

# The Powers of the Governor in North Carolina: Where the Weak Grow Strong\*—Except for the Governor

by Thad L. Beyle

*As the N.C. House of Representatives debated a proposed constitutional amendment in August 1989 to give the governor the veto power, more than one legislator rose to argue that the North Carolina governor already was too powerful, and that granting veto power would upset the balance of powers between the legislative and executive branches. Some legislators even went so far as to argue that the N.C. governor already is the nation's strongest governor. But does the record show that to be the case? Hardly. In fact, North Carolina's governor is among the weakest such offices in the nation, based on a comparison of formal powers among the 50 governors.*

**T**o those who sit in the N.C. General Assembly, there is no more powerful political creature than the governor of North Carolina. But to the official who sits in the State Capitol two blocks south of the North Carolina Legislative Building, the office of governor isn't strong enough to deal with the problems of the state—or even to deal effectively with the 170 members of the General As-

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\*With apologies to Leonora Martin and Mary Burke Kerr, authors of *The State Toast*, whose lines include: "...Where the weak grow strong and the strong grow great..."

sembly. In fact, the record shows that North Carolina's governor is among the three weakest in the nation in terms of formal, institutional powers. Only the governor's personal political skills and his ability to capitalize on the informal powers available to him partially compensate for the lack of more formal powers and inherent strength.

This lack of formal powers and dependence

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on political capital is especially obvious in the case of Gov. James G. Martin, now beginning his sixth year in office. In January 1989, Governor Martin raised his right hand and made history. He became the first Republican governor to be sworn into a second four-year term. Martin was able to make that history because of a major constitutional change that enhanced the power of the North Carolina governorship. In 1977, the voters of the state amended the North Carolina Constitution to allow the governor to succeed himself, and Democrat James B. Hunt Jr. was the first governor to take advantage of that new opportunity. As Martin began his second term in 1989, he, like Hunt before him, could depend upon a cadre of experienced cabinet members, top staff, and budget officers—men and women he had placed in positions of power four years earlier.

How does the position that Governor Martin now holds stack up with that position in the other 50 states? And how has the North Carolina governorship changed in the last 20 years? Answers to these two questions provide some important guideposts for understanding the rapidly growing business of state government. For, unlike the Colonial era and the 19th century, today's governors sit at the top of the pecking order of political power in most states.

## FORMAL INSTITUTIONAL POWERS

Assessing the powers accorded a governor by state constitutions and statutes provides one means of measuring the relative strength of the 50 governors in this country. The five formal institutional powers common to almost all governors are length of tenure and succession; the power to appoint key officials to various state offices; the power to remove officials; control over the budget; and veto power. In addition, the power of the legislature to change the governor's budget proposals, and whether the governor and the legis-



*Former Gov. Bob Scott thought North Carolina shortchanged itself until it allowed governors to seek a second successive term.*

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lature are of the same party, are important parts of the gubernatorial power calculus. To examine and compare these seven institutional powers (as defined by the National Governors' Association) for all the states, a point system for each category and for cumulative groupings was used. This analysis is based in part on an earlier study published in *Insight* in 1981 and on a recent National Governors' Association report.<sup>1</sup> Portions of this update are taken from a chapter on "Governors" to be published this year.<sup>2</sup>

### 1. Length of Tenure and Succession

The longer a governor serves, the more likely that governor is to achieve his goals and have an impact on the state. The length of term and ability to succeed oneself, then, are critical determinants of a governor's power. In the original 13 states, 10 governors had one-year terms, one had a two-year term, and two had a three-year term. States gradually moved to either two- or four-year terms, but one-year tenures were not phased out completely until early this century. By 1940, about

**Table 1.<sup>1</sup> Length of Tenure and Succession Potential<sup>2</sup>**

Very Strong (18) <sup>3</sup>	Strong (26)	Moderate (3)	Weak (3)	Very Weak (0)
Arizona	Alabama	Kentucky	New Hampshire	—
California	Alaska	New Mexico	Rhode Island	
Colorado	Arkansas	Virginia	Vermont	
Connecticut	Delaware			
Idaho	Florida			
Illinois	Georgia			
Iowa	Hawaii			
Massachusetts	Indiana			
Michigan	Kansas			
Minnesota	Louisiana			
Montana	Maine			
New York	Maryland			
North Dakota	Mississippi			
Texas	Missouri			
Utah	Nebraska			
Washington	Nevada			
Wisconsin	New Jersey			
Wyoming	North Carolina			
	Ohio			
	Oklahoma			
	Oregon			
	Pennsylvania			
	South Carolina			
	South Dakota			
	Tennessee			
	West Virginia			

<sup>1</sup> Using a point system ranging from 0 to 5, except for Table 2, which used a 0-to-6-point system, the states were grouped into six categories: Very Strong (VS), or 5 points; Strong (S), or 4 points; Moderate (M), or 3 points; Weak (W), or 2 points; Very Weak (VW), or 1 point; and None (N), or no points. Sources for these tables are *The Book of the States*, 1988-89 (Lexington, Ky: Council of State Governments, 1988); *Legislative Budget Procedures in the 50 States* (Denver: National Conference of State Legislatures, 1988); "1988 Election Results," *State Legislatures* (November/December 1988) p. 14; and "The Institutionalized Powers of the Governorship, 1965-1985," *State Services Management Notes*, (Washington, DC: National Governors' Association, 1987, 1989).

<sup>2</sup> These rankings are based on how long a term in office is and whether the governor may succeed to one or more successive terms.

VS - 4-year term, unlimited re-election allowed;

S - 4-year terms, one re-election permitted (N.C. governor has no limit on number of terms he or she can serve, but must sit out at least a term after serving two successive terms);

M - 4-year term, no re-election permitted;

W - 2-year term, unlimited re-election permitted;

VW - 2-year term, one re-election permitted; and

N - 2 year term, no re-election permitted.

<sup>3</sup> Numbers in ( ) show the number of states falling under this category.

**Table 2. Power to Appoint Officials to Major Offices <sup>1</sup>**

Very Strong (3) <sup>2</sup>	Strong (19)	Moderate (18)	Weak (5)	Very Weak (5)
Indiana	Alaska	Alabama	Arizona	Georgia
Massachusetts	Arkansas	California	Idaho	Mississippi
Tennessee	Colorado	Connecticut	Montana	Oklahoma
	Delaware	Florida	Nebraska	South Carolina
	Illinois	Hawaii	Washington	Texas
	Iowa	Louisiana		
	Kansas	Michigan		
	Kentucky	Missouri		
	Maine	Nevada		
	Maryland	New Hampshire		
	Minnesota	New Mexico		
	New Jersey	North Dakota		
	New York	Rhode Island		
	North Carolina	South Dakota		
	Ohio	Utah		
	Oregon	West Virginia		
	Pennsylvania	Wisconsin		
	Vermont	Wyoming		
	Virginia			

<sup>1</sup>These rankings are based on a governor's ability to appoint officials in six major functions common to every state: corrections, education, health, highways, public utility regulation, and public welfare (in this category, a governor who alone can appoint all six officials can receive a score of 6, as does the governor of Massachusetts).

- VS - Governor alone appoints all officials;
- S - Governor appoints and one house of legislature must confirm;
- M - Governor appoints and both houses of legislature must confirm;
- W - Appointment by department director with governor's approval;
- VW - Appointment by department director, board, legislature, or by civil service; and
- N - Popularly elected by the people.

<sup>2</sup>Numbers in ( ) show the number of states falling under this category.

the same number of states had two- and four-year terms. From 1940 to 1989, the number of states allowing the governor only a two-year term shrank drastically, from 24 to three (New Hampshire, Rhode Island, and Vermont). And from 1960 to 1989, the number prohibiting consecutive terms declined from 15 to three (Kentucky, New Mexico, and Virginia).

To rank the states according to the governor's tenure potential, more weight was given to four-year than to two-year terms, and more to unlim-

ited re-election possibilities than to restraints on re-election. North Carolina (four-year term, one consecutive re-election permitted) fell in the second strongest group of states (see Table 1, page 29).

Until 1977, the governor of North Carolina could not succeed himself. Not only did this limit his power in developing programs within the state, it also curtailed his effectiveness within intergovernmental circles. The governor serves on interstate bodies concerned with education, energy,

growth policy, and other issues, and he works closely with colleagues in the Southern and National Governors' Associations. The governor represents the state in meetings with the president, cabinet members, and members of Congress, and negotiates with federal agencies regarding various issues, programs, and funds. Such complex relationships and activities take time to perform effectively. The governor is also a key figure in negotiating and serving as a member of regional compacts, such as the recent five-state regional hazardous waste disposal compact ratified by the General Assembly.<sup>3</sup> Further, leadership in some of these organizations provides a platform for making views known and having impact on regional and national policy directions.

Until succession passed, North Carolina shortchanged itself. Former Gov. Robert W. Scott (1969-73) put it this way in 1971: "North Carolina is not very effective in shaping regional and national policy as it affects our state because our state changes the team captain and key players just about the time we get the opportunity and know-how to carry the ball and score."<sup>4</sup> Now all that has changed. Jim Hunt succeeded himself and served eight consecutive years, and Jim Martin is doing the same thing. (For more on how gubernatorial succession has worked out, see "The Effects of Gubernatorial Succession: The Good, the Bad, and the Otherwise," *North Carolina Insight*, Vol. 10, No. 1, October 1987, p. 2.) Thus, in the area of tenure potential, North Carolina's governor rates as *strong*.

## 2. The Power of Appointment

One of the first sets of decisions facing a governor-elect on the first Wednesday morning in November after the election is the appointment of personnel to key positions within the new administration. The appointive power enhances the governor's legislative role: promises of appointments to high-level executive positions, to the state judiciary, and to about 240 boards and commissions often are the coins spent for support of particular legislation.

The measure of the governor's ap-

pointive powers is the extent to which he or she is free to name the heads of the state agencies administering the six major state functions common to most states, of corrections, education, health, highways, public utility regulation, and public welfare. These categories were chosen by the National Governors' Association as key indicators of a governor's appointive powers. Governors who can appoint these officials without any other body involved are more powerful than those who must have either or both houses of the legislature confirm an appointment. And governors who only approve appointments rather than initiating them

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*Governor Jim Martin's appointive powers are strong. In this 1986 photo, Martin named Rhoda Billings to a vacancy as chief justice of North Carolina, but she lost the seat in the 1986 election.*



The News and Observer

have even less appointive power. The weakest states are those in which a governor neither appoints nor approves but where a separate body does so, or where separately elected officials head these agencies.

In appointive power for these six functions, the governor of North Carolina ranks among the more powerful of the 50 chief executives. Two weak spots limit the power of the N.C. chief executive: (1) education, where the superintendent of public instruction is a separately elected official even though the governor is able to appoint (subject to confirmation or rejection by the legislature) 11 of the 13 members of the State Board of Education;<sup>5</sup> and (2) public utilities regulation, where the General Assembly must confirm the governor's nominees to the seven-member N.C. Utilities Commission.<sup>6</sup> And the governor has no power to appoint top leaders of the state's 16-campus university system. The 32-member University of North Carolina Board of Governors is nominated and elected solely by the legislature, and the board itself selects the president of the UNC system.<sup>7</sup>

Two additional factors should be noted. First, this study did not analyze the number of appointments made to state boards, commissions and councils.<sup>8</sup> According to figures from a printout supplied by the Department of Administration, the governor can appoint 2,693 individuals to a variety of state boards and commissions—some of them to full-time, paid jobs and most others as unpaid citizens serving on boards advising state agencies. This large number of appointments shows the extensive nature of the North Carolina governor's appointment powers. On the other hand, nine other state officials are independently elected statewide in North Carolina. They have the power to name more than 500 appointees who

might normally be appointed by a governor in another state, such as New Jersey or Maine, where the governor does not share powers with any other elected officials.

Because the governor shares a large measure of executive branch responsibility with the nine-member Council of State—elected on a statewide basis to direct the departments of Justice, Labor, Education, Agriculture, Insurance, Treasurer, Secretary of State, Auditor and Lieutenant Governor—much of the power that in other states is concentrated in the office of governor lies in the hands of other officials in North Carolina.<sup>9</sup> Were it not for this broad sharing of powers, North Carolina's governor would rank very strong in



Karen Tam

**Table 3. Power to Remove Officials from Offices<sup>1</sup>**

Very Strong (4) <sup>2</sup>	Strong (5)	Moderate (13)	Weak (19)	Very Weak (9)
Indiana	Alaska	Arkansas	Arizona	Georgia
Montana	Colorado	Alabama	Connecticut	Iowa
New Mexico	Delaware	California	Florida	Minnesota
South Dakota	Louisiana	Hawaii	Idaho	Nevada
	Maryland	Illinois	Massachusetts	North Carolina
		Kansas	Michigan	North Dakota
		Kentucky	Mississippi	Ohio
		Maine	Nebraska	Oregon
		Missouri	New Hampshire	Washington
		New Jersey	Oklahoma	
		New York	Rhode Island	
		Pennsylvania	South Carolina	
		Virginia	Tennessee	
			Texas	
			Utah	
			Vermont	
			West Virginia	
			Wisconsin	
			Wyoming	

<sup>1</sup>These rankings are based on a governor's power to remove officials with or without cause, and on whether those powers are granted directly by the state constitution, through state statutes, or other avenues.

- VS — Power based in state constitution or court decision; no specifications or restrictions as to use;
- S — Power based in state constitution or statutory elaboration of constitutional provision; specifications or restrictions in only one area (cause, scope, or process);
- M — Power based on statutory elaboration of constitutional provision or statute; specifications or restrictions in one or two areas (cause, scope, or process);
- W — Power based on statutory elaboration of constitutional provision or statute; specifications or restrictions in two or all three areas (cause, scope, or process); and
- VW — Power based on statute or restricted by court decision; specifications or restrictions in all three areas (cause, scope, and process).

<sup>2</sup>Numbers in ( ) show the number of states falling under this category.

appointive power. On the other hand, if the governor's powers were measured in all 50 states based on who appoints officials to these nine posts, the North Carolina governor might rank even weaker. But on the basis of the powers measured here, North Carolina's governor ranks as *strong* in appointive power.

### 3. The Power to Remove Officials

The reverse side of appointive power is often overlooked—the power of removal. The power to appoint officials theoretically implies the power to remove officials so that an alternative appointment can be made. Generally, this is a difficult power to exercise unless an official is accused of

outright corruption or unethical behavior. In fact, the political costs of trying to remove someone are often greater than the costs of living with the problem that they create.<sup>10</sup>

Recently, another constraint on the governor's removal power has arisen from a series of U.S. Supreme Court decisions protecting individuals from political firings, beginning with the *Elrod v. Burns* decision in 1976.<sup>11</sup> This constraint is based on an individual's freedom of speech and freedom of association (in this case, with political parties) embedded in and protected by the First Amendment to the U.S. Constitution. There are some limits in these rulings, however. An employee's political rights "may be required to yield to the state's vital interest in maintaining governmental effectiveness and efficiency" if these individual rights "would interfere with the discharge of his official duties (*Branti v. Finkel*)."

Another case illustrates that political rights do not protect from dismissal public employees who complain about working conditions or their supervisor (*Connick v. Meyers*). The previously noted cases all involved local jurisdictions.

Currently, *Stott v. Martin*, a case brought to challenge the North Carolina governor's power of removal, is pending in the U.S. Eastern District Court in Raleigh.<sup>12</sup> This is a pivotal case with considerable national interest because it is the first case to challenge directly a governor's power of removal. Bobby Stott, a state employee and holdover from the Hunt administration, was fired when Republican Jim Martin took office. Stott sued, contending that a firing on mere political grounds was unconstitutional. *Stott v. Martin* is scheduled to be tried in 1990 after several pretrial motions and appeals are settled. Then there will be an almost certain appeal to the U.S. Court of Appeals and the U.S. Supreme Court, no matter what the decision may be.

The power of removal is strongest when lodged in the state's constitution rather than in a state statute. It is also stronger when there are few specifications or restrictions as to who might be removed, or the reasons for which removal might be warranted, or if the removal is the governor's prerogative alone and not shared with another state agency. State supreme court decisions have either provided the governor with considerable power of removal (Indiana) or a somewhat restricted power of removal (Arizona), or have hamstrung the governor (Georgia).<sup>13</sup>

To rank the states on the governor's removal power, more weight was given to a constitutional

provision than to a statutory provision, the degree to which the governor is constrained by restrictions on the cause needed to remove an official, the scope of the removal power, or the removal process involved. Although the N.C. governor can fire without cause those key personnel who are designated as exempt from the protections of the State Personnel Act, Tar Heel governors have not always been able to remove holdovers from previous administrations. Their powers do not stem directly and unfettered from the N.C. Constitution, which would grant the most power. Instead, the Tar Heel governor's removal powers stem from

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*"A governor who has full responsibility for developing the state's budget is more powerful than those who share this responsibility with others."*

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the statutes, and in some cases the governor is restricted in his removal power.

At least twice in the last 12 years, the governor has solved a sticky removal problem by legislation. Then-freshman Gov. Jim Hunt solved a problem with an inherited Parole Commission appointed by his predecessor, Republican Jim Holshouser, in offbeat fashion: he persuaded the 1977 N.C. General Assembly to abolish the old commission and to set up a new one—whose members Hunt could name.<sup>14</sup> And in 1989, Governor Martin had a similar problem with a member of the N.C. Wildlife Commission he had appointed but who angered the governor by meddling in personnel policy. Martin did not have the power to fire wildlife commissioners until the 1989 legislature adopted a new law declaring that commissioners served "at the pleasure of the governor."<sup>15</sup>

On the other hand, some governors bring unusual powers of persuasion with them to office. Hunt rarely had difficulty in replacing holdover officials with his own key personnel, for instance.

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**Table 4. Governor's Control Over the Budget<sup>1</sup>**

Very Strong (44) <sup>2</sup>	Strong (5)	Moderate (0)	Weak (0)	Very Weak (1)
Alabama	Colorado			Texas
Alaska	Kentucky			
Arizona	Louisiana			
Arkansas	New Mexico			
California	South Carolina			
Connecticut				
Delaware				
Florida				
Georgia				
Hawaii				
Idaho				
Illinois				
Indiana				
Iowa				
Kansas				
Maine				
Maryland				
Massachusetts				
Michigan				
Minnesota				
Mississippi				
Missouri				
Montana				
Nebraska				
Nevada				
New Hampshire				
New Jersey				
New York				
North Carolina				
North Dakota				
Ohio				
Oklahoma				
Oregon				
Pennsylvania				
Rhode Island				
South Dakota				
Tennessee				
Utah				
Vermont				
Virginia				
Washington				
West Virginia				
Wisconsin				
Wyoming				

<sup>1</sup>These rankings are determined by how much power the governor has to draft and propose a state's annual budget.

VS - Governor has full responsibility for developing budget;

S - Governor shares responsibility with civil servant or with a person appointed by another official;

M - Governor shares responsibility with legislature;

W - Governor shares responsibility with another popularly elected official;

VW - Governor shares responsibility with several others with independent sources of strength.

<sup>2</sup>Numbers in ( ) show the number of states falling under this category.

**Table 5. Ability of the Legislature To Change the Governor's Budget<sup>1</sup>**

Very Strong (2) <sup>2</sup>	Strong (1)	Moderate (1)	Weak (1)	Very Weak (45)
Maryland West Virginia	Nebraska	New York	North Carolina	Alabama Alaska Arizona Arkansas California Colorado Connecticut Delaware Florida Georgia Hawaii Idaho Illinois Indiana Iowa Kansas Kentucky Louisiana Maine Massachusetts Michigan Minnesota Mississippi Missouri Montana Nevada New Hampshire New Jersey New Mexico North Dakota Ohio Oklahoma Oregon Pennsylvania Rhode Island South Carolina South Dakota Tennessee Texas Utah Vermont Virginia Washington Wisconsin Wyoming

<sup>1</sup>These rankings are based on how restricted a legislature is in its ability to limit the budgetary powers of the governor, because the greater a legislature's power to alter a governor's budget, the less power a governor will have. The rankings above reflect a governor's power relative to the legislature's ability to alter the budget.

- VS - Legislature may not increase the executive budget;
- S - A special (three-fifths majority) vote is require to increase a governor's recommendation;
- M - Legislature may reduce or strike out items, but may increase and add separate items subject to a governor's line item veto;
- W - Legislature can change budget, but must balance allocations with revenues; and
- VW - Unlimited power of the legislature to change the executive budget.

<sup>2</sup>Numbers in ( ) show the number of states falling under this category.

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Some students of the governorship believe that because removal powers vary greatly from board to board, the N.C. governor's power to fire those he does not want in office is considerably stronger than it appears. Yet this comparison is based on a reading of the constitutional and statutory removal powers in each of the states, and is backed up by other national surveys. Not every governor is able to get his way, and because the governor's removal powers are somewhat limited and devolve from specific statutes, North Carolina falls among the more restricted governors among the 50 states in this power, and thus ranks as *very weak* in removal powers.

#### 4. Governor's Control Over the Budget

An executive budget, centralized under gubernatorial control, is a 20th century response at all levels of our governmental system to the chaotic fiscal situations that existed at the turn of the century. A budget document brings together under the chief executive's control all the agency and departmental requests for legislatively appropriated funds. Sitting at the top of this process in the executive branch, a governor usually functions as chief cheerleader for the budget in the legislature as well.

A governor who has full responsibility for developing the state's budget is more powerful than those who share this responsibility with others. Most states (44) do give this power solely to the governor; in only six states do the governors have to share the control over the budget.

North Carolina, along with almost all other states, has provided its governors with very strong budget-making power. This is a change from the earlier 1981 evaluation of the governor's powers due to the reduction in the powers and functions of the Advisory Budget Commission (ABC) following a state Supreme Court decision in 1982.<sup>16</sup> Prior to this 1982 decision, the ABC, with at least eight legislators among its 12 members, effectively controlled much of the overall executive budget presented to the General Assembly.<sup>17</sup> This legislative role raised legal questions concerning the constitutional power of the North Carolina governor. Under the North Carolina Constitution, the governor "shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period."<sup>18</sup>

The *Wallace v. Bone* decision applied only to membership on the Environmental Management Commission, but the principle of the case—separation of powers—extended to other state boards and commissions, according to the state Attorney General's Office. By having a legislatively dominated commission—the ABC—actually carrying out a function that the constitution delegated specifically to the governor (the power to prepare and recommend a budget), the constitution's separation of powers clause was being violated. Thus the power of the ABC to actually recommend a joint budget to the full General Assembly was circumscribed greatly, to the point that the ABC now only advises the governor.

A savvy governor pays attention to the advice given by the Appropriations Committee chairs who sit on the ABC, but the end result is an increase in the governor's formal powers to propose a budget. There was a tradeoff involved, however. Under the old ABC operation, the governor shared budget-making powers with the ABC, but the governor had great success in getting his ABC-approved budget through the legislature because the ABC was peopled with so many legislative leaders. Now with the ABC merely advising the governor, the legislature has begun drafting its own budget proposals—though this likely would have occurred anyway, given the power split with a Republican governor and a Democratic majority in the legislature.

In addition, the legislature for a time attempted to limit the executive branch's authority to administer the budget. In two special provisions adopted in October 1981, the legislature sought to give its own Joint Legislative Commission on Governmental Operations authority over the executive branch transfer of funds, and also to create a new legislative group with authority over federal block grants. But in a rare, 1982 advisory opinion, the state Supreme Court advised that these incursions into executive branch turf were unconstitutional.<sup>19</sup> Largely because of the *Wallace v. Bone* limitations placed on the ABC and the advisory opinion's limitations on legislative incursions, the North Carolina governor's budget-making power ranks as *very strong*.

#### 5. Ability of the Legislature to Change the Governor's Budget

This is the first of two gubernatorial powers that basically are negative. In every state, the governor may propose the next state budget, but the

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*“The most direct power a governor can exercise in relation to the legislature is the threat or the use of a veto.”*

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more a legislature may change that proposed budget, the *less potential budget power* a governor has. Note the use of the word *potential*; it is applied purposely because not all legislative-gubernatorial relationships are adversarial and the governor's proposed budget most often sets the budgetary agenda for legislative consideration and decision.

There is little variation among the states on this, as only five states provide constraints on the legislature's ability to change the governor's proposals—and thus check his power. In fact, since 1965 no state has increased the governor's budget power vis-à-vis the legislature and four states actually have increased their legislature's power,<sup>20</sup> although prior to 1971, when a new N.C. Constitution was adopted, the N.C. General Assembly could have withdrawn all the governor's budgetary powers by statutory repeal. As mentioned earlier, the N.C. General Assembly has begun taking a more direct role in budget-making and in recent years has produced its own budget package—though it must by law and by constitutional provision produce a balanced budget.<sup>21</sup> That means the N.C. General Assembly can make nearly unlimited changes in the governor's budget—subject only to constitutional and statutory requirements to balance revenues and expenditures. Thus, North Carolina's governor ranks as *weak* in this category.

## 6. Veto Power

The most direct power a governor can exercise in relation to the legislature is the threat or the use of a veto. The type of veto power extended to governors ranges from the simple, all-or-nothing veto, to the item veto, to the amendatory veto, and to no veto at all (see pages 5 and 6 for more on the types

of vetoes). As the politics of the past few years have highlighted, only one state has no veto power—North Carolina.

In addition to giving a governor direct power in struggles with the legislature, a veto also provides the governor with some administrative powers. For example, it gives him the ability to stop agencies from attempting an end run around a governor's adverse decision—such as when agencies go directly to the legislature to seek authority or spending approval for items the governor opposes. This is especially true in the 43 states where the governor can veto particular items in an agency's budget without overturning the entire bill. But like the legislature's authority to change the budget, this is also a measure of how the legislature may curtail a governor's power through its ability to override a governor's veto.

Ranking the states for veto power is based on two principal assumptions: first, that an item veto gives a governor more power than does a general veto; and second, that the larger the legislative vote needed to override a governor's veto, the stronger the veto power. In this category, North Carolina, with no veto power at all, ranks *a notch below very weak*—dead last of all the 50 states.

## 7. Governor and Legislature of the Same Party

Textbooks and politicians always list political party chief as one of the governor's major roles. That role allows the governor to use partisanship to the utmost advantage. For example, if the governor and the majority of the members and the leadership of both houses of the legislature are of the same party—as they were when Democrat James B. Hunt Jr. was governor from 1977–1985—the governor's power is likely to be greater than if they are of opposite parties—as is the current case under Republican Gov. James G. Martin. When the leaders are of the same party, there is less chance of partisan conflicts and more chance for the governor to influence the legislature because it is dominated by the governor's own party. If they are of opposite parties, partisan conflicts can be the norm, and the governor loses power due to the inability to call on partisan loyalty for support.

In the recent past, the trend has been toward power splits where the executive and legislative branches of government are controlled by opposite parties either totally or partially. Following the 1984 elections, 16 states had such split party

Table 6. Veto Power<sup>1</sup>

Very Strong (38) <sup>2</sup>	Strong (5)	Moderate (0)	Weak (5)	Very Weak (1)	None (1)
Alaska	Alabama		Maine	Indiana	North Carolina
Arizona	Arkansas		Nevada		
California	Kentucky		New Hampshire		
Colorado	Tennessee		Rhode Island		
Connecticut	West Virginia		Vermont		
Delaware					
Florida					
Georgia					
Hawaii					
Idaho					
Illinois					
Iowa					
Kansas					
Louisiana					
Maryland					
Massachusetts					
Michigan					
Minnesota					
Mississippi					
Missouri					
Montana					
Nebraska					
New Jersey					
New Mexico					
New York					
North Dakota					
Ohio					
Oklahoma					
Oregon					
Pennsylvania					
South Carolina					
South Dakota					
Texas					
Utah					
Virginia					
Washington					
Wisconsin					
Wyoming					

<sup>1</sup>These rankings are based on the type of veto power a governor has.

- VS – Line-item veto with at least a three-fifths majority of legislature needed to override;
- S – Item veto with simple majority of legislature *elected* needed to override;
- M – Item veto with majority of members of legislature *present* needed to override;
- W – No item veto but *special* majority of legislature needed to override;
- VW – No item veto with *simple* legislative majority needed to override; and
- N – No veto of any kind.

<sup>2</sup>Numbers in ( ) show the number of states falling under this category.

**Table 7. Governor and Legislature of the Same Party<sup>1</sup>**

Very Strong (8) <sup>2</sup>	Strong (11)	Moderate (13)	Weak (16)	Very Weak (2)
Arkansas	Connecticut	Alaska	Arizona	Alabama
Georgia	Kansas	Delaware	California	Rhode Island
Hawaii	Kentucky	Indiana	Colorado	
Louisiana	Minnesota	Michigan	Florida	
Maryland	New Hampshire	Montana	Idaho	
Massachusetts	New Jersey	Nebraska	Illinois	
Mississippi	Oregon	Nevada	Iowa	
West Virginia	South Dakota	New York	Maine	
	Tennessee	North Dakota	Missouri	
	Utah	Ohio	New Mexico	
	Virginia	Pennsylvania	North Carolina	
		Vermont	Oklahoma	
		Washington	South Carolina	
			Texas	
			Wisconsin	
			Wyoming	

<sup>1</sup>These rankings are based on the added powers that accrue when the governor and legislature are of the same political party and the governor is head of the party.

VS – Governor's party controls both houses with substantial majority (75 percent or greater);

S – Governor's party has simple majority in both houses, or a simple majority in one house and a substantial majority in the other;

M – Split party control in the legislature or non-partisan legislature;

W – Governor's party in simple minority in both houses, or a simple minority in one and a substantial minority in the other;

VW – Governor's party in substantial minority in both houses.

<sup>2</sup>Numbers in ( ) show the number of states falling under this category.

control; in 1989, there were 30, including North Carolina. Political scientist V.O. Key Jr. called this phenomenon a "perversion" of the separation of powers built into our system of government at the national and state levels as it allows partisan differences to create an almost intractable situation.<sup>22</sup> Nebraska is unique—a nonpartisan, unicameral legislature and partisan governor.

Measuring this power of party control across the states is based on the assumption that the greater the margin of control by the governor's

party in either or both houses of the legislature, the stronger the governor may be. Conversely, the weaker the governor's party in the legislature, the weaker the governor may be. Of course, this overlooks the possibility that the governor's style and personality can either surmount difficult partisan splits or make the worst of a good situation. North Carolina, with Republican Martin and a legislature ostensibly controlled by Democrats in both houses, falls toward the lower end of this measure, and ranks as *weak* in this category.

**Figure 1. Relative Power of the Offices of the Governor**

Very Weak	Weak (7)	Moderate (38)	Strong (4)	Very Strong (1)
None	NC	AK MI	MA	MD
	NH	AL MN	NY	
	NV	AR MO	SD	
	RI	AZ MS	WV	
	SC	CA MT		
	TX	CO NB		
	VT	CT ND		
		DE NJ		
		FL NM		
		GA OH		
		HI OK		
		IA OR		
		ID PA		
		IL TN		
		IN UT		
		KS VA		
		KY WA		
		LA WI		
		ME WY		

*Note:* Abbreviations are from two-letter postal service code. Scores are from Table 8, page 43, and power is rated on this scale: less than 17 points, Very Weak; 17 to 20 points, Weak; 21 to 27 points, Moderate; 28 to 30 points, Strong; and over 31 points, Very Strong. This list is shown alphabetically by group.

( ) indicates number of states in this category.

## Summary of Overall Formal Institutional Powers

To compare the formal institutional powers of the 50 governors, each state was given an overall average score by using a two-step method. First, for each of six categories—length of tenure and succession, the power to remove officials, control over the budget, the ability of the legislature to change the governor's budget, veto power, and the governor's party control, a zero-to-five point scoring range was used. The appointment category had a zero-to-six point range to conform to the National Governors' Association study (see footnotes to Tables 1-8 for an explanation of the scoring system for each category). Critics may point out that each category is weighted equally and that this may obscure important differences

among the powers of the 50 governors. But because such values can vary enormously from state to state, there is no simple way to weight them differently. This survey, after all, seeks to compare the powers of the various governors, as defined by the National Governors' Association, in order to provide a perspective on the relative powers and to help policymakers and voters consider how their chief executives compare with the governors in other states.

Second, the scores for the seven categories were totaled and divided by seven to get overall average scores, which ranged from 4.7 (Maryland, the strongest of all governors) to 2.4 (Rhode Island, the weakest governor). With a score of 2.7, North Carolina's governor is the third weakest in the nation, behind Rhode Island and Texas, and rests with six other states in the bottom rank

of states rated as having “weak” governors. No state’s governor fell into the “very weak” category.

### INFORMAL POWERS

**T**hese measures only tell part of the story of gubernatorial power. They emphasize the degree of control the governor has over the executive branch and his or her relationship with the legislature. They do not, however, measure the many informal sources of power or constraints on a governor such as supporting or opposing interest groups, a governor’s ability to take advantage of the news media, access to campaign contributions, county political organizations, good looks, charisma, and overall political popularity—which itself can rise or fall with each new political brushfire. A media-wise governor can, for example, dominate a state’s political and policy agenda if he or she is adept at handling the media and public appearances; by the same token, a governor’s powers can decline if the governor is inept at controlling the political agenda or communicating through television cameras.

Some of the informal powers available to the N.C. governor outweigh many of the constraints on his institutional powers. A strong political base and popularity with the media provides the governor with a major vehicle to command the public’s attention. Because no large urban area dominates the state’s politics, there are no other highly visible political leaders with which the governor has to compete. In contrast, the mayors of New York, Chicago, Los Angeles, Atlanta, and other large cities have a political base which can vault them into a position to vie with a governor for leadership.

Moreover, in this state, few other institutions provide leaders a base for political attention.

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TABLE 8, FOOTNOTE

<sup>1</sup>In the Power Index column, the overall ratings were determined by averaging the scores for the seven categories for each state. A governor with a ranking of 4.5 or higher ranks as Very Strong (1 state); 4.0-4.4 merits a Strong ranking (4 states); 3.0-3.9 merits a Moderate ranking (38 states); 2.0-2.9 merits a Weak Ranking (7 states); and 1.9 or less merits a Very Weak ranking (0 states). See Figure 1, page 41, for more.

Table 8.

State	Tenure Potential	Appointment Power	Removal Power
Alabama	4	4	3
Alaska	4	5	4
Arizona	5	3	2
Arkansas	4	5	3
California	5	4	3
Colorado	5	5	4
Connecticut	5	4	2
Delaware	4	5	4
Florida	4	4	2
Georgia	4	2	1
Hawaii	4	4	3
Idaho	5	3	2
Illinois	5	5	3
Indiana	4	6	5
Iowa	5	5	1
Kansas	4	5	3
Kentucky	3	5	3
Louisiana	4	4	4
Maine	4	5	3
Maryland	4	5	4
Massachusetts	5	6	2
Michigan	5	4	2
Minnesota	5	5	1
Mississippi	4	2	2
Missouri	4	4	3
Montana	5	3	5
Nebraska	4	3	2
Nevada	4	4	1
New Hampshire	2	4	2
New Jersey	4	5	3
New Mexico	3	4	5
New York	5	5	3
North Carolina	4	5	1
North Dakota	5	4	1
Ohio	4	5	1
Oklahoma	4	2	2
Oregon	4	5	1
Pennsylvania	4	5	3
Rhode Island	2	4	2
South Carolina	4	2	2
South Dakota	4	4	5
Tennessee	4	6	2
Texas	5	2	2
Utah	5	4	2
Vermont	2	5	2
Virginia	3	5	3
Washington	5	3	1
West Virginia	4	4	2
Wisconsin	5	4	2
Wyoming	5	4	2
Average Score:	4.2	4.2	2.5

# Combined Index of Formal Powers of the 50 Governors<sup>1</sup>

Governor Controls Budget	Legislature Can Change Budget	Veto Power	Governor & Legislature of Same Party	Total Score	Power Index	Ranking Among All 50 States
5	1	4	1	22	3.1	41 (tie)
5	1	5	3	27	3.9	6 (tie)
5	1	5	2	23	3.3	36 (tie)
5	1	4	5	27	3.9	6 (tie)
5	1	5	2	25	3.6	23 (tie)
4	1	5	2	26	3.7	14 (tie)
5	1	5	4	26	3.7	14 (tie)
5	1	5	3	27	3.9	6 (tie)
5	1	5	2	23	3.3	36 (tie)
5	1	5	5	23	3.3	36 (tie)
5	1	5	5	27	3.9	6 (tie)
5	1	5	2	23	3.3	36 (tie)
5	1	5	2	26	3.7	14 (tie)
5	1	1	3	25	3.6	23 (tie)
5	1	5	2	24	3.4	27 (tie)
5	1	5	4	27	3.9	6 (tie)
4	1	4	4	24	3.4	27 (tie)
4	1	5	5	27	3.9	6 (tie)
5	1	2	2	22	3.1	41 (tie)
5	5	5	5	33	4.7	1
5	1	5	5	29	4.1	2 (tie)
5	1	5	3	25	3.6	23 (tie)
5	1	5	4	26	3.7	14 (tie)
5	1	5	5	24	3.4	27 (tie)
5	1	5	2	24	3.4	27 (tie)
5	1	5	3	27	3.9	6 (tie)
5	4	5	3	26	3.7	14 (tie)
5	1	2	3	20	2.9	44 (tie)
5	1	2	4	20	2.9	44 (tie)
5	1	5	4	27	3.9	6 (tie)
4	1	5	2	24	3.4	27 (tie)
5	3	5	3	29	4.1	2 (tie)
5	2	0	2	19	2.7	48
5	1	5	3	24	3.4	27 (tie)
5	1	5	3	24	3.4	27 (tie)
5	1	5	2	21	3.0	43
5	1	5	4	25	3.6	23 (tie)
5	1	5	3	26	3.7	14 (tie)
5	1	2	1	17	2.4	50
4	1	5	2	20	2.9	44 (tie)
5	1	5	4	28	4.0	5
5	1	4	4	26	3.7	14 (tie)
1	1	5	2	18	2.6	49
5	1	5	4	26	3.7	14 (tie)
5	1	2	3	20	2.9	44 (tie)
5	1	5	4	26	3.7	14 (tie)
5	1	5	3	23	3.3	36 (tie)
5	5	4	5	29	4.1	2 (tie)
5	1	5	2	24	3.4	27 (tie)
5	1	5	2	24	3.4	27 (tie)

4.8

1.3

4.4

3.1

24.6

3.5



*This 1977 political cartoon took note of Governor Hunt's strength in the N.C. General Assembly.*

—continued from page 42

Labor unions are weak; no independent citizens group has the power to challenge the governor on any sustained basis; and the dominant industries, like textiles, tobacco, furniture, and banking, usually work quietly behind the political scenes.

Finally, a North Carolina governor can still forge a grassroots political organization from Manteo to Murphy, although such an organization has not been evident in the latter half of the 1980s. The state is not so big as to make this process impossible, yet it is large enough to make such a county-by-county structure powerful. The North Carolina governor can appoint judges (about 60 percent of the state's 242 judges first gained office through gubernatorial appointment<sup>23</sup>) and, through his appointed Board of Transportation, pave highways and set the course of highway building for years to come. This power of robes and roads can help the governor garner political support and collect campaign workers and financing, essential ingredients for a grassroots network of supporters.

And not to be overlooked is the power of a

governor to reorganize the existing executive branch structure to conform with his own plans. In North Carolina, the governor has broad powers to combine major state departments and to realign executive branch responsibilities under the Executive Organization Act of 1971.<sup>24</sup> Such powers allow a governor to shift the setup of the major agencies under his control, especially when pressing state needs indicate a reorganization would be helpful. However, Governor Martin declined an opportunity to create a new department in 1988 when the General Assembly delayed action on Martin's proposal to combine some of the environmental health functions of the Department of Human Resources with the environmental protection functions of the Department of Natural Resources and Community Development. Already at odds with the legislature over other matters, Martin did not press the issue, and not until mid-1989 did the General Assembly create the new Department of Environment, Health, and Natural Resources.<sup>25</sup>

All these formal and informal powers can confer upon an individual governor considerable

powers if that official knows how to take best advantage of them. In recent years in North Carolina, Democratic governors probably have been more powerful than their Republican counterparts, for a variety of reasons—including sharing the same party registration with the majority of the legislators.

## SUMMARY

To place this analysis in a national perspective, Table 8 presents the comparative institutional powers of governors of all 50 states. Southern governors generally do not have as many institutional powers as do non-Southern governors. And Southern governors' powers often are shared with other statewide, elected officials, a weakness that other governors outside the region generally do not have. Moreover, North Carolina has not kept pace with its neighbors in enhancing its governor's powers. While the North Carolina governor gained power through the major executive branch reorganization of the early 1970s and the succession amendment of 1977, he still has to contend with a large number of separately elected state officials,<sup>26</sup> and to cope with the legislature without any veto power.

The wide range of informal powers available to the North Carolina governor tends to balance somewhat the governor's structural weaknesses. And the way in which the governor uses the institutional powers in a day-to-day functional sense can determine to a large extent how powerful that governor really is. In the final analysis, then, the degree of power that the North Carolina governor has today depends largely upon the person who occupies the gingerbread mansion on Blount Street and that person's political skills, instincts, ideals, and ambitions. ■■

## FOOTNOTES

<sup>1</sup>Thad L. Beyle, "How Powerful Is the North Carolina Governor?," *N.C. Insight*, Vol. 4, No. 4, December 1981, pp. 3-11; and Office of State Services, "The Institutional Powers of the Governorship: 1965-1985," *State Services Management Notes*, National Governors' Association, 1987, 1990.

<sup>2</sup>Thad L. Beyle, "Governors," in Virginia Gray, Herbert Jacob, and Robert H. Albritton, editors, *Politics in the American States*, 5th Ed., (Boston: Scott, Foresman, 1990).

<sup>3</sup>Chapter 1 of the 1989 Session Laws (Extra Session 1989).

<sup>4</sup>Robert L. Farb, *Report on the Proposed Gubernatorial Succession Amendment*, UNC-Chapel Hill Institute of Government, 1977, p. 5.

<sup>5</sup>Article III, Sec. 7(1) of the N.C. Constitution created the office of Superintendent of Public Instruction. G.S. 115C-10 created the State Board of Education, comprising the lieutenant

governor, the state treasurer, and 11 other members nominated by the governor and confirmed by the General Assembly.

<sup>6</sup>G.S. 62-10.

<sup>7</sup>G.S. 116-5 and 116-6.

<sup>8</sup>For more information on boards and commissions, see Jim Bryan, Ran Coble, and Lacy Maddox, *Boards, Commissions, and Councils in the Executive Branch of N.C. State Government*, N.C. Center for Public Policy Research, 1985, pp. 23-38.

<sup>9</sup>Article III, Sec. 2(1), and Sec. 7(1), of the N.C. Constitution.

<sup>10</sup>Dianne Kincaid Blair, "The Gubernatorial Appointment Power: Too Much of a Good Thing?," *State Government*, Vol. 55, No. 3, (1982), pp. 88-92.

<sup>11</sup>See *Elrod v. Burns*, 427 U.S. 347 (1976); *Branti v. Finkel*, 445 U.S. 507 (1981); and *Connick v. Meyers*, 461 U.S. 138 (1983).

<sup>12</sup>See *Stott v. Martin*, 89-1032L in the 4th Circuit U.S. Court of Appeals, Richmond; and 85-818-CIV-5, 86-650-CIV-5, and 86-638-CIV-5, U.S. Eastern District Court, Raleigh.

<sup>13</sup>See *Tucker v. State*, 218 Ind. 614 (1941); *Ahern v. Bailey*, 104 Ariz. 250, 451 P.2d 30 (1969); and *Holder v. Anderson*, 160 Ga. 433, 128 S.E. 1981 (1925).

<sup>14</sup>G.S. 143B-266.

<sup>15</sup>Chapter 68 of the 1989 Session Laws, codified as G.S. 143-241.

<sup>16</sup>*State ex. rel. Wallace v. Bone*, 304 N.C. 591, 286 S.E. 2nd 79 (1982). This decision removed legislators from one specific policymaking board in the executive branch, but the state's attorney general ruled in an advisory opinion that the decision applied to 36 other boards. The Advisory Budget Commission was advised by the attorney general to act only in an advisory manner, and as a result, the statutes were amended and the governor gained substantial power over the preparation and administration of the budget.

<sup>17</sup>See *The Advisory Budget Commission—Not as Simple as ABC*, N.C. Center for Public Policy Research, 1980, and *Boards, Commissions and Councils*, cited above in footnote 8, pp. 45, 50, and 60-63.

<sup>18</sup>Article III, Section 5(3), Constitution of North Carolina.

<sup>19</sup>These two special provisions are found in Chapter 1127 of the 1981 Sessions Laws (October Session, HB 1392) in Sections 63 and 82. The next year, the Supreme Court advised that both provisions likely were unconstitutional. See *Advisory Opinion in re: Separation of Powers*, 305 N.C. 767 (Appendix 1982). See also Katherine White, "Advisory Opinions: The 'Ghosts that Slay,'" *North Carolina Insight*, Vol. 8, No. 2, November 1985, p. 48.

<sup>20</sup>Office of State Services, "The Institutional Powers of the Governorship: 1965-1985," p. 7.

<sup>21</sup>Article III, Sec. 5(3) of the N.C. Constitution; see also G.S. 143-25.

<sup>22</sup>V.O. Key, Jr., *American State Politics*, (New York: Knopf, 1956), p. 52.

<sup>23</sup>See Jack Betts, "The Merit Selection Debate—Still Waiting in Legislative Wings," *North Carolina Insight*, Vol. 9, No. 4, June 1987, p. 17.

<sup>24</sup>G.S. 143A-14. See also Article III, Section 5(10) of the N.C. Constitution for more on the constitutional provisions empowering the governor to reorganize administrative departments.

<sup>25</sup>Chapter 727 of the 1989 Session Laws, now codified as G.S. 143B-279.1 *et seq.*

<sup>26</sup>For more on North Carolina's long ballot and Council of State, see Ferrel Guillory, "The Council of State and North Carolina's Long Ballot: A Tradition Hard to Change," *North Carolina Insight*, Vol. 10, No. 4, June 1988, p. 40.