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the north carolina Governorship: An Agenda

by Thad L. Beyle

In 1971, the Citizens' Conference on State Legislatures (now Legis 50) published a study of the capabilities of the 50 state legislatures (*The Sometimes Governments*). North Carolina's General Assembly was ranked 47th. Since the publication of that report, the North Carolina legislature has taken a number of steps to improve its capabilities. A legislative research and fiscal division now provides it with information and analysis. Annual sessions have replaced biennial sessions to bring the legislature's decision-making process, especially in the budget area, closer to the day-to-day fiscal realities of state government and the economic situation in the state. The legislators have raised their own salaries and "perks" so that service in the General Assembly will now be compensated at a rate more in line with the responsibilities and costs of providing that service. A new legislative building will provide better quarters for legislators, staffs and committees to work in. While these measures may only allow the North Carolina General Assembly to "Keep up with the Joneses" among state legislatures, each represents a positive step toward making our General Assembly more capable and effective.

At virtually the same time the CCSL report was issued, a study comparing the governorships of the 50 states was published. This study of the formal powers of the governors was conducted by political scientist Joseph A. Schlesinger of Michigan State University and was printed in a state government textbook used fairly widely on college campuses (Herbert Jacob and Kenneth Vines, *Politics and Policy in the American States*). The study focuses on the formal powers which each governor had or lacked: appointments, budget, tenure and veto. Schlesinger evaluated each governorship on these formal powers, assigning a score for the level achieved in each state. He then summed the scores to provide

Thad L. Beyle is a professor of political science at the University of North Carolina at Chapel Hill and a member of the Center's Board of Directors.

an overall score and ranked the states from top to bottom.

Again, North Carolina fell toward the bottom, tied at 43 with three other states (New Mexico, Mississippi, Indiana). Only the governorships of Florida, South Carolina, West Virginia and Texas ranked as having weaker formal powers. The reasons for the low ranking of the North Carolina governorship are fairly obvious: no veto power, a one-term limit, shared budget-making power with the General Assembly, and separately elected executive officers in a Council of State. (Of course the North Carolina governor has considerable other sources of power that have been well used by the incumbents to achieve their goals. They were discussed in an article by Bob Dozier in the summer issue of *N. C. Insight*).

Since the Schlesinger study, two major steps have been taken to alleviate the structural problems and lack of power in the governorship. A major state government reorganization reduced significantly the more than 200 separate and even independent agencies and grouped the remaining into a series of nine departments headed by gubernatorially appointed secretaries. Only the eight separately elected Council of State offices and their departments and the lieutenant governor remained outside gubernatorial control. The voters of the state approved a constitutional amendment that will allow a governor to serve two consecutive four-year terms.

Thus, two branches of North Carolina state government that were ranked toward the very bottom of the ladder as the 1970s opened have been considerably strengthened.

On the governor's side, however, an agenda remains to provide that office with essential powers that are now restricted in part or even lacking. This agenda is important despite the series of strong and able governors we have had the good fortune to elect over the past few decades---a series of governors who were strong and able despite constitutional and statutory restraints on their ability to govern. The agenda for a stronger governorship in North Carolina still includes the following items:

The Veto

There are many variations on the veto---total, item, amendatory---just as there are variations on how a legislature can override a governor's veto---the votes of a majority elected, two-thirds present, or two-thirds elected. North Carolina's variation, no veto at all, is unique in the states, and careful participants and observers must ask whether the other 49 states or we are out of line.

The veto gives the governor one more check on legislative action, but still leaves the basic power in legislative hands. The legislators can override an unpopular or unwise veto. The veto gives the governor one more weapon with which to fight for his program and to stop what might be unwise or poorly written legislation and policy. Without the veto, the governor must fall back on his negotiating and persuasive powers. He must use patronage, the budget and whatever other "green stamps" he has to achieve his goal.

The veto, however, may not be as fearful a weapon as some would suppose. In a 1976 survey by the National Governors' Association, 23 of the 31 governor's offices that responded indicated use of the veto is not the same as a legislator's vote for or against a particular bill. Rather they presumed that a bill passing both houses should be signed unless the governor had very strong objections to it. Only three of 30 responded that even if the bill were a "bad" bill (one for which the governor would not vote were he a legislator), should it be vetoed. Thus, the use of the veto in other states indicates a rather judicious approach by the governors, and one should anticipate that it would be used in a similar manner in North Carolina.

The Governor's Budget

North Carolina's state budget system has strong and weak aspects. Chief among the weak aspects is the power which the 12-member, executive-legislative Advisory Budget Commission has in the development---and in some cases---execution of the budget. While the budget presented to the General Assembly is often called "The Governor's Budget," this is a misnomer. It really reflects a series of compromises and decisions already struck between the governor and the members of the Advisory Budget Commission, whose majority is appointed by and who are key legislative leaders.

Joint executive-legislative preparation of the budget was a rather common practice across the states in the past, but most states have moved toward a governor's budget, developed by his or her staff and presented to the legislature for its consideration. As in North Carolina, other state legislatures have

increased their capacity to anticipate, analyze and react to the governor's budget by staffing separate legislative budget offices. Although there are certain political advantages in having early legislative leadership involvement on the budget, the state should investigate the potential advantages of having a governor's budget *and* a strong, separate legislative budget office.

Completing Reorganization

The reorganization of state government in the early 1970s left the administrative organization of the state only partially reorganized. The nine cabinet departments bring together many agencies and provide the governor with a means of coordinating certain state government activities. However, nine separately elected officials still remain outside gubernatorial control, as do the agencies they head. Some of these offices should remain separately elected since their independence furthers citizen control over state government and ensures a "check and balance" on too much accumulated authority in any one office. These would include the Attorney General (elected in 42 states) and the Auditor (elected in 25 states), who in part or totally perform "watchdog" functions over the rest of state government.

While 18 states elect their chief state school officer, the general trend in the states over the past few years has been to have the superintendent appointed by boards of education. These boards are appointed by the governor, appointed by the governor and the legislative leadership, or---in 12 states---separately elected. With an appointed Superintendent of Public Instruction, electoral politics are removed from the administrative head of the department and placed explicitly in the board or the governor's office. The recent Renfrow report to the General Assembly explored the methods of selecting the superintendent for North Carolina. Its findings and suggestions should be re-reviewed and considered seriously.

A state government wag once suggested that the "Treasurer's Office ought to be abolished and its responsibilities given to a bank, and the Secretary of State's job done away with and given to a couple of secretaries." While that is obviously an overstatement, there are valid reasons for suggesting that these offices might not be of separately elected constitutional status even though both are elected positions in 38 states. While not a sharp trend, reorganization efforts across the states in the middle 1970s have leaned toward making these two offices appointive and bringing them under gubernatorial control. The argument that this would provide the governor with too much fiscal power is rebutted by maintaining and enhancing the separately elected Auditor's and Attorney General's offices with their oversight functions.

The Agenda in Brief

- Veto power for the governor
- A governor's budget that is in fact the governor's.
- Appointment of most cabinet officers
- Team election of the governor and the lieutenant governor
- Removal of the lieutenant governor's legislative duties

The trends are clear for three other separately elected offices in the Council of State. An increasingly fewer number of states now separately elect their Secretaries of Agriculture (12 states), Insurance (11) and Labor (5). These are viewed as executive departments, with functions and activities not unlike other executive departments, which should fall under the direct control---policy, appointive, budgetary, and managerial---of the governor. Furthermore, if these are separately elected, there could just as logically be separately elected heads of other executive departments such as Natural and Economic Resources, Social Services, Transportation and so on.

The departments of agriculture, insurance, and labor serve interested and involved constituencies. Any change in these departments will be of concern to those constituencies. The three departments are also currently headed by strong, politically identifiable personalities. Removing them from the electoral process represents a challenge to their own political ambitions. But again, North Carolina stands out clearly as one of the few states with so many constitutionally elected officials, when so many other states are moving in the opposite direction---and for good and solid reasons.

The Lieutenant Governor

These are five basic models of the duties and functions of the lieutenant governorship across the 50 states:

- Traditional Plan (24 states). Presides over the Senate and has some executive branch responsibilities, serving as a "combination" officer with both executive and legislative duties.
- Executive Plan (9 states). Is exclusively an executive officer with no legislative responsibilities.
- Legislative Plan (6 states). May perform some executive duties, but has legislative duties primarily (presides and has significant legislative powers).
- Administrative Plan (6 states). Performs Secretary of State functions or Secretary of State is first in line of succession.
- Senate Leader Plan (5 states). Is the leader of the Senate, Speaker or President, is in the direct line of succession, and is selected from the Senate membership rather than by the voters.

The North Carolina Lieutenant Governor clearly falls into the Legislative Plan. The lieutenant governor not only presides over the Senate but appoints committees and their chairmen. In the National Governors' Association survey in 1976, incumbent and former governors were asked whether they gave any assignments to their lieutenant governors. The results were clear---and striking. Governors were considerably more likely to provide assignments---and important ones too---to their lieutenant governor and to take steps to make these heir apparents ready for the job of governor *if* the lieutenant governor had *no* legislative assignments. While the governors did make some assignments if the lieutenant governors' legislative duties were only minimal, e.g. presiding as in the Traditional Plan, the message was still there: the lieutenant governor can not have a second constituency in state government, especially if the constituency is in the legislature, and still be close to the governor. If the real power and responsibility of the lieutenant governor do lie in his or her potential to be governor, then being close to the governor is of paramount importance. While North Carolina has seen a varying set of relationships between governors and lieutenant governors over the years, the cooperation that often occurs must overcome severe constitutional, constituency and political obstacles.

North Carolina should explore making better use of its lieutenant governors in state administration so they might be considerably more able to make a smooth transition to the governor's chair should that be necessary. Two immediate steps should be considered: team election of the governor and lieutenant governor and elimination of the office's legislative duties so the lieutenant governor can become a working part of the executive branch of state government and the governor's administration.

The team election of the governor and lieutenant governor has two possible variations, only one of which would appear possible in North Carolina. One option is to have governor-lieutenant governor teams run in the primary for party endorsement and then have the team choices of each party vie jointly for victory in the general election (four states use this method). This would considerably alter the political abacus of primary politics in the state and unduly restrict the primary process. The second option is to have separately contested governor and lieutenant governor primaries and then have the governor and lieutenant governor choices in each

party run as teams in the general election (21 states use this method). While separate constituencies are at the heart of the party primaries, the party's constituency elects the team to office. The major purposes for the team election approach are to avoid the embarrassment of having two individuals from different parties (as was true in the Holshouser-Hunt situation) and to minimize the tension if they are of different factions within the same party (as is true in the Hunt-Green situation).

The shifting of lieutenant governor responsibilities away from a legislative base and toward a more executive-gubernatorial base is a trend developing across the states. In 1950, only four states had lieutenant governors with no legislative functions. In 1976, there were 15. Divorcing the lieutenant governor from legislative powers evidently allows the governor to consider the lieutenant governor as a member of his or her administration and to delegate responsibilities such as liaison work with the legislature, state agencies, groups, and governments and officials at other levels in the federal system. The lieutenant governor is also likely to get specific administrative and policy assignments and to be called upon to perform certain ceremonial functions. It is still up to the governor to provide the assignments, but the lieutenant governor is in a much better position structurally to undertake an assignment.

Again, current personalities and the so-called "political ladder" may seem to militate against taking such steps. But our leaders should adopt the kind of approach taken in the successful passage of the gubernatorial succession amendment and step above these arguments to see what leads to better state

government for North Carolina and its citizens.

The lieutenant governor cannot have a second constituency in state government, especially if the constituency is in the legislature, and still be close to the governor.

This is the short agenda for action. There are other items which some observers may feel have greater priority. But as the debate intensifies over whether government can operate effectively to solve our problems at all, and as the feeling that policy solutions and administration of programs can not continually be shifted to Washington where they don't seem to work, the spotlight is shifting to the state capitals and their governors and legislatures. Is the capability there? Anachronistic methods, antiquated restrictions and inability to fulfill mandates can lead only to serious questioning of the states' ability to carry out their part of the federal bargain. The serious consideration and adoption of these agenda items could help North Carolina and its state government to fulfill its own part of that bargain for us, its citizens. □



Cartoon by Dwane Powell, Raleigh News & Observer