

February 3, 1969



Honorable James E. Godfrey  
Speaker  
House of Representatives  
Room #308  
Capitol Building  
Jefferson City, Missouri 65101

Dear Speaker Godfrey:

This is in answer to your recent request for an official opinion from this office which request reads as follows:

"Would you please issue an opinion clarifying the status of the compensation of the General Assembly as to what should be received and to whom it should be paid."

Section 16, Article III of the Constitution of Missouri provides as follows:

"Senators and representatives until otherwise provided by law, shall receive from the state treasury as salary the sum of one hundred and twenty-five dollars per month. No law fixing the compensation of members of the general assembly shall become effective until the first day of the regular session of the general assembly next following the session at which the law was enacted. Upon certification by the president and secretary of the house of representatives as to the respective members thereof, the state comptroller shall audit and the state treasurer shall pay such compensation without legislative enactment. Senators and representatives shall receive one dollar for every ten miles traveled in going to and returning from their place of meeting, twice per month, while the legislature is in session, on the most usual route."

House Bill No. 100 of the 74th General Assembly (Section 21.140 RSMo Supp. 1967), provides as follows:

"Senators and representatives shall receive from the treasury as salary the sum of eight thousand four hundred dollars per year. Upon certification by the president and secretary of the senate and by the

speaker and clerk of the house of representatives as to the respective members thereof, the state comptroller shall audit and the state treasurer shall pay such compensation in equal monthly payments. Senators and representatives shall receive one dollar for every ten miles traveled, and an amount for travel for any fractional part of ten miles at the same rate, in going to their place of meeting in Jefferson City from their place of residence, and returning from their place of meeting in Jefferson City to their place of residence, twice per month, while the legislature is in session, on the most usual route."

Under the specific language of Section 16 of Article III of the Constitution, the provisions of House Bill 100 of the 74th General Assembly providing for an increase of the salary of Senators and Representatives from \$4800 per year to \$8400 per year could not become effective before January 8, 1969, the first day of the regular session of the 75th General Assembly.

There is no constitutional provision specifically setting out the date the terms of Senators and Representatives begin.

Section 3 of Article III of the Constitution provides that Representatives shall be elected at each general election.

Section 5 of Article III of the Constitution provides that Senators shall be elected for four years.

Section 15 of Article III of the Constitution provides that Senators and Representatives shall subscribe an oath or affirmation before entering upon the duties of their offices such oath to be administered in the halls of the respective houses by a Supreme Court or a Circuit Judge or other organization by the presiding officer of either house. Such section further provides that a Senator or Representative refusing to take such oath or affirmation shall be deemed to have vacated his office. Such sections do not provide for the beginning of the term of office of Senators or Representatives.

Section 20 of Article III of the Constitution provides in part as follows:

"The general assembly shall meet in regular sessions on the first Wednesday after the first day of January following each general election. \* \* \*"

Section 21.010, RSMo, provides in part as follows:

"The general assembly shall meet on the first Wednesday after the first day of January in the year 1881, and on the corresponding day of January every second year thereafter; \* \* \*"

Section 20 of Article III of the Constitution and Section 21.010 RSMo, contain the only provisions concerning the date on which Senators and Representatives are to assume the duties of their offices.

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It follows that the terms of office of Senators and Representatives begin on the first Wednesday after the first day of January following their election.

In view of the fact that legislators' terms start on the first Wednesday after the first day of January of odd numbered years and that the effective date of a laws setting legislators' salaries cannot be prior to the first day of the regular General Assembly following the session at which such law was enacted, we believe it to be clear that the provisions for payment to Senators and Representatives "as salaries the sum of eightythousand four hundred dollars per year" found in House Bill 100 of the 74th General Assembly does not refer to calendar years.

We believe that it is clear that the reference is to the period of two years during which Senators and Representatives occupy their offices as members of the General Assembly beginning with the first day of the convening of the general assembly in regular session on the first Wednesday after the first day of January in odd numbered years and ending on the first Wednesday after the first day of January two years later when the succeeding General Assembly next convenes in regular session and that House Bill 100 provides for a total salary for legislators of \$16,800 for such two years. We shall refer to such "years" which begin with the first day of the regular session of the general assembly as "legislative" years.

Payment of the salary provided by statute under House Bill 100 should, therefore, be made in equal monthly payments during such legislative years.

Section 5 of Article III of the Constitution provides that Senators shall be elected for four years. It is our view that a Senator who is sworn in on the first Wednesday after the first day of January following his election serves for a term of four legislative years insofar as salary is concerned even though he may actually serve several days more or less than four years of 365 days due to the fact that the first Wednesday after the first day of January falls on different dates in different years.

While Section 3 of Article III of the Constitution does not set out a term of office for Representatives it is our view that the term of a Representative is for two legislative years from the first Wednesday after the first day of January of the year following his election insofar as compensation is concerned, even though he may serve several days more or less than two years of 365 days because of the fact that the first Wednesday after the first day of January falls on different dates in different years.

We believe that the clear intent of Section 21.140 RSMo, is that legislators shall receive the salary provided for in such section each legislative year they hold title to their offices.

Senators and Representatives who were sworn in office on January 8, 1969, as well as Senators who were elected in 1966 and held over will receive during the period January 8, 1969, to January 6, 1971, (the date of convening of the regular session of the 76th general Assembly) the sum of \$16,800 in twenty-four equal monthly payments

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of \$700, the first payment to be for the period January 8, 1969, to February 8, 1969, the second monthly payment to be for the period of February 8, 1969, to March 8, 1969, etc.

However, as pointed out above, legislators serve two legislative years from the date of convening of the regular sessions of each General Assembly. Therefore, the twenty-fourth payment of members of the 75th General Assembly will be for the period December 8, 1970, to January 6, 1971, the date of convening of the regular session of the 76th General Assembly, in the same amount as the previous twenty-three payments.

Legislators who held office during the entire 74th General Assembly were, under the provisions of House Bill No. 1 of the 70th General Assembly entitled to a salary of \$4300 per year or a total salary of \$9600 during the two legislative years of such General Assembly. The regular session of the 74th General Assembly convened January 4, 1967. The members of the 74th General Assembly who held office during the period January 4, 1967, to January 8, 1969, the date of convening in regular session of the 75th General Assembly have been paid \$9600 at the rate of \$400 per month for such two legislative years, the twenty-fourth monthly payment of \$400 being for the period December 4, 1968, to January 8, 1969.

It follows that those legislators who did not run for re-election in 1968 or who were defeated and who are, therefore, not members of the 75th General Assembly have been paid their full salaries of \$9600 for their services as members of the 74th General Assembly and are not entitled to any further payment.

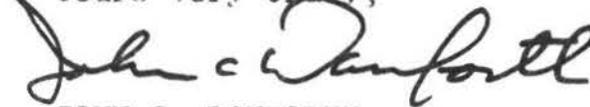
#### CONCLUSION

Therefore, it is the opinion of this office that Senators and Representatives who serve in the 75th General Assembly from January 8, 1969, (the date of convening of the 75th General Assembly) until January 6, 1971, (the date of convening of the 76th General Assembly) will receive a total salary of \$16,800 for such period payable in twenty-four monthly payments of \$700.

Representatives and Senators from districts in which Senators were elected in 1968 who served in the 74th General Assembly from January 4, 1967, (the date of convening of the 74th General Assembly) until January 8, 1969, (the date of convening of the 75th General Assembly) who did not run for re-election or who were defeated have received \$9600 total salary for such period and are not entitled to any further salary payment.

The foregoing opinion, which I hereby approve, has been prepared by my assistant C. B. Burns, Jr.

Yours very truly,



JOHN C. DANFORTH  
Attorney General