

## EXTRAORDINARY SESSION

# JOURNAL OF THE SENATE

Friday, August 10, 1962

The Senate convened at 11:00 o'clock A. M., pursuant to adjournment on Thursday, August 9, 1962.

The President in the Chair.

The roll was called and the following Senators answered to their names:

Mr. President	David	Herrell	Pope
Barron	Davis	Johns	Price
Beall	Edwards	Johnson	Ripley
Boyd	Fraser	Kelly	Roberts
Bronson	Galloway	Kicliter	Stratton
Carraway	Gautier	Mapoles	Tucker
Clarke	Getzen	Melton	Young
Connor	Gibbons	Parrish	
Cross	Gresham	Pearce	

—34.

A quorum present.

The following Prayer was offered by the Senate Chaplain, Reverend James H. Paddock:

Lord, you have given us a state rich in beauty and in natural resources; may Divine Providence guide us in developing its potential. Where the hand of man touches Thy handiwork, may it add to and not take away from. Forgive where and when we transgress.

May we remember that our American Heritage is one of the greatest. Help us to live in such manner that the way of progress and of safety will be open and challenging; this we ask in our Creator's Name. Amen.

The reading of the Journal was dispensed with.

The Senate daily Journal of Thursday, August 9, 1962, was corrected and as corrected was approved.

### REPORTS OF COMMITTEE

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Concurrent Resolution:

#### Senate Concurrent Resolution No. 16-X(62)—

A CONCURRENT RESOLUTION PROVIDING FOR A JOINT LEGISLATIVE ADVISORY COMMITTEE ON APPORTIONMENT; PROVIDING THE MANNER OF SELECTION OF THE MEMBERS THEREOF; PROVIDING POWERS AND DUTIES.

—and recommends that the same be adopted.

And the Concurrent Resolution contained in the preceding report was placed on the Calendar.

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Joint Resolution:

#### Senate Joint Resolution No. 9-X(62)—

A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 3, ARTICLE VII OF THE CONSTITUTION OF THE STATE OF FLORIDA, PROVIDING FOR APPORTIONMENT OF THE FLORIDA LEGISLATURE.

—and recommends that the same pass.

And the Joint Resolution contained in the preceding

report was placed on the Calendar of Bills on Second Reading.

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Bills:

**S. B. No. 12-X(62)—** A Bill to be entitled An Act providing for division of the state into senatorial districts and apportionment of the Senate; providing for apportionment of the House of Representatives; repealing sections 10.01, 10.02 and 10.03, Florida Statutes; providing an effective date.

**S. B. No. 13-X(62)—** A Bill to be entitled An Act appropriating fifty thousand dollars (\$50,000.00) emergency reserve fund to be released as needed by the Budget Commission for court expenses in connection with litigation concerning reapportionment; providing an effective date.

—and recommends that the same pass.

And the Bills contained in the preceding report were placed on the Calendar of Bills on Second Reading.

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Memorial:

#### Senate Memorial No. 15-X(62)—

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES OF AMERICA URGING THE CONGRESS TO SUBMIT A CONSTITUTIONAL AMENDMENT GRANTING TO THE STATE COURTS EXCLUSIVE JURISDICTION OF SUITS AND ACTIONS RELATING TO THE APPORTIONMENT AND REAPPORTIONMENT OF THE MEMBERSHIP OF STATE LEGISLATURES, AND FURTHER URGING THE CONGRESS TO ENACT IMMEDIATE INTERIM LEGISLATION UNDER ARTICLE III, SECTION 2 OF THE UNITED STATES CONSTITUTION LIMITING APPELLATE JURISDICTION OF THE SUPREME COURT.

—and recommends that the same be adopted.

And the Memorial contained in the preceding report was placed on the Calendar.

### INTRODUCTION OF RESOLUTIONS, MEMORIALS, BILLS AND JOINT RESOLUTIONS

The President submitted to the Senate the question of whether or not the following Resolution should be introduced for consideration by the Senate notwithstanding that it did not come within the purview of the Governor's Proclamation convening the Extraordinary Session:

By Senators Clarke, Mapoles and Galloway—

#### Senate Resolution No. 17-X(62)—

A RESOLUTION NAMING A BRIDGE IN ESCAMBIA AND SANTA ROSA COUNTIES THE PHILIP D. BEALL, SR. MEMORIAL BRIDGE.

WHEREAS, Honorable Philip D. Beall, Sr., a former president of the Florida Senate, and Assistant United States District Attorney, a member of the State Board of Law Examiners, and State Senator from the Second Dis-

trict from 1935 through 1943, who, during his lifetime served his state with great distinction, and

WHEREAS, this Legislature desires to perpetuate his name by naming a bridge connecting Pensacola and Gulf Breeze on Highway No. 98 in his memory, NOW, THEREFORE,

BE IT RESOLVED BY THE SENATE OF THE STATE OF FLORIDA:

That the state road department, through the road board, is requested to prepare a proper plaque and affix such plaque to the bridge connecting Pensacola and Gulf Breeze on Highway No. 98 in Escambia and Santa Rosa counties, in memory of Philip D. Beall, Sr., designating this bridge as the Philip D. Beall, Sr. Memorial Bridge.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the chairman of the road board for further consideration and action.

And by a two-thirds affirmative vote of the Senate the Resolution was admitted for introduction and consideration by the Senate, and was read the first time in full.

The question was put on the adoption of the Resolution.

Which was unanimously agreed to and Senate Resolution No. 17-X(62) was adopted.

#### CONSIDERATION OF SENATE CONCURRENT RESOLUTIONS

##### Senate Concurrent Resolution No. 16-X(62)—

A CONCURRENT RESOLUTION PROVIDING FOR A JOINT LEGISLATIVE ADVISORY COMMITTEE ON APPORTIONMENT; PROVIDING THE MANNER OF SELECTION OF THE MEMBERS THEREOF; PROVIDING POWERS AND DUTIES.

WHEREAS, the Supreme Court of the United States has decreed that the federal courts may exercise jurisdiction in state apportionment matters, and

WHEREAS, the three-judge federal district court in Florida has concluded that the constitutional and statutory provisions relating to the apportionment of the Florida legislature are invidiously discriminatory, and

WHEREAS, the legislature of the state of Florida has been convened for the purpose of providing a satisfactory apportionment formula, and

WHEREAS, the legislature in special session assembled is endeavoring to solve the apportionment problem of the state of Florida, and

WHEREAS, it appears that irrespective of the apportionment formula adopted by the legislature that this question will require continued and diligent effort on the part of all branches of state government in order to properly protect the rights of our citizens, and

WHEREAS, there exists a need for legislative deliberation, guidance and assistance to coordinate and counsel with those in whom is vested the responsibility of initiating and continuing action in this regard, and

WHEREAS, there exists a need for the legislature to discharge responsibilities in furtherance of the litigation in which the state is involved as well as the possible developments of the future, and

WHEREAS, in view of the critical circumstances in which the state of Florida finds itself, NOW, THEREFORE,

BE IT RESOLVED, BY THE SENATE OF THE STATE OF FLORIDA, THE HOUSE OF REPRESENTATIVES CONCURRING:

Section 1. There is hereby created a joint legislative advisory committee on apportionment to be composed of ten (10) members of the legislature to be appointed as follows:

The President of the Senate shall appoint five (5) members of the Senate; the Speaker of the House of Representatives shall appoint five (5) members of the House of Representatives; such appointments shall be made as soon as practical after this resolution shall become effective.

When said appointments have been made the committee shall meet and elect a chairman and vice-chairman and organize in such a manner as shall be compatible to the prompt dispatch of the business of the committee. The members of the committee shall serve at the pleasure of the officer making the appointment. Vacancies shall be filled by the officer appointing the vacating member.

Section 2. The committee shall have the duty to establish liaison, counsel and advise with the other members of the legislature, the executive, as well as the judicial branches of government in all matters relating to the complete and satisfactory apportionment of the Florida legislature.

The committee shall have the authority to assemble such data as is deemed necessary, to employ counsel and other persons necessary to carry out its functions and to take such other proper and necessary action as required to carry out its purposes and objectives.

Section 3. All expenses incident to the above shall be paid out of general legislative appropriations provided in section 11.12, Florida Statutes, and millage and per diem of committee members shall be paid at the rate provided in Section 112.106, Florida Statutes, by the State Treasurer upon warrant drawn by the State Comptroller.

Was taken up in its order and read the second time in full.

The question was put on the adoption of the Concurrent Resolution.

Which was agreed to and Senate Concurrent Resolution No. 16-X(62) was adopted, and the action of the Senate was ordered certified to the House of Representatives immediately.

#### MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The following message from the House of Representatives was received and read:

Tallahassee, Florida  
August 10, 1962

*The Honorable W. Randolph Hodges*  
*President of the Senate*

Sir:

I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed by the required Constitutional three-fifths vote of all Members elected to the House of Representatives of the Florida Legislature—

By Mr. O'Neill of Marion—

**H. J. R. No. 25-X**—A Joint Resolution proposing an amendment to Article VII of the Constitution of the State of Florida, providing for apportionment of the Florida Legislature; providing for a state census.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:

That the following amendment of Article VII of the Constitution of Florida is agreed to and shall be submitted

to the electors of this state for ratification or rejection at the general election to be held in November, 1962:

ARTICLE VII

APPORTIONMENT AND CENSUS

Section 1. **Composition of the legislature.**—The legislature of the state of Florida shall consist of a senate and a house of representatives. Members of the senate shall be elected for a term of four (4) years and members of the house shall be elected for a term of two (2) years. The term of members of the legislature shall expire on the first Tuesday after the first Monday in November in each regular election year. Members of the senate and house of representatives shall be elected as provided by law. Any new county that may be created shall be entitled to one (1) member in the house of representatives in excess of any limit prescribed in the following sections of this article until the next reapportionment and the county shall be assigned when created to a senatorial district as determined by the legislature.

Section 2. **Representation in the house of representatives.**—Representation in the house of representatives of the Florida legislature shall be apportioned among the several counties of the state as follows: Each county shall be entitled to one representative and to one additional representative for each representative ratio or major fraction thereof. The representative ratio shall be the quotient obtained by dividing the population of the state according to the latest federal census by the number of counties; provided that until the general election in 1964 no county shall have fewer representatives than it would have been entitled to under the Constitution of 1885, as amended in 1924.

Section 3. **Apportionment of representation in senate and house of representatives.**—The Legislature that shall meet in regular session A.D. 1925, and those that shall meet every ten (10) years thereafter, shall apportion the representation in the senate, and shall provide for thirty-eight (38) senatorial districts, such districts to be as nearly equal in population as practicable, but no county shall be divided in making such apportionment and each district shall have one (1) senator; except that those districts whose population at the last federal census exceeds four hundred thousand (400,000) shall have two (2) senators and those districts having a population in excess of one million (1,000,000) shall have three (3) senators. In any senatorial district composed of a single county and divided by a congressional district line having more than one (1) senator the candidates will qualify for election in groups. The candidates for the odd numbered groups must reside north or west of the district line and the even numbered groups must reside south or east of the district line. All candidates, however, will be subject to election in the district at large.

Section 4. **State census.**—The last preceding decennial federal census shall also be the state census and shall control in all population acts and constitutional apportionments, unless otherwise ordered by the legislature.

—and respectfully requests the concurrence of the Senate therein.

Respectfully,  
LAMAR BLEDSOE  
Chief Clerk, House of Representatives

And House Joint Resolution No. 25-X, contained in the above message, was read the first time in full and referred to the Committee on Reapportionment.

Senator Davis moved that the Senate stand in recess for fifteen minutes.

Which was agreed to.

Thereupon the Senate stood in recess at 11:08 o'clock A. M.

The Senate was called to order by the President at 11:23 o'clock A. M.

The roll was called and the following Senators answered to their names:

Mr. President	Davis	Herrell	Pope
Barron	Davis	Johns	Price
Beall	Edwards	Johnson	Ripley
Boyd	Fraser	Kelly	Roberts
Bronson	Galloway	Kicliter	Stratton
Carraway	Gautier	Mapoles	Tucker
Clarke	Getzen	Melton	Young
Connor	Gibbons	Parrish	
Cross	Gresham	Pearce	

—34.

A quorum present.

SENATE BILLS AND JOINT RESOLUTIONS ON SECOND READING

Senate Joint Resolution No. 11-X(62), Senate Bill No. 12-X(62) and Senate Joint Resolution No. 9-X(62) were taken up in their order and the consideration thereof was informally passed, the Bills retaining their respective places on the Calendar of Bills on Second Reading.

**S. B. No. 13-X(62)**— A Bill to be entitled An Act appropriating fifty thousand dollars (\$50,000.00) emergency reserve fund to be released as needed by the budget commission for court expenses in connection with litigation concerning reapportionment; providing an effective date.

Was taken up in its order.

Senator Ripley moved that the rules be waived and Senate Bill No. 13-X(62) be read the second time by title only.

Which was agreed to by a two-thirds vote.

And Senate Bill No. 13-X(62) was read the second time by title only.

Senator Ripley moved that the rules be further waived and Senate Bill No. 13-X(62) be read the third time in full and put upon its passage.

Which was agreed to by a two-thirds vote.

And Senate Bill No. 13-X(62) was read the third time in full.

Upon the passage of Senate Bill No. 13-X(62) the roll was called and the vote was:

Yeas—29.

Mr. President	Davis	Johns	Ripley
Barron	Edwards	Johnson	Roberts
Boyd	Fraser	Kelly	Stratton
Bronson	Galloway	Mapoles	Tucker
Carraway	Gautier	Melton	Young
Clarke	Getzen	Parrish	
Connor	Gresham	Pearce	
Cross	Herrell	Pope	

Nays—4.

David	Gibbons	Kicliter	Price
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So Senate Bill No. 13-X(62) passed, title as stated, and the action of the Senate was ordered certified to the House of Representatives immediately.

Senate Memorial No. 15-X(62)—

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES OF AMERICA URGING THE CON-

GRESS TO SUBMIT A CONSTITUTIONAL AMENDMENT GRANTING TO THE STATE COURTS EXCLUSIVE JURISDICTION OF SUITS AND ACTIONS RELATING TO THE APPORTIONMENT AND REAPPORTIONMENT OF THE MEMBERSHIP OF STATE LEGISLATURES, AND FURTHER URGING THE CONGRESS TO ENACT IMMEDIATE INTERIM LEGISLATION UNDER ARTICLE III, SECTION 2 OF THE UNITED STATES CONSTITUTION LIMITING APPELLATE JURISDICTION OF THE SUPREME COURT.

WHEREAS, there is pending litigation in the several federal district courts relating to the method and manner of electing and apportioning members of state legislative bodies; and

WHEREAS, it appears to be the view of the federal judiciary that population numbers are a principal consideration in determining the validity of apportionment laws relating to representation in both houses of a bicameral legislative body; and

WHEREAS, it has long been the custom, usage and law of the State of Florida and the several states that other factors in addition to population ought be considered in arriving at fair and equitable representation in state legislative bodies; and

WHEREAS, the apportionment of the membership of state legislatures, both the house and the senate, is properly a state and not a federal question; and

WHEREAS, such judicial proceedings as are being conducted by the federal judiciary seriously interfere with state's rights in the freedom of government by the people of the several states; and

WHEREAS, it is necessary that the Congress enact suitable laws relating to both the original jurisdiction of the federal district courts and appellate jurisdiction of the United States Supreme Court, pursuant to power vested in the Congress by Article III, Section 2 of the United States Constitution and any other applicable laws until such time as the federal judiciary's encroachment into the field of state legislative apportionment traditionally reserved unto the states, NOW, THEREFORE,

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:

That the Florida Legislature hereby and herein petitions the Congress of the United States of America, and each house and member thereof, to draft, submit and enact a suitable law having the effect of excluding from the original jurisdiction of the federal district courts cases relating to state legislative reapportionment and excluding from the appellate jurisdiction of the United States Supreme Court cases relating to state legislative apportionment pursuant to powers conferred upon the Congress by Article III, Section 2 of the Constitution of the United States, which provides in material part as follows:

" . . . In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such recommendations as the Congress shall make. . . ."

BE IT FURTHER RESOLVED, that the Florida Legislature hereby and herein petitions the Congress of the United States of America, and each house and member thereof, to draft and submit a suitable amendment to the United States Constitution, granting to the state courts exclusive jurisdiction of suits and actions relating to the apportionment and reapportionment of the membership of state legislatures; and

BE IT FURTHER RESOLVED, that copies of this memorial be transmitted forthwith by the Chief Clerk of the

House and the Secretary of the Senate of the State of Florida to the President of the United States, and the Vice-President of the United States as presiding officer of the Senate, and the Speaker of the House of Representatives of the Congress of the United States, to each of the congressional delegation from Florida in the United States Congress, to each member of the Congress from the several states, to each of the Governors, Secretaries of State and Attorneys General of the several states; and to each of the speakers of the House and Presidents of the Senate of the State Legislatures of the several states; and

BE IT FURTHER RESOLVED, that a copy of this memorial be spread upon the journal of both the Senate and House of Representatives of the State of Florida, and sufficient copies thereof be furnished to the press.

Was taken up in its order and read the second time in full.

Senator Ripley offered the following amendment to Senate Memorial No. 15-X(62):

In paragraph 2, line 13, page 2, after the words: "traditionally reserved unto the states" strike the comma, and insert in lieu thereof the following: "is curbed,"

Senator Ripley moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

Senator Ripley moved that the further consideration of Senate Memorial No. 15-X(62), as amended, be informally passed.

Which was agreed to and it was so ordered.

Senator Carraway moved that the rules be waived and the Senate revert to the consideration of Reports of Committees.

Which was agreed to by a two-thirds vote and the following Report of Committee was received and read:

#### REPORT OF COMMITTEE

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Joint Resolution:

**H. J. R. No. 25-X**—A Joint Resolution proposing an amendment to Article VII of the Constitution of the State of Florida, providing for apportionment of the Florida Legislature; providing for a state census.

—and recommends that the same pass with committee amendment as attached thereto.

And the Joint Resolution contained in the preceding report, together with the committee amendment attached thereto, was placed on the Calendar of Bills on Second Reading.

Senator Carraway requested unanimous consent of the Senate to take up and consider House Joint Resolution No. 25-X, out of its order.

Unanimous consent was granted, and—

**H. J. R. No. 25-X**—A Joint Resolution proposing an amendment to Article VII of the Constitution of the State of Florida, providing for apportionment of the Florida Legislature; providing for a state census.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:

That the following amendment of Article VII of the Constitution of Florida is agreed to and shall be submitted

to the electors of this state for ratification or rejection at the general election to be held in November, 1962:

## ARTICLE VII

### APPORTIONMENT AND CENSUS

**Section 1. Composition of the legislature.**—The legislature of the state of Florida shall consist of a senate and a house of representatives. Members of the senate shall be elected for a term of four (4) years and members of the house shall be elected for a term of two (2) years. The term of members of the legislature shall expire on the first Tuesday after the first Monday in November in each regular election year. Members of the senate and house of representatives shall be elected as provided by law. Any new county that may be created shall be entitled to one (1) member in the house of representatives in excess of any limit prescribed in the following sections of this article until the next reapportionment and the county shall be assigned when created to a senatorial district as determined by the legislature.

**Section 2. Representation in the house of representatives.**—Representation in the house of representatives of the Florida legislature shall be apportioned among the several counties of the state as follows: Each county shall be entitled to one representative and to one additional representative for each representative ratio or major fraction thereof. The representative ratio shall be the quotient obtained by dividing the population of the state according to the latest federal census by the number of counties; provided that until the general election in 1964 no county shall have fewer representatives than it would have been entitled to under the Constitution of 1885, as amended in 1924.

**Section 3. Apportionment of representation in senate and house of representatives.**—The Legislature that shall meet in regular session A.D. 1925, and those that shall meet every ten (10) years thereafter, shall apportion the representation in the senate, and shall provide for thirty-eight (38) senatorial districts, such districts to be as nearly equal in population as practicable, but no county shall be divided in making such apportionment and each district shall have one (1) senator; except that those districts whose population at the last federal census exceeds four hundred thousand (400,000) shall have two (2) senators and those districts having a population in excess of one million (1,000,000) shall have three (3) senators. In any senatorial district composed of a single county and divided by a congressional district line having more than one (1) senator the candidates will qualify for election in groups. The candidates for the odd numbered groups must reside north or west of the district line and the even numbered groups must reside south or east of the district line. All candidates, however, will be subject to election in the district at large.

**Section 4. State census.**—The last preceding decennial federal census shall also be the state census and shall control in all population acts and constitutional apportionments, unless otherwise ordered by the legislature.

Was taken up and read the second time in full.

The Committee on Reapportionment offered the following amendment to House Joint Resolution No. 25-X:

In Sections 3 and 4, pages 2 and 3, strike out all of Sections 3 and 4 and insert in lieu thereof the following:

**Section 3. Senate.**—The representation in the senate of the Florida legislature shall consist of forty-six (46) geographical districts. No county shall be divided in creating a district. No county shall be separated from the remainder of the district of which it is part by more than a county which was formerly a part of said district as of 1962. Additional legislators provided herein shall

be elected at a special election to be held in the affected counties or districts as provided by law. The senators elected from the new even numbered districts shall be elected for a term of four (4) years and the senators now elected from odd numbered districts shall complete their terms and new senators elected from the odd numbered districts shall be elected for a term of two (2) years. Thereafter all senators shall be elected for four (4) year terms.

The legislature shall reapportion its representation in accordance with this article at the 1971 regular session of the legislature and every ten (10) years thereafter based upon the preceding latest federal decennial census.

**Section 4.** In the event the legislature shall fail to reapportion the representation as required by this article, the governor shall call the legislature together in extraordinary session to consider the question of reapportionment, and such extraordinary session shall mandatorily be required to reapportion its membership before adjournment, and such extraordinary session so called shall not expire until reapportionment is effected and shall consider no business other than reapportionment.

**Section 5. State census.**—The legislature shall no longer be required to provide for an enumeration of the inhabitants of the state. The last preceding decennial federal census beginning with the federal census of 1950 shall also be the state census and shall control in all population acts and constitutional apportionments, unless otherwise ordered by the legislature.

Senator Carraway moved the adoption of the amendment.

Pending consideration of the amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X, Senator Gibbons offered the following substitute amendment for the amendment offered by the Committee on Reapportionment:

In Section 3, lines 6 and 11, page 2, strike out the words: "38 and 400,000 respectively" and insert in lieu thereof the following:

In line 6; forty-two (42) in line 11; three hundred thousand (300,000)

Senator Gibbons moved the adoption of the substitute amendment for the amendment offered by the Committee on Reapportionment.

The question was put on the adoption of the substitute amendment.

Which was not agreed to so the substitute amendment failed of adoption.

The question recurred on the adoption of the amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X.

Which was agreed to and the amendment was adopted.

Senator Pope offered the following amendment to House Joint Resolution No. 25-X:

In line 1, page 2, strike out the line and insert in lieu thereof the following:

the legislature of the State of Florida shall be apportioned among the

Senator Pope moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

Senator Pope also offered the following amendment to House Joint Resolution No. 25-X:

In Section 2, line 13, page 2, change the period to a semi-colon and add the following:

provided, further, that the house of representatives

shall be automatically reapportioned each ten (10) years in accordance with the federal decennial census.

Senator Pope moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

Senator Herrell offered the following amendment to House Joint Resolution No. 25-X:

In Section 2, page 2, following last word in section two add the following:

“In any county divided by a congressional district line, the even numbered candidates must reside north or west of that line and the odd numbered candidates must reside south or east of the district line. They will, however, be subject to election from the county at large.”

Senator Herrell moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

Senator Young offered the following amendment to House Joint Resolution No. 25-X:

In Section 3, strike out: entire section and insert in lieu thereof the following:

Section 3.—**The House of Representatives**—(1) The State of Florida is divided into thirty-two (32) House of Representatives Districts comprised of the counties and numbered as follows:

DISTRICT	COUNTY
1	Dade
2	Duval
3	Hillsborough
4	Pinellas
5	Broward
6	Orange
7	Palm Beach
8	Polk
9	Escambia
10	Volusia
11	Brevard
12	Santa Rosa and Okaloosa
13	Walton, Holmes, Jackson, Washington, and Calhoun
14	Bay and Gulf
15	Sarasota
16	Leon
17	Alachua
18	Manatee
19	Sumter, Citrus, Hernando and Pasco
20	Putnam, St. Johns and Flagler
21	Collier and Monroe
22	Lee and Hendry
23	Nassau, Baker, Union, Bradford and Clay
24	Hardee, Highlands, DeSoto, Charlotte and Glades

25	Lake
26	St. Lucie and Martin
27	Seminole
28	Columbia, Taylor, Lafayette, Gilchrist, Dixie and Levy.
29	Jefferson, Wakulla, Madison, Hamilton and Suwannee
30	Gadsden, Liberty, and Franklin
31	Marion
32	Osceola, Okeechobee and Indian River

(2) The population of each House of Representatives district shall be divided by the population for the entire state, and the fourth place right of the decimal shall be rounded to the nearest whole number so that there will be only two figures right of the decimal when the result is expressed as a percentage. The result shall be expressed as a percentage, and the district shall have as many Representatives as shown by the figure left of the decimal plus an additional representative if the first figure right of the decimal is five or greater. If the result is less than one half (1/2) of one percent (1%), then the district shall have one representative.

(3) The population herein referred to is and shall be the population of the State according to the last preceding decennial Federal census. Upon the certification of such census to the State each ten (10) years, the Secretary of State shall make the apportionment herein specified, which apportionment shall be applicable for the next succeeding election of members of the House of Representatives and thereafter until the next Federal census; provided, however, the first such apportionment shall be made by the Secretary of State immediately upon the ratification of this amendment by the electors and such apportionment shall be effective immediately and the terms of office of all representatives in all districts suffering a reduction of representatives shall immediately cease and terminate.

Senator Young moved the adoption of the amendment.

Which was not agreed to so the amendment failed of adoption.

Senator Carraway moved that the rules be waived and House Joint Resolution No. 25-X, as amended, be read the third time in full and put upon its passage.

Which was agreed to by a two-thirds vote.

And House Joint Resolution No. 25-X, as amended, was read the third time in full, as follows:

**H. J. R. No. 25-X**—A Joint Resolution proposing an amendment to Article VII of the Constitution of the State of Florida, providing for apportionment of the Florida Legislature; providing for a state census.

**BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:**

That the following amendment of Article VII of the Constitution of Florida is agreed to and shall be submitted to the electors of this state for ratification or rejection at the general election to be held in November, 1962:

**ARTICLE VII**

**APPORTIONMENT AND CENSUS**

**Section 1. Composition of the legislature.**—The legislature of the state of Florida shall consist of a senate and

a house of representatives. Members of the senate shall be elected for a term of four (4) years and members of the house shall be elected for a term of two (2) years. The term of members of the legislature shall expire on the first Tuesday after the first Monday in November in each regular election year. Members of the senate and house of representatives shall be elected as provided by law. Any new county that may be created shall be entitled to one (1) member in the house of representatives in excess of any limit prescribed in the following sections of this article until the next reapportionment and the county shall be assigned when created to a senatorial district as determined by the legislature.

**Section 2. Representation in the house of representatives.**—Representation in the house of representatives of the legislature of the State of Florida shall be apportioned among the several counties of the state as follows: Each county shall be entitled to one representative and to one additional representative for each representative ratio or major fraction thereof. The representative ratio shall be the quotient obtained by dividing the population of the state according to the latest federal census by the number of counties; provided that until the general election in 1964 no county shall have fewer representatives than it would have been entitled to under the Constitution of 1885, as amended in 1924; provided, further, that the house of representatives shall be automatically reapportioned each ten (10) years in accordance with the federal decennial census. In any county divided by a congressional district line, the even numbered candidates must reside north or west of that line and the odd numbered candidates must reside south or east of the district line. They will, however, be subject to election from the county at large.

**Section 3. Senate.**—The representation in the senate of the Florida legislature shall consist of forty-six (46) geographical districts. No county shall be divided in creating a district. No county shall be separated from the remainder of the district of which it is part by more than a county which was formerly a part of said district as of 1962. Additional legislators provided herein shall be elected at a special election to be held in the affected counties or districts as provided by law. The senators elected from the new even numbered districts shall be elected for a term of four (4) years and the senators now elected from odd numbered districts shall complete their terms and new senators elected from the odd numbered districts shall be elected for a term of two (2) years. Thereafter all senators shall be elected for four (4) year terms.

The legislature shall reapportion its representation in accordance with this article at the 1971 regular session of the legislature and every ten (10) years thereafter based upon the preceding latest federal decennial census.

**Section 4.** In the event the legislature shall fail to reapportion the representation as required by this article, the governor shall call the legislature together in extraordinary session to consider the question of reapportionment, and such extraordinary session shall mandatorily be required to reapportion its membership before adjournment, and such extraordinary session so called shall not expire until reapportionment is effected and shall consider no business other than reapportionment.

**Section 5. State census.**—The legislature shall no longer be required to provide for an enumeration of the inhabitants of the state. The last preceding decennial federal census beginning with the federal census of 1950 shall also be the state census and shall control in all population acts and constitutional apportionments, unless otherwise ordered by the legislature.

Upon the passage of House Joint Resolution No. 25-X, as amended, the roll was called and the vote was:

Yeas—28.

Mr. President	Cross	Herrell	Pearce
Barron	Davis	Johns	Pope
Beall	Edwards	Johnson	Price
Bronson	Fraser	Kicliter	Ripley
Carraway	Galloway	Mapoles	Roberts
Clarke	Getzen	Melton	Stratton
Connor	Gresham	Parrish	Tucker

Nays—6.

Boyd	Gautier	Kelly
David	Gibbons	Young

So House Joint Resolution No. 25-X passed, as amended, by the required Constitutional three-fifths vote of all members elected to the Senate for the 1962 Extraordinary Session of the Florida Legislature, and the action of the Senate was ordered certified to the House of Representatives immediately.

**EXPLANATION OF VOTE**

The following Explanation of Vote was filed with the Secretary of the Senate:

Explanation of Vote on House Joint Resolution No. 25-X

I vote for this Resolution upon the representation that passage of it will be followed by a Bill to apportion the Senate so as to give Lee and Monroe Counties separate Senators. Along with the other Senators, I don't know what the Federal Courts will or will not approve. The House formula is the only one the House has accepted. The Senate plan does alleviate the plight of the 24th District. I vote for this resolution to help this Legislature adopt a plan for reapportionment. It doesn't fully satisfy my feelings for a just reapportionment. I recognize it as a compromise.

TRAVIS A. GRESHAM, JR.  
Senator, 24th District

Senator Davis moved that when the Senate adjourns at this Session, it recess to reconvene at 2:00 o'clock P. M., this day.

Which was agreed to and it was so ordered.

Senator Parrish moved that the Senate adjourn.

Which was agreed to.

And the Senate recessed at 12:45 o'clock P. M. until 2:00 o'clock P. M., this day.

**AFTERNOON SESSION**

The Senate reconvened at 2:00 o'clock P. M., pursuant to recess order.

The President in the Chair.

The roll was called and the following Senators answered to their names:

Mr. President	David	Herrell	Pope
Barron	Davis	Johns	Price
Beall	Edwards	Johnson	Ripley
Boyd	Fraser	Kelly	Roberts
Bronson	Galloway	Kicliter	Stratton
Carraway	Gautier	Mapoles	Tucker
Clarke	Getzen	Melton	Young
Connor	Gibbons	Parrish	
Cross	Gresham	Pearce	

—34.

A quorum present.

By permission the following Report of Committee was received:

**REPORT OF COMMITTEE**

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Memorial:

**H. M. No. 18-X**—A Memorial to the Congress of the United States of America urging the Congress to submit a constitutional amendment reserving, granting and confirming power and jurisdiction relating to the apportionment and reapportionment of the membership of state legislatures to the states without review of the federal courts.

—and recommends that the same be adopted.

And the Memorial contained in the preceding report was placed on the Calendar.

Senator Pearce moved that the Senate recess until 3:00 o'clock P. M., this day.

Which was agreed to.

Thereupon the Senate stood in recess at 2:03 o'clock P. M.

The Senate was called to order by the President at 3:00 o'clock P.M.

The roll was called and the following Senators answered to their names:

Mr. President	David	Herrell	Pope
Barron	Davis	Johns	Price
Beall	Edwards	Johnson	Ripley
Boyd	Fraser	Kelly	Roberts
Bronson	Galloway	Kicliter	Stratton
Carraway	Gautier	Mapoles	Tucker
Clarke	Getzen	Melton	Young
Connor	Gibbons	Parrish	
Cross	Gresham	Pearce	

—34.

A quorum present.

Senator Davis moved that the Senate recess until 4:00 o'clock P.M., this day.

Which was agreed to.

Thereupon the Senate stood in recess at 3:03 o'clock P. M.

The Senate was called to order by the President at 4:00 o'clock P. M.

The roll was called and the following Senators answered to their names:

Mr. President	David	Herrell	Pope
Barron	Davis	Johns	Price
Beall	Edwards	Johnson	Ripley
Boyd	Fraser	Kelly	Roberts
Bronson	Galloway	Kicliter	Stratton
Carraway	Gautier	Mapoles	Tucker
Clarke	Getzen	Melton	Young
Connor	Gibbons	Parrish	
Cross	Gresham	Pearce	

—34.

A quorum present.

Senator Davis moved that the Senate proceed to the consideration of Executive Business.

Which was agreed to.

And the Senate went into Executive Session at 4:11 o'clock P. M.

The Senate emerged from Executive Session at 4:17 o'clock P. M., and resumed its Session.

The roll was called and the following Senators answered to their names:

Mr. President	David	Herrell	Pope
Barron	Davis	Johns	Price
Beall	Edwards	Johnson	Ripley
Boyd	Fraser	Kelly	Roberts
Bronson	Galloway	Kicliter	Stratton
Carraway	Gautier	Mapoles	Tucker
Clarke	Getzen	Melton	Young
Connor	Gibbons	Parrish	
Cross	Gresham	Pearce	

—34.

A quorum present.

**Senate Memorial No. 15-X(62)**—

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES OF AMERICA URGING THE CONGRESS TO SUBMIT A CONSTITUTIONAL AMENDMENT GRANTING TO THE STATE COURTS EXCLUSIVE JURISDICTION OF SUITS AND ACTIONS RELATING TO THE APPORTIONMENT AND REAPPORTIONMENT OF THE MEMBERSHIP OF STATE LEGISLATURES, AND FURTHER URGING THE CONGRESS TO ENACT IMMEDIATE INTERIM LEGISLATION UNDER ARTICLE III, SECTION 2 OF THE UNITED STATES CONSTITUTION LIMITING APPELLATE JURISDICTION OF THE SUPREME COURT.

WHEREAS, there is pending litigation in the several federal district courts relating to the method and manner of electing and apportioning members of state legislative bodies; and

WHEREAS, it appears to be the view of the federal judiciary that population numbers are a principal consideration in determining the validity of apportionment laws relating to representation in both houses of a bicameral legislative body; and

WHEREAS, it has long been the custom, usage and law of the State of Florida and the several states that other factors in addition to population ought be considered in arriving at fair and equitable representation in state legislative bodies; and

WHEREAS, the apportionment of the membership of state legislatures, both the house and the senate, is properly a state and not a federal question; and

WHEREAS, such judicial proceedings as are being conducted by the federal judiciary seriously interfere with state's rights in the freedom of government by the people of the several states; and

WHEREAS, it is necessary that the Congress enact suitable laws relating to both the original jurisdiction of the federal district courts and appellate jurisdiction of the United States Supreme Court, pursuant to power vested in the Congress by Article III, Section 2 of the United States Constitution and any other applicable laws until such time as the federal judiciary's encroachment into the field of state legislative apportionment traditionally reserved unto the states, NOW, THEREFORE,

**BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:**

That the Florida Legislature hereby and herein petitions the Congress of the United States of America, and each house and member thereof, to draft, submit and enact a suitable law having the effect of excluding from the original jurisdiction of the federal district courts cases relating to state legislative reapportionment and excluding from the appellate jurisdiction of the United States Supreme Court cases relating to state legislative apportionment pursuant to powers conferred upon the

Congress by Article III, Section 2 of the Constitution of the United States, which provides in material part as follows:

“. . . In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such recommendations as the Congress shall make. . . .”

BE IT FURTHER RESOLVED, that the Florida Legislature hereby and herein petitions the Congress of the United States of America, and each house and member thereof, to draft and submit a suitable amendment to the United States Constitution, granting to the state courts exclusive jurisdiction of suits and actions relating to the apportionment and reapportionment of the membership of state legislatures; and

BE IT FURTHER RESOLVED, that copies of this memorial be transmitted forthwith by the Chief Clerk of the House and the Secretary of the Senate of the State of Florida to the President of the United States, and the Vice-President of the United States as presiding officer of the Senate, and the Speaker of the House of Representatives of the Congress of the United States, to each of the congressional delegation from Florida in the United States Congress, to each member of the Congress from the several states, to each of the Governors, Secretaries of State and Attorneys General of the several states; and to each of the speakers of the House and Presidents of the Senate of the State Legislatures of the several states; and

BE IT FURTHER RESOLVED, that a copy of this memorial be spread upon the journal of both the Senate and House of Representatives of the State of Florida, and sufficient copies thereof be furnished to the press.

Was taken up and read for the information of the Senate, having been read the second time in full, amended, and the further consideration thereof informally passed at the Morning Session this day, on motion of Senator Ripley.

Senator Pope offered the following amendment to Senate Memorial No. 15-X(62):

Line 5, page 3, add the words:

“Providing the state courts shall assume jurisdiction in such cases”

Senator Pope moved the adoption of the amendment.

Which was not agreed to so the amendment failed of adoption.

Senator Ripley offered the following amendment to Senate Memorial No. 15-X(62):

On page 3, lines 4 and 5, change the word “recommendations” to regulations.

Senator Ripley moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

The question was put on the adoption of Senate Memorial No. 15-X(62), as amended.

Which was agreed to and Senate Memorial No. 15-X(62), as amended, was adopted and referred to the Secretary of the Senate as Ex Officio Engrossing Clerk, for engrossing.

Senator Davis moved that the House of Representatives be requested to return House Joint Resolution No. 25-X, together with Senate amendments attached thereto, to the Senate for further action.

Which was agreed to and the action of the Senate was ordered certified to the House of Representatives immediately.

Senator Davis moved that the rules be waived and the Senate revert to the consideration of messages from the House of Representatives.

Which was agreed to by a two-thirds vote and it was so ordered.

#### MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The following message from the House of Representatives was received and read:

Tallahassee, Florida  
August 10, 1962

*The Honorable W. Randolph Hodges*  
*President of the Senate*

Sir:

I am directed by the House of Representatives to inform the Senate that the House of Representatives has granted the request of the Senate and returns herewith—

By Mr. O'Neill of Marion—

**H. J. R. No. 25-X**—A Joint Resolution proposing an amendment to Article VII of the Constitution of the State of Florida, providing for apportionment of the Florida Legislature; providing for a state census.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:

That the following amendment of Article VII of the Constitution of Florida is agreed to and shall be submitted to the electors of this state for ratification or rejection at the general election to be held in November, 1962:

#### ARTICLE VII

##### APPORTIONMENT AND CENSUS

**Section 1. Composition of the legislature.**—The legislature of the state of Florida shall consist of a senate and a house of representatives. Members of the senate shall be elected for a term of four (4) years and members of the house shall be elected for a term of two (2) years. The term of members of the legislature shall expire on the first Tuesday after the first Monday in November in each regular election year. Members of the senate and house of representatives shall be elected as provided by law. Any new county that may be created shall be entitled to one (1) member in the house of representatives in excess of any limit prescribed in the following sections of this article until the next reapportionment and the county shall be assigned when created to a senatorial district as determined by the legislature.

**Section 2. Representation in the house of representatives.**—Representation in the house of representatives of the Florida legislature shall be apportioned among the several counties of the state as follows: Each county shall be entitled to one representative and to one additional representative for each representative ratio or major fraction thereof. The representative ratio shall be the quotient obtained by dividing the population of the state according to the latest federal census by the number of counties; provided that until the general election in 1964 no county shall have fewer representatives than it would have been entitled to under the Constitution of 1885, as amended in 1924.

**Section 3. Apportionment of representation in senate and house of representatives.**—The Legislature that shall meet in regular session A.D. 1925, and those that shall meet every ten (10) years thereafter, shall apportion the representation in the senate, and shall provide for thirty-eight (38) senatorial districts, such districts to be as nearly

equal in population as practicable, but no county shall be divided in making such apportionment and each district shall have one (1) senator; except that those districts whose population at the last federal census exceeds four hundred thousand (400,000) shall have two (2) senators and those districts having a population in excess of one million (1,000,000) shall have three (3) senators. In any senatorial district composed of a single county and divided by a congressional district line having more than one (1) senator the candidates will qualify for election in groups. The candidates for the odd numbered groups must reside north or west of the district line and the even numbered groups must reside south or east of the district line. All candidates, however, will be subject to election in the district at large.

**Section 4. State census.**—The last preceding decennial federal census shall also be the state census and shall control in all population acts and constitutional apportionments, unless otherwise ordered by the legislature.

—together with Senate amendments attached thereto.

Respectfully,  
LAMAR BLEDSOE  
Chief Clerk, House of Representatives

And House Joint Resolution No. 25-X, contained in the above message, was read together with pending Senate amendments thereto.

Senator Davis moved that the Senate reconsider the vote by which House Joint Resolution No. 25-X, as amended, contained in the above message, passed the Senate at the Morning Session, this day.

The President put the question: "Will the Senate reconsider the vote by which House Joint Resolution No. 25-X, as amended, passed the Senate at the Morning Session, this day?"

Which was agreed to by a three-fifths vote.

So the Senate reconsidered the vote by which House Joint Resolution No. 25-X, as amended, passed the Senate at the Morning Session, this day.

The question recurred on the passage of House Joint Resolution No. 25-X, as amended.

Pending consideration of House Joint Resolution No. 25-X, as amended, Senator Davis moved that House Joint Resolution No. 25-X, as amended, be placed back on second reading.

Which was agreed to by a two-thirds vote and it was so ordered.

Senator Davis moved that the Senate reconsider the vote by which the following amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day:

In Sections 3 and 4, pages 2 and 3, strike out all of Sections 3 and 4 and insert in lieu thereof the following:

**Section 3. Senate.**—The representation in the senate of the Florida legislature shall consist of forty-six (46) geographical districts. No county shall be divided in creating a district. No county shall be separated from the remainder of the district of which it is part by more than a county which was formerly a part of said district as of 1962. Additional legislators provided herein shall be elected at a special election to be held in the affected counties or districts as provided by law. The senators elected from the new even numbered districts shall be elected for a term of four (4) years and the senators now elected from odd numbered districts shall complete their terms and new senators elected from the odd numbered districts shall be elected for a term of two (2)

years. Thereafter all senators shall be elected for four (4) year terms.

The legislature shall reapportion its representation in accordance with this article at the 1971 regular session of the legislature and every ten (10) years thereafter based upon the preceding latest federal decennial census.

**Section 4.** In the event the legislature shall fail to reapportion the representation as required by this article, the governor shall call the legislature together in extraordinary session to consider the question of reapportionment, and such extraordinary session shall mandatorily be required to reapportion its membership before adjournment, and such extraordinary session so called shall not expire until reapportionment is effected and shall consider no business other than reapportionment.

**Section 5. State census.**—The legislature shall no longer be required to provide for an enumeration of the inhabitants of the state. The last preceding decennial federal census beginning with the federal census of 1950 shall also be the state census and shall control in all population acts and constitutional apportionments, unless otherwise ordered by the legislature.

The President put the question: "Will the Senate reconsider the vote by which the foregoing amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day?"

Which was agreed to.

So the Senate reconsidered the vote by which the foregoing amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day.

The question recurred on the adoption of the foregoing amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X.

Pending consideration of the foregoing amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X, by unanimous consent, Senator Carraway, as Chairman of the Committee on Reapportionment, withdrew the amendment from the further consideration of the Senate.

Senator Davis moved that the Senate reconsider the vote by which the following amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day:

In line 1, page 2, strike out the line and insert in lieu thereof the following:

the legislature of the State of Florida shall be apportioned among the

The President put the question: "Will the Senate reconsider the vote by which the foregoing amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day?"

Which was agreed to.

So the Senate reconsidered the vote by which the foregoing amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day.

The question recurred on the adoption of the foregoing amendment offered by Senator Pope to House Joint Resolution No. 25-X.

Pending consideration of the foregoing amendment offered by Senator Pope to House Joint Resolution No. 25-X, by unanimous consent, Senator Pope withdrew the amendment from the further consideration of the Senate.

Senator Davis moved that the Senate reconsider the vote by which the following amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day:

In Section 2, line 13, page 2, change the period to a semi-colon and add the following:

provided, further, that the house of representatives shall be automatically reapportioned each ten (10) years in accordance with the federal decennial census.

The President put the question: "Will the Senate reconsider the vote by which the foregoing amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day?"

Which was agreed to.

So the Senate reconsidered the vote by which the foregoing amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day.

The question recurred on the adoption of the foregoing amendment offered by Senator Pope to House Joint Resolution No. 25-X.

Pending consideration of the foregoing amendment offered by Senator Pope to House Joint Resolution No. 25-X, by unanimous consent, Senator Pope withdrew the amendment from the further consideration of the Senate.

Senator Davis moved that the Senate reconsider the vote by which the following amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day:

In Section 2, page 2, following last word in section two add the following:

In any county divided by a congressional district line, the even numbered candidates must reside north or west of that line and the odd numbered candidates must reside south or east of the district line. They will, however, be subject to election from the county at large.

The President put the question: "Will the Senate reconsider the vote by which the foregoing amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day?"

Which was agreed to.

So the Senate reconsidered the vote by which the foregoing amendment to House Joint Resolution No. 25-X was adopted by the Senate at the Morning Session, this day.

The question recurred on the adoption of the foregoing amendment offered by Senator Herrell to House Joint Resolution No. 25-X.

Pending consideration of the foregoing amendment offered by Senator Herrell to House Joint Resolution No. 25-X, by unanimous consent, Senator Herrell withdrew the amendment from the further consideration of the Senate.

The question recurred on the passage of House Joint Resolution No. 25-X.

Pending roll call on the passage of House Joint Resolution No. 25-X, Senator Davis moved that the further consideration of House Joint Resolution No. 25-X be informally passed.

Which was agreed to and it was so ordered.

Senator Davis moved that when the Senate adjourns at this Session, it recess to reconvene at 8:00 o'clock P.M., this day.

A roll call was demanded.

Upon call of the roll on the motion made by Senator Davis, the vote was:

Yeas—28.

Barron	Davis	Gresham	Pope
Boyd	Edwards	Herrell	Price
Bronson	Fraser	Johns	Ripley
Carraway	Galloway	Kicliter	Roberts
Clarke	Gautier	Melton	Stratton
Connor	Getzen	Parrish	Tucker
David	Gibbons	Pearce	Young

Nays—2.

Beall                      Mapoles

So the motion made by Senator Davis was adopted and the Senate recessed at 5:40 o'clock P.M., until 8:00 P.M., this day.

**NIGHT SESSION**

The Senate reconvened at 8:00 o'clock P.M., pursuant to recess order.

The President in the Chair.

The roll was called and the following Senators answered to their names:

Mr. President	David	Herrell	Pope
Barron	Davis	Johns	Price
Beall	Edwards	Johnson	Ripley
Boyd	Fraser	Kelly	Roberts
Bronson	Galloway	Kicliter	Stratton
Carraway	Gautier	Mapoles	Tucker
Clarke	Getzen	Melton	Young
Connor	Gibbons	Parrish	
Cross	Gresham	Pearce	

—34.

A quorum present.

Senator Carraway requested unanimous consent of the Senate to take up and consider House Joint Resolution No. 25-X.

Unanimous consent was granted, and—

**H. J. R. No. 25-X**—A Joint Resolution proposing an amendment to Article VII of the Constitution of the State of Florida, providing for apportionment of the Florida Legislature; providing for a state census.

**BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:**

That the following amendment of Article VII of the Constitution of Florida is agreed to and shall be submitted to the electors of this state for ratification or rejection at the general election to be held in November, 1962:

**ARTICLE VII**

**APPORTIONMENT AND CENSUS**

**Section 1. Composition of the legislature.**—The legislature of the state of Florida shall consist of a senate and a house of representatives. Members of the senate shall be elected for a term of four (4) years and members of the house shall be elected for a term of two (2) years. The term of members of the legislature shall expire on the first Tuesday after the first Monday in November in each regular election year. Members of the senate and house of representatives shall be elected as provided by law. Any new county that may be created shall be entitled to one (1) member in the house of representatives in excess of any limit prescribed in the following sections of this article until the next reapportionment and the county shall be assigned when created to a senatorial district as determined by the legislature.

**Section 2. Representation in the house of representatives.**—Representation in the house of representatives of the Florida legislature shall be apportioned among the several counties of the state as follows: Each county shall be entitled to one representative and to one additional representative for each representative ratio or major fraction thereof. The representative ratio shall be the quotient obtained by dividing the population of the state according to the latest federal census by the number of counties; provided that until the general election in 1964 no county shall have fewer representatives than it would have been entitled to under the Constitution of 1885, as amended in 1924.

**Section 3. Apportionment of representation in senate and house of representatives.**—The Legislature that shall meet in regular session A.D. 1925, and those that shall meet every ten (10) years thereafter, shall apportion the representation in the senate, and shall provide for thirty-eight (38) senatorial districts, such districts to be as nearly equal in population as practicable, but no county shall be divided in making such apportionment and each district shall have one (1) senator; except that those districts whose population at the last federal census exceeds four hundred thousand (400,000) shall have two (2) senators and those districts having a population in excess of one million (1,000,000) shall have three (3) senators. In any senatorial district composed of a single county and divided by a congressional district line having more than one (1) senator the candidates will qualify for election in groups. The candidates for the odd numbered groups must reside north or west of the district line and the even numbered groups must reside south or east of the district line. All candidates, however, will be subject to election in the district at large.

**Section 4. State census.**—The last preceding decennial federal census shall also be the state census and shall control in all population acts and constitutional apportionments, unless otherwise ordered by the legislature.

Was taken up and read in full, having been reconsidered and placed back on Second Reading on motion of Senator Davis, at the Afternoon Session, this day.

The Committee on Reapportionment offered the following amendment to House Joint Resolution No. 25-X:

In Section 2, line 5, page 2, strike out the words: "and to" and insert in lieu thereof the following: a period (.) Each county shall also be entitled to

Senator Carraway moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

The Committee on Reapportionment also offered the following amendment to House Joint Resolution No. 25-X:

In Sections 3 and 4, pages 2 and 3, strike out all of Sections 3 and 4 and insert in lieu thereof the following:

**Section 3. Senate.**—The representation in the senate of the Florida legislature shall consist of forty-six (46) members, each representing a district. Twenty-four (24) districts shall consist of the twenty-four (24) most populous counties according to the latest federal decennial census. Twenty-two (22) districts shall be created from the remaining counties of the state with the view of effecting as equitable representation as practical.

No county shall be divided in creating a district. No county shall be separated from the remainder of the district of which it is part by more than a county which was formerly a part of the same district in 1961.

**Section 4. Legislative apportionment.**—The 1963 Legislature shall be composed of the legislators elected pursuant to the Constitution of 1885 as amended, and of the additional legislators as provided for herein. If this article is ratified at the general election in November, 1962, the

legislature shall be apportioned according to apportionment bills passed at the 1962 Extraordinary Session of the Legislature, provided nothing in this amendment shall prohibit any representative or senator elected in the 1962 general election pursuant to the Constitution of 1885, as amended, from serving in said office for the term for which he was elected, nor shall this amendment prohibit a senator now serving from completing his term to which he was elected, and the additional legislative offices herein created shall be filled by and at a special election to be held in the affected counties or districts, as provided by law, such election to be held within one hundred and twenty (120) days after the effective date hereof. The senators elected from the new even numbered districts shall be elected for a term of four (4) years and the new senators elected from the odd numbered districts shall be elected for a term of two (2) years; thereafter all senators shall be elected for four (4) year terms.

In any county divided by a congressional district line, as districted in 1961, candidates for the even numbered groups for the house of representatives must reside north or west of that line, and candidates for the odd numbered groups for the house of representatives must reside south or east of the district line. They will, however, be subject to election from the county at large.

The legislature shall reapportion its representation in accordance with this article at the 1971 regular session of the legislature and every ten (10) years thereafter based upon the preceding latest federal decennial census.

In the event the legislature shall fail to reapportion the representation as required by this article, the governor shall call the legislature together in extraordinary session to consider the question of reapportionment, and such extraordinary session shall mandatorily be required to reapportion its membership before adjournment, and such extraordinary session so called shall not expire until reapportionment is effected and shall consider no business other than reapportionment.

**Section 5. State census.**—The legislature shall no longer be required to provide for an enumeration of the inhabitants of the state. The last preceding decennial federal census beginning with the federal census of 1960 shall also be the state census and shall control in all population acts and constitutional apportionments unless otherwise ordered by the legislature.

Senator Carraway moved the adoption of the amendment.

Pending consideration of the foregoing amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X, Senator Herrell offered the following amendment to the amendment offered by the Committee on Reapportionment:

In Section 3, lines 2 and 3, page 1, strike out the words: "forty-six (46) members," and insert in lieu thereof the following: forty-seven (47) members.

Senator Herrell moved the adoption of the amendment to the amendment.

A roll call was demanded.

Upon call of the roll on the motion made by Senator Herrell, the vote was:

Yeas—11.

Connor	Gibbons	Kelly	Stratton
David	Herrell	Pope	Young
Gautier	Johns	Price	

Nays—23.

Mr. President	Boyd	Clarke	Edwards
Barron	Bronson	Cross	Fraser
Beall	Carraway	Davis	Galloway

Getzen	Kicliter	Parrish	Roberts
Gresham	Mapoles	Pearce	Tucker
Johnson	Melton	Ripley	

So the amendment to the amendment failed of adoption.

The question recurred on the adoption of the amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X.

Pending consideration of the amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X, Senator Gibbons offered the following amendment to the amendment offered by the Committee on Reapportionment:

At the end of Section 3 insert the following:

Each county having a population in excess of 300,000 shall have one additional Senator.

Senator Gibbons moved the adoption of the amendment to the amendment.

Which was not agreed to so the amendment to the amendment failed of adoption.

The question recurred on the adoption of the amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X.

Pending consideration of the amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X, Senator Ripley offered the following amendment to the amendment offered by the Committee on Reapportionment:

In paragraph 3, page 2, line 9, strike out the words: "add except such things as are required by the constitution" and insert in lieu thereof the following:

apart from the decree of any federal court of any nature whatsoever.

Senator Ripley moved the adoption of the amendment to the amendment.

Which was not agreed to so the amendment to the amendment failed of adoption.

The question recurred on the adoption of the foregoing amendment offered by the Committee on Reapportionment to House Joint Resolution No. 25-X.

Which was agreed to and the amendment was adopted.

Senator Carraway moved that House Joint Resolution No. 25-X, as amended, be read in full.

Which was agreed to by a two-thirds vote.

And House Joint Resolution No. 25-X, as amended, was read in full, as follows:

**H. J. R. No. 25-X**—A Joint Resolution proposing an amendment to Article VII of the Constitution of the State of Florida, providing for apportionment of the Florida Legislature; providing for a state census.

**BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:**

That the following amendment of Article VII of the Constitution of Florida is agreed to and shall be submitted to the electors of this state for ratification or rejection at the general election to be held in November, 1962:

**ARTICLE VII**

**APPORTIONMENT AND CENSUS**

**Section 1. Composition of the legislature.**—The legislature of the state of Florida shall consist of a senate and

a house of representatives. Members of the senate shall be elected for a term of four (4) years and members of the house shall be elected for a term of two (2) years. The term of members of the legislature shall expire on the first Tuesday after the first Monday in November in each regular election year. Members of the senate and house of representatives shall be elected as provided by law. Any new county that may be created shall be entitled to one (1) member in the house of representatives in excess of any limit prescribed in the following sections of this article until the next reapportionment and the county shall be assigned when created to a senatorial district as determined by the legislature.

**Section 2. Representation in the house of representatives.**—Representation in the house of representatives of the Florida legislature shall be apportioned among the several counties of the state as follows: Each county shall be entitled to one representative. Each county shall also be entitled to one additional representative for each representative ratio or major fraction thereof. The representative ratio shall be the quotient obtained by dividing the population of the state according to the latest federal census by the number of counties; provided that until the general election in 1964 no county shall have fewer representatives than it would have been entitled to under the Constitution of 1885, as amended in 1924.

**Section 3. Senate.**—The representation in the senate of the Florida legislature shall consist of forty-six (46) members, each representing a district. Twenty-four (24) districts shall consist of the twenty-four (24) most populous counties according to the latest federal decennial census. Twenty-two (22) districts shall be created from the remaining counties of the state with the view of effecting as equitable representation as practical.

No county shall be divided in creating a district. No county shall be separated from the remainder of the district of which it is part by more than a county which was formerly a part of the same district in 1961.

**Section 4. Legislative apportionment.**—The 1963 Legislature shall be composed of the legislators elected pursuant to the Constitution of 1885 as amended, and of the additional legislators as provided for herein. If this article is ratified at the general election in November, 1962, the legislature shall be apportioned according to apportionment bills passed at the 1962 Extraordinary Session of the Legislature, provided nothing in this amendment shall prohibit any representative or senator elected in the 1962 general election pursuant to the Constitution of 1885, as amended, from serving in said office for the term for which he was elected, nor shall this amendment prohibit a senator now serving from completing his term to which he was elected, and the additional legislative offices herein created shall be filled by and at a special election to be held in the affected counties or districts, as provided by law, such election to be held within one hundred and twenty (120) days after the effective date hereof. The senators elected from the new even numbered districts shall be elected for a term of four (4) years and the new senators elected from the odd numbered districts shall be elected for a term of two (2) years; thereafter all senators shall be elected for four (4) year terms.

In any county divided by a congressional district line, as districted in 1961, candidates for the even numbered groups for the house of representatives must reside north or west of that line, and candidates for the odd numbered groups for the house of representatives must reside south or east of the district line. They will, however, be subject to election from the county at large.

The legislature shall reapportion its representation in accordance with this article at the 1971 regular session of

the legislature and every ten (10) years thereafter based upon the preceding latest federal decennial census.

In the event the legislature shall fail to reapportion the representation as required by this article, the governor shall call the legislature together in extraordinary session to consider the question of reapportionment, and such extraordinary session shall mandatorily be required to reapportion its membership before adjournment, and such extraordinary session so called shall not expire until reapportionment is effected and shall consider no business other than reapportionment.

Section 5. **State census.**—The legislature shall no longer be required to provide for an enumeration of the inhabitants of the state. The last preceding decennial federal census beginning with the federal census of 1960 shall also be the state census and shall control in all population acts and constitutional apportionments unless otherwise ordered by the legislature.

Upon the passage of House Joint Resolution No. 25-X, as amended, the roll was called and the vote was:

Yeas—29.

Mr. President	Cross	Johns	Price
Barron	Davis	Johnson	Ripley
Beall	Edwards	Kicliter	Roberts
Boyd	Fraser	Mapoles	Stratton
Bronson	Galloway	Melton	Tucker
Carraway	Getzen	Parrish	
Clarke	Gresham	Pearce	
Connor	Herrell	Pope	

Nays—5.

David	Gibbons	Young
Gautier	Kelly	

So House Joint Resolution No. 25-X passed, as amended, by the required Constitutional three-fifths vote of all members elected to the Senate for the 1962 Extraordinary Session of the Florida Legislature, and the action of the Senate was ordered certified to the House of Representatives immediately.

Senator Pope moved that the rules be waived and the Senate revert to the Introduction of Resolutions, Memorials, Bills and Joint Resolutions.

Which was agreed to by a two-thirds vote and it was so ordered.

#### INTRODUCTION OF RESOLUTIONS, MEMORIALS, BILLS AND JOINT RESOLUTIONS

By Senator Pope—

**Senate Joint Resolution No. 18-X(62)—**

A JOINT RESOLUTION WITHDRAWING SENATE JOINT RESOLUTION NO. 216, ENTITLED "A JOINT RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE VII OF THE STATE CONSTITUTION RELATING TO APPORTIONMENT AND CENSUS."

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:

That senate joint resolution No. 216 proposing to amend article VII of the state constitution shall not be submitted to the electors of Florida for ratification or rejection at the next general election to be held in November 1962.

That the legislature does rescind the resolution No. 216 and directs the secretary of state to withdraw resolution No. 216 from the 1962 November general election ballot.

Which was read the first time in full.

Senator Pope moved that the rules be waived and Senate Joint Resolution No. 18-X(62) be read the second time in full.

Which was agreed to by a two-thirds vote.

And Senate Joint Resolution No. 18-X(62) was read the second time in full.

Senator Pope moved that the rules be further waived and Senate Joint Resolution No. 18-X(62) be read the third time in full and put upon its passage.

Which was agreed to by a two-thirds vote.

And Senate Joint Resolution No. 18-X (62) was read the third time in full.

Pending roll call on the passage of Senate Joint Resolution No. 18-X(62), Senator Pope moved that the further consideration thereof be informally passed.

Which was agreed to and it was so ordered.

By Senator Pope—

**S. B. No. 19-X(62)—** A Bill to be entitled An Act to repeal Chapter 61-6, Laws of Florida, as enacted by the legislature in regular session in 1962 relating to amending sections 10.01, 10.02, and 10.03, Florida Statutes, reapportioning the senate and house of representatives; providing an effective date.

Which was read the first time by title only.

Senator Pope moved that the rules be waived and Senate Bill No. 19-X(62) be read the second time by title only.

Which was agreed to by a two-thirds vote.

And Senate Bill No. 19-X(62) was read the second time by title only.

Senator Pope moved that the rules be further waived and Senate Bill No. 19-X(62) be read the third time in full and put upon its passage.

Which was agreed to by a two-thirds vote.

And Senate Bill No. 19-X(62) was read the third time in full.

Pending roll call on the passage of Senate Bill No. 19-X(62), Senator Pope moved that the further consideration thereof be informally passed.

Which was agreed to and it was so ordered.

Senator Ripley requested unanimous consent of the Senate to take up and consider House Memorial No. 18-X, out of its order.

Unanimous consent was granted, and—

**H. M. No. 18-X—**A memorial to the Congress of the United States of America urging the Congress to submit a Constitutional Amendment reserving, granting and confirming power and jurisdiction relating to the apportionment and reapportionment of the membership of State Legislatures to the states without review of the Federal Courts.

WHEREAS, the apportionment of the membership of State Legislatures, both the House and Senate, is properly a state and not a federal question; and

WHEREAS, there has been some effort recently by some of the lower federal courts, not only to determine the validity of the apportionment or reapportionment of the membership of state legislatures, but also to make

apportionment or reapportionment by judicial decree; and

WHEREAS, such judicial proceedings seriously interfere with states' rights and the freedom of government by the people of the several states; and

WHEREAS, such judicial proceedings are a massive repudiation of the experience of our whole past and are a deliberate, palpable and dangerous exercise of powers not granted to the federal judiciary by the United States Constitution, NOW, THEREFORE,

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:

That the Florida Legislature hereby and herein petitions the Congress of the United States of America, and each house and member thereof, to draft and submit a suitable amendment to the United States Constitution, specifically reserving, granting and clearly confirming exclusive power and jurisdiction relating to the apportionment and reapportionment of the membership of state legislatures to the several states and to spell out that state action in this field is not subject to review by the Federal Courts.

BE IT FURTHER RESOLVED, that copies of this memorial be transmitted forthwith by the Chief Clerk of the House and the Secretary of the Senate of the State of Florida to the President of the United States, and the Vice-President of the United States as presiding officer of the Senate, and the Speaker of the House of Representatives of the Congress of the United States, to each of the congressional delegation from Florida in the United States Congress, and to each of the Governors, Secretaries of State, and Attorneys General of the several states; and

BE IT FURTHER RESOLVED, that a copy of this memorial be spread upon the journal of both the Senate and House of Representatives of the State of Florida, and sufficient copies thereof be furnished to the press.

Was taken up and read the second time in full.

Senator Ripley offered the following amendment to House Memorial No. 18-X:

By adding after the comma following the word Constitution in the 4th WHEREAS paragraph the following:

WHEREAS, it appears to be the view of the federal judiciary that population numbers are a principal consideration in determining the validity of apportionment laws relating to representation in both houses of a bicameral legislative body; and

WHEREAS, it has long been the custom, usage and law of the State of Florida and the several states that other factors in addition to population ought to be considered in arriving at fair and equitable representation in state legislative bodies; and

WHEREAS, it is necessary that the Congress enact suitable laws relating to both the original jurisdiction of the federal district courts and appellate jurisdiction of the United States Supreme Court, pursuant to power vested in the Congress by Article III, Section 2 of the United States Constitution and any other applicable laws until such time as the federal judiciary's encroachment into the field of state legislative apportionment traditionally reserved unto the states is curbed,

Senator Ripley moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

Senator Ripley also offered the following amendment to House Memorial No. 18-X:

By adding after the first paragraph of the resolving clause, line one, page two, the following:

BE IT FURTHER RESOLVED, that the Florida Legislature hereby and herein petitions the Congress of the United States of America, and each house and member thereof, to draft, submit and enact a suitable law having the effect of excluding from the original jurisdiction of the federal district courts cases relating to state legislative reapportionment and excluding from the appellate jurisdiction of the United States Supreme Court cases relating to state legislative apportionment pursuant to powers conferred upon the Congress by Article III, Section 2 of the Constitution of the United States, which provides in material part as follows:

“. . . In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make . . . .”

Senator Ripley moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

Senator Ripley also offered the following amendment to House Memorial No. 18-X:

By adding to the Title of said memorial the following: Change the last period in the title to a comma, and add:

and further urging the Congress to enact immediate interim legislation under Article III, Section 2 of the United States Constitution limiting appellate jurisdiction of the Supreme Court.

Senator Ripley moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

The question was put on the adoption of House Memorial No. 18-X, as amended.

Which was agreed to and House Memorial No. 18-X, as amended, was adopted and the action of the Senate was ordered certified to the House of Representatives immediately.

Senator Davis moved that the Senate adjourn.

Which was agreed to.

And the Senate stood adjourned at 8:59 o'clock P.M., until 11:00 o'clock A.M., Saturday, August 11, 1962.

#### EXECUTIVE SESSION ANNOUNCEMENTS

The Senate in Executive Session on August 10, 1962, advised and consented to the following appointment made by the Governor:

J. Bruce Vining, Miami, Member, Governing Board, Central and Southern Florida Flood Control District, for a term ending July 12, 1963.

The Senate in Executive Session on August 10, 1962, refused to advise and consent to the following appointment made by the Governor:

Philip G. Nourse, Fort Pierce, Assistant State Attorney, Ninth Judicial Circuit, for a term ending on the first Tuesday after the first Monday in January 1965.