

The Powers of North Carolina's Second Executive: Discovering if the Lieutenant Governor
Should be Designated more Power under the Constitution

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Abstract

In the original 1776 North Carolina State Constitution, the executive branch of government was solely comprised of the Governor. It was not until 1868 that the Lieutenant Governor position, along with other executive offices, was added to the branch. The current NC State Constitution today was ratified in 1971 and outlines the powers of the Governor and Lieutenant Governor thoroughly. The designated constitutional powers of the NC Lieutenant Governor include serving as the President of the Senate with the ability to cast tie-breaking votes, serving on the State Board of Education, and most notably, succeeding the Governor upon the death, resignation, or removal from office. These powers are weak in the spectrum of NC government because ties in the Senate and Governor's leaving office are rare. Additionally, it is important to note that in North Carolina, the Governor and Lieutenant Governor are elected separately and independent from each other, which can possibly result in the two offices representing different parties.

I am going to argue that the office of the Lieutenant Governor should be delegated more constitutional powers rather than relying so heavily on the assignment of duties from the General Assembly and Governor. I will conduct research on the election style of the Lieutenant Governor, which additional powers (if any) should be designated to the Lieutenant Governor, and what are other States doing in terms of designating executive powers to their Governor and Lieutenant Governor.

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Introduction

What does the Lieutenant Governor do? This is a common question that North Carolinians ask themselves every election year when staring at their voting sheet in the ballot bot. After a Google search and a few phone-a-friends later, many North Carolinians are still not entirely sure what duties and responsibilities encapsulate the Lieutenant Governor's office. When asked about what it is that Lieutenant Governors do, occupants of the office and governmental enthusiasts alike tend to recall the old story about Calvin Coolidge. Before becoming the 30th President of the United States, Calvin Coolidge served as the Lieutenant Governor of Massachusetts from 1916 to 1919¹. One evening back when Silent Cal was occupying the Lieutenant Governor's office, he was seated next to an attractive woman at an official dinner.

"Tell me," she gushed, "what do you do?"

"I'm the Lieutenant Governor," Coolidge answered.

"That's wonderful. Tell me all about it," his dinner partner implored.

"I just did," was the succinct reply.²

Calvin Coolidge is infamous for his quick-witted succinct statements, but this one about the state's second executive has remained a favorite for many years; primarily due to the unfortunate truth behind the humor. For many, the Lieutenant Governor is a mostly symbolic position where the occupants of the office either hope the incumbent Governor leaves office for whatever reason or uses their popularity as Lieutenant Governor to succeed in a future election for a stronger office. This is especially true for Calvin Coolidge seeing as how he was elected Governor of Massachusetts directly following his stint as Lieutenant Governor in 1919.¹

¹ Britannica, "Calvin Coolidge," 1

² Manning, "The Lieutenant Governor," 1

Ironically, Coolidge went straight from Massachusetts Governor into a second-in-command role as Vice President of the United States under President Warren Harding. Shockingly, Harding passed away while in office and Coolidge took over the Presidency in 1923. This made Calvin Coolidge the only person in United States history to occupy the positions of Lieutenant Governor, Governor, Vice President, and President.³

Times have definitely changed since Calvin Coolidge occupied the Lieutenant Governor position and the office has shifted significantly, particularly in North Carolina. However, the constitutional powers of the North Carolina Lieutenant Governor's office are still weak and grant the existing holder of the office few consequential duties and responsibilities. The goal of this thesis is to investigate the existing powers of the North Carolina Lieutenant Governor, the possibility of granting the office with additional constitutional duties, and if so, which duties should be granted. The reason why a topic such as this is being pursued is due to the lack of constitutional protection that the powers of the North Carolina Lieutenant Governor's office. Many of the duties and responsibilities of the position are statutory in nature and can be easily stripped away at the whim of the North Carolina General Assembly. A specific example of this occurring takes place shortly after the 1988 North Carolina Lieutenant Governor election.

1988 North Carolina State Executive Election

The 1988 North Carolina election for Lieutenant Governor was a tight contest between Democrat Tony Rand and Republican Jim Gardner.⁴ Both candidates performed well in their respective party primaries, garnering a high enough plurality of the votes to avoid a run-off election. It is important to note that despite having a Republican incumbent Governor in the form

³ Britannica, "Calvin Coolidge," 2

⁴ Coble, "The Lieutenant Governorship," 1

of James G. Martin, the North Carolina General Assembly was controlled by the Democratic party and spearheaded by residing Lieutenant Governor Robert B. Jordan, who is currently running against Martin for the governorship. After a hard-fought campaign on both sides, it was Republican Jim Gardner who won the Lieutenant Governorship with 50.64% of the votes against Rand's 49.36%.⁵ Gardner's victory marked the first time a Republican was in the Lieutenant Governor's office in almost 90 years since Charles A. Reynolds in 1901. In direct response to a Republican winning North Carolina's Lieutenant Governor position, the Democratic-controlled General Assembly transferred multiple powers of the Lieutenant Governor over to the President Pro Tempore of the North Carolina Senate, namely the power to assign bills to committee and the power to appoint committees and committee chairmen.⁵ This dispossessing of the Lieutenant Governor's power threatened not only Jim Gardner's ability to effectively do his job but threatened the security of the office itself.

The reason that this election and the following legislative action passed by the North Carolina General Assembly are so crucial is that it showcases how inconsistent, unreliable, and fluid the powers of the North Carolina Lieutenant Governor can be. In the case of Lieutenant Governor Jim Gardner being stripped of his powers which had been vested in the office for decades, it is clear to see that the executive position's merit and ability to carry out duties dependably had been brought into question. If North Carolina granted the office of Lieutenant Governor additional Constitutional powers rather than legislative ones, the executive position would become more important and taken more seriously by members of the North Carolina government and the citizens of North Carolina alike.

⁵ Coble, "The Lieutenant Governorship," 2

Constitutional History of the North Carolina Lieutenant Governor

To fully understand why it is pivotal for the powers of the North Carolina Lieutenant Governor to be protected Constitutionally rather than by the General Assembly, it is necessary to recount the history of the executive office and the power's that it has held. Within its history as a State, North Carolina has had three constitutions: the Constitution of 1776, the Constitution of 1868, and the Constitution of 1971.⁶ The original North Carolina Constitution of 1776 was created in December of that year by the Fifth Provincial Congress.⁶ In this original iteration of the State Constitution, the executive branch was comprised solely of the Governor. Additionally, this governorship was heavily restricted by the General Assembly because they had the power of electing the Governor (who only served a 1-year term) as well as the ability to advise all actions of the Governor. It was not until almost a century later that the Lieutenant Governor's office would be established.

Following the American Civil War, after North Carolina was readmitted into the Union in 1868, a new State Constitution was framed in accordance with the Reconstruction Acts passed by the United States Congress. The North Carolina Constitution of 1868 granted the people the "power to elect all significant state executive officers, all judges, and all county officials, as well as legislators".⁷ Additionally, the executive branch was strengthened extensively in Article III Section I, which states "The Executive Department shall consist of a Governor, a Lieutenant Governor, a Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Works, a Superintendent of Public Instruction, and an Attorney General, who shall be elected for a term of

⁶ Edmisten, "Constitution of NC its History and Context," 1

⁷ North Carolina State Constitution, Art. III, Sec. 1

four years by the qualified electors of the State”.⁸ This sentiment not only upped the Governor’s term length from two to four years but established the position of Lieutenant Governor.

Since the ratification of the North Carolina Constitution of 1868, there had been a total of ninety-seven propositions for amending the Constitution. In the span of the century since the 1868 Constitution’s establishment, sixty-nine of those nearly one hundred amendments were approved.⁹ All of these amendments and changes made to the document made it confusing and difficult for even the most astute constitutionalists to read. Thanks to the dedicated work of the Constitutional Study Commission of 1967, the birth of the North Carolina Constitution of 1971 came to be. The most notable change that was brought along by the 1971 Constitution was Article III Section XI, the Executive Organization Act. This act required the legislature to reduce the over three-hundred existing administrative departments “within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes”.⁸ This led to the creation of nineteen distinct departments and offices that encompasses all of North Carolinas many executive duties. Ten of these nineteen are members of the North Carolina Council of State and are elected by the voters to make up the state’s infamous long ballot. These ten offices include the governor, lieutenant governor, secretary of state, state auditor, state treasurer, superintendent of public instruction, attorney general, commissioner of agriculture, commissioner of labor, and commissioner of insurance. The remaining nine offices are members of the North Carolina Cabinet departments that are headed by secretaries appointed by the governor. These nine departments include the Department of Administration, Commerce, Natural and Cultural Resources, Environmental Quality, Health and Humans Services,

⁸ North Carolina State Constitution, Art. III, Sec. 1

⁹ Edmisten, “Constitution of NC its History and Context,” 7

Information Technology, Revenue, Public Safety, Military and Veterans Affairs, and Transportation.¹⁰

Election Methods of the Lieutenant Governor

The United States Constitution allows the states to select their own method of both state and federal elections. When it comes to selecting the state executive, there has yet to be a universally accepted medium for electing the Governor and Lieutenant Governor positions. Probably most common for qualified voters of the United States is the joint ticket method. In thirteen states, much like the method used by the United States President and Vice President, the gubernatorial candidate for Governor chooses who their running mate will be. These thirteen states include Colorado, Florida, Illinois, Kansas, Kentucky, Maryland, Minnesota, Montana, Nebraska, New Jersey, North Dakota, Ohio, and Utah.¹¹ There are two main variations of this joint ticket style of an election. One variation, utilized by eight states, subjects both their Governor and Lieutenant Governor candidates to separate primary elections where the winners of both elections will run together on the same ballot for the general election. The eight states that use this method include Alaska, Connecticut, Hawaii, Massachusetts, New Mexico, New York, Pennsylvania, and Wisconsin.¹¹ The second variation of the joint ticket election method is only employed by four states, and it is where the candidate for Lieutenant Governor is not elected but nominated at their State Party Convention. The four states that employ this method include Indiana, Iowa, Michigan, and South Dakota.¹¹

Contrary to the joint ticket method of election is the separate ticket style. North Carolina, along with seventeen other states, choose to elect their Lieutenant Governor separately from their

¹⁰ Edmisten, "Constitution of NC its History and Context," 7

¹¹ Sullivan, "Methods of Electing," 1

Governors. The other seventeen states include Alabama, Arkansas, California, Delaware, Georgia, Idaho, Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Rhode Island, South Carolina, Texas, Vermont, Virginia, and Washington.¹² This style of election is controversial in nature due to the possibility of a divided executive where the Governor and Lieutenant Governor of a state can be members of different parties, such as the case in Louisiana, Vermont, and North Carolina. Louisiana has Democratic Governor John Bel Edwards accompanied by Republican Lieutenant Governor Billy Nungesser, Vermont has Republican Governor Phil Scott accompanied by Democratic Lieutenant Governor Molly Gray, and North Carolina has Democratic Governor Roy Cooper accompanied by Republican Lieutenant Governor Mark Robinson.

This leaves seven states with no Lieutenant Governor position. In Tennessee and West Virginia, although there is no official Lieutenant Governor's office, the position is assigned to the Senate President.¹² However, in Arizona, Maine, New Hampshire, Oregon, and Wyoming, there is no Lieutenant Governor position at all.¹² When it is all accounted for, there are six distinct methods that states utilize to elect their Lieutenant Governor: A separate ticket (eighteen states), a joint ticket where the gubernatorial candidate selects a running mate (thirteen states), a joint ticket where the Lieutenant Governor candidate is subject to separate primary (eight states), joint ticket where the Lieutenant Governor is nominated at a State Party Convention (four states), the Lieutenant Governor position is assigned to the Senate President (two states), and where there is no Lieutenant Governor position at all (five states).¹²

¹² Sullivan, "Methods of Electing," 1

Current Constitutional and Statutory Powers of the North Carolina Lieutenant Governor

In today's North Carolina State Constitution, the powers of the Lieutenant Governor can be divided into two distinct categories: those designated in the Constitution and those designated through legislation. The primary responsibility of the North Carolina Lieutenant Governor, similar to the Vice President of the United States, is to serve as President of the Senate. Presented in both Article III Section 6 as well as Article II Section 13, the Lieutenant Governor "shall be President of the Senate and shall preside of over the Senate, but shall have no vote unless the Senate is equally divided".¹³ Considering that casting tie-breaking votes in the North Carolina Senate is the largest duty that the Lieutenant Governor has, it is important to note that the last time a North Carolina Lieutenant Governor actually had to break a Senate tie was back in 2005. Then Lieutenant Governor Beverly Perdue, in her capacity as President of the Senate, broke the tie for HB 1023, North Carolina State Lottery Act.¹⁴ Additionally, with a Republican majority in the Senate today, the likelihood of another tie occurring in the Senate anytime soon is slim.

Another constitutional power of the North Carolina Lieutenant Governor is to serve as an Ex Officio member of the Governor's Council of State which is outlined in Article III Section 8.¹³ North Carolina is notorious for having a large executive comprised of ten elected officers: the Governor, Lieutenant Governor, Secretary of State, State Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance.

¹³ North Carolina State Constitution, Art. III, Sec. 6

¹⁴ NCGA, "Senate Rolle Call Vote Transcript," 1

A duty that is unique to the North Carolina Lieutenant Governor is that they serve the State Board of Education. Article IX Section 4 states that “The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session”.¹⁵ The North Carolina State Board of Education is under the Department of Public Instruction and “sets policy and general procedures for public school systems across the state, including teacher pay and qualifications, course content, testing requirements, and manages state education funds”.¹⁶ The Lieutenant Governor’s ability to serve on the State Board of Education is protected by the North Carolina Constitution, which allows the office to maintain a heavy focus on education and school systems across the state.

The Lieutenant Governor, under Article III Section 3, succeeds the governorship upon the death, resignation, or removal from office of the Governor (XXXX). In addition to succeeding the Governor, the Lieutenant Governor serves as Acting Governor during the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of their office.¹⁵

Additionally, Article III, Section 6 of the North Carolina Constitution states, “He [The Lieutenant Governor] shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law”.¹⁵ This overarching message of the Lieutenant Governor’s office is defined by the General Assembly and Governor brings into question the stability of the position and whether the powers of the office are guaranteed.

¹⁵ North Carolina State Constitution, Art. IX, Sec. 4

¹⁶ NC DPI, “State Board of Education,” 1

Over the years, the North Carolina General Assembly has passed into law multiple other duties and responsibilities of the Lieutenant Governor, primarily in the form of serving on various committees and commissions. Today, the Lieutenant Governor serves on the NC Board of Community Colleges, States Economic Development Board, NC Military Affairs Commission, NC Charter Schools Advisory Board, NC Capital Planning Commission, and serves as Chairman of the eLearning Commission (XXXX).

Current Political Status of the North Carolina Executive and General Assembly

When discussing the powers of the North Carolina Lieutenant Governor and how effective they can be in their position, it is critical to not the current political makeup of both the North Carolina Executive and General Assembly. As previously showcased by Lieutenant Governor Jim Gardner, the political leanings of the General Assembly can have an invaluable on the powers of the office and the duties that it has.

Out of fifty members, the North Carolina Senate is currently 56% Republican (twenty-eight members) and 44% Democratic (twenty-two members).¹⁷ Out of one hundred twenty members, the North Carolina House of Representatives is 57.5% Republican (sixty-nine members) and 42.5% Democratic (fifty-one members).¹⁸ This means that Republicans hold a simple majority in both houses of the General Assembly, but not enough to form a three/fifths majority. This is important to note because only a simple majority is required to pass legislation, which would include granting or stripping statutory powers away from the Lieutenant Governor position. However, a three/fifths majority is required to send an amendment to a vote by the

¹⁷ NCLeg, "North Carolina Senators," 1

¹⁸ NCLeg, "North Carolina Representatives," 1

qualified voters of North Carolina. A three/fifths majority is also required to override a veto by the Governor.

When it comes to the current political status of the North Carolina executive, it is unlikely that any other state has a more hostile relationship than that of Democratic Governor Roy Cooper and Republican Lieutenant Governor Mark Robinson. Due to the Lieutenant Governorship being so heavily defined by the Governor, an executive partnership where both officials are from different political parties results in a great imbalance of power. Instead of the North Carolina executive working as a team, the two often actively work against each other. In October of 2021, after Lieutenant Governor Mark Robinson caused controversy surrounding the LGBTQ community, Governor Roy Cooper was asked whether Robinson should resign. Governor Cooper replied by saying “It would be appropriate, but he’s made it clear that he’s not...But let me make something clear. He does not speak for North Carolina”.¹⁹ When the relationship between a state’s executive gets to the point where the Governor is calling for the Lieutenant Governor’s resignation, it is evident that the Governor will be trying their best to ensure the Lieutenant acquires as few duties and responsibilities as possible.

Duties and Responsibilities of the Lieutenant Governor in other States

In order to gain a greater understanding of the potential expansion of the North Carolina Lieutenant Governor’s constitutional powers, it is important to research what specific duties and responsibilities the Lieutenant Governors of other states possess that North Carolina does not. To maintain consistency, the only states being referenced are those that opt to elect their Governor and Lieutenant Governor in separate general elections.

¹⁹ Robertson, “WFAE Article,” 1

The California State Constitution, which was adopted in 1880, grants their Lieutenant Governor additional responsibilities in the field of higher education. While it is true that the North Carolina Lieutenant Governor serves as a member of the State Board of Education, the California State Constitution highlights the possibility of expanded duties on this topic. Article IX Section 9 of the California State Constitution puts the Lieutenant Governor as an ex officio member of “The Regents of the University of California”.²⁰ North Carolina has a similar board as the Regents of the University of California, but it is called the Board of Governors. “The University of North Carolina System is governed by the Board of Governors, which, under Chapter 116 of the North Carolina General Statutes, has responsibility for the planning, development, and overall governance of the UNC System.”²¹ In terms of membership, the Board of Governors consists of 24 voting members that are elected by the North Carolina General Assembly. Adding the North Carolina to the Board of Governors for the University of North Carolina System is a plausible, sensible, and reasonably simple responsibility that could bolster the office.

An addition to the conversation about the State Board of Education comes in the fashion of the Mississippi State Constitution, adopted in 1890. Article VIII Section 203 of the Mississippi Constitution notes that “The Lieutenant Governor shall appoint two members from the state at large [to the Mississippi State Board of Education], one of whom shall serve an initial term of four years and one of whom shall serve an initial term of eight years”.²² Nowhere in the North Carolina State Constitution does the Lieutenant Governor have any power to appoint members to anything; appointments are a duty exclusive to the Governor. The trade-off for

²⁰ California State Constitution, Art. IX, Sec. 9

²¹ UNC System, “Board of Governors,” 1

²² Mississippi State Constitution, Art. VIII, Sec. 203

Mississippi is that the Lieutenant Governor themselves is not a member of the State Board of Education. The possibility of allowing the North Carolina Lieutenant Governor to appoint members to a board/committee/commission in general, not to mention the State Board of Education, is a route that should be greatly considered.

The Delaware State Constitution, which was adopted in 1897, grants their Lieutenant Governor additional responsibilities in the field of clemency and pardons. In the North Carolina State Constitution, Article III Section 5, under the Clemency clause states that “The Governor may grant reprieves, commutations, and pardons, after conviction for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons.”²³ However, in 1994, the North Carolina General Assembly passed a general statute that established a Post Release Supervision and Parole Commission within the Governor’s Clemency Office under the Department of Public Safety.²⁴ It is sufficient to say that the North Carolina Lieutenant Governor plays no role in the distribution of pardons in the State. Conversely, Article III Sec. 19 of the Delaware State Constitution allows “the Lieutenant-Governor, for his or her services as a member of the Board of Pardons”.²⁵ Although Article VII of the Delaware State Constitution, similar to North Carolina outlines pardon abilities of the Governor, Delaware’s Board of Pardons has significant powers in extending and vetoing the Governor’s pardoning power.²⁴ Criminal justice is a key responsibility in North Carolina State Government and allowing the Lieutenant

²³ North Carolina State Constitution, Art. III, Sec. 5

²⁴ NC DPS, “Governors Clemency Office,” 1

²⁵ Delaware State Constitution, Art. III, Sec. 19

Governor to have a saying in pardons would be a reasonable addition to the office's duties and responsibilities.

A relevant governmental duty to the topics being discussed is the ability to amend the Constitution. Every state has its own state Constitution, which means each state has its own way of amending said document. The specific majorities and votes required to pass an amendment have already been addressed, but this focus is more on how these amendments get drafted and distributed to the General Assembly. In North Carolina, under the Secretary of State, is a commission called the "North Carolina Constitutional Amendments Publication Commission".²⁶ This commission was established by the North Carolina General Assembly under a statute passed in 1983 and only consists of three members: The Secretary of State, the Attorney General, and the Legislative Services Officer of the North Carolina General Assembly. However, in the Georgia State Constitution, adopted in 1983, a similar board titled the "Constitutional Amendments Publication Board" shall be composed of the Governor, Lieutenant Governor, and the Speaker of the House of Representatives.²⁷ Adding the North Carolina Lieutenant Governor onto a board or commission dealing with the publication of amendments is a conceivable responsibility that could be added to the office.

A key power of the Lieutenant Governor's office in all states that have one is that they have the ability to succeed the Governor upon their death, resignation, or removal from office. Additionally, Article III Section 3 of the North Carolina Constitution states that "During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting

²⁶ NC SOS, "Constitutional Amendments Publication Commission," 1

²⁷ Georgia State Constitution, Art. X, Sec. 5

Governor”.²⁸ This statement is true for many states, but a distinguishing factor is how a state determines if a Governor is in proper physical or mental capacity. In North Carolina, “The mental incapacity of the Governor to perform the duties his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly”.²⁷ Meaning, that the General Assembly is the body that determines the mental capacity of the Governor, which is not the case in every state. In the Missouri State Constitution, adopted in 1945, there is a disability board that determines when the Governor is “unable to discharge the powers and duties of his office.”²⁹ This provision is outlined in Article IV Section 11 in the Missouri State Constitution and details the members of the disability board which is comprised of the “lieutenant governor, the secretary of state, the state auditor, the state treasurer, the attorney general, president pro tempore of the senate, the speaker of the house of representatives, the majority floor leader of the senate, and the majority floor leader of the house”.²⁸ It is a reasonable leap that, seeing as the Lieutenant Governor will be the new acting Governor upon mental incapacity, being a member of a board that determines this is a duty that could be adopted in North Carolina’s executive.

The issue of legislative apportionment, particularly in North Carolina, has been an ever-growing issue and topic of debate. It is sufficient to conclude that having a say in the legislative apportionment in a state is a distinct responsibility that could add to the merit of any office, including the Lieutenant Governor. In North Carolina, the apportionment of state Senators and Representatives is to be decided by the General Assembly, but this is not the case in every state. In the Oklahoma State Constitution, adopted in 1907, there is a Legislature Apportionment

²⁸ North Carolina State Constitution, Art. III, Sec. 3

²⁹ Missouri State Constitution, Art. IV, Sec. 11

Commission that advises decisions on senatorial and representative apportionment. Article V Section 11 of the Oklahoma Constitution states that “apportionment shall be accomplished by the Bipartisan Commission on Legislative Apportionment. The Commission shall be composed of seven members as follows: The Lieutenant Governor, who shall be nonvoting and the chair of the Commission; two members, one republican and one democrat, appointed by the President Pro Tempore of the Senate; two members, one republican and one democrat, appointed by the Speaker of the House of Representatives; and two members, one republican and one democrat, appointed by the Governor”.³⁰ This provision allows the Lieutenant Governor, although not a voting member, to not only serve but to chair the Legislative Apportionment Commission of Oklahoma. Having a bipartisan board for legislative apportionment is a great idea that North Carolina should consider utilizing, and it would be a rational thought for the Lieutenant Governor to be tasked with chairing it.

Also in the Oklahoma State Constitution, under Article XX Section 6, the Lieutenant Governor serves on the Commissioners of the Land Office, “who shall have charge of the sale, rental, disposal and managing of the school lands and other public lands of the state, and of the funds and proceeds derived therefrom, under rules and regulations prescribed by the Legislature”.³¹ Under the Oklahoma State Constitution, members of the Commissioners of the Land Office include the Governor, Lieutenant Governor, State Auditor, Superintendent of Public Instruction, and the President of the Board of Agriculture. The most similar thing that exists in North Carolina to Oklahoma’s Land Office is the “Land Records Management” which is under the North Carolina Secretary of State. The Land Records Management Section “assists local

³⁰ Oklahoma State Constitution, Art. V, Sec. 11

³¹ Oklahoma State Constitution, Art. XX, Sec. 6

governments in establishing standards for the indexing and electronic access and storage of vital land records involved in real property transactions”.³² Allowing the North Carolina Lieutenant Governor to serve on a board of land records is not a far reach and could be a reasonable expansion of executive power for the office.

Another constitutional responsibility granted to the Oklahoma Lieutenant Governor is to serve on the State Board of Equalization. Article X Section 21 describes the duty of the State Board of Equalization shall be “to adjust and equalize the valuation of real and personal property of the several counties in the state, and it shall perform such other duties as may be prescribed by law, and they shall assess all railroad and public service corporation property”.³³ North Carolina has a Board of Equalization, but it is run under the North Carolina Department of Revenue.³⁴ Although it may seem like a small addition to the duties and responsibilities of the Lieutenant Governor, having a say in the valuation of property is an important task.

The Texas State Constitution, adopted in 1876, highlights their Lieutenant Governor in a lesser-known commission in most states which is the Ethics Commission. In Texas, their Lieutenant Governor does not serve on the Ethics Commission, but Article III Section 24 of the Texas Constitution grants the office the ability to appoint two members, “two members of different political parties appointed by the lieutenant governor from a list of at least 10 names submitted by the members of the senate from each political party required by law to hold a primary”.³⁵ Similar to the points made when discussing the Mississippi Lieutenant Governor’s ability to appoint members to the State Board of Education, North Carolina’s appointment

³² NC SOS, “Land Records Management,” 1

³³ Oklahoma State Constitution, Art. X, Sec. 21

³⁴ NC DOR, “Board of Equalization,” 1

³⁵ Texas State Constitution, Art. III, Sec. 24

powers rest solely on the Governor. The job of the North Carolina State Ethics Commission is to “interpret and enforce the State Government Ethics Act and portions of the Lobbying Law”.³⁶

The Commission is made up of eight bipartisan members: four appointed by the Governor, two by the President Pro Tempore of the Senate, and two by the Speaker of the House of Representatives.³⁴

In addition to appointing members to the state’s Ethics Commission, the Texas Lieutenant Governor serves on the Legislative Redistricting Board. Article III Section 27 of the Texas Constitution outlines the five members of the Legislative Redistricting Board as “The Lieutenant Governor, the Speaker of the House of Representatives, the Attorney General, the Comptroller of Public Accounts and the Commissioner of the General Land Office”.³⁷ In North Carolina, all redistricting is done through the General Assembly. As a hot topic issue in North Carolina as redistricting is today, it would be reasonable to see why an executive identity such as the Lieutenant Governor should be a part of the legislative redistricting conversation.

The Louisiana State Constitution, adopted in 1975, has some extremely unique sections when dealing with the powers of their Lieutenant Governor. Under Article VII Section 7 of the Louisiana Constitution, the Interim Emergency Board is created and shall be composed of “the governor, lieutenant governor, state treasurer, presiding officer of each house of the legislature, chairman of the Senate Finance Committee, and chairman of the House Appropriations Committee, or their designees”.³⁸ The closest thing that North Carolina has to an Emergency Board is an Emergency Management team that is under the North Carolina Department of Public

³⁶ Ethics Commission, “Meet the State Ethics Commission,” 1

³⁷ Texas State Constitution, Art. III, Sec. 27

³⁸ Louisiana State Constitution, Art. VII, Sec. 7

Safety.³⁹ Aiding in decision-making regarding the economic relief of disaster is something that the North Carolina Lieutenant Governor's office can reasonably be a part of.

After examining every state constitution (out of the states that elect their Governor and Lieutenant Governor separately), the most compelling clause came from Article IV Section 6 of the Louisiana State Constitution. The section states that "The lieutenant governor shall serve ex officio as a member of each committee, board, and commission on which the governor serves".⁴⁰ This simple suggestion that the Governor and Lieutenant Governor should work as a team and not be represented in a decision-making body without the presence of the other, despite being elected separately, is something that can be logically implemented as a constitutional aspect of the Lieutenant Governor's office in North Carolina.

Interview with the Chief of Staff of the North Carolina Lieutenant Governor's Office

Brian LiVecchi works that the North Carolina Lieutenant Governor's office as both the Chief of Staff and General Counsel. LiVecchi graduated with his Juris Doctor from Campbell Law and has accumulated almost a decade of experience as an attorney for various firms and governmental departments. LiVecchi has first-hand experience in the legal surroundings of the Lieutenant Governor and has great expertise in both the constitutional and statutory duties of the office. During this interview, LiVecchi was asked questions about the election method of the North Carolina executive, the expansion of the power of the Lieutenant Governor's office, and how the residing Lieutenant Governor has modified the position.

³⁹ NC DPS, "Disaster Recovery," 1

⁴⁰ Louisiana State Constitution, Art. IV, Sec. 6

The first question asked to LiVecchi was “Do you believe that the North Carolina Lieutenant Governor should be elected jointly or separately?” LiVecchi was in favor of North Carolina’s split ticket method. Despite recognizing the lack of a cohesive executive that could result from having separate elections, LiVecchi saw the Lieutenant Governor is elected separately from the Governor as a check to the office. “Having the two executives elected jointly results in a forced multiplier of the Governor’s vote”. If the Governor and Lieutenant Governor ran together, there would be no variety in ideology or new ideas brought to the North Carolina executive.

The next question asked to LiVecchi was “Which powers, if any, do you think should be considered to be granted to the office of Lieutenant Governor constitutionally?” LiVecchi was hesitant to push for a constitutional change to the powers of the Lieutenant Governor, not as much because he worries about getting something into the document but more so getting something out. LiVecchi described his answer as “The thing with amending the Constitution is that not only is it a heavy lift to get something in, but it is a heavy lift to get something out.” LiVecchi said that he would show great support for proposed legislation that would bring more duties and responsibilities to the office. “I would love to see additional statutory powers such as being a member of different boards and even having some say in the appointments to these boards.” Statutory powers, although easier to change, are also a safer solution.

The final question asked to LiVecchi was “How has Lieutenant Governor Mark Robinson modified the position?” LiVecchi admitted that “legally, not much”. Lieutenant Governor Robinson has garnered national attention and is one of the more recognizable state officials in

the country, which is impressive for him only being a Lieutenant Governor with no prior political experience. LiVecchi commented on Lieutenant Governor Robinson's great media presence by saying "Lieutenant Governor Robinson has taken full advantage of his position to raise awareness to the issues he feels are important. In terms of activity and volume, Lieutenant Governor Robinson has shown the influential capabilities of the office." Lieutenant Governor Robinson's excellent speaking skills and ability to control a crowd have made him one of the more influential figures in American politics today.

Overall, this interview with Brian LiVecchi was extremely enlightening to get the perspective of an individual who knows the full capabilities of the modern North Carolina Lieutenant Governor's office.

Conclusion

After dissecting the election styles of the Lieutenant Governor in the United States, the constitutional history of North Carolina surrounding its Lieutenant Governor, the current constitutional and statutory powers of the North Carolina Lieutenant Governor, the current political status of the North Carolina executive and General Assembly, the State Constitutions of the remaining seventeen states that elect their Governor and Lieutenant Governor separately, and interviewing with the presiding Chief of Staff and General Counsel of the current North Carolina Lieutenant Governor's office, it is sufficient to that there are many factors to be considered when expanding the constitutional powers of the Lieutenant Governor. From joining various boards/committees/commissions to appointing members to the State Board of Education, there is a plethora of different constitutional duties and responsibilities that Lieutenant Governor across the country hold that are not implemented in North Carolina. Even though no single party has a

majority in the North Carolina General Assembly, this does not mean that bipartisan support cannot be made to strengthen the office of the North Carolina Lieutenant Governor.

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