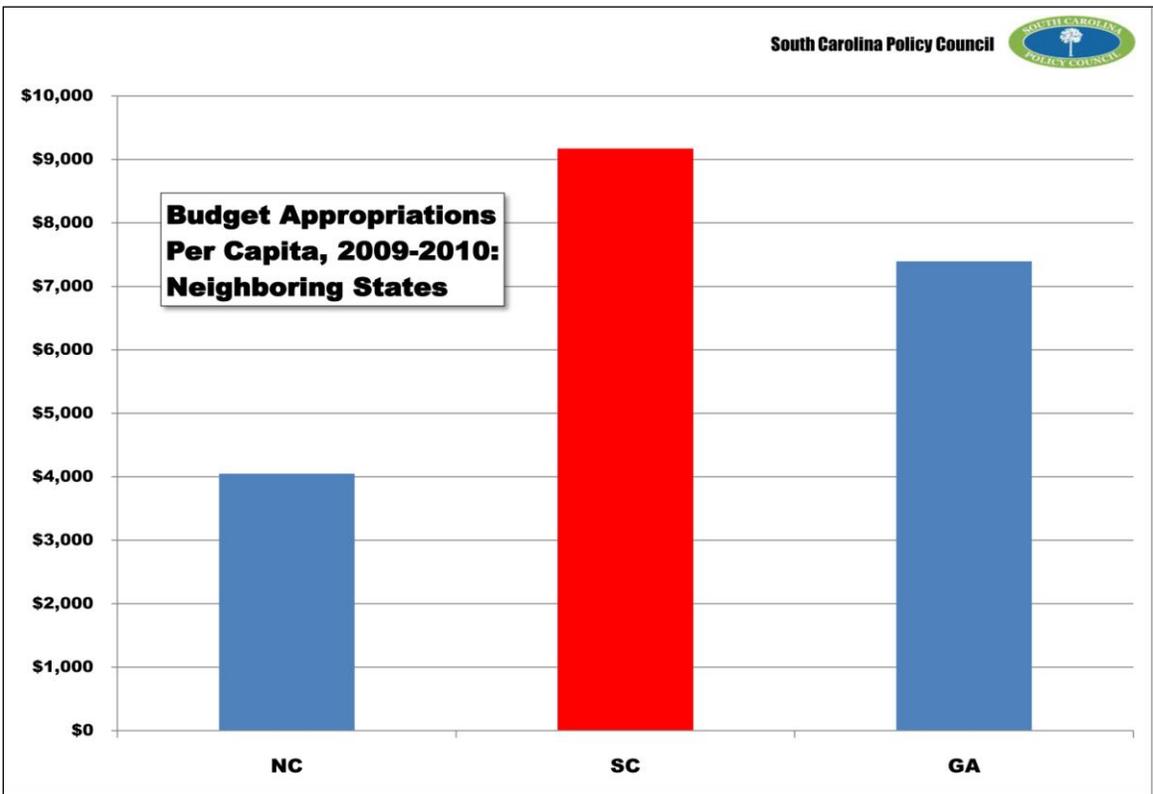
The difference between a professional legislature and a citizen legislature can be more vividly illustrated by contrasting the following two types or models: that of the “career politician” and the “citizen legislator.”

For the career politician, reelection is more important than making good laws or serving constituents. These latter considerations may have value to the career politician, but they are subordinate to remaining in office. This is especially true because the career politician has no other livelihood or marketable skills. In turn, the career politician is more readily influenced by lobbyists and special interests because these interests are the primary sources of campaign contributions.

The citizen legislator, on the other hand, holds public office as a form of public service. George Washington, who was reluctant to serve a second-term as the first U.S. president and refused a third term, is the model citizen statesman. Like Washington, the citizen legislator may devote his life to the service of his country or state, but not out of self-interest, much less on behalf of special interests.

Government entities, including state agencies, public universities and local governments, spend millions each year on taxpayer-funded lobbying. For 2010, 68 government entities employed 86 taxpayer-funded lobbyists.

Budget Appropriations Per Capita, 2009-2010: Neighboring States



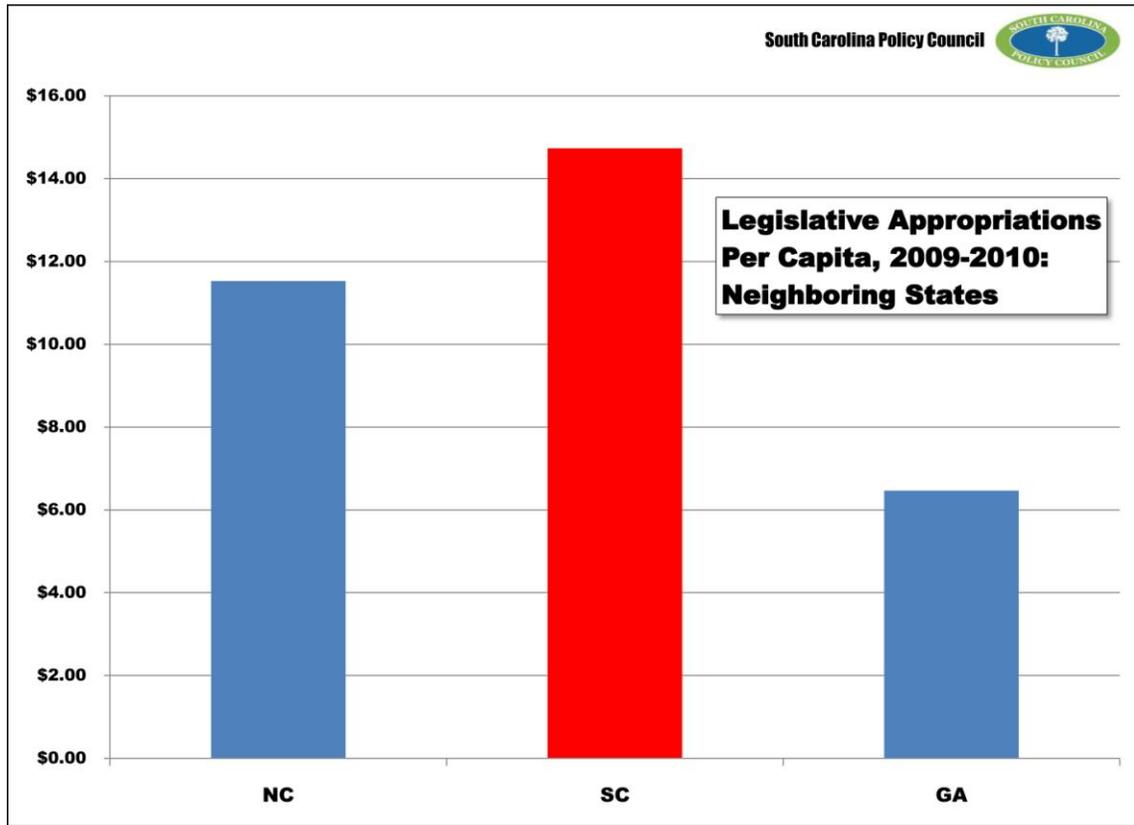
It would be naïve to hold every legislator up to the model of Washington. In reality, most lawmakers have conflicting impulses that reflect both types. As we shall see, though, the political culture created by a long session makes it far easier to be a career politician than a citizen legislator.

High Spending and Influential Lobbyists

Above we correlate a long session with a professional legislature that fosters the rise of career politicians with close ties to lobbyists and special interests. These assumptions are not mere speculation but supported by academic evidence.

Gamm and Kouser (2010) have found that professional legislatures tend to cater more to special interests and pass more bills benefitting targeted groups. In turn, Owings and Borck (2000) have concluded that professional legislatures spend more than citizen legislatures. In other words, professional legislatures are more prone to pressure from lobbyists and this translates into higher spending.

Legislative Appropriations Per Capita, 2009-2010: Neighboring States



As discussed in *Unleashing Capitalism*, the Policy Council's blueprint for prosperity in South Carolina, lobbying is a form of unproductive entrepreneurship. This is because lobbying does not produce new resources or products, but is dedicated to taking resources (tax dollars) from taxpayers and giving it to special interests. In 2010, there were 356 registered lobbyists representing 488 companies and organizations. Thus, there were more than two lobbyists for every legislator.

While the unproductive entrepreneurship of lobbyists constitutes a drain on the state's economy, what's worse is the "pay-to-play" culture that lobbying fosters. This culture not only facilitates the rise of career politicians, it empowers them. Likewise, it is this culture that has led lawmakers to act as if they are responsible for directing the state's economy and picking economic winners and losers.

Such an attitude has translated into more than \$1.5 billion in economic incentives spending since FY1995. Likewise, state [spending continues to increase](#), hitting an all-time high of \$21 billion in 2010, in spite of the ongoing recession.

While a long session provides numerous opportunities for lobbyists to influence legislation, it also helps sustain high salaries for legislative staff. As reported by the online investigative news site [The Nerve](#): "The Senate will spend slightly more than \$4 million in \$50,000-plus salaries for 56 staffers this fiscal year, while the 124-member House will spend \$2.4 million in \$50,000-plus salaries for its 35 highest-earning employees. The average top salaries in the Senate and House are \$72,439 and \$69,760, respectively." Moreover, the Senate was one of a handful of agencies to receive a budget increase in FY10-2011—with the \$3 million increase being used to fund Senate staff salaries.

Finally, it goes without saying that shortening session would save money insofar as a long session drives up per diem reimbursement (South Carolina's is high for a relatively small state in terms of geography) and creates ongoing infrastructure and administrative costs.

A Long Session with Few Results

South Carolina's long legislative session could be shortened without compromising legislative effectiveness in any way. As indicated above, most states have much shorter sessions. Of course, in these states the Legislature does not attempt to run state government by controlling the executive branch.

The South Carolina Legislature passed about 1 bill a year per legislator during the 2009 and 2010 sessions. Legislators nationwide introduced about 7 bills annually during the same period.

But how do we measure legislative effectiveness? The most obvious answer is in terms of how well South Carolina is doing in terms of basic outcomes like unemployment, per capita income, education and health. As it turns out, we are not doing very well:

- Employment: South Carolina is at the bottom, having the 6th highest unemployment rate in the country, as of [July 2010](#).
- Income: Again at the bottom, with the 4th lowest per capita income in the country, at [\\$31,799 for 2009](#).

- Education: 4th worst high school completion rate in the country. Lowest SAT scores in the Southeast and 4th lowest in the county.
- Health Care: 5th unhealthiest state in 2009, as based on comprehensive data compiled by [America's Health Rankings](#).

Alternatively, we can also judge legislative effectiveness by internal legislative standards—for instance, in terms of number of bills introduced and passed each session. Even here, South Carolina falls short.

Texas, for instance, has one of the shorter sessions in the country—meeting once every two years for 140 calendar days. Yet, Texas' 181 legislators introduced 7,419 bills in 2009-2010, compared to 2,454 for South Carolina. Likewise, legislators in Virginia, which has one of the shortest sessions in the Southeast (ranked 10th in terms of weeks), passed 1,541 bills in 2010—more than any other state in the region.

By comparison, the South Carolina Legislature passed about one bill a year/per legislator during the 2009 and 2010 sessions. Legislators introduced about seven bills annually during the same period. This failure to introduce new legislation could indicate that lawmakers simply don't have many good ideas; and/or that many of them feel stifled by a legislative leadership that exercises tight control over what bills are passed—and passed over.

In any event, the quality of a legislature is measured neither by its length nor the number of bills it passes, but by the quality of life its governance helps foster. Here, again, South Carolina lawmakers are failing their constituents.

Instead of introducing bills that would bring about free market reform in areas as diverse as education and the environment, legislators wasted time on a variety of onerous and impractical ideas in 2010. They include:

- Granting special permission for legislators to carry concealed weapons (H 4112)
- Licensing musical therapists (H 4624)
- Regulating automobile advertising disclaimers (H 4607)

Likewise, during the 2010 session lawmakers indulged in several lengthy debates on trivial issues, such as whether the marsh tacky should be named the official state heritage work animal.

But if lawmakers are not improving South Carolina's quality of life, much less debating innovative public policy ideas, why are they in session so long? It would seem South Carolina's long session is primarily devoted to maintaining the legislative leadership's control over state government—that is, attempting to run state government.

As detailed in the companion report to this brief, *Reform the Legislature*, the General Assembly controls all upper-level judicial branch appointments and hundreds of executive branch appointments. By means of the two positions they hold on the Budget & Control Board, the legislative leadership also exercises a great deal of power over the daily operation of state executive agencies. The irony, of course, is that in attempting to maintain control over the executive branch, the Legislature is failing to use its proper authority to actually pass substantial legislation that would bring prosperity to South Carolina.

Shorten Session to 45 Legislative Days

While 16 weeks is the national median, many states have much shorter legislative sessions. Here in the Southeast, the average legislature met for 94 days during the 2009 and 2010 sessions:

translating into 47 actual days per year. Capping South Carolina's legislative session at 45 days should thus give legislators more than enough time to complete their duties.

A 45-Day Session for 2011?

In practice, requiring session to end by the second Friday in April would work like this:

- As required by the constitution, legislators would convene in Columbia on January 11
- Legislators would have until April 8 to complete their duties
- Legislators meet 4 days a week (Tuesday to Friday)
- As a result, session ends on March 25: one day short of the statutory limit of 45 days

The following reforms would place South Carolina's session on par with other states:

- Require session to end by 5 p.m. on the second Friday in April (roughly 90 calendar days)
- Cap session at no more than 45 legislative days within the above calendar limit
- Cap legislative budget spending increases at the rate of inflation

Shortening session is about more than just cutting costs and increasing access for ordinary citizens; it's about changing the culture in South Carolina's state government. Fewer days in Columbia means less face time with lobbyists and more time spent at home with constituents. Fewer days in Columbia means less money for legislative staff and more money for ordinary taxpayers. Most important, less time in Columbia means less government—more prosperity and more freedom.

*Nothing in the foregoing should be construed as an attempt to aid or hinder passage of any legislation.
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