

NORTH CAROLINA POLICY SOLUTIONS

2022

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THE JOHN LOCKE FOUNDATION



NORTH CAROLINA POLICY SOLUTIONS

2022



FREEDOM IS OUR MISSION. FOLLOW US.

North Carolina is a much different state than when the John Locke Foundation released its 2020 policy guide. North Carolinians have endured a lot over the last two years, including a nearly two-year COVID state of emergency, an economic lockdown, violent riots, school shutdowns, devastating student learning loss, mask mandates, and election law chaos, all of which have stressed our individual rights, our institutions, and our communities.



Amy O. Cooke
CEO

Because of our changed public policy landscape, we've changed, too. On Jan. 1, 2021, the John Locke Foundation and the Civitas Institute – the intellectual forces that have driven three decades of freedom-forward research and policy reforms in North Carolina – merged our capabilities, ensuring that North Carolinians' liberties are robustly defended and advanced as we enter this next decade.

By merging our capacities, we could reallocate resources from duplicative overhead into expanding research, grassroots outreach, government affairs, social media and communications, polling, and news coverage.

That means you'll see more of Locke everywhere, from the committee room to the community room to the newsroom, ensuring that the voices of freedom and individual liberty are represented and heard.

We're already seeing the benefit of our combined resources. Our expanded Government Affairs team partnered with thoughtful lawmakers to advance freedom in the General Assembly including:

- Historic tax cuts allowing working families to keep more of their hard-earned money
- Increased the standard deduction
- Reduced tax burden on North Carolina businesses
- Greatly expanded educational choice so parents can find the right school to meet their child's needs
- Expanded access to health care
- Reformed the executive branch's emergency powers
- Passed a regulatory sandbox for financial and insurance markets
- Protected donor privacy (vetoed by the governor)
- Passed election security (pending as of writing)

Our communications team educated North Carolinians on how these policies improve the lives of everyone in our state, and Carolina Journal kept them up to date on the latest news.

We know lawmakers, other elected officials, and staff have demanding jobs, and it's impossible to be an expert on everything. That's where we come in. We're happy to provide you the intellectual ammunition you need to be successful.

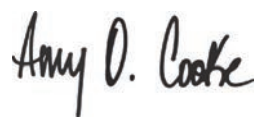
We have a long track record. Our researchers, analysts, and writers helped transform North Carolina into a thriving, vibrant, freedom-forward state that attracted an enviable blend of youth and experience, from college students and young families to professionals, entrepreneurs, and retirees looking to life after work.

It's our job to provide you with solutions to public policy issues facing our state so that you – through your public service – can help create an environment where every single North Carolinian thrives and has an opportunity to realize their dreams. No question is too big nor too small.

That's where the good news is. While North Carolina's challenges are great after two difficult years, the following pages are the policy playbook to ensure individual rights, maintain healthy co-equal branches of government, provide families with a variety of educational options, continue expanding access to health care, reduce unneeded regulation, secure our election process, and allow working families to keep more of their hard-earned money.

Thank you for your willingness to serve. As the wife of an elected official, I appreciate your commitment and understand your sacrifice. All of us at Locke look forward to working with you to advance personal and economic freedom and help you serve the people in your respective communities.

Freedom is our mission. Follow us.

A handwritten signature in black ink that reads "Amy D. Cooke". The signature is written in a cursive, flowing style.

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BUDGET, TAXATION, AND THE ECONOMY

CAPITAL AND INFRASTRUCTURE

POLICY ANALYSTS: **JOSEPH COLETTI & BRIAN BALFOUR**

INTRODUCTION

In 2017, state government owned nearly 118 million square feet of space across 12,000 buildings worth \$25.6 billion. The state budget includes more than \$700 million per year to pay the principal and interest on money it borrowed to build and maintain these facilities.

The 2017 budget bill, passed over Gov. Roy Cooper's veto, created the State Capital and Infrastructure Fund (SCIF), a pay-as-you-go fund that dedicates 4% of state (tax) revenue and one-fourth of any year-end unreserved cash balance to construction, repairs, and debt payments. As the state pays off existing debt, more money would be available to build new facilities, maintain what already exists, and address other pressing liabilities such as benefit costs related to retired state employees.

Legislative budget proposals in 2019 pledged \$1.9 billion through the SCIF, over 10 years, to local school construction. Gov. Cooper sought to repeal the SCIF, objecting that it would take money from other spending. Instead, he proposed diverting \$100 million or more each year to recurring expenses and borrowing \$3.9 billion for schools and other capital projects.

In 2020, Cooper once again proposed significant borrowing for capital projects, roughly \$5.2 billion in total devoted to health care, education, housing, water, and sewer construction. The legislature offered no full budget plan of their own that year.

If the debate were simply about the best way to finance construction, we could compare the opportunity cost of borrowing a dollar at low interest rates against paying cash. Instead, the apt comparison is between spending a dollar every year on recurring government expenses plus repaying the dollar borrowed for construction (plus interest), against the dollar in cash paid on construction. In other words, paying in cash for construction now, versus financing it through debt, frees up significant funds for government operations for years to come.

KEY FACTS

- » State government has \$25.6 billion in facilities with a backlog of roughly \$4 billion in repairs because of past neglect. A general rule of thumb suggests setting aside 2.5% of a property's value for maintenance and renovation, which would total \$640 million per year.

- » Principal and interest payments on state debt supported by the General Fund already exceeds \$700 million per year.
- » Liberal leadership ballooned tax-supported General Fund state debt by a whopping 130%, from \$2.83 billion in 2001 to \$6.5 billion in 2012. Conservative leadership elected in 2010 began to reverse that trend, dropping the debt to \$4.13 billion by 2020, a decrease of 37%.
- » Voters last approved debt via the \$2 billion Connect NC bond program in 2016. Two-thirds of Connect NC money will fund projects at public universities and community colleges, while the remainder will be used for water and sewer projects, state parks, and public safety and National Guard facilities. Although 15% of the bond package is intended to go to water and sewer projects, they received just 2% of the \$622 million spent as of October 11, 2019. The state has borrowed \$1.2 billion, with another \$600 million to be issued in 2020 and the final \$200 million in 2021.
- » The statutory debt limit for state government is 4.5% of General Fund revenues, which is roughly \$1.1 billion. The State Capital and Infrastructure Fund (SCIF) passed in 2017 dedicates 4% of revenue plus one-fourth of unreserved cash balances to debt service, repairs, renovations, and new construction.

RECOMMENDATIONS

1. Use the State Capital and Infrastructure Fund to pay for construction, repairs, and renovations of state property.

Paying for capital from current revenue ensures construction, repairs, and renovation happen on schedule and provides more flexibility in the future instead of tying up hundreds of millions of dollars in debt payments.

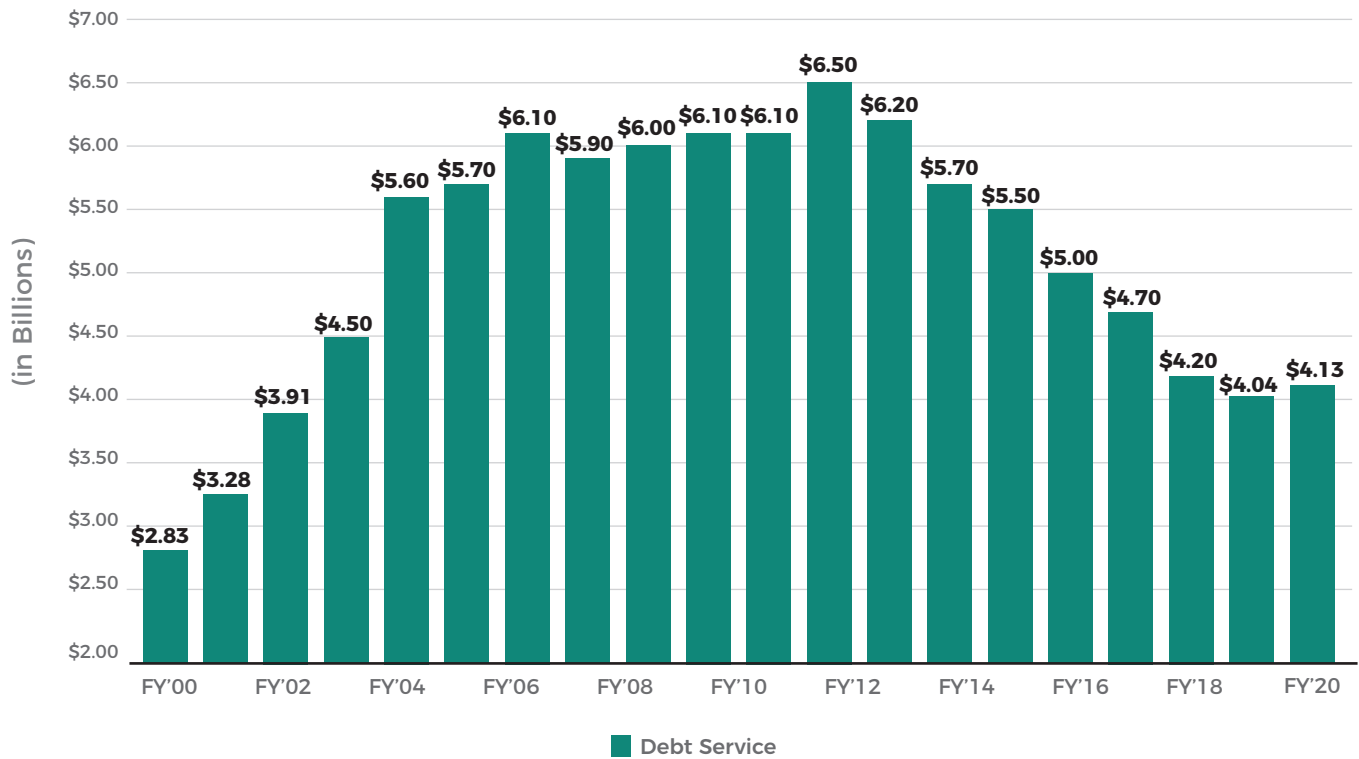
2. Consolidate state-owned facilities.

Sell what is not needed, improve what is left, and consider ways to better use space in prime locations for retail.

3. As debt is paid down, use more money for unfunded liabilities tied to retired state employees.

The unfunded liability for the Teachers and State Employees Retirement System is \$12 billion of \$86 billion in total liabilities. The unfunded liability for retiree health benefits, the largest portion of other post-employment benefits, is \$27.7 billion of \$29.8 billion in total liabilities. (See State Employee Benefits for more information).

North Carolina General Fund Net Tax-Supported Debt (Adjusted for Inflation)



SOURCES: NORTH CAROLINA STATE TREASURER'S OFFICE; ANNUAL DEBT AFFORDABILITY STUDY, YEARS 2021, 2019, 2014, 2009 AND 2006

ECONOMIC GROWTH

POLICY ANALYST: **DR. ROY CORDATO**

INTRODUCTION

Beginning with the passage of tax and regulatory reform in 2013, the North Carolina legislature deliberately began to pursue policies meant to enhance overall economic growth, that is, to expand economic well-being typically measured by Gross State Product (GDP). Specifically, this has taken the form of policies designed to enable businesses to act efficiently and entrepreneurs to innovate and pursue opportunities. In short, their policies allowed the overall allocation of resources and investment to be determined by the free interaction of consumers and businesses. The GDP growth chart in this section shows the positive impact of this approach.

For decades prior to this, North Carolina focused primarily on what is known as “economic development policy,” which is distinctly different from economic growth policy. Economic development policies target specific localities, regions, and businesses for special privileges at the expense of the rest of the state. These policies will typically create jobs or economic activity in one part of the state or in one of a handful of industries where subsidies or tax incentives are directed. This expansion, however, comes at the expense of jobs and economic activity elsewhere.

Although in recent years, growth-enhancing policies have dominated both tax and regulatory reform efforts, economic development policy continues to lure politicians and bureaucrats anxious to direct private resources toward pet projects, while erroneously claiming they are promoting the good of the state. In reality, economic development policy allows state or local government officials to pick winners and spread the losses to taxpayers and other unsubsidized businesses. It is a form of central planning of resource allocation that is inconsistent with a free-market economy.

The starting premise behind policies to promote economic growth is that private entrepreneurs, using their own money or the money of voluntary investors, know best how to allocate resources efficiently. The problem facing policymakers who aim to promote economic growth, then, is to see to it that property rights are secure, that entrepreneurs can use their property rights in any way they believe will be most productive, and that tax and regulatory policies do not get in the way of this entrepreneurial process. The best way for the state to promote economic growth is to remove barriers to entrepreneurship and to not favor, through subsidies or special tax breaks, one industry or form of economic activity over another.

But the political lure of targeted economic development policies continues to rear its growth-stifling head. For the last several legislative sessions, there has been a renewed interest in pursuing economic development policies. Elected officials have expanded subsidies for both Hollywood filmmakers and the solar energy industry. This schizophrenic approach to economic policy is like trying to increase the speed of a boat by investing in a bigger and more powerful motor (tax and regulatory reform policies) while simultaneously tossing a heavy anchor over the side (economic development policies). Sure, the boat may continue to move forward, and indeed it may increase its speed if the force of the new engine is greater than the drag of the anchor. But clearly, the new engine would work even better if the captain lifted the anchor completely.

KEY FACTS

- » The belief behind economic development policy is that the decisions of entrepreneurs cannot be trusted. “Experts” in government believe they can decide more effectively what kinds of businesses and industries are appropriate for the state, and then direct what would otherwise be private-sector resources toward the chosen companies. Economic development policies always transfer resources from other opportunities that market participants would have chosen.
- » By reforming tax and regulatory laws, North Carolina lawmakers have crafted policies with an eye toward enhancing economic growth. (See Tax Reform and Red Tape and Regulatory Reform.) On the other hand, North Carolina lawmakers continue to create special programs that include tax breaks and subsidies for favored industries and companies, which distort resource allocation.
- » Dramatic reductions in the state’s corporate income tax rate and related reforms eliminated some of the special breaks that had been part of the law. Nevertheless, North Carolina’s tax system still penalizes investment and entrepreneurship by double taxing the economic returns to these activities, hindering economic growth.
- » Business subsidies that end up hampering economic growth might be most egregious at the local level, with city and county governments in fierce competition with one another to attract particular investments. Their activity is authorized by the Local Development Act of 1925.
- » The FY 2021-22 budget phases out the corporate income tax, beginning in 2025 and zeroing it out in 2029.”

RECOMMENDATIONS

1. Repeal all economic development policies that grant special favors to particular businesses or industries.

Economic growth policy creates an environment that encourages private-sector entrepreneurship by removing government from the resource allocation picture entirely.

2. Continue to pursue pro-growth tax reform by eliminating tax biases against investment and entrepreneurship.

This could be done by abolishing or reducing taxation on capital gains, and allowing businesses to deduct all expenses from their taxable income in the year that they are incurred. (See Tax Reform.)

3. Continue to pursue regulatory reform by looking for ways to reduce outdated or ineffective regulations for which the benefits do not outweigh the costs.

For example, abolish laws that restrict growth in particular industries, such as certificate-of-need laws for hospitals and restrictions on the production and distribution of alcoholic beverages.

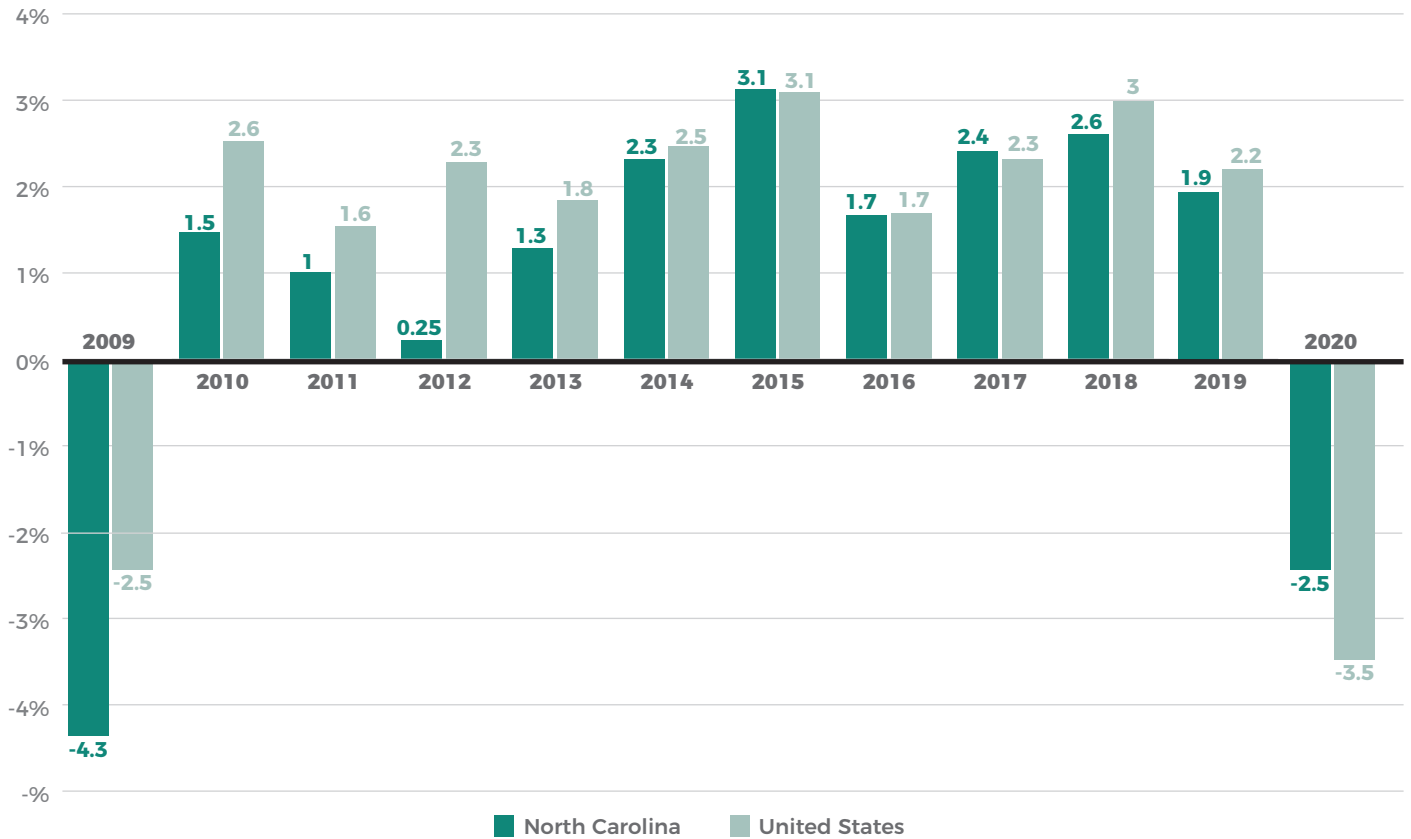
4. Eliminate or make changes to occupational licensing laws that tend to block entrepreneurship.

True entrepreneurship is what creates economic growth and meaningful jobs. (See Occupational Licensing.)

5. Repeal the Local Development Act of 1925.

This law authorizes local government entities to harm economic growth by pursuing economic development policies that use property tax collections to subsidize favored businesses.

NC/USA Gross Domestic Product (GDP) Growth Comparison



SOURCE: FEDERAL RESERVE BANK OF ST. LOUIS, ECONOMIC RESEARCH DIVISION

FILM GRANTS

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

“Bull Durham,” “Last of the Mohicans,” “Dirty Dancing,” and most other beloved ‘North Carolina films’ were produced without film production grants or incentives. They were made years before state officials ever thought the industry required government help.

Several features make North Carolina an attractive location for filming. It offers a diverse climate, rural to urban landscapes, mountainous to coastal terrain, a cornucopia of settings, and a good production infrastructure. It’s also a right-to-work state with competitive wages and cost of living.

Add to that a series of major reforms beginning in 2013 that reduced tax rates (including the corporate income tax), kept state spending growth in check, and eliminated intrusive red tape. Taken together, these attributes have made North Carolina an even more highly attractive place in which to do business, invest, and relocate. A more free business climate is a powerful incentive to untold numbers and kinds of business enterprises creating domestic jobs.

Enjoying lower costs of doing business is good for business, and by extension, it’s good for job creation, investment, and the state’s economy. But the message behind the North Carolina Film and Entertainment Grant fund is this: We only want certain kinds of business to enjoy a lower cost of doing business. Established, in-state enterprises are left to deal with a comparably higher cost of doing business.

Unlike other economic incentive programs, film grants don’t require recipients to earn them over time by hitting specific local job-creation targets or fulfilling other long-term promises. When the project is over, the grant money is gone and so are the jobs.

The biggest beneficiaries of film grants are outside film production companies – even if they don’t produce in North Carolina. They can pit North Carolina’s “bid” for film productions against other states’ bids (and foreign nations’, too). This bidding war turns into a race to the bottom, with each state under constant pressure to increase its giveaways.

KEY FACTS

- » North Carolina started offering film production tax credits in 2005 as an open-ended subsidy offering up to \$7.5 million per production. Lawmakers greatly expanded the subsidy in 2010 to offer up to \$20 million per production. The tax credit was repealed in 2014. It was replaced by a modest grant program of \$10 million the following year, which lawmakers have since tripled.

- » Currently, the film grant program offers a rebate of up to 25% of qualifying expenses, with differing maximum credits for television series (\$15 million), feature films (\$7 million), and commercials (\$250,000).
- » Multiple third-party studies of North Carolina's program incentivizing film productions showed negative returns, ranging from just over 19 cents per dollar of tax credit given, to a high of 61 cents per dollar (in a study that did not account for opportunity costs and whose authors acknowledged that "a more detailed report is likely to conclude that the loss to the State is even greater").
- » State film incentives programs were a fad popular in the early 2000s. By 2009, all but six states had some kind of film incentive. Meanwhile, studies were consistently finding deeply negative returns on investment, so states began getting out of the bidding war. By 2020, 19 states were not offering film incentives. That figure is up from just six in 2009.
- » Recent peer-reviewed research shows that state film incentive programs have no impact on their states' economies or industries, in effect benefitting only outside film production companies and current workers.
- » Out-of-state recipients of film incentives have also demonstrated a desire to leverage the programs to pressure state lawmakers into passing laws conforming to their social politics, not only in Georgia, but also in North Carolina and other states.

RECOMMENDATIONS

1. End the film production grant program.

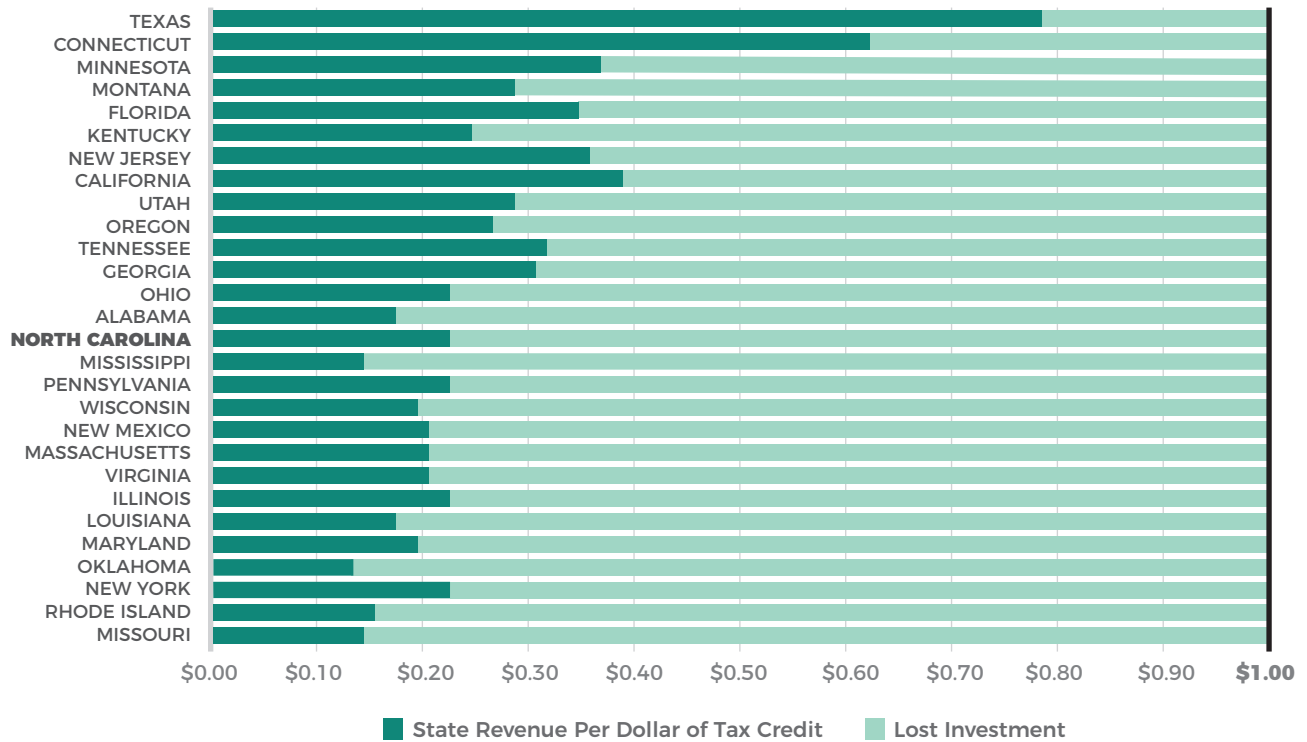
State leaders should ignore, not reward, outside film productions' demands for higher incentives bids in their search for a state to pay them for their short-term business endeavors.

2. Allow the state's significant, across-the-board pro-growth reforms to attract outside film productions, just as they attract business for other enterprises.

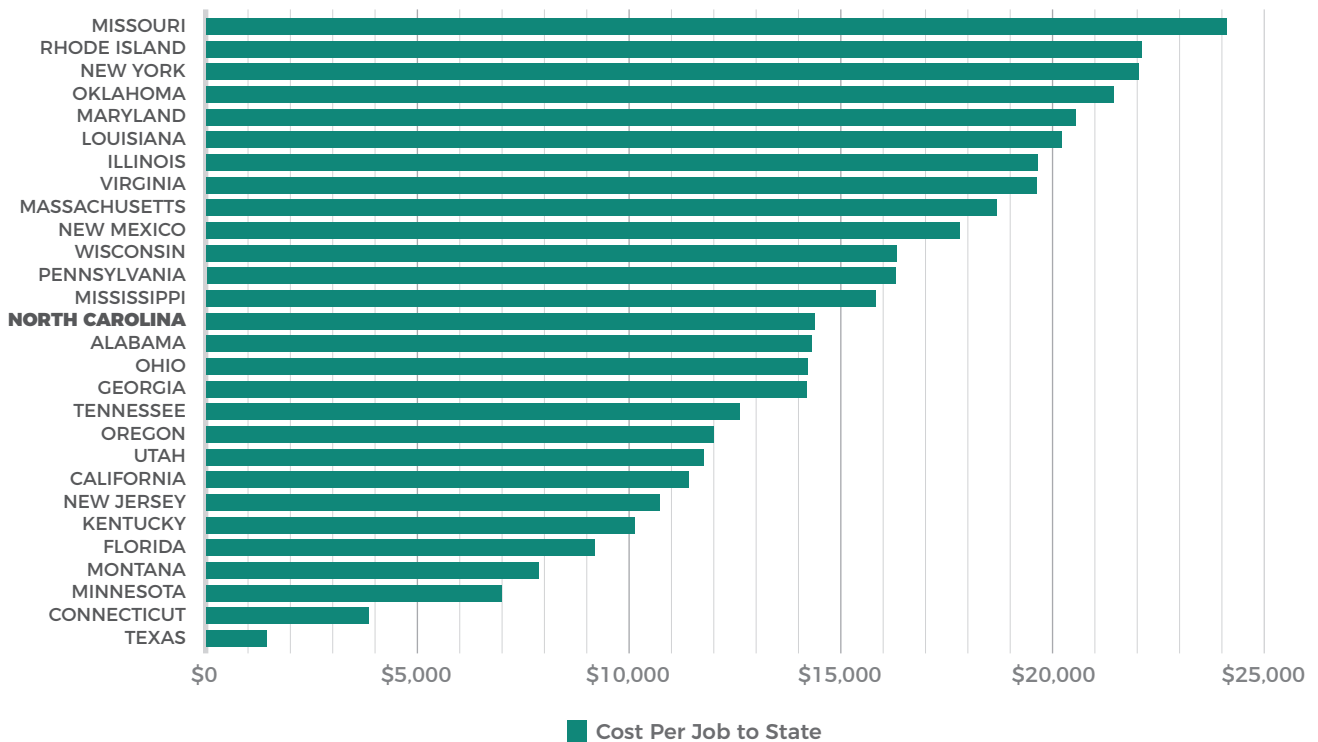
Thanks in part to recent tax and regulatory reforms, North Carolina boasts a freer business climate, a vibrant economy, lower costs of doing business, and beautiful natural amenities. These are already attracting hosts of other business endeavors that will be here for the long haul.

FILM GRANTS

States Get Negative Returns On Investment Trying To Incentivize Film Productions



How Much States Spend In Incentives Per Temporary Film Job



SOURCE: MARK F. OWENS AND ADAM D. RENNHOF, "MOTION PICTURE PRODUCTION INCENTIVES AND FILMING LOCATION DECISIONS: A DISCRETE CHOICE APPROACH," JOURNAL OF ECONOMIC GEOGRAPHY (2018)

STATE EMPLOYEE BENEFITS

POLICY ANALYST: **JOSEPH COLETTI**

INTRODUCTION

State government is the largest employer in North Carolina, with more than 300,000 full-time-equivalent positions. State employees have been working for the state an average of 11 years. Attracting and keeping employees is a constant challenge. Benefits beyond salary have traditionally been a factor in the desirability of government jobs. State employees received benefits in 2020 worth \$31,227 in addition to their average salary of \$52,257. This means that, on average, each state government employee costs taxpayers more than \$83,000 per year.

The 2020 total compensation figure marked a 39% increase over 2008.

The fastest-growing component of employee compensation is the state payment for pension and health benefits. The cost to taxpayers of providing those two benefits grew a whopping 139% from 2008 to 2020, rising from \$7,318 to \$17,478.

Retired state employees receive generous health insurance at no cost, with an option of upgrading to more generous coverage for a small monthly premium. In 2020, the unfunded liability for retiree health plan benefits totaled \$27.7 billion. North Carolina state employees who start work after Dec. 31, 2020, will not be eligible to participate in the State Health Plan after retirement, a move that will remedy the retiree health care cost liability well into the future, but the daunting liability of the next several decades must be addressed.

Retirees also receive pension payments based on their length of service and their last three years of salary. The largest pension system, the Teachers' and State Employees' Retirement system (TSERS), owes current and future retired teachers and state employees \$86 billion but has assets valued at just \$74 billion, creating an unfunded pension liability of \$12 billion. Investments have fallen short of the assumed rate of return, even as former state treasurers took advantage of greater latitude to invest in hedge funds and other nontraditional assets. Current State Treasurer Dale Folwell has saved more than \$350 million in investment management fees from January 2017 to the end of 2020 and has pared back the assumed rate of return for pension assets from 7.25% to 6.5% in 2021.

North Carolina's pension system guarantees a defined level of monthly payments to retired state employees for life. If there were not enough money available to cover these payments, the state either would need to raise taxes or cut spending in other areas. The risk to employees is that the liability, left unaddressed, will be so great that the state would reduce the monthly pension payments. As municipal bankruptcies around the

country have demonstrated, unfunded liabilities can lead governments to raise taxes or to cut or eliminate benefits with no warning.

To reduce the risks to both taxpayers and retirees, Michigan in 2017 switched from such traditional defined-benefit pensions to defined-contribution retirement plans, which create individual accounts for employees to manage with funds they and state government contribute during their careers. There is no guaranteed payout and no hidden risk with defined-contribution plans.

KEY FACTS

- » Employer contributions for state pension and health benefits totaled more than \$17,300 per employee in 2020, an increase of 88% from 2010. Higher cost for required benefits means less money for salaries.
- » Unfunded liabilities for state pensions and retiree health benefits total nearly \$40 billion.
- » The state eliminated health care benefits after retirement for new employees who begin their employment after December 31, 2020.
- » State pension investments failed to meet the previous 7% assumed rate of return over the past 20 years. Treasurer Dale Folwell reduced the expected rate of return to 6.5%, but even a lower expected return would still require more appropriations to the pension system.

RECOMMENDATIONS

1. Contribute the actuarially required amount to meet future state health plan obligations.

Unfunded liabilities could harm future retirees, taxpayers, and the state's AAA bond rating. An annual appropriation needs to be established for both the pension and health plans until they both are at least 95% funded.

2. Continue reducing investment return expectations for pensions.

Setting a lower bar for investment returns will allow pension managers to stop chasing riskier investments in the hope of meeting overly ambitious targets, and produce more realistic liability figures.

3. Take additional steps to reduce current health plan costs and long-term liability.

There are a number of services that help people save money on health costs. Making them available to employees covered by the State Health Plan can improve the plan's finances. The Treasurer is right to continue his push for clear pricing from hospitals.

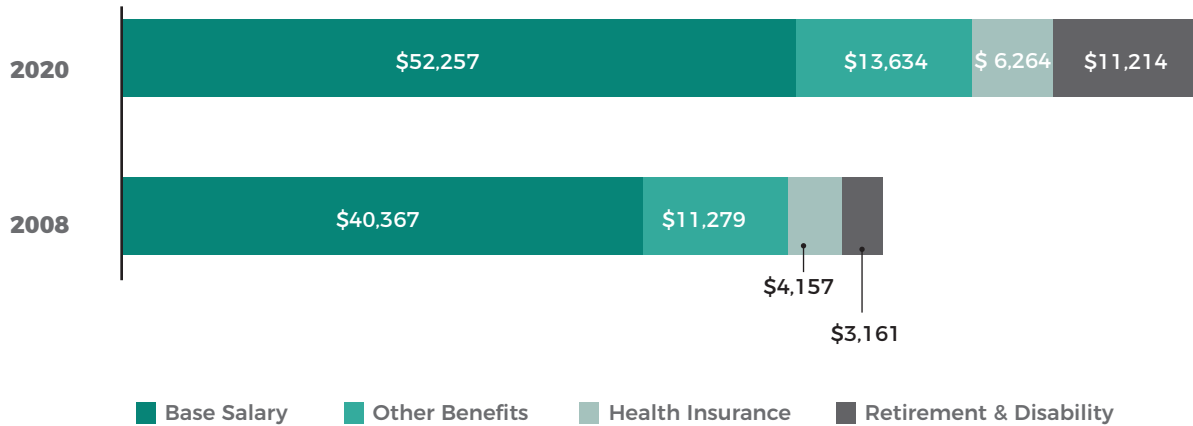
4. Transition to defined-contribution pension alternatives for both new employees and current employees.

New teachers, corrections officers, and other state employees often do not reach the five years of service needed to vest in the pension system. They should have better choices, and those choices should be open to longer-service employees as well. Employees enrolled in 401k-style defined-contribution plans immediately own control over their retirement contributions, instead of having to wait to be vested in their pension. Moreover, defined-contribution plans remove the risk to taxpayers for having to pay for massive – and growing – pension liabilities.

5. Increase transparency of the pension plan and other employee benefit plans.

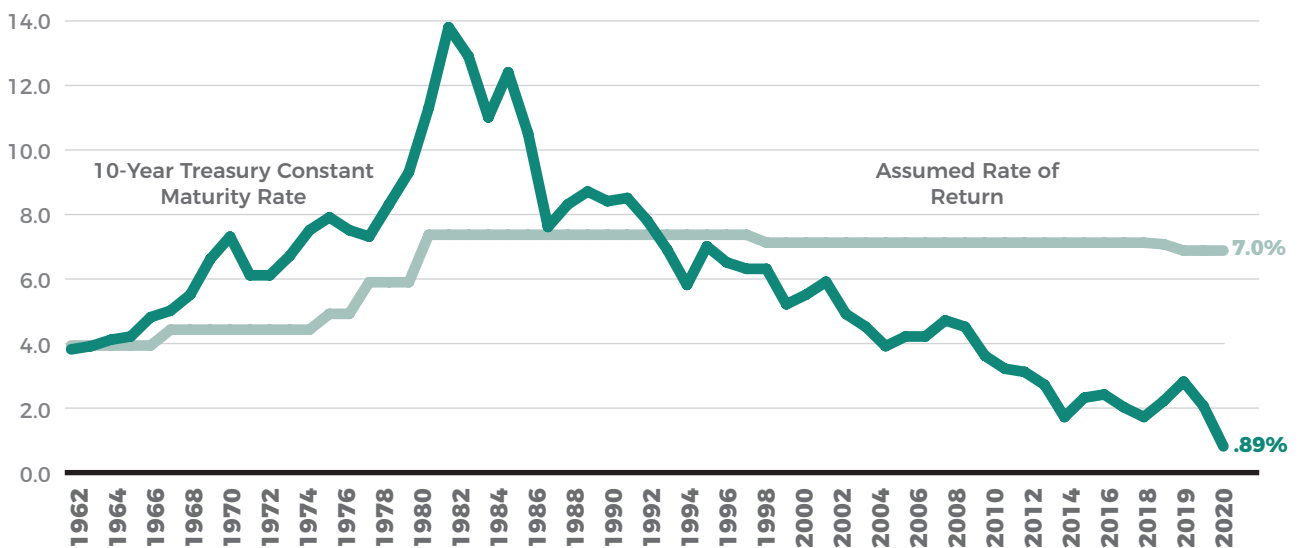
Financial statements for these accounts need to be available for review in a convenient place, preferably an easily accessible website. Finances should be considered a priority when evaluating the state's fiscal situation. State employees should be able to see the value of their benefits and the likelihood of receiving those benefits.

Growth In State Employee Benefits



SOURCE: OFFICE OF STATE HUMAN RESOURCES

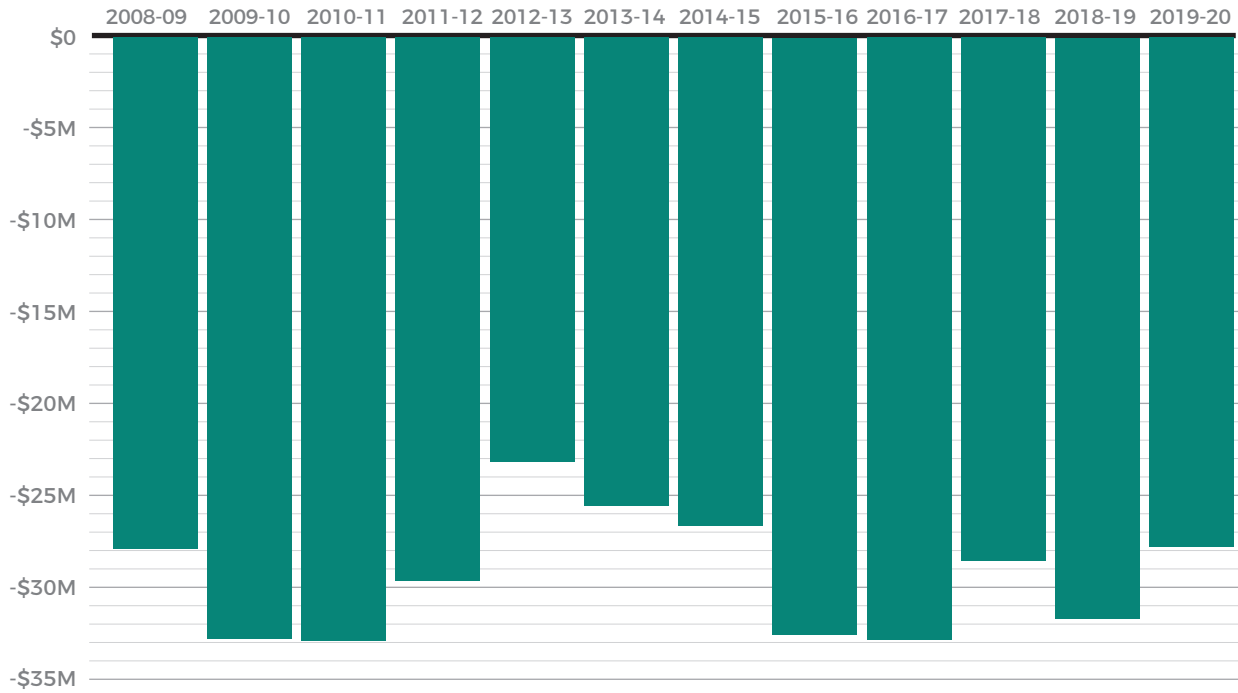
Pension Fund Assumed Rate of Return and 10-Year Treasury Rate



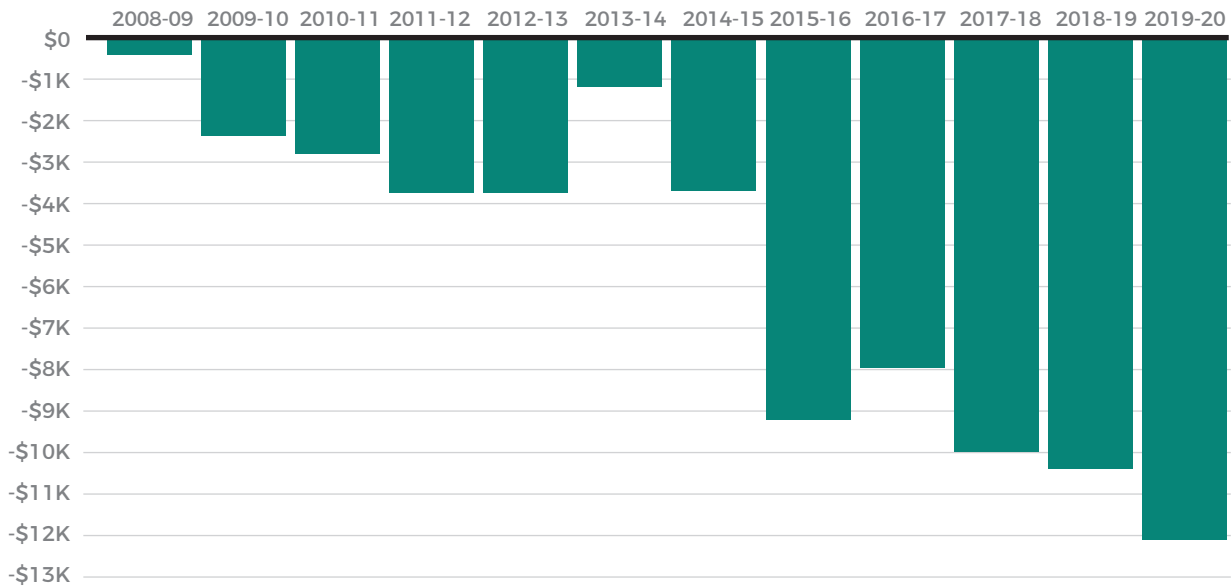
SOURCE: DEPARTMENT OF THE STATE TREASURER, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Unfunded Liabilities of North Carolina State Government

RETIREE HEALTH PLAN BENEFITS



TEACHER AND STATE EMPLOYEE PENSIONS



SOURCE: OFFICE OF THE STATE CONTROLLER, COMPREHENSIVE ANNUAL FINANCIAL REPORTS

STATE SPENDING AND TAXES

POLICY ANALYST: JOSEPH COLETTI

INTRODUCTION

North Carolina has one of the strictest balanced-budget requirements in the country. State law holds the governor responsible for cutting expenditures to avoid a deficit. Republican leadership in the General Assembly since 2011 has helped by keeping inflation-adjusted General Fund appropriations per person in check. This spending restraint reversed more than three decades of fiscal irresponsibility, a period when increasing taxes to spend more was normal policy. Restrained spending has also made room to increase savings and cut taxes, leaving state finances better able to weather the next economic downturn.

A close look at recent numbers shows that education, Medicaid, and public safety received 83% of the \$24.1 billion in Fiscal Year (FY) 2019-20 General Fund appropriations, including debt service. Taxes on personal income and sales provided 84% of the \$23.9 billion in FY 2019-20 General Fund revenues.

State government needs revenue to pay for the goods and services it provides, and the state raises that revenue by imposing personal income, sales, and other taxes on its residents. Vehicle owners currently pay \$3.8 billion annually to cover transportation funding. Federal funds add \$17 billion. Lottery sales, tuition payments, unemployment insurance, and other sources contribute \$5 billion, bringing total state spending to more than \$50 billion, as of FY 2018-19.

Each source of funds poses intended and unintended consequences. Income taxes – particularly taxes on business income – grow faster than the economy in good times and fall faster during recessions. Federal funds come with strings.

Spending and tax changes made today have long-term implications. Individual bills with fiscal implications receive five-year fiscal notes, but budget bills only cover the one or two years of the budget cycle. This lack of knowledge could make it more difficult to balance future budgets.

KEY FACTS

- » Actual General Fund appropriations in FY 2019-20 totaled \$24.1 billion, including debt service. Actual revenue totaled \$23.9 billion. The year began with an unreserved cash balance of \$1.8 billion.
- » In FY 1989-90, when the John Locke Foundation was launched, General Fund appropriations per person, adjusted for inflation, were \$1,672.

- » After peaking in FY 2007-08 at an inflation-adjusted \$2,304, appropriations in FY 2019-20 were back to \$2,029.
- » Total government spending in FY 2018-19 was \$54 billion, or about \$5,300 per person. In FY 1989-90, adjusted for inflation, total spending was \$3,508 per person.
- » Government savings in the rainy-day fund, also known as Savings Reserve, climbed to \$2.0 billion before Hurricane Florence in 2018. As of April 2021, it stood at \$1.1 billion.

RECOMMENDATIONS

1. Amend the state constitution to limit spending and spending growth.

A proper amendment would (1) allow tax hikes or higher spending growth only if approved by public referendum or a legislative super-majority, (2) deposit excess revenue in the Savings Reserve or refund taxpayers, (3) prevent ratchet effects from recessionary spending cuts, and (4) apply to General Fund and total spending. Commonly referred to as a Taxpayer Bill of Rights (TABOR), such restraints would cap annual spending growth to a formula tied to population plus inflation growth.

2. Save for recession, natural disasters, and variable revenues.

State government should leave money in an unreserved cash balance or in the Savings Reserve to mitigate the desire for tax increases when storms hit or revenues slow.

3. Project spending and revenue for five years with each proposed budget.

Projections that show a range of options for spending and taxes can provide a better understanding of the financial implications of budget decisions today, while shedding light on future choices policymakers will face.

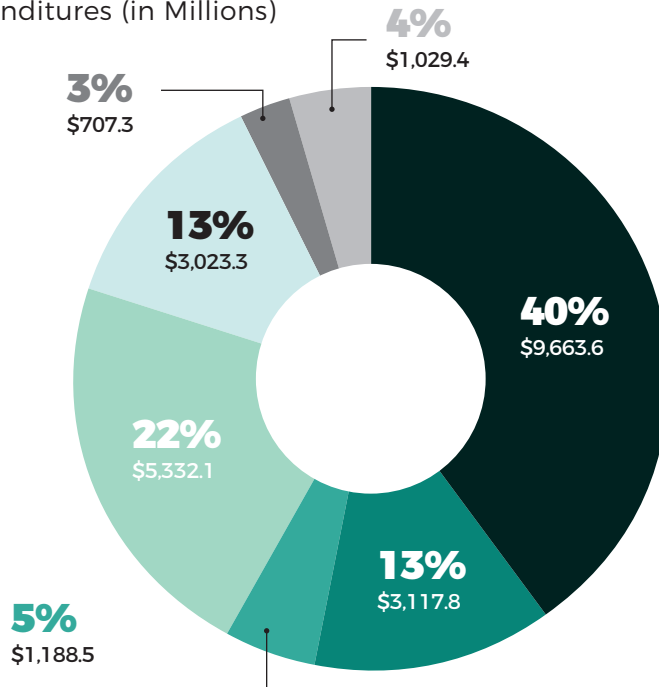
4. Advance additional tax reform measures that include reductions in corporate and personal income taxes and taxes on capital gains.

These measures may reduce volatility in tax revenue and provide greater certainty for future spending growth. More importantly, these measures would leave more money in the wallets of hard-working North Carolinians while increasing economic growth and job opportunities.

Where Does the Money Go?

FY 2019-20 General Fund Expenditures (in Millions)

- K-12 Education
- UNC System
- Community College
- Health & Human Services
- Public Safety
- Debt Service
- Other



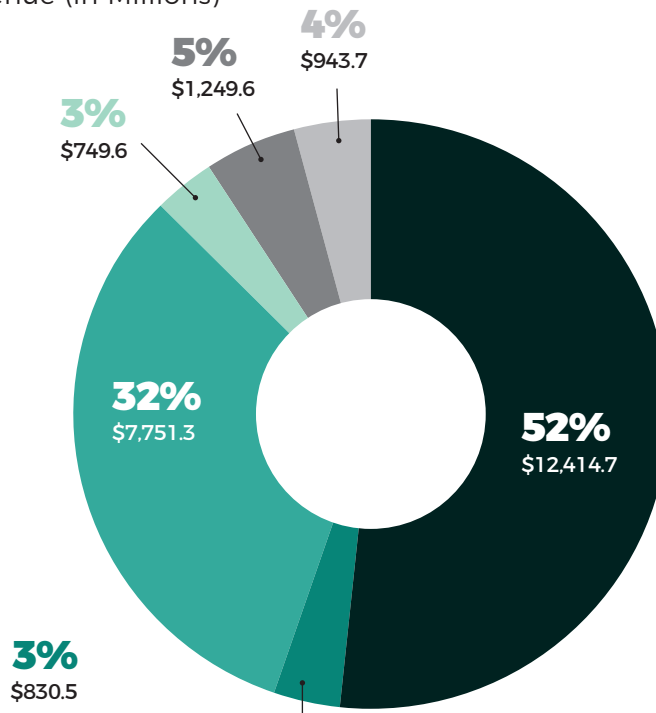
NOTE: "OTHER" INCLUDES: GEN. GOV., ECON. DEVELOPMENT, ENVIRONMENT & NAT RES. AND AGRICULTURE

SOURCES: OFFICE OF THE STATE CONTROLLER

Where Does the Money Come From?

FY 2019-20 General Fund Revenue (in Millions)

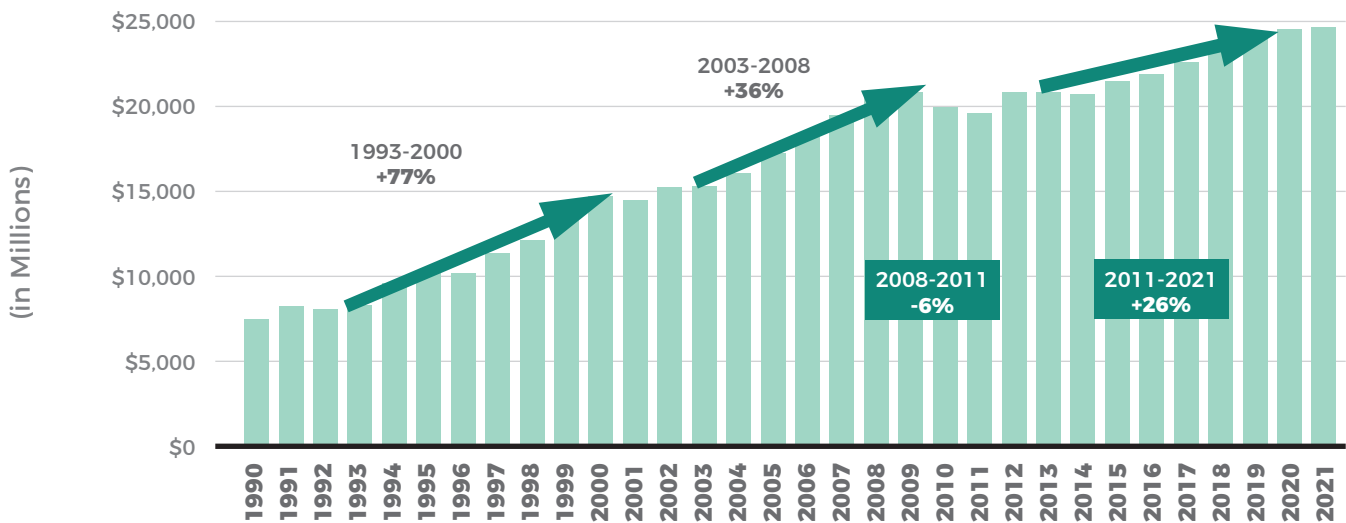
- Individual Income
- Corporate Income
- Sales & Use
- Franchise
- Other Tax
- Non-Tax Revenue



NOTE: TOTALS MAY NOT SUM TO 100% DUE TO ROUNDING

SOURCES: OFFICE OF THE STATE CONTROLLER

General Fund Appropriations



SOURCES: SOURCES: GENERAL FUND EXPENDITURES TAKEN FROM FY 2019-21 GOVERNOR'S RECOMMENDED BUDGET, OFFICE OF STATE BUDGET & MANAGEMENT, APPENDIX TABLE 2B. ACCESSED ONLINE JUNE 21, 2021 AT: [HTTPS://WWW.OSBM.NC.GOV/BUDGET/GOVERNORS-BUDGET-RECOMMENDATIONS/PAST-RECOMMENDED-BUDGETS/2019-21-GOVERNORS-RECOMMENDED-BUDGET](https://www.osbm.nc.gov/budget/governors-budget-recommendations/past-recommended-budgets/2019-21-governors-recommended-budget)

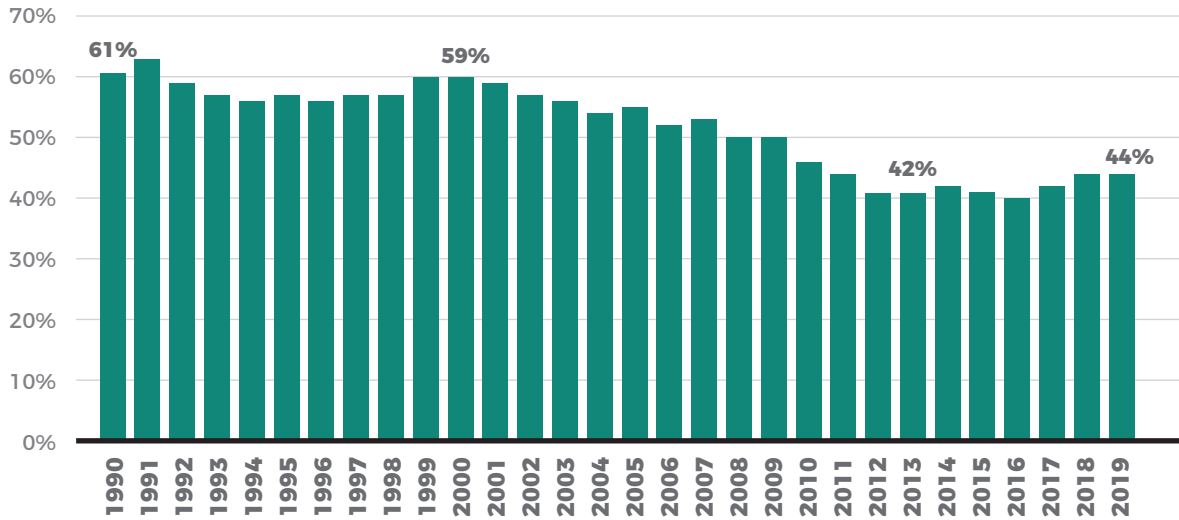
General Fund Appropriations Per Person

Adjusted for Inflation



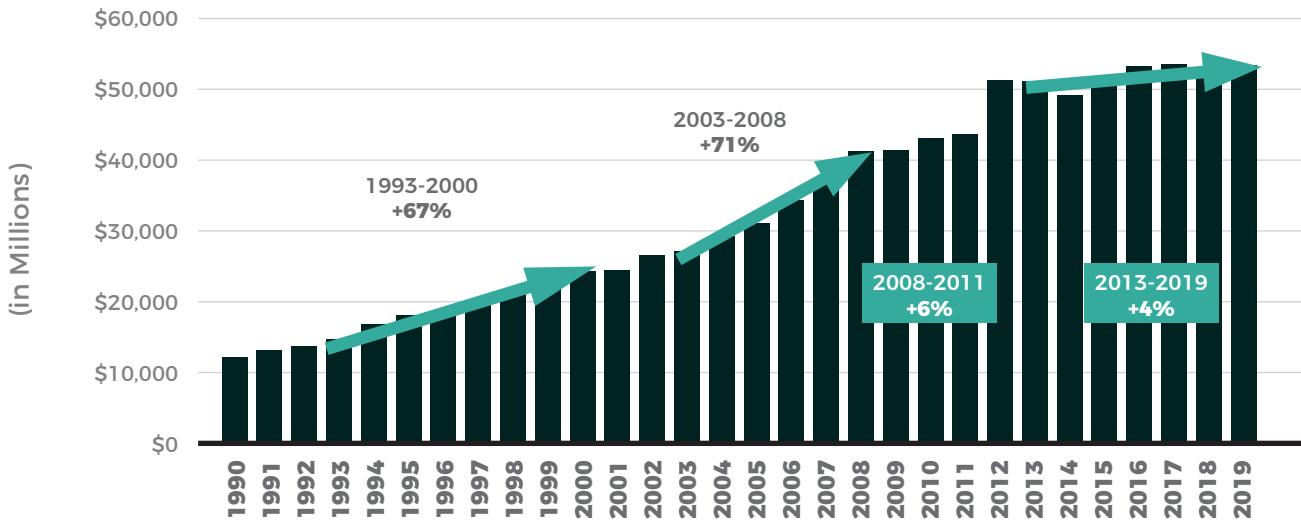
SOURCES: OFFICE OF STATE BUDGET AND MANAGEMENT, GDP DEFLATOR LEVELS FROM FEDERAL RESERVE BANK OF ST. LOUIS

General Fund Share of Total Spending



SOURCES: OFFICE OF THE STATE CONTROLLER

Total Spending



SOURCES: OFFICE OF THE STATE CONTROLLER

TAX REFORM

POLICY ANALYST: DR. ROY CORDATO

INTRODUCTION

For many years, economists and tax policy researchers maintained that North Carolina's tax system needed a major overhaul. The system was a model of hodgepodge tax policy with high marginal rates on personal and corporate incomes and many exemptions carved out for the favored few. This led to a tax system that generally penalized investment, entrepreneurship, and economic growth, and therefore job creation.

The process of improving the tax code began in 2011. A 1% temporary increase in sales tax put into effect in 2009 was set to expire. North Carolina Gov. Beverly Perdue was in favor of continuing the higher rate past its expiration date. Ultimately, it was allowed to sunset, but only because of an override of Gov. Perdue's veto of legislation by the newly elected Republican majority in the North Carolina General Assembly.

In 2013, the General Assembly implemented fundamental tax reform, which has become a model for states across the country. From the perspective of economic growth, the two most important improvements were pro-growth reforms in the personal and corporate income taxes. In addition, lawmakers also incorporated across-the-board tax cuts that would benefit most households in all income groups. The deliberative process that led to these changes was thoughtful and, in large part, ignored the kind of special-interest pleadings that typically plague such reform efforts.

Subsequent, smaller reforms have continued to improve North Carolina's tax code, so much so that the Tax Foundation now ranks North Carolina as having the 10th best business tax climate in the nation in 2021. In 2012, just prior to the major 2013 reforms, North Carolina ranked 7th worst in this index.

In the 2021 legislative session, the budget passed by the legislature and signed by Cooper included personal income tax cuts, a phase-out of the corporate tax cut, and a reduction in the franchise tax.

There continues to be more improvements to be made. North Carolina's tax code still has some features that create biases against saving and investment. In particular, by taxing interest and capital gains, the state tax code imposes a double tax on all saved income. This needs to be remedied. The corporate tax phaseout is a positive step, but the franchise tax should also be eliminated, and the state's continued use of targeted tax breaks to politically-favored corporations should end.

KEY FACTS

- » The 2013 tax reforms replaced a three-rate progressive income tax that ranged from 6 to 7.75%, the highest in the region, with a flat-rate tax of 5.8%. This rate was subsequently lowered to 5.499% and then to 5.25%, its current rate, which took effect in January 2019. The relatively low, flat personal income tax rate has ameliorated the bias against work effort and productivity that plagued the previous progressive rate structure.
- » The standard deduction, also known as the zero tax bracket, has been dramatically increased from \$6,000 prior to the 2013 reforms to \$21,500 for a couple filing jointly in 2021. This was a way of building progressivity into what is essentially a flat-rate system.
- » The corporate tax rate has been reduced from 6.9% in 2012, the highest in the Southeast, to the current rate of 2.5%, the lowest of any state that taxes corporate income. The 2021 budget bill schedules the corporate tax to phase out by 2029.
- » The sales tax rate did not change, but the base was expanded to include some services. Business-to-business sales continue to be taxed.
- » North Carolina continues to double tax saving and investment by taxing investments and capital gains. Full repeal of the capital gains tax would save taxpayers an estimated \$500 million a year, which would need to be offset by budget cuts. A 50% exclusion would save taxpayers \$250 million, and so on.

RECOMMENDATIONS

1. Future reform efforts need to focus on eliminating savings from the tax base.

This would eliminate the bias against saving, investment, and entrepreneurship that still exists in the tax code. A good first step in this direction would be to eliminate taxation on capital gains or, at the very least, creation of a capital gains exclusion. The reduction in revenue to the treasury from reducing or abolishing the capital gains tax should be replaced by eliminating economic development programs that subsidize business. (See Economic Growth.)

2. If lawmakers refuse to eliminate the tax on capital gains, at the very least such gains should be indexed for inflation.

This measure would eliminate what is essentially a tax on no real gains at all.

3. Eliminate the Franchise Tax.

This tax is particularly harmful to worker wages and economic growth.

4. Businesses should be allowed to deduct all purchases of capital equipment and land in the year they are incurred, which is known as expensing.

This approach has recently been adopted at the federal level and will also apply to North Carolina. But federal policy in this regard will expire after five years. North Carolina should go beyond federal tax policy and make immediate expensing a permanent feature of the tax code.

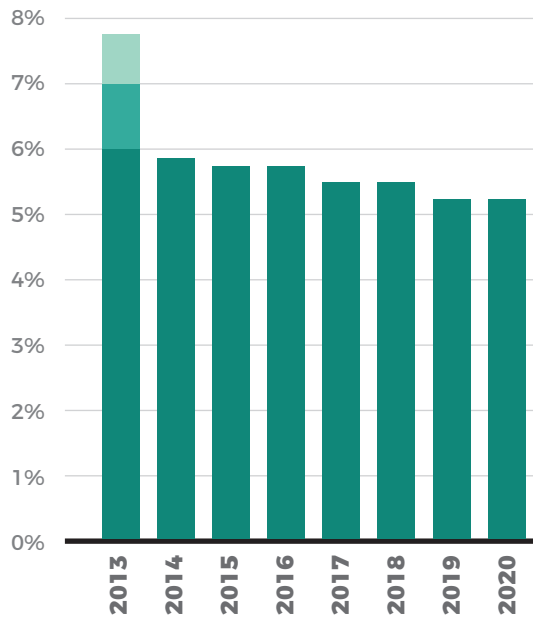
5. There should be a moratorium on any new expansion of the sales tax base until business-to-business sales are exempted from the tax.

This is a hidden double tax embedded in the system.

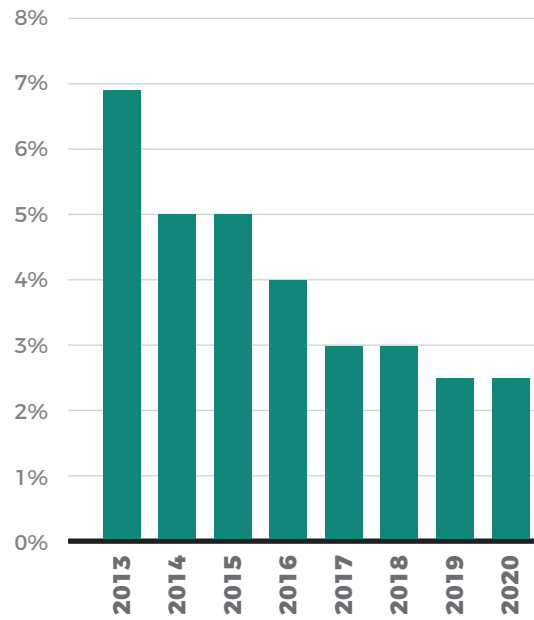
6. Ideally, lawmakers should seek to eliminate the double taxation of saving and investment returns by converting the current system into a “consumed income tax.”

This is done by adjusting the tax base to allow taxpayers to deduct saving and investment from their taxable income. Both the principal and the interest would be taxed when they are removed from saving and spent. This is similar to the way “individual retirement accounts” (IRAs) are treated under the tax code, except there would be no age limits or other restrictions on withdrawal.

Personal Income Tax Rate In North Carolina



Corporate Income Tax Rate In North Carolina



NOTE: 2013 PERSONAL INCOME TAXES ARE SPLIT UP AS LOW, MIDDLE, AND HIGH FOR THAT YEAR

SOURCE: JOHN LOCKE FOUNDATION RESEARCH

TRANSPORTATION FUNDING

POLICY ANALYST: **JOSEPH COLETTI**

INTRODUCTION

North Carolina has 80,000 miles of state highways, more than any other state besides Texas. Unlike Texas, where state roads are one-fourth of the total 313,000 miles of roads in the state, North Carolina owns three-fourths of its 106,000 miles of roads.

In fact, North Carolina is one of only five states where state government owns more than half of the road miles in the state. As a result, to build and maintain roads, our road network depends far more on user fees through the federal and state gas taxes, license fees, and vehicle sales tax than it does on local property taxes.

In addition, North Carolina has tried alternative funding mechanisms to supplement declining revenues from the motor fuels tax and other sources. The North Carolina Turnpike Authority manages tolls on the Triangle Expressway (new stretches of NC-147 and NC-540) in Durham and Wake counties. I-77 Mobility Partners won a 50-year contract to partner with the Department of Transportation (NCDOT) on I-77 express lanes in Charlotte. North Carolina uses Grant Anticipation Revenue Vehicle (GARVEE) financing to spend future federal funds today. In 2018, the legislature approved up to \$300 million in new Build NC borrowing per year, over 10 years, to fund additional road construction.

According to a 2013 study by transportation experts at the Hartgen Group and the Reason Foundation, better prioritization of projects could allow North Carolina to meet its highway needs without additional taxes. Efficient spending is critical because roads are only as valuable as the economic activity they make possible. Without productive activity, they are simply liabilities in need of maintenance.

The Strategic Transportation Investments formula replaced much of the political wrangling that had marked transportation planning in the past with a data-driven approach. While improvements are needed to calculate the total cost and congestion savings for each project, the formula will help North Carolina meet anticipated transportation needs.

NCDOT's latest initiatives to prepare for the future include the 2020 report entitled "NC Moves," which attempts to outline transportation needs, and a report by NC FIRST (Future Investment Resources for Sustainable Transportation) in 2021, which provided recommendations for how to fund those plans. A 2021 report by transportation expert Randal O'Toole and released by the Locke Foundation described the "NC Moves" report as "less of a plan than part of a media campaign," while criticizing the NC FIRST report as more outlining wants rather than needs. O'Toole's recommendations for improving the funding and focus of North Carolina's transportation system are included, in part, in this section.

KEY FACTS

- » North Carolina state government dedicates roughly 78% of the \$5 billion in current annual transportation spending – which includes \$1.2 billion in federal funds – to building and maintaining 80,000 miles of roads and more than 13,500 bridges. Municipalities add another \$800 million for local roads and transportation needs. North Carolina has no county-owned roads.
- » Because of improved fuel efficiency, raising revenue from the motor fuels tax to pay for roads will remain a challenge. Adjusted for inflation, the gas tax may be low compared to the rate before 1970, but the current (as of the end of 2021) 36.1 cents-per-gallon is just shy of the inflation-adjusted 37.3-cent average over the past 30 years.
- » Although North Carolinians think more funding is needed, they do not necessarily support new taxes. A March 2016 poll from High Point University found that 63% of respondents opposed toll roads, 72% opposed increasing the gas tax, and 87% opposed taxing motorists per-vehicle-mile traveled.

RECOMMENDATIONS

1. Improve the Strategic Transportation Investment Plan (STIP) formula to include total lifetime cost and anticipated congestion improvements.

The STIP is a marked improvement over previous road-funding decisions that were heavily influenced by political considerations, but they still can be improved. Costs to the community also may be understated in the current formula.

2. Prepare for future road funding shift away from the gas tax.

The gas tax has been a convenient and effective user fee, but fuel economy improvements and growing share for electric vehicles make it a questionable source of future road funds. Prominent among future financing options are shifts from the gas tax to a charge based on vehicle miles and weight, a separate fee for hybrids/EVs, or a property tax to pay for more locally owned and maintained roads. Impact fees may be another option but have had a mixed record when implemented.

3. Stop using highway user fees for non-highway or road purposes.

Diverting gas tax and vehicle registration fees for public transport like Amtrak or light rail, or even airports, is a poor use of funds and often burdens low-income households to benefit items more commonly used by higher-income people.

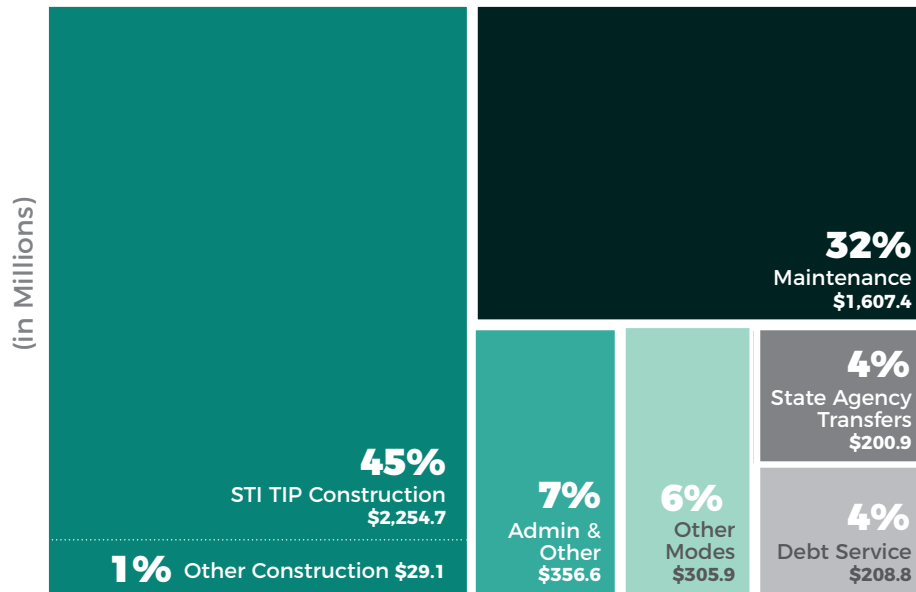
4. Invest more in safety and maintenance.

The condition of state collector roads and arterials is declining, suggesting more maintenance. Meanwhile, some highways are more dangerous than others, but the North Carolina Department of Transportation (NCDOT) seems little interested in understanding why or addressing the problem.

5. Consider ways to capture the value created by roads for property and business owners.

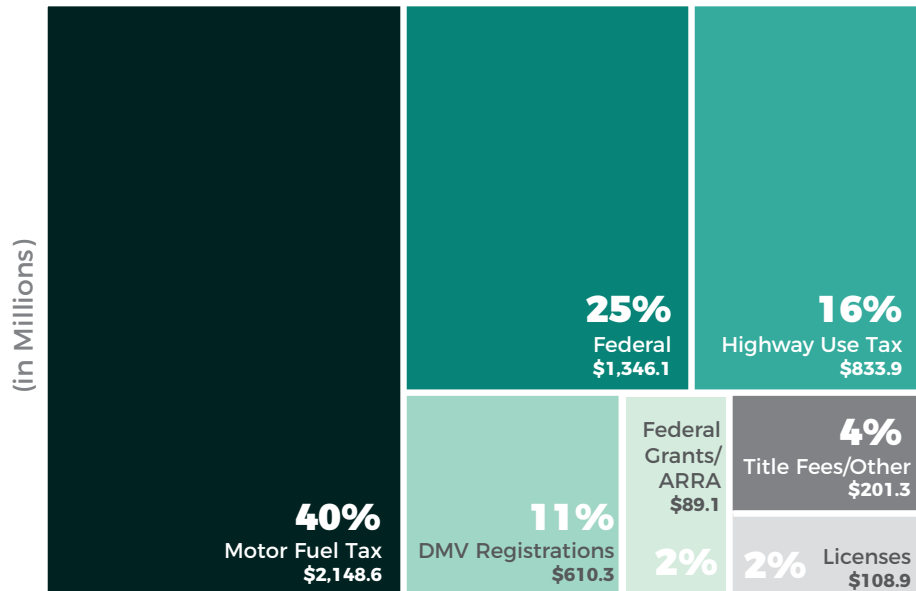
Few roads in North Carolina are the responsibility of municipalities, and none are the responsibility of counties. As a result, property tax, which could capture the value created by proximity to the transportation network, is not available to pay for most roads. Public-private partnerships could also open new ways to purchase and develop land near the right-of-way.

Transportation Spending, FY2020-21 (\$5.0 Billion)



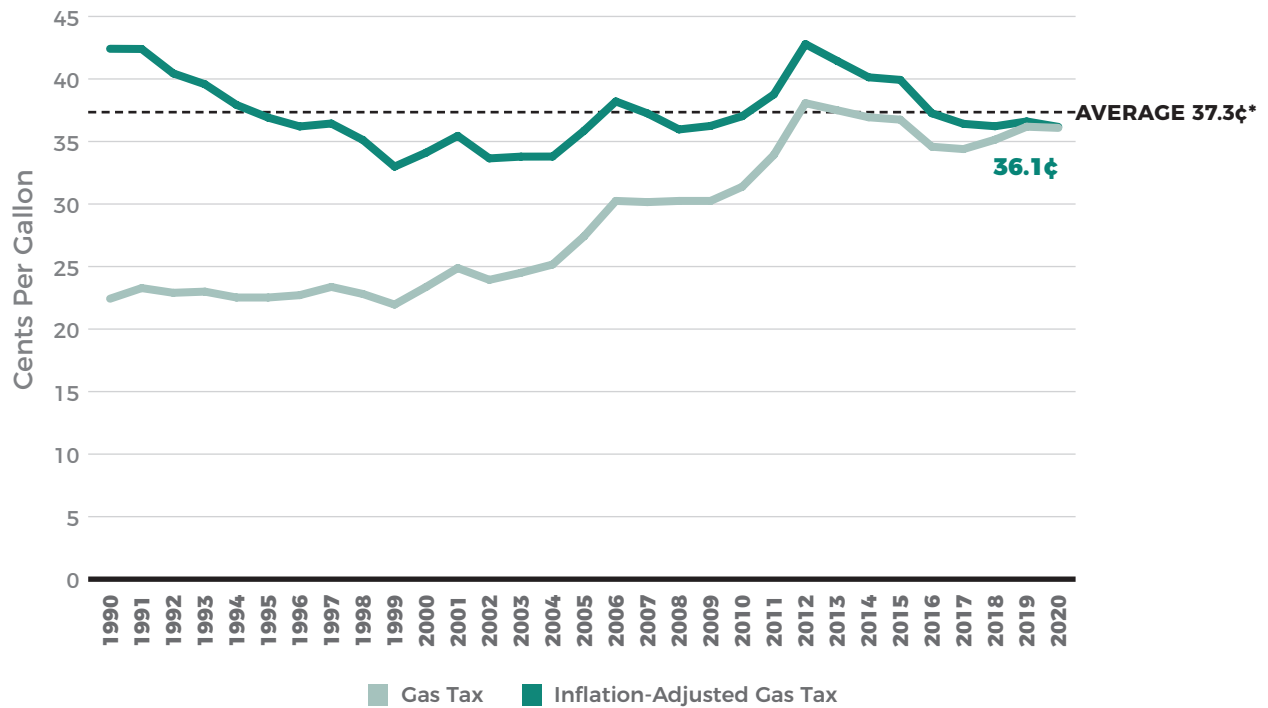
NOTE: TOTALS MAY NOT SUM TO 100% DUE TO ROUNDING

Sources of Transportation Funding, FY2019-20 (\$5.3 Billion)



SOURCE: NC DEPARTMENT OF TRANSPORTATION

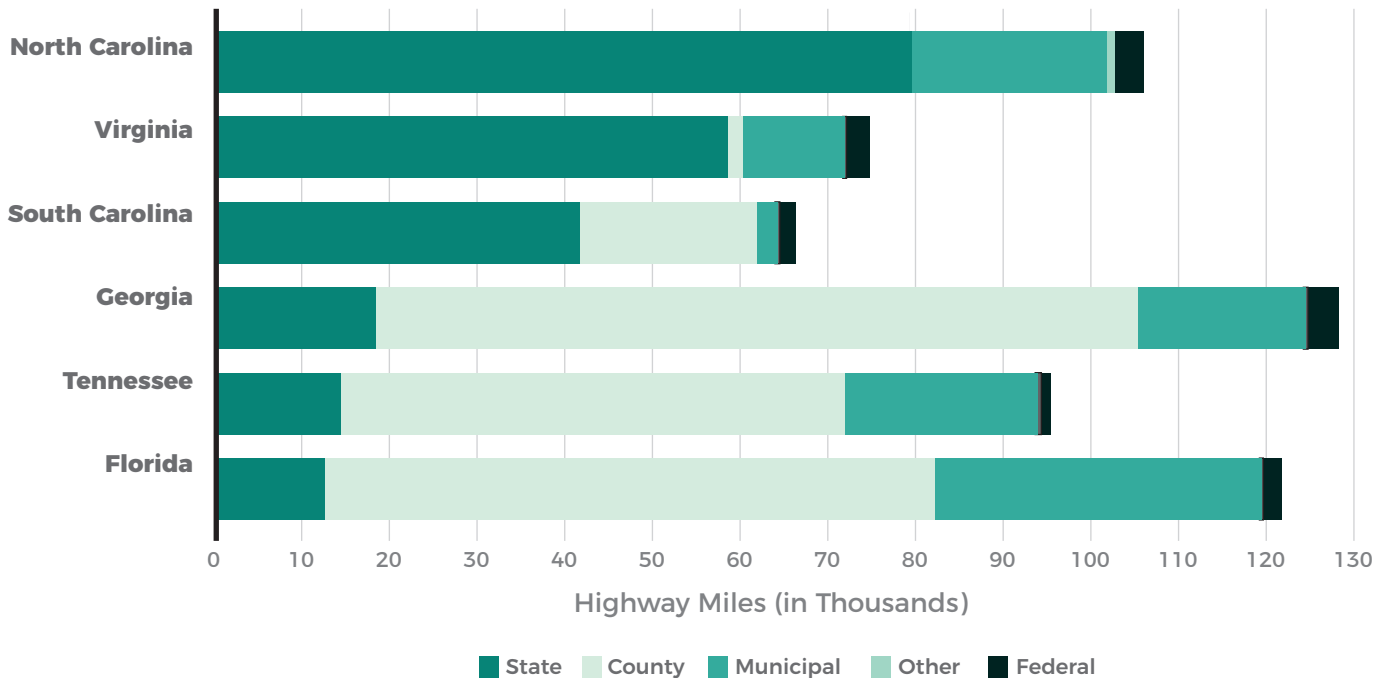
North Carolina Gas Tax Over Three Decades



*ADJUSTED FOR INFLATION

SOURCE: NC DEPARTMENT OF TRANSPORTATION

North Carolina State-Funded Roads Comprise 75% of Public Roads



SOURCE: US DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

EDUCATION

CHARTER SCHOOLS

POLICY ANALYST: DR. TERRY STOOPS

INTRODUCTION

Charter schools comprise one of the fastest growing and least understood types of public schools in North Carolina. Since the 100-school cap on charter schools was lifted in 2011, the number of charter schools in North Carolina has exploded to 200 schools with an enrollment of over 127,000 students. While the pandemic produced enrollment declines in many schools, charter school enrollment in North Carolina increased 8.7% from 2019-20 to 2020-21.

Even though they have been around for 25 years, confusion still surrounds charter schools. They are tuition-free public schools that have more freedom than district-run public schools but are required to meet certain state regulations, including participation in the state testing program.

The charter for each new charter school is awarded by the State Board of Education. Schools are accountable to that body. Unlike public schools, which are governed by elected school boards, charter schools are operated by nonprofit boards. Each board is responsible for ensuring the charter school follows relevant laws and the provisions of the charter.

If a charter school fails to live up to the provisions of its charter, the school can be put on probation or permanently closed. Since 1996-97, 48 charter schools have been closed for failure to maintain sufficient academic progress or financial sustainability.

Charter schools enjoy additional flexibility about administrative regulation and certification requirements regarding teachers. Charter schools also have the option of contracting with charter management companies that provide administrative and technical services.

According to state law, any child who is eligible for admission to a public school in North Carolina is eligible for admission to a charter school. Local boards of education cannot compel a child to attend a charter school. Charter schools are not allowed to limit admission to the school based on intellectual ability, achievement, aptitude, or athletic ability. Nor shall admission be limited on the basis of race, creed, national origin, religion, or ancestry. One year after opening, charter schools are required to make efforts to ensure the population of the school “reasonably reflect[s]” the racial and ethnic composition of the general population of the school district in which the charter school resides.

The demand for charter schools continues to grow. Some of this demand is a function of natural population growth. Some of it derives from changes to policies that previously restricted demand for charter schools. In recent years, provisions to lift restrictions limiting enrollment to specific grades, to clarify sibling admission requirements, and to modify teacher

certification requirements have helped charter schools respond to the demands of growth. Since 2011, charter school enrollment has increased 208%. According to the 2020 Office of Charter Schools Annual Report, charter schools had a waitlist of 76,000 students statewide.

KEY FACTS

- » According to the North Carolina Department of Public Instruction, the statewide average expenditure for charter schools for the 2019–20 school year was \$9,687. At the same time, the statewide average expenditure for traditional public schools was \$9,951 and \$872 per student for capital expenses. Charter schools receive no state or local capital funding to help with debt, and capital costs can often be significant.
- » North Carolina charter schools are in 65 of the state’s 100 counties, and all families can access charter schools. Charter schools allow families to cross county boundaries to attend their preferred school. In addition, North Carolina has two virtual charter schools to help meet the needs of students who wish to attend school online.
- » As of the 2020–21 school year, charter school students represented 8.1% of the public-school population in North Carolina, up from 6.1% two years before.
- » Since the passage of charter school legislation in 1996, 68 charter schools have either closed or relinquished their charters without opening.
- » Because of the pandemic, the U.S. Department of Education granted charter schools and public schools a waiver from federal testing requirements. The next year for comparative academic data for charter and traditional public schools will be 2022.

RECOMMENDATIONS

1. The State Board of Education should seek to set uniform performance standards between charter schools and traditional public schools.

All public schools should have the same performance standards. If a charter school fails to meet the goals of its charter, it is shutdown. If a public school does not meet its goals or perform well academically, it is not shutdown. The standards for public and charter schools are not the same.

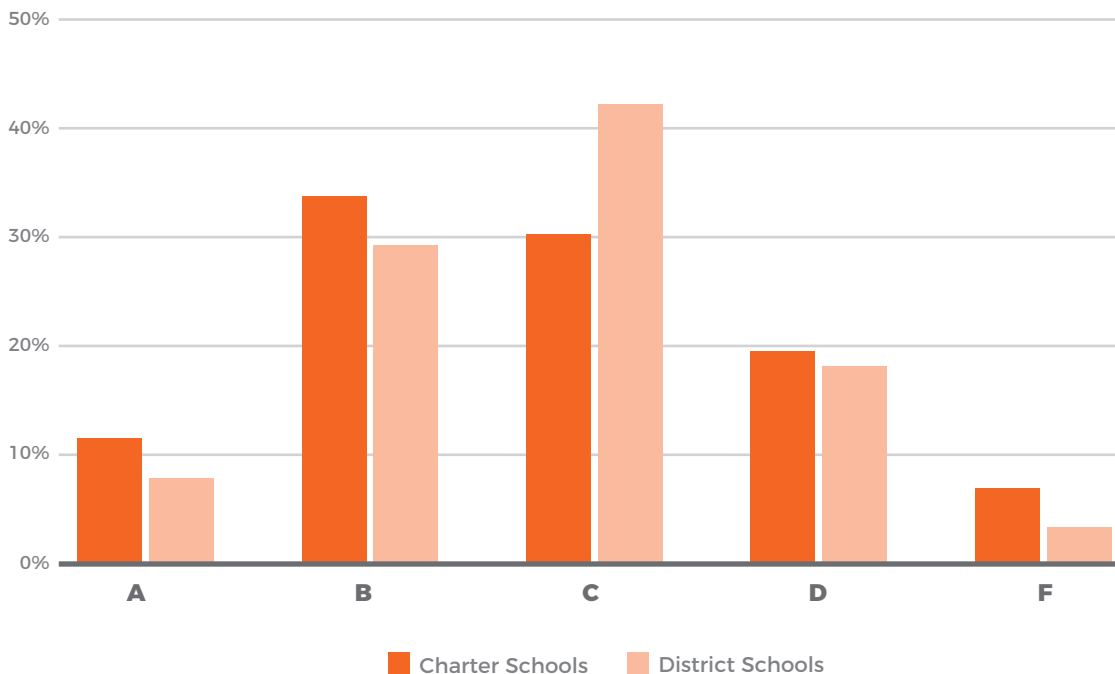
2. Lawmakers should allow counties and municipalities to contribute to the capital needs of charter schools within their jurisdictions if they so choose.

Unlike district schools, charter schools do not receive public funding for capital expenses or debt service. This should change.

3. Lawmakers should work to eliminate funding disparities that result from district schools being able to restrict funds from accounts whose monies must, by law, be shared with charter schools.

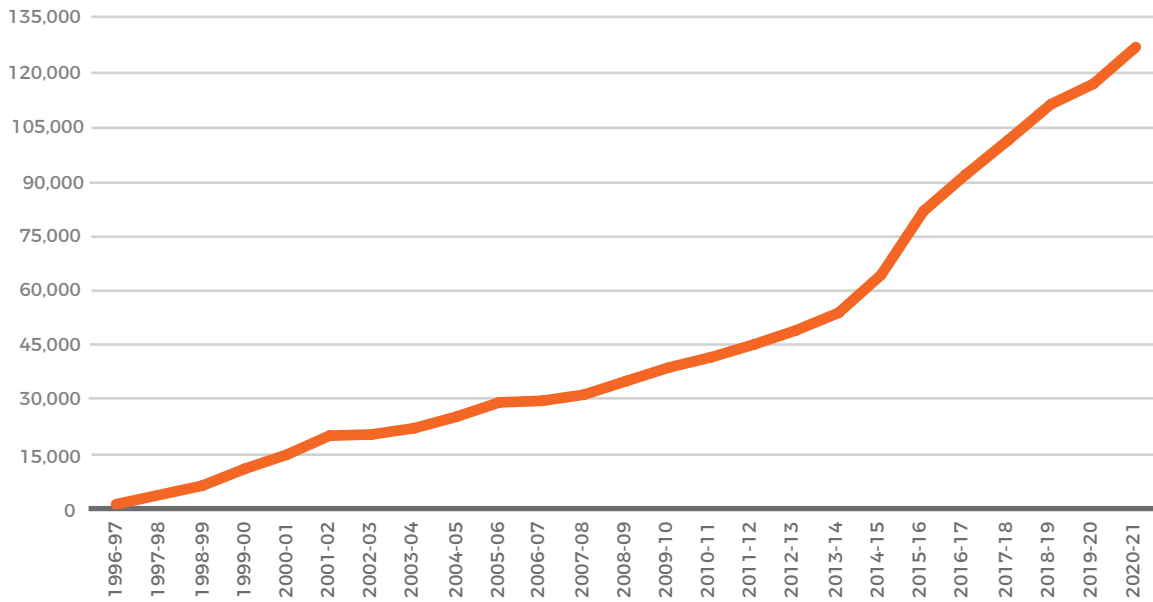
North Carolina law affirms the principle that district and charter schools should be funded equitably. Still, the way local school funds are administered has created a system where, on average, a public charter school receives 56 cents per student in local funds for every local dollar provided to a district school.

Distribution of Performance Grades, 2018-19



NOTE: DUE TO ROUNDING, THE PERCENT OF SCHOOLS MAY NOT TOTAL 100%.

Charter School Final Average Daily Membership



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

CLASS SIZE

POLICY ANALYST: DR. TERRY STOOPS

INTRODUCTION

Support for reducing class size usually cuts across political and ideological divides, garnering accolades from legislators, policymakers, and parents alike. But do class size reductions raise academic achievement?

The relationship between class size and student performance has been the subject of scholarly debate for decades. Several large-scale studies, such as the Student Teacher Achievement Ratio (STAR) experiment in Tennessee, suggested that students benefit from class size reductions. A number of high-quality studies of class size reduction efforts in California and Florida concluded that smaller classes are not the “magic bullet” that many believe them to be.

But even if research showed consistent and significant benefits to across-the-board class size reductions, the cost of implementing and maintaining smaller classes would likely exceed its benefit. Research suggests class sizes must be reduced to between 15 and 20 students (depending on the grade) to have any positive effect on learning. Reductions of this magnitude would require massive outlays of funds for additional teachers and new facilities.

Some lawmakers have tried to find a middle ground by requiring schools to limit class sizes in grades where such mandates are more likely to have a positive effect on student performance. Starting in the 2011 legislative session, North Carolina lawmakers initiated a multiyear effort to reduce class sizes in grades K–3 and modified the funding formula accordingly. The North Carolina General Assembly continues to give school districts maximum flexibility to establish class sizes in grades 4–12. Special education requirements and grant program mandates are the two notable exceptions.

As in the past, North Carolina charter schools are not held to class size limits. There is no evidence that the absence of class size requirements produces a harmful learning environment for charter school students or creates poor working conditions for teachers.

KEY FACTS

- » Recent studies of class sizes in North Carolina public schools suggest that the benefits of class size reductions may be confined to struggling students and elementary grade levels. One research study also found that teachers’ perceptions about their class sizes were not tied to teacher job retention.
- » Results from the 2022 North Carolina Teacher Working Conditions Survey indicated that most teachers are content with current class sizes, as 61% percent of the over 102,000 respondents to the survey

agreed or strongly agreed that class sizes “are reasonable such that teachers have the time available to meet the needs of all students.” Twenty-eight percent of respondents disagreed, and 11% strongly disagreed with that statement.

- » According to the latest data from the National Center for Education Statistics, North Carolina’s average elementary class size for teachers in departmentalized instruction was 24.1 students, which was lower than the national average of 26.2 students. North Carolina’s average high school class size was 20.8 students, compared with the national average of 23.3 students.
- » Class sizes for public primary schools in the United States are comparable to those of other industrialized nations. According to the Organisation for Economic Co-operation and Development (OECD) data for 2018, the average number of students in a primary school classroom in the U.S. was 21. That amount was identical to the OECD average for that year.

RECOMMENDATIONS

1. State class size mandates should be eliminated across all grades.

School districts should have the authority to set class sizes for all grades and subjects according to the needs of their students and available resources.

2. Class size reduction initiatives should target only those students who struggle in larger classroom settings and who would benefit from individualized instruction in state-mandated courses.

Clearly, class sizes affect students and teachers differently. State-wide requirements do not account for district- and school-based factors, including subject, grade, student exceptionality, and facilities, which are more appropriate criteria for establishing class sizes.

3. Class size reduction should be weighed against all other potential education reforms.

Lawmakers should always consider the “opportunity cost” of reducing class sizes. In other words, they should ask whether taxpayer money spent to reduce class sizes could be used in a more efficient and effective way. For example, budget appropriations that reduce class sizes by one or two students per grade could be redirected to efforts to recruit and retain high-quality teachers and excellent school leaders.

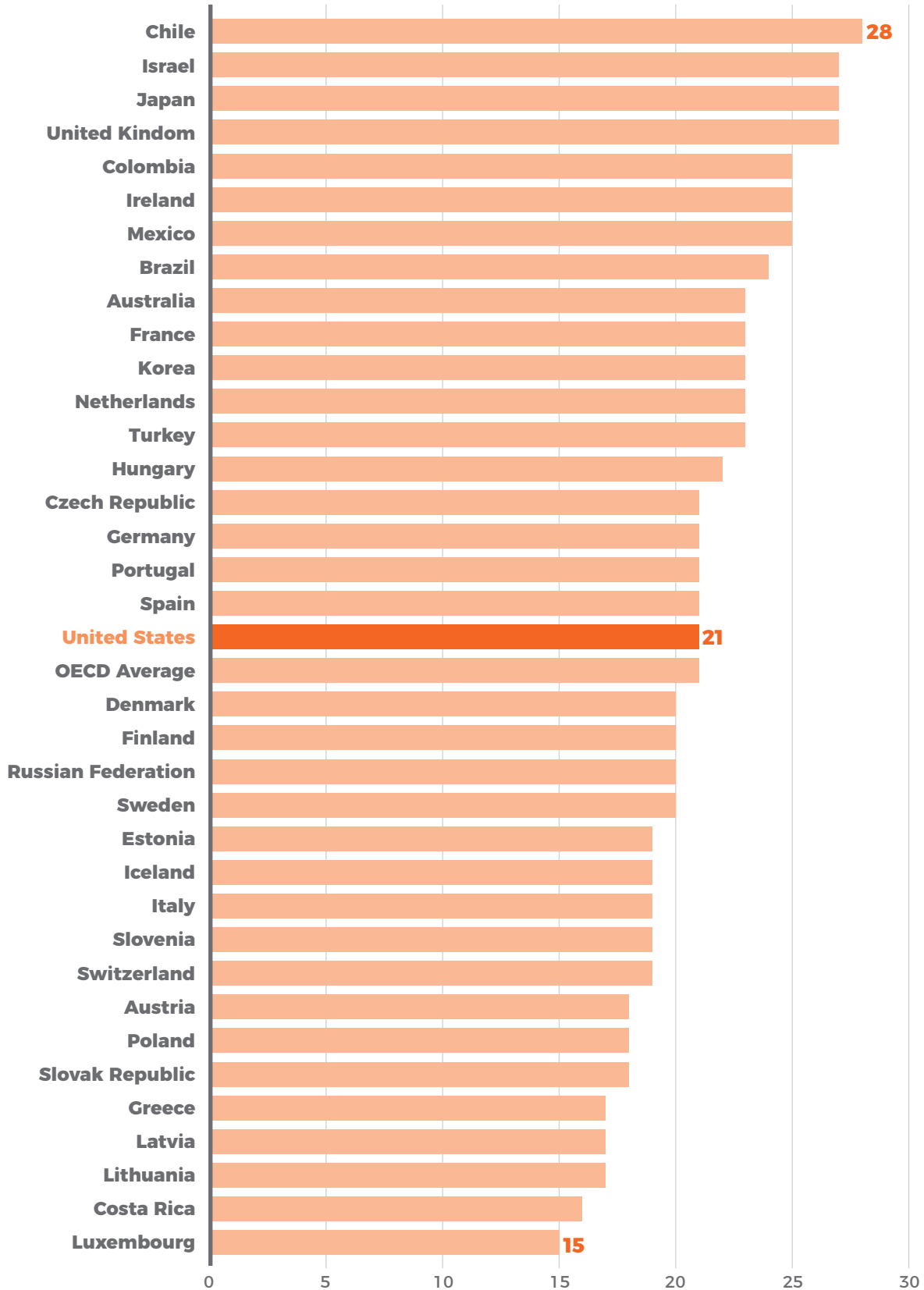
CLASS SIZE

Average Number of Students In North Carolina Classrooms

Grade/ Course	Grade K	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Biology	English II	Math I
2010	19	20	19	20	21	21	22	21	21	18	18	20
2011	20	19	20	20	21	21	22	22	21	18	18	20
2012	19	20	19	20	21	21	22	22	21	18	18	20
2013	20	20	20	19	21	21	22	22	21	18	18	20
2014	19	19	19	19	20	20	22	22	22	18	18	20
2015	19	19	19	19	20	20	22	22	22	18	19	20
2016	19	19	19	19	20	21	21	22	21	18	18	20
2017	19	19	19	19	21	21	22	21	22	18	18	20
2018	18	18	18	18	21	21	22	22	21	18	18	20
2019	17	16	16	16	20	20	22	22	22	20	20	20
2020	17	16	16	16	19	20	20	20	20	20	20	20
Change 2010 to 2020	-2	-4	-3	-4	-2	-1	-2	-1	-1	2	2	0

SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

Average Number of Students Per Primary School Class in 2018 (public institutions only)



SOURCE: ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

EDUCATION AND THE WORKFORCE

POLICY ANALYST: DR. TERRY STOOPS

INTRODUCTION

Do North Carolinians need four-year degrees to be successful? According to U.S. Bureau of Labor Statistics (BLS) projections, those who decide to enter the workforce without a four-year degree may have more employment opportunities than those with one.

BLS analysts predict that jobs requiring a high school diploma, associate degree, or post-secondary certificate will be plentiful over the next decade. Of the 20 occupations projected to have the largest numeric growth in jobs, only half require a bachelor's or graduate degree. Of the occupations that require a four-year degree, software developers lead the pack with an estimated 316,000 jobs to be created nationwide by 2029. That figure pales in comparison with the nearly 1.2 million new jobs estimated for home health and personal care aides, who typically need only a high school diploma.

Likewise, the North Carolina Department of Commerce projects that health care will be among the fastest-growing occupational sectors in North Carolina over the next seven years. The most significant estimated declines will be in production and manufacturing occupations, professions that have become more automated, and farming, fishing, and forestry jobs.

Elected officials have taken notice of these trends. Over the last decade, the North Carolina General Assembly passed legislation to increase access to functional and practical career and technical education. This included the development of career and college endorsements for high school diplomas and bonuses for career and technical education teachers based on the number of students who earn state-approved industry certifications or credentials. In addition, lawmakers have encouraged greater collaboration between school districts and community colleges to increase the number of students enrolling in career and technical education in high-need employment areas.

A renewed focus on career and technical education is only a first step, but it is a welcome one for students, taxpayers, and employers. Students who are ill-prepared for college would avoid incurring massive student loan debt, and taxpayers would not be compelled to subsidize their pursuit of four-year degrees. Employers would enjoy a larger, arguably better-prepared pool of candidates from which to hire. Most importantly, these students would have plentiful employment opportunities in North Carolina for years to come.

KEY FACTS

- » Selected career and technical education students in 12th grade complete the ACT WorkKeys assessment. Scores help students determine if they have the skills needed for particular jobs or professions. In 2020, 38% of test-takers earned WorkKeys Gold or Platinum scores, the highest of the four career readiness credentials.
- » The number of industry-recognized credentials earned by North Carolina students has risen sharply in recent years. During the 2010-11 school year, North Carolina students earned nearly 25,000 career and technical education credentials. By 2019-20, that figure rose to 241,338 credentials. Around 9% of the 2019-20 credentials were awarded for acquiring Microsoft PowerPoint and Word proficiency, the two most popular credentials earned during that school year.
- » Other popular credentials earned by public school students include the Conover Workplace Readiness Credential, EverFi (financial literacy), cardiopulmonary resuscitation and automated external defibrillator training, and the National Center for Construction Education and Research Core Credential.
- » Twenty-eight credential areas had 25 or fewer completers during the 2019-20 school year.

RECOMMENDATIONS

1. Starting in middle school, give public school students opportunities to pursue vocational or advanced training in preparation for a career after graduation.

Career and technical education programs should start in middle school, when many students lose interest in the traditional academic setting. This would give students ample time to change career and technical education program areas, obtain advanced skills in multiple areas, or switch to a college-preparatory course of study.

2. Ensure that community colleges and universities continue to invest scarce resources in professional training and degree programs that correspond to the needs of our workforce.

While not precluding support for other academic disciplines, funding priorities should, in part, reflect supply and demand for qualified workers in fields such as nursing, business management, accounting, teaching, and computer programming.

3. Strongly encourage apprenticeships.

Rather than attempting to emulate European apprenticeship systems, businesses and educational institutions should work together to customize work-based programs to meet their short- and long-term needs.

4. Expand access to work-based programs.

Field trips, cooperative education, entrepreneurial experiences, internships, job shadowing, mentorships, school-based enterprises, and service-learning are viable, work-based learning strategies districts may offer to students interested in an industry or profession.

EDUCATION FACILITIES

POLICY ANALYST: DR. TERRY STOOPS

INTRODUCTION

The popular perception is that the state government is responsible for overseeing the funding, maintenance, and construction of school district facilities. Nevertheless, state law clearly states that “it shall be the duty of the local boards of education to make provisions for the public school term by providing adequate school buildings equipped with suitable school furniture and apparatus.”

Furthermore, county commissions have the primary responsibility of funding school district facilities within their jurisdiction. According to state law, “The needs and the cost of those buildings, equipment, and apparatus, shall be presented each year when the school budget is submitted to the respective tax-levying authorities. The boards of commissioners shall be given a reasonable time to provide the funds which they, upon investigation, shall find to be necessary for providing their respective units with buildings suitably equipped, and it shall be the duty of the several boards of county commissioners to provide funds for the same.”

As part of their joint responsibility, local government officials collaborate with boards of education to oversee the funding, construction, renovation, and maintenance of school district facilities. In most cases, county commissions and local boards of education accept discrete responsibilities for school facilities. School districts manage the school facilities program, while county commissions finance it. County commissions may allow local boards of education to build schools on property owned by the county. Commissions also have the power to acquire property on behalf of a board of education and construct, equip, expand, improve, or renovate a property for use by a local school system.

To fund school facility projects, county commissioners approve debt financing in the form of certificates of participation and installment purchase contracts (neither of which require voter approval) or general obligation bonds (which require voter approval). The state also permits local governments to impose local option sales taxes and other supplementary taxes to pay for school facilities.

Given the importance of school facilities and the considerable expense involved in building and maintaining them, county commissions and school boards must spend capital dollars wisely, utilize efficient building practices, and adopt innovative solutions to ensure that all children have an adequate learning environment.

KEY FACTS

- » Since 2000, North Carolina's local governments have spent over \$14.1 billion on school facilities, averaging \$673.8 million per year. Locally funded capital expenditures represented 90% of all public school capital spending in the state.
- » The state legislature occasionally provides state funds for school facilities. Since 1949, the North Carolina General Assembly has passed one facility appropriation bill and five state school bonds. The legislature approved the last statewide facilities bond in 1996.
- » There are three primary sources of state funds for school facilities: a portion of corporate income tax (ADM Fund), state lottery revenues, and local option sales taxes. The ADM Fund has a balance of around \$100 million per year. School districts receive a share of approximately \$100 million in North Carolina Education Lottery funds for school construction and repair annually. All counties levy two half-cent additions to the state sales tax with 30% and 60%, respectively, going to schools. Counties may also levy either an additional quarter-cent sales tax or a land transfer tax for school facilities.
- » In 2017, the North Carolina General Assembly established the Needs-Based Public School Capital Fund, which allocates North Carolina Education Lottery funds to low-wealth counties (Tier 1 or Tier 2 in the North Carolina Department of Commerce's ranking of counties by economic distress) for new school construction. In 2020, the state lottery provided \$73.2 million for capital expenses in low-wealth counties.
- » Since 1995, counties have placed 131 bond proposals on local ballots. Overall, voters approved 110 school capital bonds valued at nearly \$14 billion. Voters rejected 21 local bonds valued at \$2 billion. The most recent failed vote was a \$75 million school facilities bond proposal in Onslow County in 2013.
- » Public charter schools do not receive capital funding from the state. Charters must use a portion of their operating funds to cover the cost of leasing a facility or repaying capital debt incurred through a private or nonprofit lender.

RECOMMENDATIONS

1. Local governments should minimize the amount of debt incurred for school capital expenses.

A short-term need for additional classroom space or building repair must be weighed against the fiscal implications of assuming long-term capital debt. Planning for these obligations should include a thorough examination of current and projected revenue streams,

student enrollment, population, and the county's financial obligations. Local government officials can then determine whether the county's tax base will support years of debt service payments. It will also provide an opportunity to consider deferring the project(s) under consideration or building up a reserve fund.

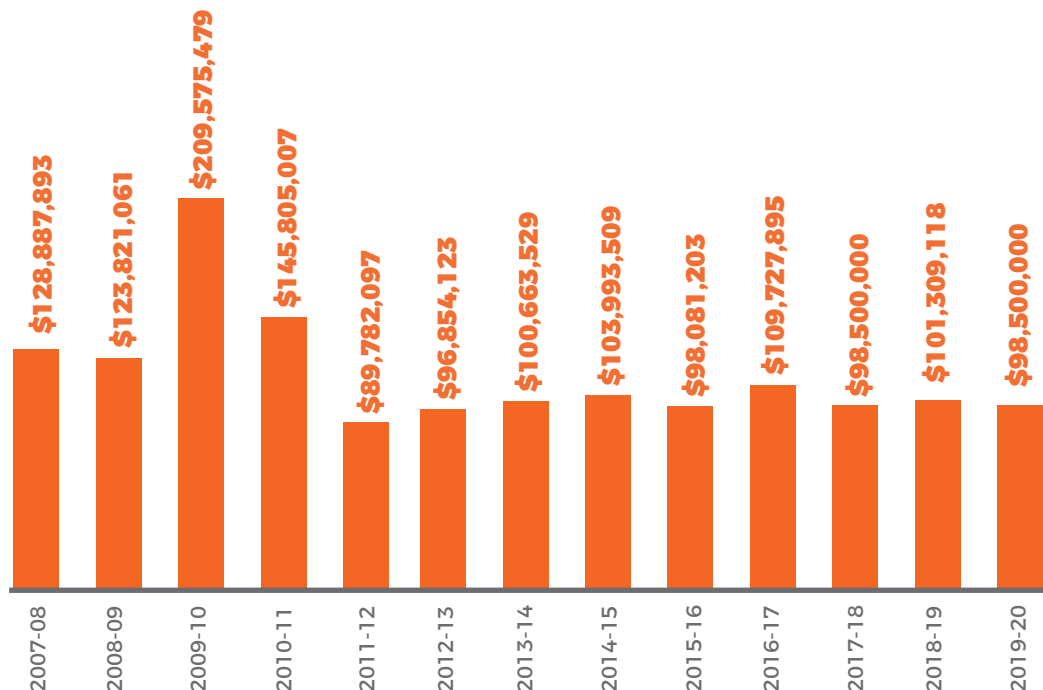
2. Local governments should encourage school districts to use proven, cost-efficient solutions that do not burden county taxpayers and that enhance students' educational opportunities.

Every year, county commissions dedicate millions of local taxpayer dollars for debt service to maintain unnecessarily costly school construction programs. Public/private partnerships, adaptive-re-use buildings, ninth-grade centers, satellite campuses, and virtual schools allow school districts to increase school building capacity faster and more cheaply than conventional school construction and renovation methods permit.

3. Lawmakers should allow municipalities and counties to support the capital needs of charter schools within their jurisdictions.

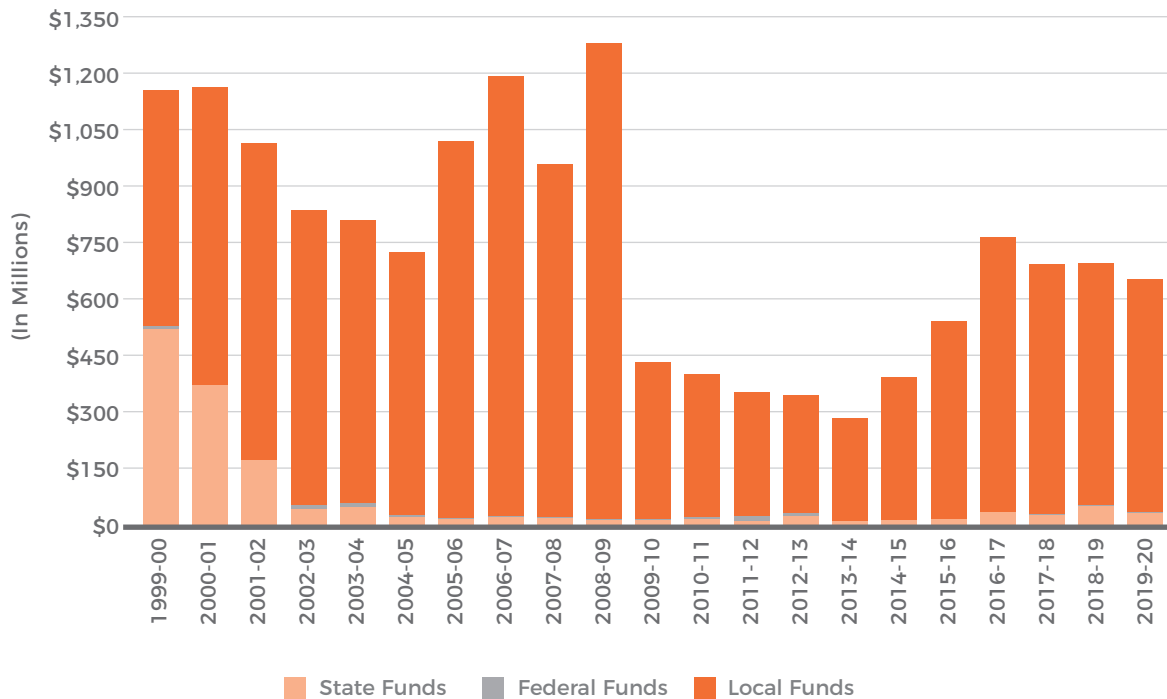
Elected officials should have the option of adding capital funding for charter schools into their annual appropriations or when incurring debt for capital outlay.

Public School Building Capital Fund: Lottery Revenue



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

Sources of Funding For Education Facilities



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

FEDERAL EDUCATION POLICY

POLICY ANALYST: DR. TERRY STOOPS

INTRODUCTION

Before the passage of the Elementary and Secondary Education Act (ESEA) in 1965, the United States Congress generally adhered to the principle that the federal government had no authority to undertake functions and duties not enumerated in the U.S. Constitution. Because the power to fund or regulate public education is not expressly stated in the Constitution, Congress relied on families, communities, and state and local governments to direct the education of the citizenry. As an acknowledgment of this fact, many states, including North Carolina, included passages on public education in their statutes and state constitutions.

Since the rise of federal activism after World War II, Congress has continued to enlarge the federal government's financial and regulatory role in public education. By the late 1960s, the federal government had committed to redistributing federal revenues to supplement state education expenditures for special-needs children (Individuals with Disabilities Education Act), low-income students (Title I), child nutrition (National School Lunch Program), and vocational education (Perkins Act). Federal funding continues to center on these four programs.

At no time before did the federal government's role become larger or more controversial than Congress' 2002 reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA), also known as No Child Left Behind. This bipartisan law imposed new testing, reporting, and accountability requirements on states, which they begrudgingly implemented to keep federal K-12 education dollars flowing into state coffers.

The Every Student Succeeds Act (ESSA) was the latest reauthorization of the ESEA and borrows from the No Child Left Behind blueprint. President Barack Obama signed ESSA into law in December 2015. All subsequent presidential administrations are responsible for its implementation.

In 2017, the U.S. Department of Education required state education agencies to submit a consolidated state plan detailing how their public education systems will comply with the law's various requirements. State education officials were required to identify and initiate research-based interventions in the state's lowest-performing schools. Like No Child Left Behind, ESSA also requires states to administer math and reading tests to students in grades 3–8 and high school. States must report those results in the aggregate and by student racial and demographic subgroups. Another provision requires all states to begin reporting school-level financial data to the department starting in 2019.

While ESSA is an improvement over No Child Left Behind, it continues to give the federal government a sizable presence in state accountability efforts. The federal government's growing financial and ideological encroachment into public education, by Republicans and Democrats alike, invites the kind of centralization of public schooling wisely resisted by Americans generally and the Founding generation specifically.

KEY FACTS

- » While most federal education funds are earmarked for special-needs children, low-income students, child nutrition, and vocational education, Congress will occasionally authorize discretionary, multi-year initiatives. These have included the American Recovery and Reinvestment Act (also called the “Stimulus”) during the Great Recession and the multiple Elementary and Secondary School Emergency Relief (ESSER) grants awarded during the COVID-19 pandemic.
- » Current expenditures from federal funds totaled \$1.4 billion and accounted for only 10% of North Carolina's \$14 billion public school operating budget for the 2019-20 school year. The massive federal coronavirus relief funding approved by Congress in 2020 and 2021 will inflate the federal share and increase total public school expenditures for at least the next three school years.
- » During the 2020-21 school year, North Carolina public schools used federal funds to support 12,792 public school employees, or 6.9% of all district school personnel in the state.
- » Major coronavirus relief funding packages for K-12 schools included: \$60 million from the Governor's Emergency Education Relief (GEER) Fund; \$387.7 million from the Elementary and Secondary School Emergency Relief Fund (ESSER I) portion of the Coronavirus Aid, Relief, and Economic Security (CARES) Act; \$1.55 billion from the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA/ESSER II); and \$3.2 billion from American Rescue Plan Act (ARPA/ESSER III). While much of the American Rescue Plan funds remain unspent, states have until September 30, 2024, to distribute ESSER III funds.

RECOMMENDATIONS

1. Recognize there is no such thing as “free money” from the federal government.

Ever. No state has ever received federal education funding without strings attached. Meeting those requirements may place extraordinary financial and administrative burdens on its recipients. Federal training and reporting mandates for school-based administrators and educators, for example, consume time that could otherwise be spent in more productive enterprises, such as the improvement of classroom instruction.

2. Acknowledge that federal funds do not appear out of thin air.

Current and future taxpayers, not elected officials and bureaucrats in Washington, D.C., bear the burden of repaying every dollar spent or borrowed by the federal government.

3. Refuse to accept any federal grant that interferes with the opportunity for children to receive the best education possible.

The first question to be asked is, “Will these federal funds detract in any way from school supervision or classroom instruction?”

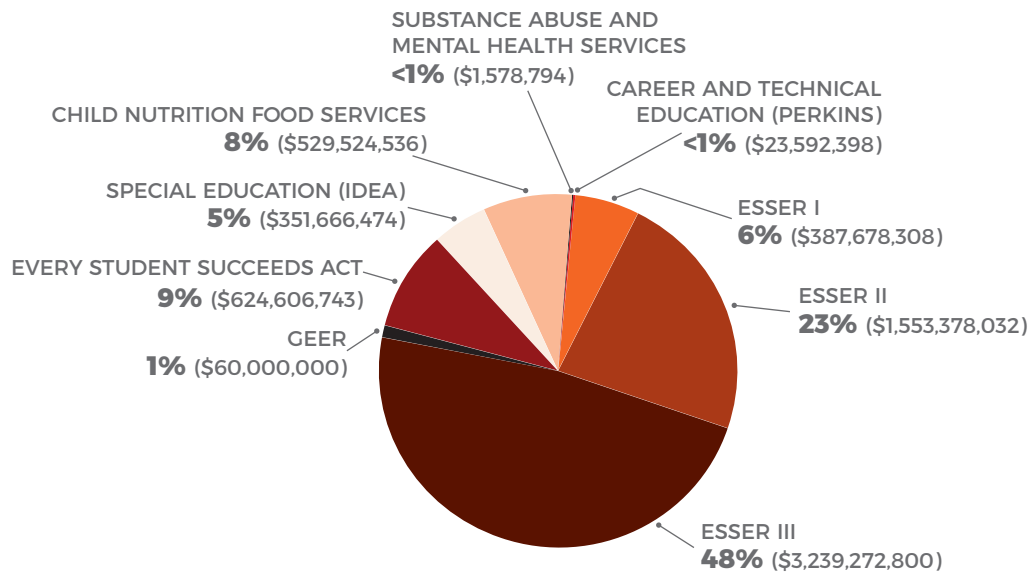
4. If using federal funds, use them prudently.

For example, school districts should reject invitations to use temporary federal grant dollars to fund permanent support, instructional, or administrative positions.

5. Ask Congress to limit the size and scope of the National School Lunch Program and the School Breakfast Program.

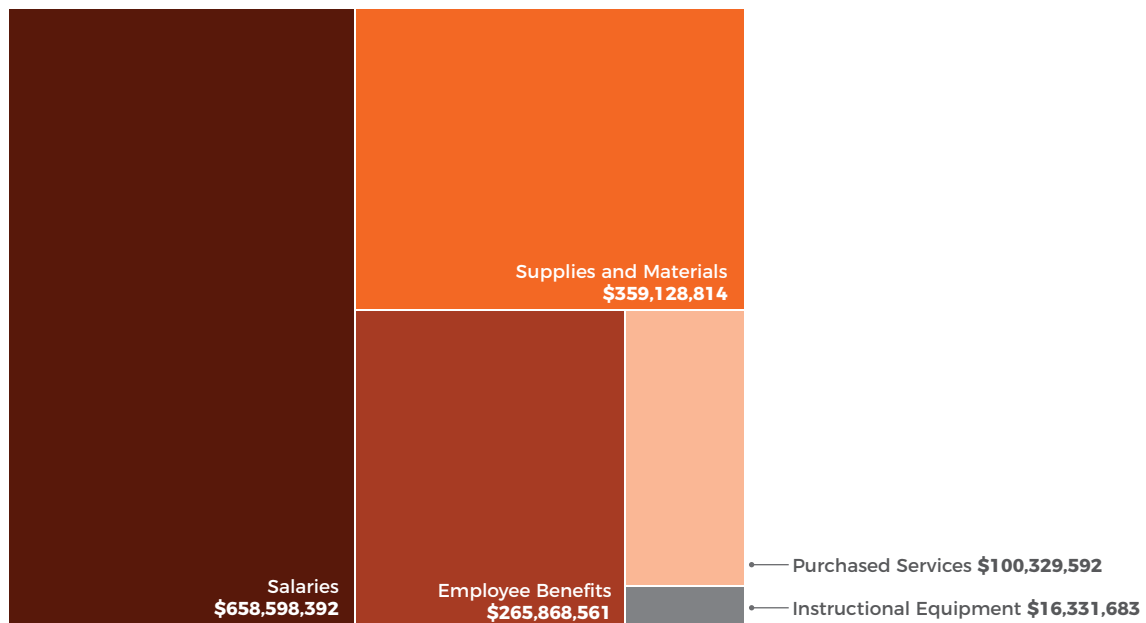
The U.S. Department of Agriculture initiated a massive expansion of school nutrition programs during the pandemic. It included meal delivery, summer meal programs, and universal eligibility for free breakfast and lunch through June 2022. Eligibility for free meals should be limited to students who need them the most.

Federal Grants Received 2020-21



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

Current Expense Expenditures: Federal Funds, 2019-20



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

HIGHER EDUCATION FUNDING

POLICY ANALYST: JENNA ROBINSON

INTRODUCTION

Article IX, Section 9 of the North Carolina Constitution states, “The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.” In 1789, the North Carolina General Assembly granted a charter to the University of North Carolina in Chapel Hill, making it one of the oldest public universities in the United States. Today, 16 public universities and the North Carolina School of Science and Math are part of the University of North Carolina (UNC) System.

Consistent with the constitutional mandate, affordability has been a distinctive focus of the UNC System. Because of grants to students, UNC-Chapel Hill perennially ranks as one of the best values among colleges and universities in the country. It also ranked the fifth lowest in net price after aid (\$10,085) across the UNC System in 2018-19, the last year comparable numbers are available through the National Center for Education Statistics.

In addition, three universities that traditionally serve students from high-poverty, low-opportunity communities (Elizabeth City State University (ECSU), UNC Pembroke, and Western Carolina University) cut tuition in 2018 to \$1,000 for North Carolina residents and \$5,000 for non-residents as part of NC Promise. Once other fees and room and board are included, the annual cost of attendance climbs to \$20,209 at ECSU, \$15,499 at UNC Pembroke, and \$15,198 at Western Carolina.

Thanks to the state legislature, all UNC schools guarantee fixed tuition for students completing their degree in four years. The state also pays the cost of the UNC System Need-Based Grant, which provides last-dollar funding for students. Each school will often add grants of its own, financed either from charitable giving or tuition receipts.

Recently, North Carolina has complemented its generous aid to students with increased fiscal discipline. The UNC Board of Governors voted in fall 2021 to freeze in-state undergraduate tuition for the fifth year in a row. Fee increases are also capped. Restraining or reducing administrative costs will be essential to continuing this practice in the future.

No discussion about affordability would be complete without mentioning the North Carolina Community College System’s 58 colleges. These institutions provide two-year degrees and articulation agreements that allow students to transfer their credits directly towards a four-year

degree. Community colleges can be a great option for students, thanks to lower costs and more flexible options designed around commuting students.

KEY FACTS

- » At most UNC System schools, North Carolina residents must comprise 82% or more of undergraduate enrollment. For many years, NC A&T (70% to 80% range) and the UNC School of the Arts (40% to 50% range) were the two exceptions to this rule. But in 2021, the UNC Board of Governors added to the list of exceptions most of the state's Historically Black Universities: Elizabeth City State University, Fayetteville State University, North Carolina Central University, and Winston-Salem State University.
- » In-state tuition and fees jumped an average of 45% between the 2008-09 and 2013-14 school years but increased just 7% through 2017-18 before falling in 2018-19, due to the introduction of \$1,000 tuition at three NC Promise schools: Elizabeth City State University, UNC-Pembroke, and Western Carolina University.
- » UNC System endowments have grown 26%, from a combined \$5.04 billion in 2014-15 to \$6.36 billion in 2019-20.
- » Community college funding is based on enrollment the previous year. UNC recently adopted a similar model of funding based on actual credit hours completed instead of projected enrollment.

RECOMMENDATIONS

1. Continue to freeze tuition. Freeze or reduce student fees.

Build on NC Promise, Guaranteed Tuition (four years from entry), and the Carolina Covenant to improve affordability and access.

2. Cut non-instructional staff and costs.

Areas to consider cutting include student services and institutional support expenditures.

3. Improve graduation rates and time to completion across the system.

Only UNC-Chapel Hill, UNC Wilmington, and the UNC School of the Arts have four-year graduation rates above 60%. Two UNC institutions fail to graduate half of their students after six years. The key to affordable education is having a degree on the other side that makes the investment worthwhile.

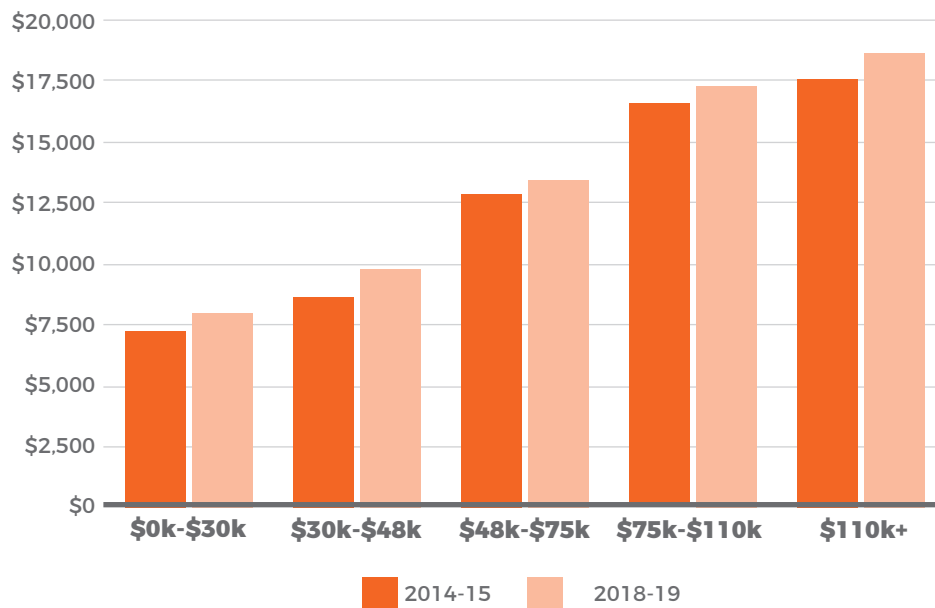
4. Improve articulation between schools in the Community College System and UNC System.

Articulation reduces costs for students and prepares them appropriately for the program they wish to enter. The system-level structure is in place. Implementation is the next step.

5. Use revenue from alcohol sales at sporting events to reduce athletic fees for students.

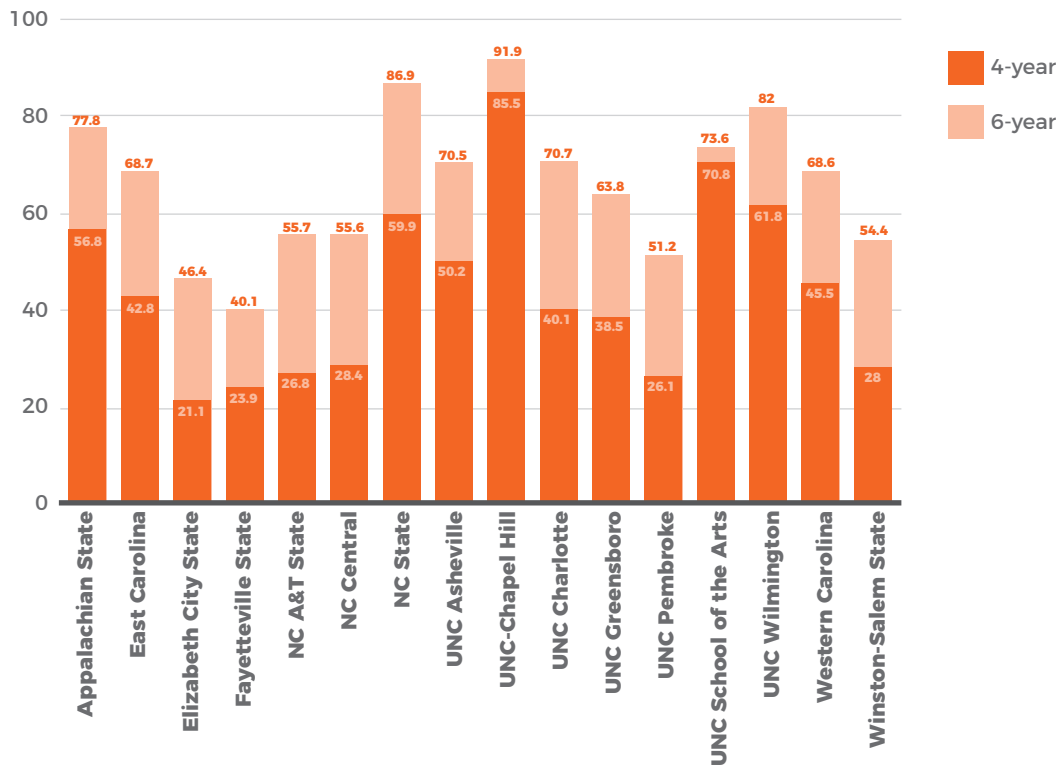
Now that schools can sell alcohol at sporting events, the revenue should be used to offset student fees.

UNC System Average Net Price By Student's Household Income



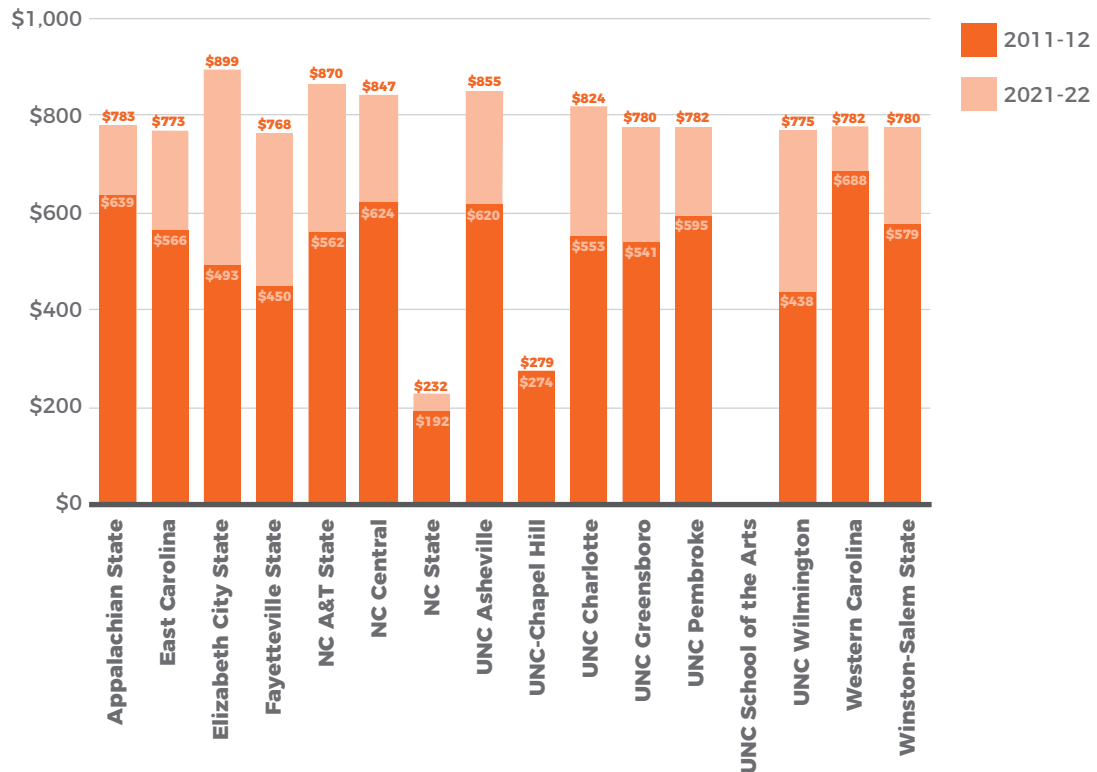
SOURCE: IPEDS

Graduation Rates of Fall 2014 Entering Freshmen



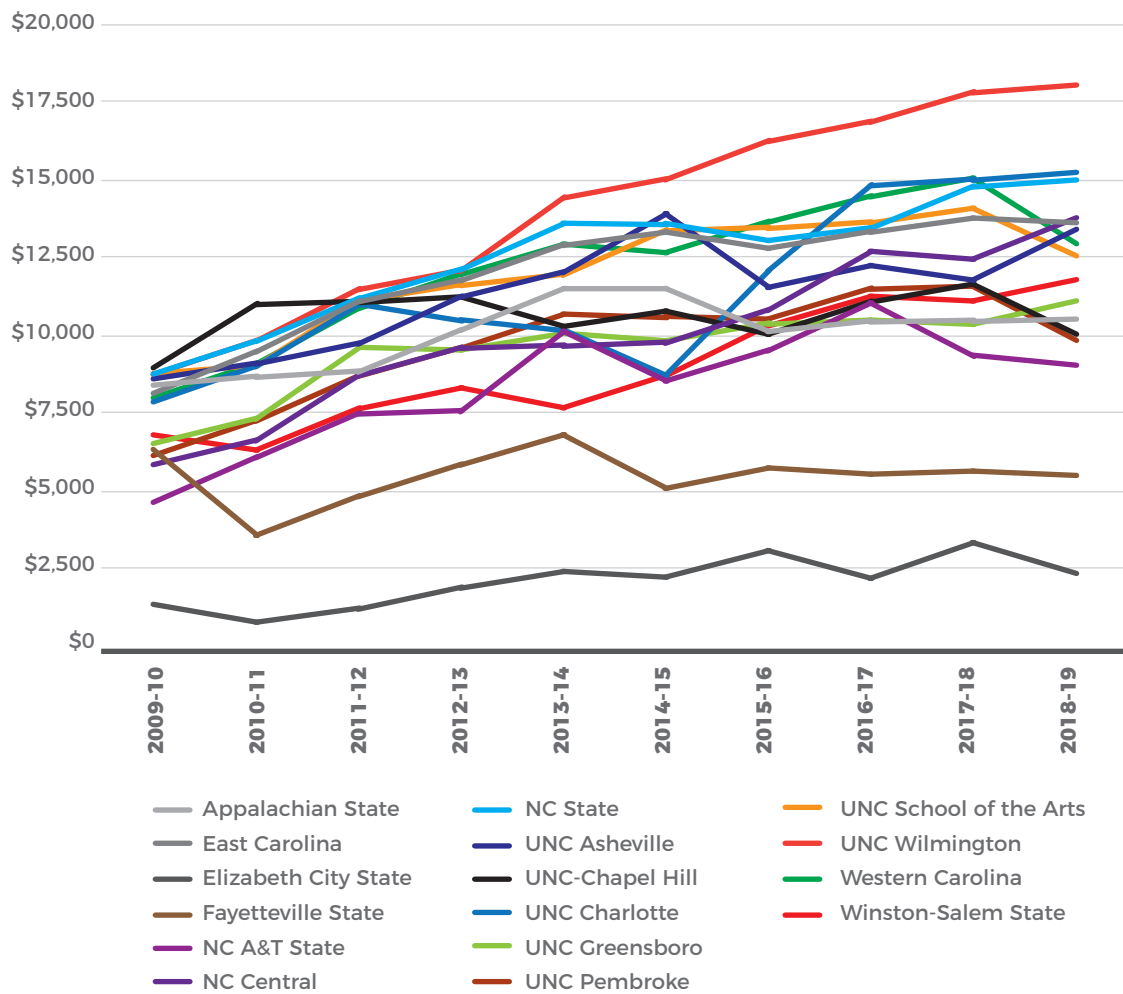
SOURCE: THE UNIVERSITY OF NORTH CAROLINA

UNC Campus Athletics Fees, 2011-12 vs. 2021-22



SOURCE: THE UNIVERSITY OF NORTH CAROLINA

Net Price of UNC System Institutions



SOURCE: IPEDS

NORTH CAROLINA EDUCATION LOTTERY

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

With noisy advertisements, press releases, and nightly televised drawings, the North Carolina Education Lottery is a very visible contributor to education funding in the state. Despite the noise, however, there are very real concerns over the lottery's actual effects on education spending.

Since the early years of the lottery, people on both sides of the aisle have worried about its effects on North Carolinians, especially its poorest, least educated, and most economically vulnerable. The fear that the lottery would prove to be a voluntary regressive tax has proven true. Counties with the highest lottery ticket sales per adult have been some of the state's poorest and most economically distressed counties.

Over the years, the lottery has transferred a growing amount of money to the state's General Fund, targeted for education. At the same time, it has been sending a smaller and smaller proportion of its revenues to education, even though the ability to provide additional funding for education was the main argument that helped to win passage of the lottery bill in 2005. Over time however, instead of going toward education, more and more funding is going to lottery prizes, administrative costs, and advertising.

The North Carolina Education Lottery was sold to boost education spending. Like most state lotteries, it has failed to deliver on its promise. Lottery money for education gives lawmakers and the public the sense that education needs are being met. As such they are less likely to think that education is competing with other budget priorities for funding, even though it still is.

Does the education lottery boost state funding for education? That's the intended purpose. However, lotteries are notorious for supplanting rather than supplementing education funding. What was expected to be new money in addition to an ongoing funding stream winds up taking the place of some of the funding in the stream. Budget writers then feel free to find "new money" for other spending items.

We may endlessly debate the impact of the lottery. Nevertheless, one thing is certain: it is no substitute for the political will of budget makers to set education priorities.

KEY FACTS

- » The North Carolina Education Lottery continues to encounter strong opposition. Many North Carolinians on both sides of the aisle consider gaming immoral. Some also believe that the lottery is unethical in that it takes advantage of the poor and undereducated. Others have religious objections to gambling. That the North Carolina Education Lottery is a state monopoly only heightens these concerns.
- » In FY 2019-20, the lottery distributed \$692.8 million to North Carolina schools. Of that amount, the largest allocation – 56% (\$385.9 million) – was used for Non-Instructional Support Staff. The second largest allocation – 25% (\$173.2 million) – was used for school construction.
- » Lottery sales continue to come disproportionately from the least well-off counties. Counties with high poverty rates, high unemployment rates and high property tax rates, also tend to have high lottery sales per adult. This has consistently been the case since the lottery's first days.
- » In FY 2019-20, the top 10 counties in lottery sales per adult were among the most economically distressed counties in the state. Lottery sales per adult in those counties (\$736.53) were almost twice the state average (\$374.94) of lottery sales per adult, and nearly two-and-a-quarter times greater than the average in the 20 most well-off counties in the state.

RECOMMENDATIONS

1. End the state lottery and return to direct, transparent education funding.

Education should be treated like all other budget priorities, with spending priorities subject to open debate and discussion.

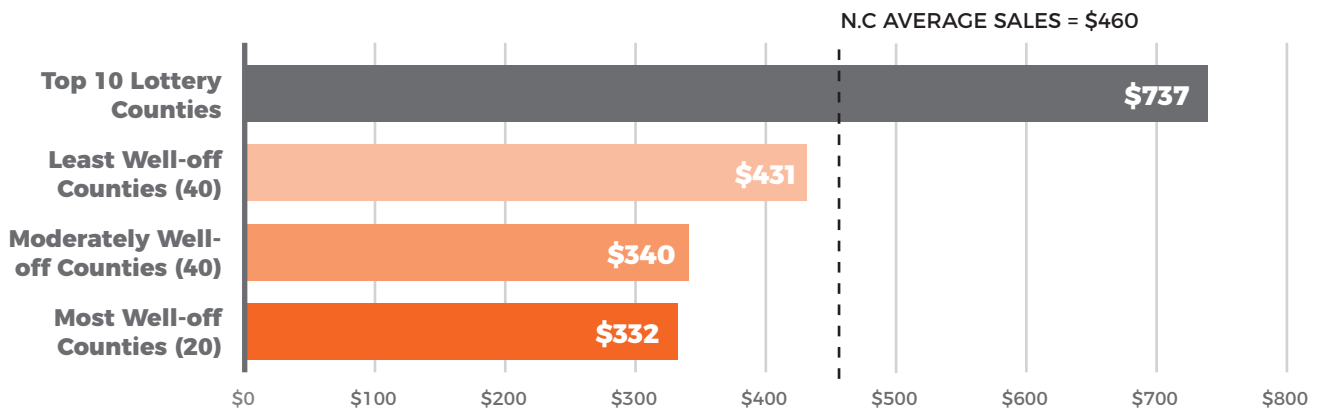
2. Regulate and tax private gambling enterprises to allow industries, games, and related jobs to develop.

Ending the state lottery monopoly wouldn't mean an end to gambling revenue for education. If taxed like other gambling ventures, private enterprises would also contribute to education spending.

3. Put in statute that the majority of North Carolina Education Lottery funds must be allocated for public schools.

Short of eliminating the lottery, tighter controls on how the lottery money is allocated are in order. This would end the siphoning of lottery funds for other educational purposes, such as college scholarships and pre-kindergarten, and ensure the majority of funds would be designated for K-12 education programs.

North Carolina Lottery Ticket Sales Per Adult – 2019



SOURCES: NC EDUCATION LOTTERY (FISCAL YEAR 2019 SALES); NC COMMERCE DEPARTMENT (2019 TIERS); US CENSUS BUREAU (ADULT POPULATION 2018, POVERTY RATE 2017, MEDIAN INCOME 2017); US BUREAU OF LABOR STATISTICS (UNEMPLOYMENT JULY 2019); NC DEPARTMENT OF REVENUE (PROPERTY TAXES 2018-19).

County Lottery Sales Per Adult and Economic Well-Being – 2020

Unemployment and County Lottery Sales

County Unemployment	Number of Counties	Sales Per Adult
Below 4%	0	N/A
Between 4-5%	13	\$276
Between 5-6%	45	\$327
Over 6%	42	\$457
NC Average		\$375

Median Income and County Lottery Sales

County Median Income	Number of Counties	Sales Per Adult
Over \$60K	8	\$279
Between \$51-60K	24	\$363
Between \$41-50K	44	\$351
Below \$40K	24	\$463
NC Average		\$375

Poverty Rates and County Lottery Sales

County Poverty Rate	Number of Counties	Sales Per Adult
Below 12%	61	\$304
Between 12-16%	19	\$453
Between 16-20%	14	\$481
Between 20-24%	5	\$642
Over 24%	1	\$362
NC Average		\$375

County Property Tax and County Lottery Sales

County Property Tax Rate	Number of Counties	Sales Per Adult
Below 50¢ (per \$100)	11	\$254
Between 51-60¢	21	\$271
Between 61-70¢	21	\$349
Between 71-80¢	31	\$402
Over 80¢	16	\$567
NC Average		\$375

NOTE: COUNTY SALES MAY ALSO BE AFFECTED BY COMMUTING, TOURISM, PROXIMITY TO INTERSTATES, ETC.

SOURCES: NC EDUCATION LOTTERY (FISCAL YEAR 2019 SALES); NC COMMERCE DEPARTMENT (2019 TIERS); US CENSUS BUREAU (ADULT POPULATION 2018, POVERTY RATE 2017, MEDIAN INCOME 2017); US BUREAU OF LABOR STATISTICS (UNEMPLOYMENT JULY 2019); NC DEPARTMENT OF REVENUE (PROPERTY TAXES 2018-19).

PREKINDERGARTEN EDUCATION

POLICY ANALYST: **DR. TERRY STOOPS**

INTRODUCTION

North Carolina's compulsory attendance law allows parents and guardians to enroll their children in school as early as age five. Before their children reach that age, parents and guardians may choose to employ various formal and informal arrangements to oversee the physical, social, and cognitive development of the children in their care.

The North Carolina Division of Child Development and Early Education, a division within the Department of Health and Human Services (DHHS), oversees two large early childhood education programs – the Subsidized Child Care Program and the North Carolina Pre-Kindergarten Program (NC Pre-K).

The Subsidized Child Care Program provides vouchers to eligible families for child care services offered in any number of settings – licensed child care centers, family child care homes, religious-sponsored programs, and informal arrangements such as care by a relative or care in the child's home. To qualify, parents must meet both situational and financial criteria. Parents must be employed (or seeking employment) or enrolled in an education program. They may also qualify if their child has developmental needs or is receiving child protective or welfare services. Income eligibility depends on income and family size, but subsidy recipients must contribute to the cost of child care.

The Division of Child Development and Early Education evaluates the quality of all licensed child care centers and family child care homes in North Carolina using the Star Rating System. Facilities earn stars based on staff education and program standards. One-star facilities meet minimum licensing requirements. Five-star facilities meet the highest quality standards.

County social services departments administer the subsidy program. A third entity, the North Carolina Child Care Commission, adopts regulations that ensure DHHS compliance with legislation passed by the North Carolina General Assembly. While state and county agencies manage the program, the federal government supplies most of the dollars for subsidized child care. Only about one-fifth of the funding for the Subsidized Child Care Program comes from the North Carolina General Fund. The remainder of the funding for the program comes from two federal grants: the Child Care and Development Fund (CCDF) and Temporary Assistance for Needy Families (TANF).

In addition to the Subsidized Child Care Program, the Division of Child Development and Early Education manages NC Pre-K (formerly More at

Four). NC Pre-K is a mostly state-funded preschool program for at-risk 4-year-olds and is distinct from Smart Start. Smart Start is a public/private partnership that offers child-care subsidies, teacher training, health screenings, and support for families with children from birth to five years old, regardless of income. The North Carolina Partnership for Children and a network of 75 local partnerships administer the program.

North Carolina also has three federally funded prekindergarten programs – Preschool for Exceptional Children, Title I Preschool, and Head Start. Preschool for Exceptional Children is supported by state and federal funds and provides prekindergarten services for special-needs children. Title I Preschool allows school districts to set aside a portion of their federal Title I funding to provide prekindergarten programs for at-risk four-year-olds. The federal Head Start program is the largest and one of the oldest federal prekindergarten initiatives in North Carolina. Head Start provides education, health, and nutrition services to low-income children between the ages of three and five.

Although hundreds of millions of state and federal dollars are appropriated for child care subsidies and early education and health programs, most parents and guardians use their own resources to cover the cost of center-based care, home-based care, or preschool. Otherwise, stay-at-home adults, relatives, or neighbors assume the responsibility of rearing newborns, infants, and toddlers.

KEY FACTS

- » The following state funding streams support North Carolina's early childhood programs: Developmental Day Center (DDC), NC Pre-Kindergarten Program, Smart Start – The NC Partnership for Children, Inc., and the NC Infant-Toddler Program (ITP).
- » In addition to those, there are 14 federal funding streams supporting North Carolina's early childhood programs, as well as several targeted programs such as Demonstration Grants for Indian Children and Ready to Learn Television.
- » Local funding options for early education include the use of local sales-tax or property-tax revenue to provide direct support to early education and health initiatives, or debt financing to support capital projects for public preschool and child care programs.
- » An evaluation of the NC Pre-K program published by the Frank Porter Graham Child Development Institute of the University of North Carolina at Chapel Hill found consistent effects on language and literacy skills at the end of preschool, but researchers found no significant effects for written comprehension, math skills, executive function, and parent ratings of social skills and problem behaviors. On the other hand, a January 2019 working paper by Duke University researchers concluded students who received NC Pre-K services demonstrated academic benefits that lasted through middle school.

RECOMMENDATIONS

1. Existing early childhood programs should be consolidated or significantly reorganized.

It is neither necessary nor beneficial to maintain multiple early childhood programs with different governance structures, funding distribution mechanisms, and accountability standards.

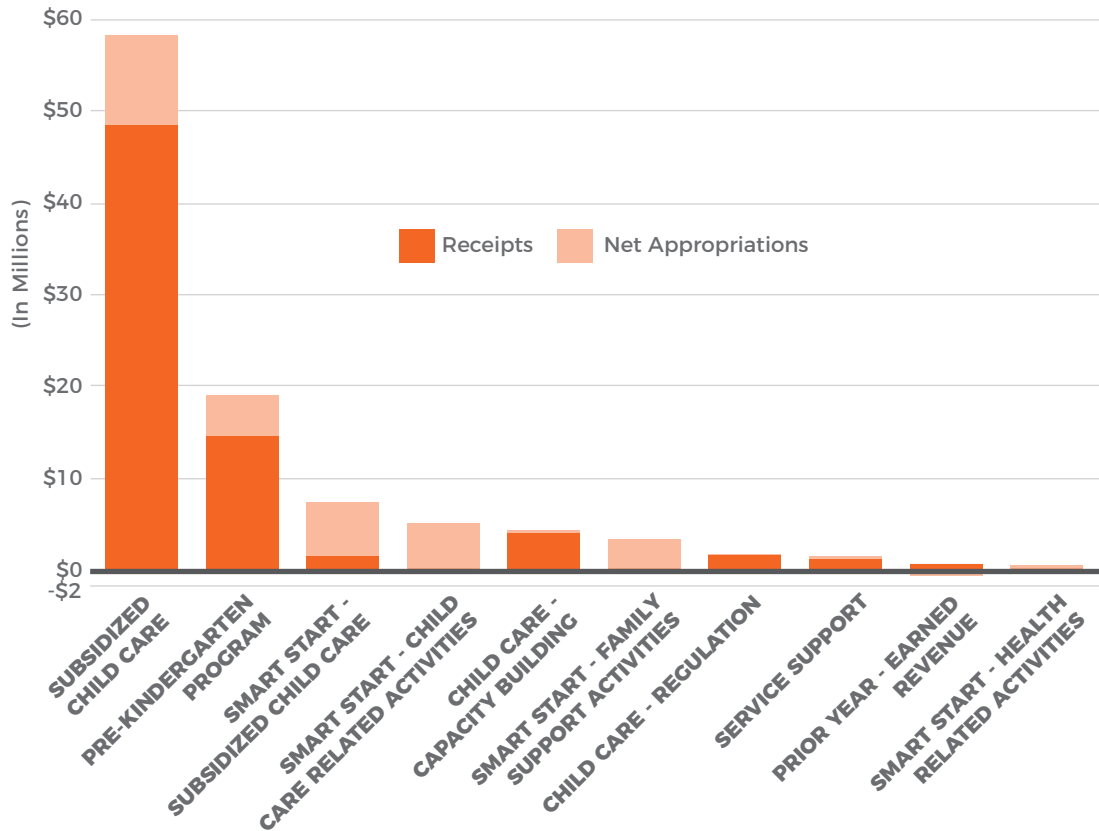
2. Determine whether there is a relationship between subsidy use in North Carolina and children's social-emotional, cognitive, health, and behavioral development.

Child care subsidies should provide both short- and long-term benefits for participating children, not just supervision.

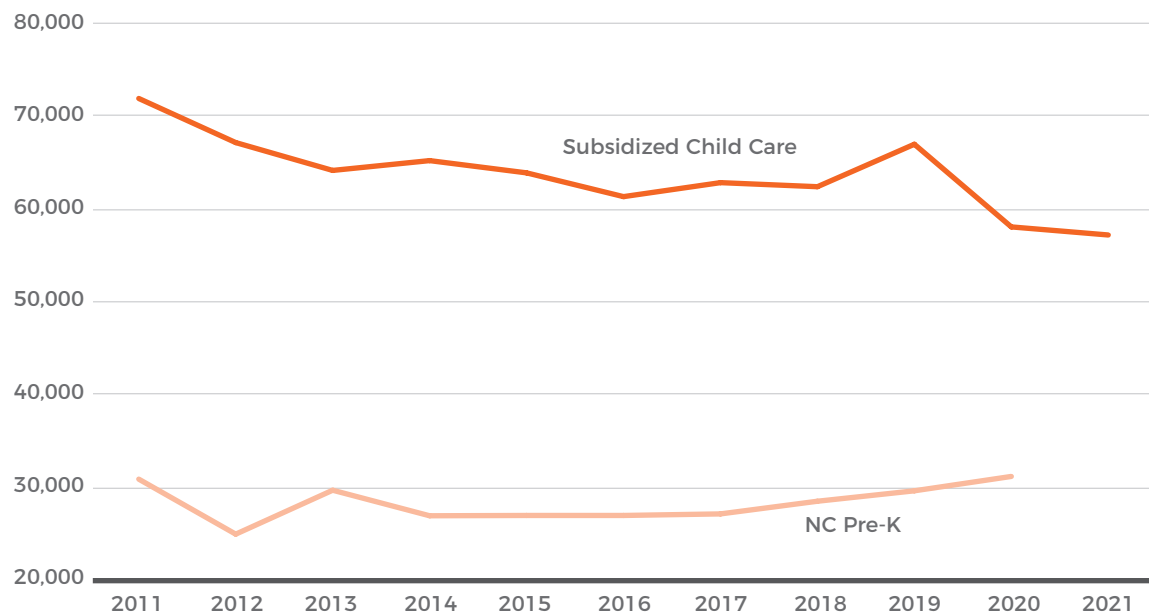
3. NC Pre-K eligibility requirements should be narrowed to focus greater resources on education and services for low-income children.

State-subsidized preschool programs are more likely to provide lasting benefits to children from distressed households than children from middle- or upper-income families. Narrowing the focus to aiding North Carolina's most vulnerable children would ensure that NC Pre-K prioritizes the educational needs of those who would benefit the most.

FY 2021 Top 10 Expenditures: NC Department of Health and Human Services, Division of Child Development and Early Education



Subsidized Child Care and NC Pre-K Enrollment



SOURCES: N.C. DEPARTMENT OF HEALTH AND HUMAN SERVICES EXPENDITURE REPORTS (JANUARY OF YEAR); NATIONAL INSTITUTE FOR EARLY EDUCATION RESEARCH, STATE PRESCHOOL YEARBOOKS 2011-2020

PUBLIC SCHOOL FINANCE

POLICY ANALYST: DR. BOB LUEBKE

INTRODUCTION

Article I, Section II of the North Carolina Constitution speaks to the state's responsibility for public education when it declares, "The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools" and "wherein equal opportunities shall be provided for all students."

Under law, North Carolina is charged with funding general school operations known as current expense. North Carolina General Statutes §115C-408 stipulates the state will fund operational instructional expenses from state revenue. The same statute makes North Carolina counties responsible for building, equipping, and maintaining school facilities and allows counties to supplement state school operating expenses.

In 2019-20, North Carolina spent \$14.02 billion on K-12 public education. Of that amount, \$9.35 billion came from state government. In addition to current expenses, the state also distributes funds to educate specific populations, such as special-needs or at-risk students, and provides special financial support to smaller or low-wealth districts. How the state best finances these responsibilities while addressing concerns about effectiveness, equity, fairness, and efficiency is a never-ending question.

The quality of a school finance system is best judged by how well it meets the goals it's designed to serve. Regrettably, today most people equate the quality of a school finance system with the level of inputs associated with it; e.g., teacher pay, per-pupil funding, class size, etc. Such thinking exposes a flawed assumption that drives much public discussion on school finance: that more resources means better education and better educational outcomes.

A review of school district spending and educational outcomes reveals the linkage between spending and educational outcomes to be weak. All things being equal, why do some districts have below-average per-pupil expenditures and above-average test scores, while other districts spend considerably above the average per-pupil expenditure yet produce disappointing test scores? The truth is, this is a complex issue with many variables. Clearly *how* money is spent is as important as *how much* is spent.

The complexity of answering the educational outcomes question should propel a reframing of how we think about public school finance. Using the term "educational productivity" is one way to improve the discussion. Educational productivity describes the important ratio of funding to student performance in order to measure the return on investment, while also considering such differences as cost of living, household income, and English language proficiency.

Because educational productivity properly reflects both sides of the education finance equation – inputs *and* outputs – policymakers should consider using educational productivity as a better way to assess how we finance schools in North Carolina.

KEY FACTS

- » In 2020, North Carolina spent an average of \$9,951 per K-12 student in federal, state, and local operating funds and \$872 (five-year average) in per-student capital funds. When average spending for buildings and other capital costs is included, total per-student expenditures on public education in 2019-20 was \$10,823.
- » During the 2019-20 school year, state, federal and local operating expenditures exceeded \$14 billion.

RECOMMENDATIONS

1. End how North Carolina currently funds education via complicated funding formulas.

The current method of funding schools in North Carolina is too complicated and centralized and offers little flexibility and transparency. Funding should be linked to the students. Doing so would ensure money gets to where it's needed and also encourage accountability by not rewarding failing systems.

2. Create an Education Productivity Index using a dashboard of inputs and outcomes for each school district and charter school.

Educational productivity is a better indicator of the quality of a school finance system. A dashboard of relevant indicators can inform the public of school and student performance and encourage transparency.

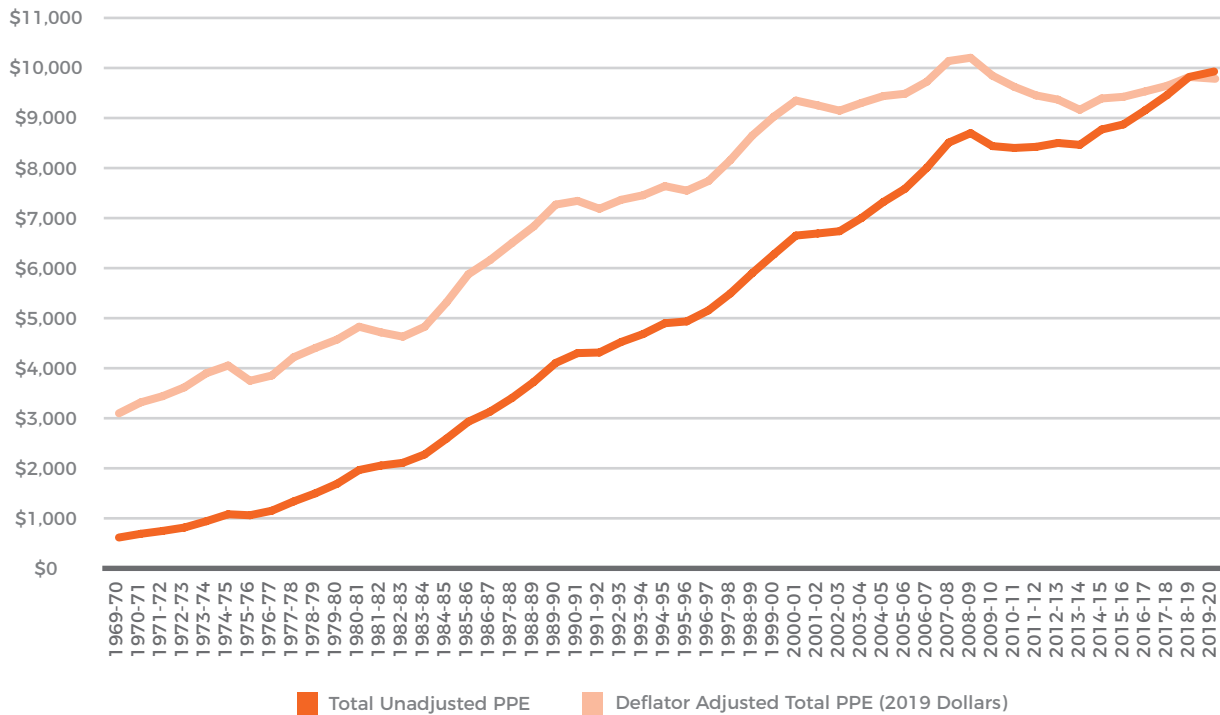
3. Publicize research on education spending and outcomes.

Policymakers should have the best information for making education spending decisions. Wise public finance understands both sides of spending.

4. Require school districts and charter schools to post budgets, contracts, check registers, and other financial documents online.

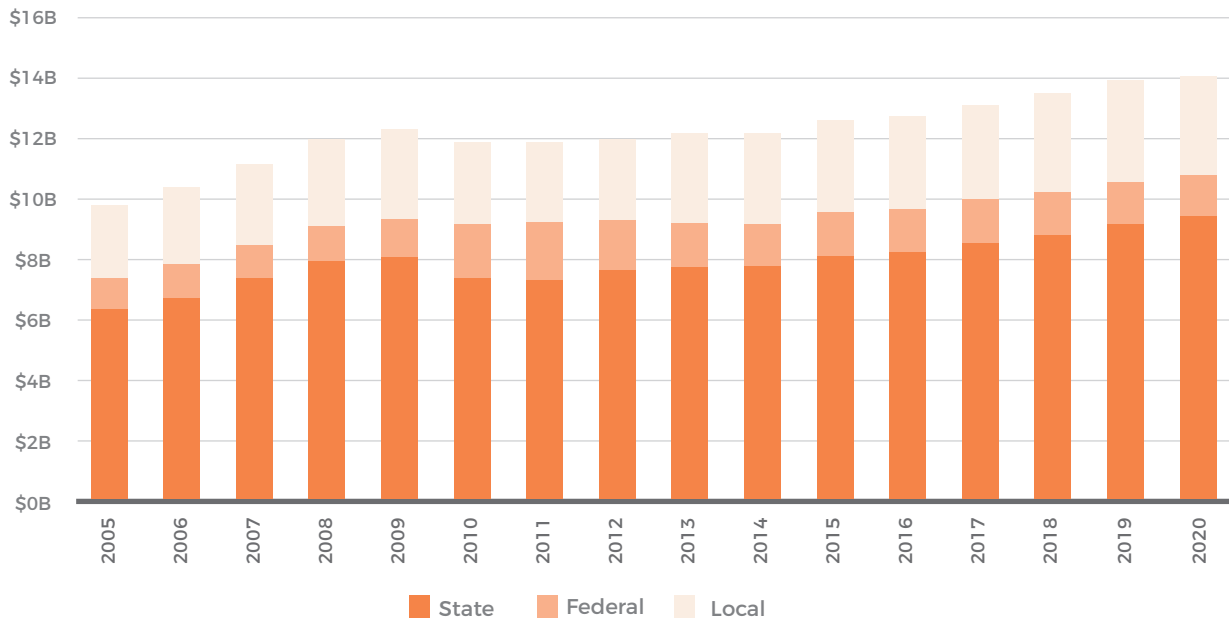
Schools lack financial transparency. To make wise choices for schools, students, and taxpayers, schools and school districts should be required to post how they spend resources.

Inflation-Adjusted and Unadjusted Per-Pupil Expenditures, 1970-2020



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION (AUTHOR'S CALCULATIONS)

Total Unadjusted Expenditures



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

SCHOOL CHOICE

POLICY ANALYST: DR. BOB LUEBKE

INTRODUCTION

The North Carolina Constitution provides “for a general and uniform system of free public schools.” That same document recognizes that “the people have a right to the privilege of education, and it is the duty of the state to guard and maintain that right.” The landmark school finance decision *Leandro v. State* (1997) defined the right to the privilege of education as the right to a “sound, basic education.” While all children enjoy those rights, regrettably, not all children have access to schools that honor those obligations.

Sadly, the quality of schools varies. School quality often correlates to neighborhood income. If your family lives in an area where the public schools are satisfactory to excellent, it isn’t a problem. If you live in an area where the schools are substandard and produce disappointing test scores or an unsafe environment, it is a big problem.

Families who find themselves with this problem have two options. If they can afford tuition, private schools are one way families can access a better school experience for their children. While some families can afford private school, most cannot. The majority of families cannot afford private school tuition or to locate to a better school or school district. This reality reflects a fundamental shortcoming of the American system of public education.

School choice seeks to remedy this injustice first by transferring from school districts to parents the power to choose how and where a child is educated, and second by providing resources and opportunity to access better educational options through public and private choice programs.

The inability of many public schools to pivot successfully to online educational delivery made school choice an issue for the thousands of families struggling with accessing quality education options during the pandemic and propelled the popularity of school choice. A January 2021 Civitas Poll found 82% of respondents agreed with the statement “parents should have the ability to choose where their child attends school.” Moreover, 73% of respondents favored legislative proposals that provide parents greater flexibility in allocating how tax dollars are spent for their child’s education.

KEY FACTS

- » Between 2011 and 2021, the home school population in North Carolina grew 115%, increasing from 83,609 students to 179,900. Also in 2021, there were 45,524 home schools across North Carolina.
- » Between 2011 and 2021, private school enrollment in North Carolina increased 11.5%, growing from 96,229 to 107,341. During that same time, the number of private schools in North Carolina increased from 693 to 783.
- » North Carolina private schools must administer a nationally standardized test or other nationally standardized equivalent measurement to all students enrolled in grades 3, 6, 9, and 11. The test must measure achievement in the areas of English grammar, reading, spelling, and mathematics, and must measure competencies in the verbal and quantitative areas in grade 11.
- » In 2014, North Carolina approved the Opportunity Scholarship program. The program provides eligible students with state vouchers of up to \$4,200 to attend private schools. In 2020-21, the Opportunity Scholarship program enrolled over 16,000 students and awarded over \$61.4 million in scholarships.
- » North Carolina's Disabilities Grant program allows for eligible special-needs students to receive vouchers of up to \$4,000 per semester, \$8,000 per year to attend private schools. The Disabilities Grant was originally a nonrefundable tax credit but was shifted to a voucher program in recent years. In 2021, there were 1,636 Disabilities Grant awards worth over \$11 million in scholarships.
- » In 2017, North Carolina approved the Personal Education Savings Account program. The program awards eligible special-needs students who enroll in a participating nonpublic or home school with Education Savings Accounts of up to \$4,500 per semester or \$9,000 per year. Parents can use the funds for educational and therapeutic expenses, including private school tuition. The program has no income limit. In 2021, the Personal Education Savings Account program enrolled 332 students at a cost of \$2.9 million. That's up from 277 students at a cost of \$2.4 million in 2018-19.
- » School-choice advocates won a major victory in 2020 when Gov. Roy Cooper, who campaigned for office on an anti-school-choice platform, signed a budget bill that not only secured Coronavirus Aid, Relief, and Economic Security (CARES) Act relief money for the Opportunity Scholarship program, but also expanded the program's income eligibility and lifted its enrollment caps for kindergarten and first grade students. The legislation also allowed the state's two virtual charter schools to enroll an additional 3,800 students.

- » The 2021 budget also delivered a victory for school choice advocates, as it tied the funding level of the Opportunity Scholarship program to 90% of state public school per pupil funding. The budget also expanded the income eligibility cut off level for the program from 150% of federal poverty level to 175%.

RECOMMENDATIONS

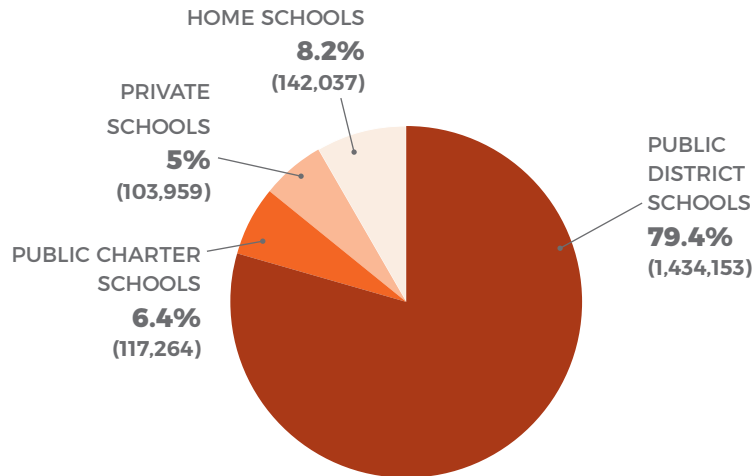
1. Increase funding for existing voucher programs to ensure all eligible applicants can receive scholarship awards.

Because of limited funding, North Carolina's voucher programs continually result in waiting lists, and eligible students who would greatly benefit from an Opportunity Scholarship or Disabilities Grant are turned away.

2. Expand eligibility of the Personal Education Savings Account program to include children in failing schools. Funding should also be increased to fund all eligible students.

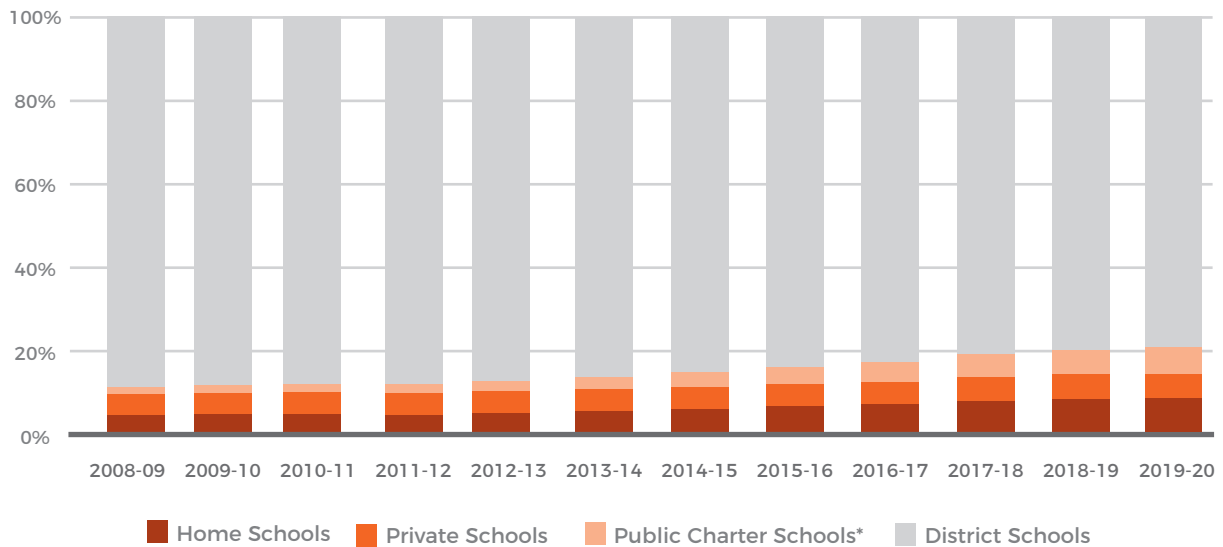
Unless a child can enroll in a charter school or receive an Opportunity Scholarship, access to a better education is restricted and mostly out of reach for children trapped in low-performing schools receiving a performance grade of "D" or "F."

K-12 Student Enrollment Market Shares, 2019-20



NOTE: NUMBERS MAY NOT SUM TO 100 DUE TO ROUNDING

Public and Non-Public School Enrollment, 2009-2019



NOTE: *INCLUDES REGIONAL SCHOOLS

SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION AND N.C. DIVISION OF NON-PUBLIC EDUCATION

STANDARDS AND CURRICULA

POLICY ANALYST: DR. TERRY STOOPS

INTRODUCTION

Curricula are not standards. Standards are not curricula. While the two concepts are often used interchangeably, most education experts agree it is important to make a clear distinction between them.

There are no universally accepted definitions for these terms. In general, standards are a framework containing broad course objectives. According to the North Carolina Department of Public Instruction, standards “define what students are expected to know and be able to do by the end of each school year or course.” State standards are updated periodically and are subject to approval by the State Board of Education. Typically, the revision and approval process takes around one year to complete and occurs with few squabbles. Notable exceptions include controversies over the Common Core State Standards in 2010 and social studies standards in 2010 and 2021.

Lesson plans, instruction materials, and related curriculum resources align with approved standards for the subject and grade. The curricula may originate from one or several sources. Course content may be developed by a teacher or a group of teachers. Schools or districts may opt to purchase a prepackaged curriculum. Educators may also avail themselves of free or low-cost materials from universities, nonprofit organizations, education-related websites, or colleagues.

The lack of curricular standardization produces mind-boggling variations in instructional methods and tasks assigned to students. This arrangement has benefits and costs. On the one hand, skillful teachers can adapt lessons to the unique needs of the children in their classroom. On the other hand, it permits ill-equipped educators to fill students’ time with ill-conceived busywork pulled from the bowels of the internet. At its worst, teachers exploit this flexibility to push critical race theory or social justice ideologies on their impressionable pupils.

The bottom line is that raising student achievement requires excellent content standards and a first-rate curriculum. In fact, one takeaway from the Common Core State Standards debacle was that a focus exclusively on standards is not enough to boost student performance. Standards are successful only when they are bolstered by content-rich curricula delivered by well-trained educators, preferably using research-based instructional methods such as Direct Instruction.

KEY FACTS

- » State education officials mandate that all subject-area teachers follow the Standard Course of Study, which defines “appropriate content standards for each grade level and each high school course to provide a uniform set of learning standards for every public school in North Carolina.” State standards are reviewed and updated periodically.
- » The Common Core State Standards were developed by three Washington, D.C.-based organizations – the National Governors Association, the Council of Chief State School Officers, and Achieve, Inc. – and were championed by the U.S. Department of Education. In 2010, the North Carolina State Board of Education adopted Common Core mathematics and English language arts standards for kindergarten through 12th grade. In 2018, English language arts and mathematics teachers began using a revised and renamed version of the Common Core State Standards.
- » State-authored standards in the Standard Course of Study include Arts Education, CTE and Career Pathways, Computer Science, English Language Arts, English Language Development, Guidance, Healthful Living, Information and Technology, Mathematics, Science, Social Studies, and World Languages.
- » The North Carolina Department of Public Instruction currently provides crosswalks, glossaries, and “unpacking” documents to teachers without mandating that they adopt any of them.
- » North Carolina state law prescribes the teaching of curricular content in certain grades and course areas. For example, state law prescribes a civic literacy curriculum during a high school social studies course. Health education, character education, and financial literacy are other content requirements outlined in the statute. The requirement to teach multiplication tables and cursive writing are two notable curriculum mandates passed into law.

RECOMMENDATIONS

1. Legislators should create commissions charged with raising the quality and rigor of state standards, curricula, and assessments.

The goals of the commissions would be to 1) modify substantially outdated or inferior standards; 2) specify high-quality content that aligns with the standards; 3) recommend a valid, reliable, and cost-effective testing program; and 4) provide ongoing review of the standards, curricula, and tests throughout implementation.

2. The commission should produce a rigorous, state-developed curriculum or adopt a research-based program package, such as the Core Knowledge Sequence.

Prescribing baseline curricular content would provide a more equitable education environment, ensuring that all students are exposed to the same essential content regardless of socioeconomic circumstances. It would also allow the state to compensate for knowledge and skill deficiencies identified by institutions of higher education, private- and public-sector employers, and other stakeholders.

3. North Carolina should adopt curriculum transparency requirements.

This commonsense measure would require teachers to post outlines of lesson plans and assignments to publicly accessible websites after the conclusion of the school year. It would also mandate that schools outline procedures for the documentation, review, or approval of the learning materials used for student instruction. Academic transparency combined with vigilant parents monitoring and evaluating their child's daily activities may deter indoctrination and related forms of professional misconduct.

4. School boards should use their statutory authority to make curriculum decisions, select instructional materials, and create community media advisory committees tasked with addressing concerns about the appropriateness of textbooks and other resources.

State law gives local boards of education the power to establish policies and procedures for adopting library books, periodicals, audio-visual materials, and other supplementary instructional materials. School boards even have the authority to select textbooks that the State Board of Education has not adopted through its formal textbook adoption process.

TEACHING PROFESSION

POLICY ANALYST: DR. BOB LUEBKE

INTRODUCTION

The presence of a high-quality teacher is one of the most significant influences on student achievement. Because that truth is regularly affirmed by research and practical experience, it is one of the reasons North Carolina should work hard to ensure every classroom is staffed with a well-trained, caring, and qualified teacher.

Many policies work against that happening. Reformers correctly identify education schools as the root of many problems. North Carolina's teacher preparation programs too often attract mediocre or low-quality students. Graduates of the state's education schools frequently lack mastery of relevant content along with the skills to teach literacy or basic math. What's worse, most education schools in North Carolina reject this diagnosis and resist the impulse for reform.

Another barrier to ensuring classrooms are staffed with quality teachers is the North Carolina salary schedule. The teacher salary schedule awards pay differentials based on years of service or academic credentials (e.g., masters or doctoral degree or National Board Certification), not on job performance, which is teaching students. If teachers are paid to teach, shouldn't teacher pay, in part, be tied to how well students learn? The teacher salary schedule lays out clearly what teachers are rewarded for – and it's not student learning. Teacher pay is tied directly to time on the job and academic credentials. To date, no research has identified a link between quality teaching and time-on-the-job or academic credentials.

Such policies have a harmful impact on teachers and students. Basing teacher pay on factors other than job performance disincentivizes excellence. If teachers know they will be paid the same whether they work hard or skate along, what incentives exist to excel? All teachers with the same years' experience will be paid the same, whether they are a super teacher or a subpar teacher. Placing limits on what teachers can earn, and when, causes the best teachers to rethink a career in education.

Likewise, knowing your pay will be the same regardless of job performance inevitably has made it possible for subpar teachers to remain in the workforce – for years. It's a reality that seldom gets discussed but adversely impacts the education and future lives of millions of students.

Teacher recruitment and teacher retention are two indicators of a healthy teaching profession. Compensation (pay and benefits) is one way state policy influences teacher recruitment. After losing ground with small or no raises for the first half of the last decade, salary increases and increases in the value of benefits helped to improve North Carolina's ranking on average teacher pay to 34th nationally and improve North Carolina's teacher compensation to second in the Southeast behind Georgia. Other factors also influence recruitment and retention,

however, including a high quality of life and low cost of living, two realities that can temper the importance of salary and benefits.

Lastly, a healthy and active array of alternative pathways to the teaching profession can enrich the profession with diverse teaching skills and help local school districts address growing vacancies in hard-to-fill subject areas. Legislation approved by the General Assembly in 2019 (S.L. 2019-71) was targeted on doing just that. The bill made it easier to obtain an Initial Professional License and created a new Limited License for teachers already licensed in other states. The reform also allows districts to rehire retired teachers in certain high-need areas.

KEY FACTS

- » In the 2020-21 school year, North Carolina district schools employed 93,461 full-time teachers. Charter schools employed another 7,936 full-time teachers.
- » As of 2021, 23,090 teachers held National Board Professional Teaching Standards Certification (NBPTS). North Carolina has the highest number of NBPTS teachers. North Carolina teachers who achieve certification receive a 12% supplement to their pay.
- » Over the past decade, North Carolina's unadjusted average teacher pay increased from \$46,700 (2011) to \$54,392 (2021), an increase of 16.4%. Since 2000-01, annual pay increases for state employees add up to 40.8%, while teachers have combined percentage increases of 86.6%. Over the same period, combined percentage increases in the Consumer Price Index totaled 56.3%.
- » According to the state salary schedule for 2020-21, a beginning teacher with a bachelor's degree on a typical 10-month contract had a base salary of \$35,000. Likewise, a teacher with a doctorate with over 25 years of teaching experience and National Board Certification will earn \$65,970. These figures do not include local supplements.
- » Most teachers also receive an annual salary supplement from the local school districts. In 2020-21, the average local salary supplement for teachers was \$4,942. Five school districts provided no local salary supplement. Wake County Schools provided the largest local salary supplement: \$8,873. Mitchell County Schools provided the smallest supplement: \$108.
- » For academic year 2020-21, North Carolina's average teacher pay was \$54,392. This figure does not include benefits, which include Social Security, medical/hospitalization and retirement benefits, and liability insurance. To calculate the cost of matching benefits, add 7.65% for Social Security (\$4,160.98), 21.68% for retirement (\$11,792), and \$6,326 for hospitalization insurance. When the cost of benefits is calculated, salary and benefits bring the average North Carolina teacher compensation to \$76,671.

- » The cost of benefits continues to climb, with hospitalization and retirement costs rising faster than all other costs. In the last decade, the total cost of benefits for the average teacher has increased from \$15,519 in 2011 to \$22,279 in 2021.
- » According to the 2019-20 State of the Teaching Profession in North Carolina report, the teacher attrition rate for the state's 115 school districts was 7.53%, slightly less than the 2018-19 rate of 7.59% and the 2017-18 rate of 8.1%. The rate includes teachers who retired or resigned due to personal circumstances.

RECOMMENDATIONS

1. Broaden teachers' pathways to the classroom by easing or eliminating certifications or licensure requirements.

The case for certification is weak. There is little evidence that certification contributes to teacher quality or raises student achievement. Local education agencies should be given more leeway in supervising and selecting candidates.

2. Eliminate the teacher pay schedule. Tie a portion of teacher pay to the value that teachers add to students' learning and provide more local say in setting pay schedules.

Local officials – principals and superintendents – should be given more input on setting teacher pay schedules, since they are most knowledgeable about teacher performance and the labor market.

3. Improve the quality of education school graduates by raising program admissions standards, increasing subject-area course requirements, and providing rigorous instruction in research-based teaching methods.

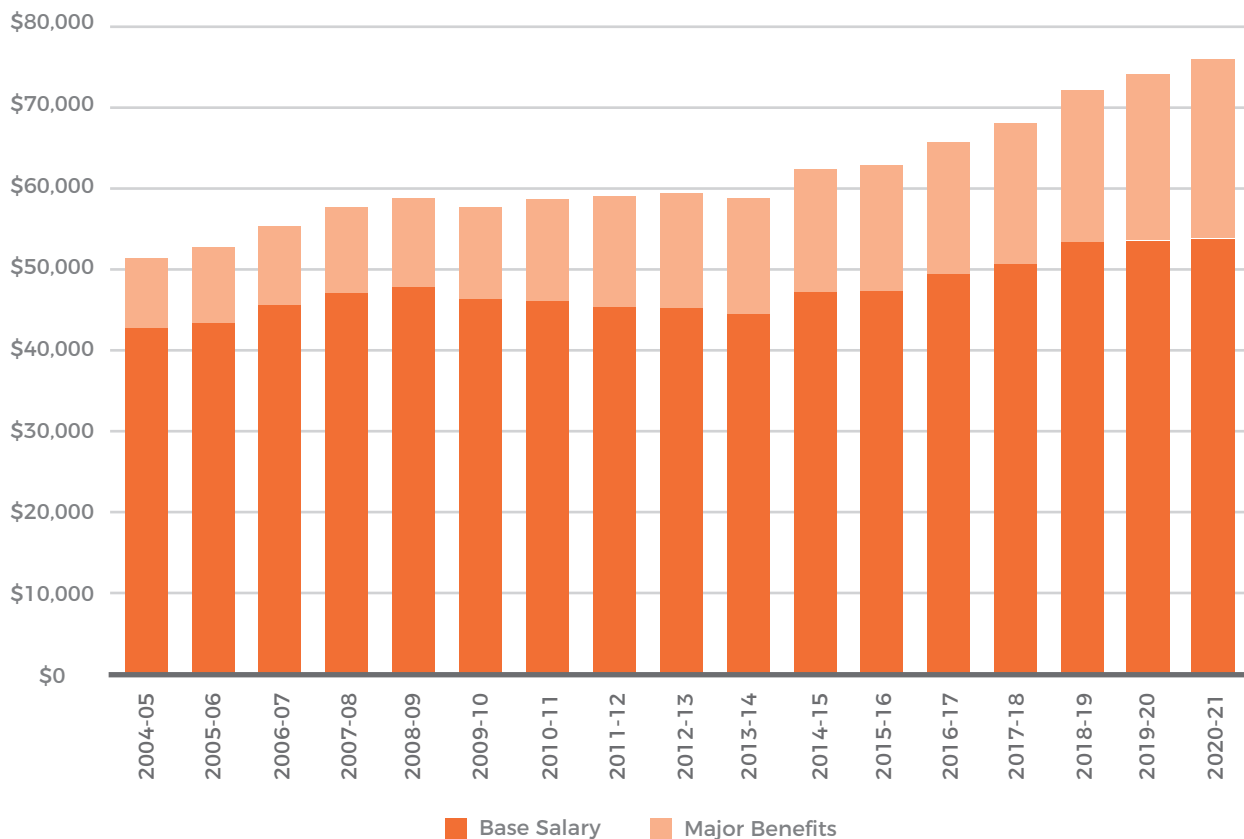
Far too many education school graduates emerge with subpar subject mastery and ability to teach subjects like literacy and math.

Average Teacher Compensation, 2020-2021

Compensation	Amount
Salary	\$54,392
Social Security	\$4,161
Retirement	\$11,792
Health Insurance	\$6,326
Total Benefits Package	\$22,279
Total Average Compensation	\$76,671

SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET FOR SELECTED YEARS, PUBLISHED BY THE NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

Average Teacher Compensation, 2005-2021



SOURCE: SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET FOR SELECTED YEARS, PUBLISHED BY THE NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

TESTING AND ACCOUNTABILITY

POLICY ANALYST: DR. BOB LUEBKE

INTRODUCTION

In 2020, North Carolina spent over \$14 billion on K-12 public education. Was the money used wisely? Answering that question involves both formal and informal processes. Informally, parents render their own assessments by choosing to stay or leave particular schools or school districts. Voting with their feet is a powerful way for parents to express their sentiments and hold public institutions – many of them monopolies – accountable.

A more conventional way to hold public schools accountable is to gauge the quality of how well they are teaching and students are learning.

The North Carolina READY Accountability Model was developed in 2012 to provide data to answer that question and others. The Ready Accountability Model consists of: (1) a standard course of study focused on most critical skills and knowledge to be successful, (2) assessments that require students to express and support their ideas, and (3) an accountability model that measures how well schools are doing to ensure students are college- and career-ready when they graduate.

As part of the READY Accountability Model, the North Carolina Department of Public Instruction (DPI) developed and tested nearly all end-of-grade and end-of-course tests to be administered in grades K-12, an unusual but nonetheless factual development. In addition, the READY model assigns A-F grades annually to schools based on calculations combining school achievement and school growth and using a 15-point grading scale. Student career and college readiness is reported using five different achievement levels.

READY has been dogged by persistent criticism. The formula for calculating school grades and the proper weighting of school achievement and school growth have been a topic of endless debate and discussion.

A 2016 North Carolina Teacher Working Conditions Survey found 57% of North Carolina teachers who responded to the survey did not believe the state level assessments accurately gauged students' understanding of state learning standards. Curiously, the question was removed from subsequent surveys. In recent years there has been growing sentiment among teachers that North Carolina administers too many tests.

KEY FACTS

- » The federal government requires that North Carolina administer end-of-grade tests and report results in reading and math (grades 3–8) and science (grades 5–8). High school students must take end-of-course tests in English II, Math I, Math III, and biology.
- » State assessments gauge career and college readiness using a five-level achievement scale. Levels 3, 4, and 5 meet the “on grade level” proficiency standard. Levels 4 and 5 meet the “career and college readiness” standard.
- » How are North Carolina students performing? In 2018–19, only 30.8% of students statewide tested at or above proficiency in both English Language Arts and Mathematics (grades 3–8). In 2017–18, the proportion testing at or above proficiency was 34.3%, and in 2016–17 it was 35.7%. In 2019, only 18% of North Carolina graduates met all four ACT College Readiness benchmarks, unchanged from 2015 and 2018.
- » North Carolina also participates in a federal testing program—National Assessment of Educational Progress (NAEP)—also known as the Nation’s Report Card. NAEP samples 4th, 8th, and 12th grade students, providing state-level results in 4th and 8th grade Mathematics, Reading, Science, and Writing. Other grades and samples are used for assessing long-term trends. NAEP’s main value is to provide a basis of comparison with states and the nation.
- » A new law passed in 2019 (S.L. 2019–142) required combining career and college readiness indicators for both school performance grades required under state and federal reporting requirements, and also required the State Board of Education to include college and career readiness information on annual school report cards.
- » The Testing Reduction Act of 2019 eliminated the North Carolina Final Exams beginning with the 2020–21 school year. The legislation also stated the General Assembly’s intent to move toward a “through-grade assessment model” for all state-mandated assessments, which place an emphasis more on formative assessments. In addition, the legislation also required local boards of education to review local standardized testing requirements every two years.
- » Due to the coronavirus pandemic, North Carolina received a waiver from the federal government exempting the state from all end-of-grade and end-of-course test requirements as well as diagnostic and formative reading assessments for grades K–3. Because of the lack of data collection, school performance grades and school report cards were not calculated for 2019–20.

RECOMMENDATIONS

1. Allow districts to adopt an independent national test of student performance

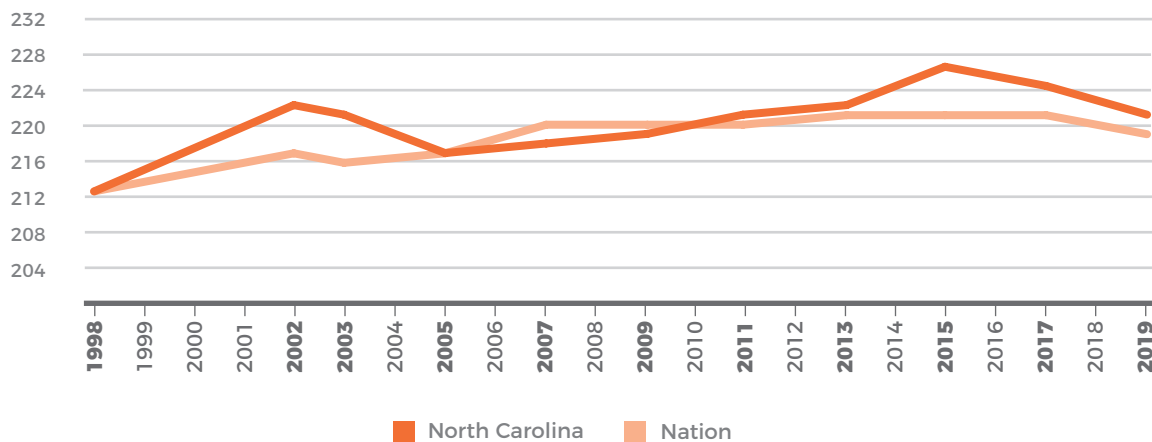
State Department of Public Instruction-developed assessments are controversial, were not independently developed, and required revisions to get the quality of the tests where they needed to be. Districts should be able to choose from an array of nationally recognized achievement tests (such as the Stanford Achievement Test and Iowa Test of Basic Skills) to provide another measure of student performance.

2. Provide children attending failing schools either the option of in-school tutoring or an Education Savings Account where parents can use funds to address the child's academic needs

School choice is another form of accountability. By providing Education Savings Accounts in which parents have the power to choose their child's education, poor-performing schools are held accountable by dwindling attendance.

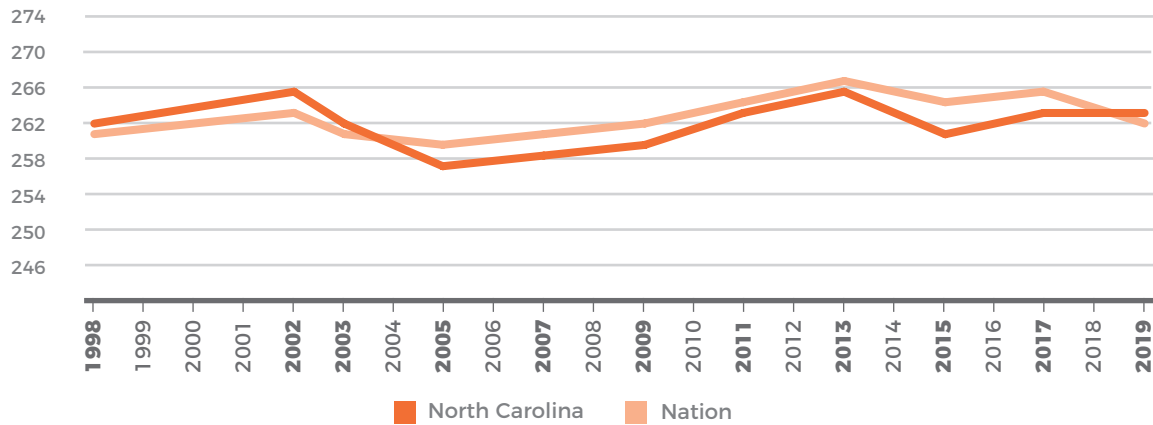
The pandemic has made it necessary to recalibrate assessment. Grants should be provided to students to assess academic progress and needs. Parents should have access to a variety of options to address a child's shortcomings, including traditional tutoring, online coaching or summer or evening classes.

NAEP Scores: Fourth-Grade Reading

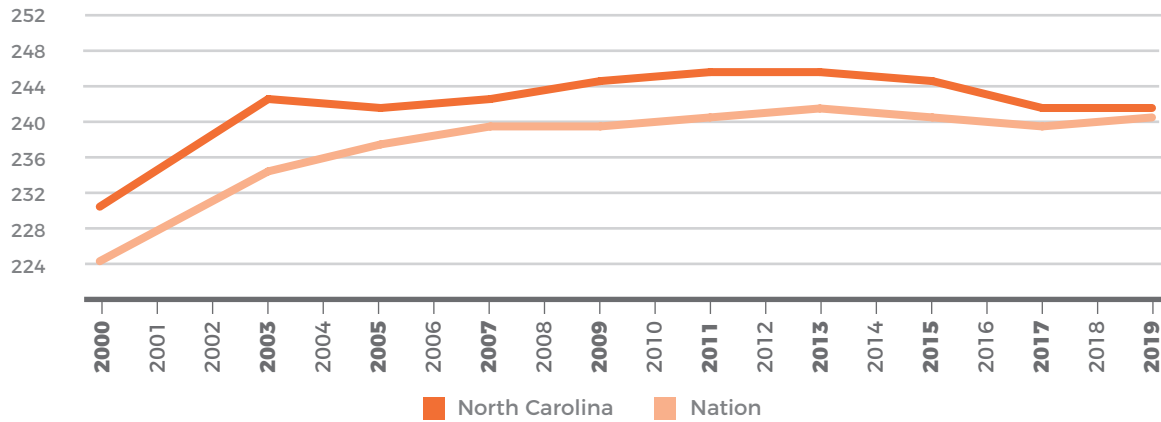


SOURCE: NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP) AVERAGE SCALE SCORES

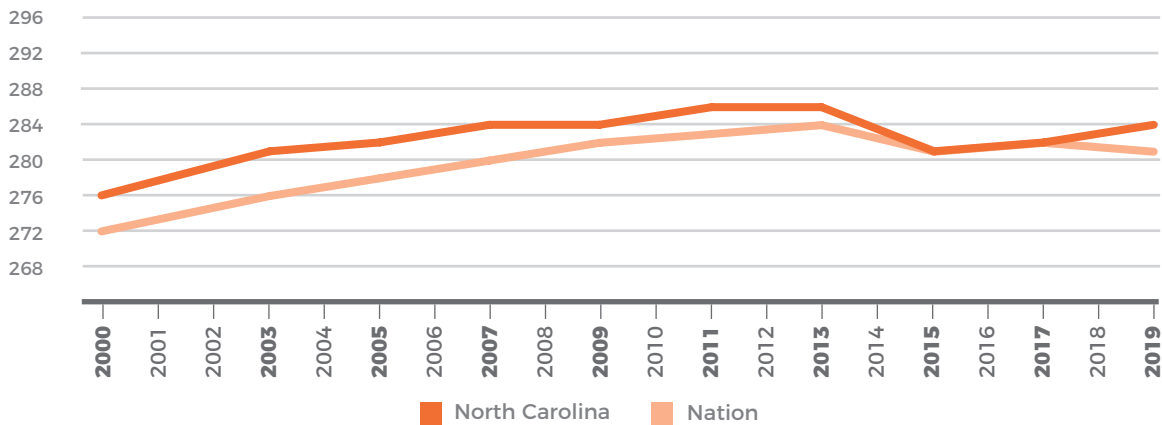
NAEP Scores: Eighth-Grade Reading



NAEP Scores: Fourth-Grade Mathematics



NAEP Scores: Eighth-Grade Mathematics



SOURCE: NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP) AVERAGE SCALE SCORES

Average SAT Scores

Year	Jurisdiction	Reading	Mathematics	Total
2020	National	520	510	1030
	North Carolina	548	540	1089
2019	National	524	515	1039
	North Carolina	549	542	1091
2018	National	529	520	1049
	North Carolina	550	540	1090
2017	National	527	517	1044
	North Carolina	542	532	1074
2016	National	487	494	981
	North Carolina	502	508	1010
2015	National	495	511	1006
	North Carolina	498	504	1002
2014	National	497	513	1010
	North Carolina	499	507	1006
2013	National	496	514	1010
	North Carolina	495	506	1001
2012	National	496	514	1010
	North Carolina	491	506	997
2011	National	497	514	1011
	North Carolina	493	508	1001
2010	National	500	515	1015
	North Carolina	497	511	1008
2009	National	499	514	1013
	North Carolina	495	511	1006
2008	National	500	514	1014
	North Carolina	496	511	1007
2007	National	501	514	1015
	North Carolina	495	509	1004
2006	National	503	518	1021
	North Carolina	495	513	1008
2005	National	508	520	1028
	North Carolina	499	511	1010

NOTE: THE COLLEGE BOARD BEGAN ADMINISTERING A NEW SAT IN MARCH 2016. SAT SCORES AFTER 2016 ARE NOT DIRECTLY COMPARABLE WITH AVERAGE SCORES FROM PREVIOUS YEARS. STARTING IN 2017, AVERAGE SCORES ARE FOR PUBLIC SCHOOL STUDENTS ONLY.

SOURCE: COLLEGE BOARD

Average ACT Scores

Year	Jurisdiction	English	Math	Reading	Science	Composite
2019	National	20.1	20.4	21.2	20.6	20.7
	North Carolina (Graduates)	17.8	19.2	19.4	19.0	19.0
	North Carolina (11th Grade)	16.7	18.6	19.0	18.6	18.4
2018	National	20.2	20.5	21.3	20.7	20.8
	North Carolina (Graduates)	18.0	19.3	19.5	19.2	19.1
	North Carolina (11th Grade)	17.2	18.9	18.8	18.6	18.5
2017	National	20.3	20.7	21.4	21.0	21.0
	North Carolina (Graduates)	17.8	19.3	19.6	19.3	19.1
	North Carolina (11th Grade)	17.4	18.9	18.9	18.8	18.6
2016	National	20.1	20.6	21.3	20.8	20.8
	North Carolina (Graduates)	17.8	19.4	19.5	19.2	19.1
	North Carolina (11th Grade)	17.1	18.9	19.0	18.9	18.6
2015	National	20.4	20.8	21.4	20.9	21.0
	North Carolina (Graduates)	17.6	19.5	19.2	19.0	19.0
	North Carolina (11th Grade)	17.1	19.0	18.8	18.7	18.6
2014	National	20.3	20.9	21.3	20.8	21.0
	North Carolina (Graduates)	17.5	19.6	19.0	18.9	18.9
	North Carolina (11th Grade)	17.0	19.2	18.7	18.6	18.5
2013	National	20.2	20.9	21.1	20.7	20.9
	North Carolina (Graduates)	17.1	19.6	18.8	18.7	18.7
	North Carolina (11th Grade)	16.9	19.2	18.4	18.6	18.4
2012	National	20.5	21.1	21.3	20.9	21.1
	North Carolina (Graduates)	21.0	22.3	22.2	21.4	21.9
	North Carolina (11th Grade)	16.4	19.3	18.3	18.3	18.2
2011	National	20.6	21.1	21.3	20.9	21.2
	North Carolina	21.2	22.4	22.2	21.4	21.9
2010	National	20.5	21.0	21.3	20.9	21.0
	North Carolina	21.1	22.3	22.2	21.6	21.9
2009	National	20.6	21.0	21.4	20.9	21.1
	North Carolina	20.9	22.0	21.9	21.1	21.6
2008	National	20.6	21.0	21.4	20.8	21.1
	North Carolina	20.5	21.8	21.7	20.8	21.3
2007	National	20.7	21.0	21.5	21.0	21.2
	North Carolina	20.2	21.4	21.4	21.0	21.0
2006	National	20.6	20.8	21.4	20.9	21.1
	North Carolina	19.6	20.9	20.9	20.2	20.5
2005	National	20.4	20.7	21.3	20.9	20.9
	North Carolina	19.3	20.4	20.6	20.0	20.2

NOTE: STARTING IN MARCH 2012, THE ACT HAS BEEN ADMINISTERED TO ALL 11TH GRADE PUBLIC SCHOOL STUDENTS IN NORTH CAROLINA.

SOURCE: ACT, INC.

VIRTUAL SCHOOLS

POLICY ANALYST: DR. TERRY STOOPS

INTRODUCTION

Virtual schools enjoy numerous advantages. Their students are able to receive instruction through a computer and an internet connection without having to be physically present in the classroom. They may be used for primary or supplementary instruction at relatively similar cost levels. Virtual schools may offer either all online or blended instruction with some online and some in-person instruction. Moreover, the relative ease of posting class notes, instructional materials, or additional resources gives virtual schools distinct learning advantages and makes them potentially a very content-rich environment.

North Carolina currently has three statewide virtual public schools (there are also several district-based virtual schools). Any student in North Carolina can apply to these schools. Their teachers are certified in online instruction. Each of these schools is subject to the same state performance standards and regulations as public schools regarding teacher certification, enrollment caps, student/teacher ratios, and grade-level restrictions.

The oldest of North Carolina's three statewide public virtual schools, the North Carolina Virtual Public School (NCVPS), was started in 2007 to "expand and enhance the educational opportunities of an existing school." It is the second-largest virtual school in the nation. While operated like a school, it is far from a normal school. NCVPS does not grant degrees or have full-time students. It exists to serve students and other schools by offering content that some schools find difficult to provide. The grades students receive in NCVPS courses are recorded back in the student's original school.

North Carolina's other two statewide public virtual schools are virtual charter schools. Legislation to create the two charter schools resulted in a bruising battle in 2014. Virtual charter schools are different from NCVPS in that students who attend a virtual charter cannot be enrolled in another school or district. In addition, virtual charter schools are not run by a district or the state, but by an independent organization. Both of North Carolina's virtual charter schools opened in 2015 with enrollment caps of 2,592. North Carolina Cyber Academy's learning platform is operated by Edgenuity, and NC Virtual Academy currently uses Stride, Inc. to manage its online learning system. Virtual charter schools grant diplomas while their virtual public-school counterparts do not.

Funding for NCVPS is determined by an allotment formula tied to district or charter school enrollment, which was established by Session Law 2011-145 and modified by S.L. 2012-142 to give schools additional flexibility. According to the North Carolina Department of Public Instruction, for the 2019 school year, district school costs were \$235 for summer classes, \$349 for fall/spring block classes, and \$438 for year-long classes.

Education issues stemming out of the coronavirus increased the visibility and limitations of virtual learning. Issues of quality and accessibility dominated the discussion and frequently varied by geography and income. Virtual learning throughout the pandemic was mixed and uneven. Parental satisfaction waned, and it's clear a lot less education occurred. How to redress those problems and optimize the niche for virtual schools are questions that will need to be answered.

KEY FACTS

- » North Carolina Virtual Public School (NCVPS), which opened as a full-fledged school in 2007, has served almost 600,000 students. In 2019-20, NCVPS had over 51,000 student enrollments from 31,000 students (some students are enrolled in multiple classes). Students came from 115 school districts, 1,020 schools, and 188 charter schools.
- » In 2019-20, average per-pupil state funding for local education agencies was \$6,415.33; for charter schools, \$5,753.92; and NCVPS, \$5,650.72.
- » The courses with the largest enrollments in NCVPS are all blended courses: Applied Science (1,257 students), American History: Founding (1,256), and Biology (1,241).

RECOMMENDATIONS

1. Assess student and parental satisfaction with regard to student performance and fiscal issues.

Need for greater review was made clear by a 2020 performance audit from the State Auditor that found that eight of 12 NCVPS courses failed to meet standards for content, and 11 of 12 courses failed to meet standards for rigor.

2. Expand competition in course offerings.

Expand the number of virtual school providers. Entry barriers should be lowered to incentivize the creation of more public and private online schools. In addition, UNC, which already has a significant online presence, should be encouraged to use its assets to create classes for K-12 students as well.

3. Encourage local districts to implement virtual academies.

Obviously, virtual schooling is here to stay. Local districts should therefore have flexibility to meet the differing needs of students and their districts, including virtual learning.

4. Provide adequate staff and teacher training for virtual schools.

Most virtual learning academies have higher enrollments than traditional schools. Schools must have the right staff who can help families and students in the new learning environment.

Teachers are trained to teach in person. Adequate training should be given to teachers for online and blended instruction and knowing how to apply the best models of online instruction.

HEALTH CARE

CERTIFICATE OF NEED

POLICY ANALYST: **JORDAN ROBERTS**

INTRODUCTION

Certificate of Need (CON) is a regulation that limits health care supply unless state health-care planners determine a specific “need.” Based on the theory that the economics of health care is unlike any other market, CON laws use central planning to try to reduce health care costs by keeping health care facilities from buying too much equipment, building too much capacity, and adding too many beds. Other than a few exemptions to the rule, medical providers with plans to build or expand an existing health care facility, offer new services, or update major medical equipment, must ask for, and receive, permission from the State Health Coordinating Council (SHCC).

Congress enacted CON laws under the federal Health Planning Resources Development Act in 1974, intending to cut down on health care cost inflation. However, the federal government repealed the CON mandate in 1987 because the program did not effectively restrain costs. In fact, four decades worth of data and research into CON laws consistently find that they fail to lower health care costs. On the contrary, limiting the supply of health services is far more likely to cause increases in health care costs because it reduces competition.

Since the federal CON repeal, 15 states have scrapped their CON programs. North Carolina did not. The state still has one of the most stringent CON programs in the nation, regulating 27 services that range from kidney dialysis units to mental health services to ambulatory surgical centers (ASCs).

North Carolina did undertake some reform in 2005, allowing gastroenterologists to perform colonoscopies in their own endoscopy units. The utilization of those services increased by 28% over four years. Yet, overall Medicare savings still amounted to more than \$224 million within six years, as procedures performed in free-standing facilities are reimbursed at a lesser rate than those performed in full-service hospitals.

In another more recent move, the state legislature allowed select rural hospitals to bypass the CON process for purposes of adding or converting unused acute-care beds into inpatient behavioral health beds. The exemption aligns with the mission of the state’s Task Force on Mental Health and Substance Abuse to expedite treatment for psychiatric and substance abuse needs. Ideally, all hospitals and health centers, not the state, should be able to decide for themselves how to provide these resources. Eliminating CON review, in this case, is a significant victory for patients.

The restrictive nature of CON laws was on full display during the COVID-19 pandemic. As state hospitals and health-care providers geared up to treat the influx of patients who needed intense hospital care, Gov.

Roy Cooper suspended the complete CON process. Instead, the state used a more expedited method to approve increases in bed capacity or the movement of medical imaging equipment. This illustrates the ineffectiveness of CON laws; priceless resources needed to be diverted to comply with CON laws instead of dealing with the COVID patients. In regular times, and especially during a global pandemic, the providers on the ground are far better equipped to make health care need determinations rather than a bureaucratic board in Raleigh.

KEY FACTS

- » When CON laws were implemented, public policymakers hoped to tackle massive health-care inflation due to the “cost-plus” reimbursement method under which providers were paid at the time. However, years of research have shown that, despite the presence of CON laws in most states, health-care costs continued to rise and the federal government realized these laws failed to achieve its goal of keeping inflation in check.
- » The impact of CON laws extends beyond artificially higher prices. North Carolina’s CON program reduces access to health care for consumers and local communities, especially those who live in small towns and rural areas. CON states have 30% fewer rural hospitals and 13% fewer rural ambulatory surgical centers compared to states without CON laws. The elderly, the poor, people under time constraints, and people with emergency medical needs would be better served by having medical services nearby, rather than traveling to a hospital or clinic fortunate enough to have received CON approval for a service or procedure.
- » Supporters of CON laws claim they are necessary to ensure hospitals can provide “charity care” or can accommodate those without insurance or those who have trouble paying for medical care. However, studies have shown there is no difference in the amount of charity care between states that impose CON laws and states that don’t.
- » Growing mental health and substance abuse problems in North Carolina are exacerbated by CON laws. A 2021 study found that if the state scrapped its CON law, it would likely have an additional three psychiatric hospitals. Additionally, in a CON-free North Carolina, the study estimates that six additional substance abuse facilities would accept private insurance and 12 more would accept Medicaid.

RECOMMENDATION

1. Repeal Certificate of Need.

CON laws restrict access to care, put government control ahead of patients and doctors, handcuff health providers from offering care in their communities, increase health-care costs by preventing competition, undermine the doctor-patient relationship, and add anxiety about the quality of care when we are most vulnerable. North Carolina families deserve access to quality care and lower costs, unencumbered by government control. A 2021 law was a step in the right direction, which increased the financial threshold for investments in certain equipment to require CON approval.

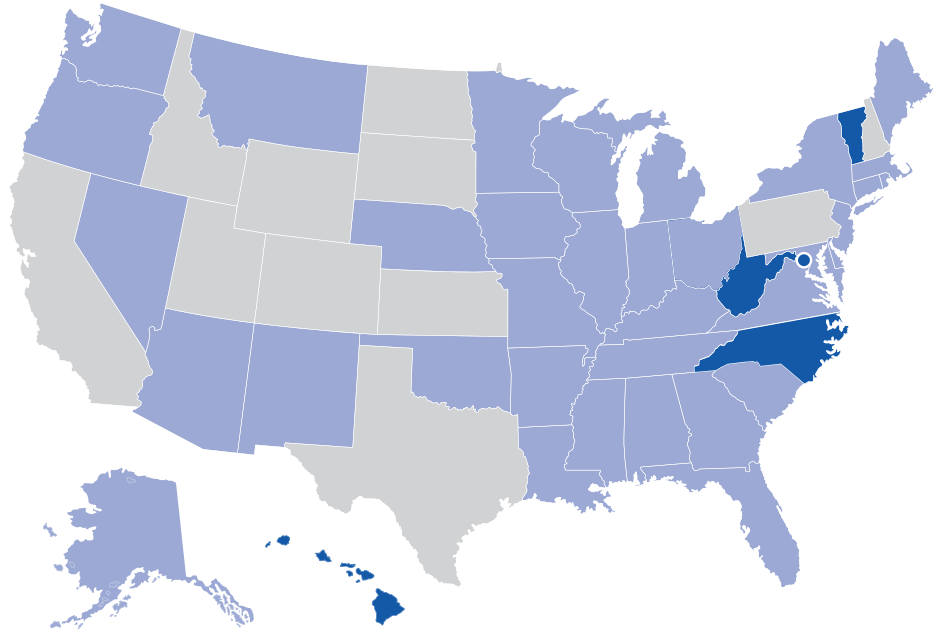
Services That Require a Certificate of Need In North Carolina

- Air Ambulance
- Ambulatory Surgical Centers (ASCs)
- Assisted Living/Residential Care Facilities
- Burn Care
- Cardiac Catheterization
- Gamma Knives
- Home Health
- Hospice
- Hospital Beds
- Intermediate Care Facilities for Individuals with Intellectual Disability (ICF/IDs)
- Linear Accelerator Radiology
- Lithotripsy
- Long-Term Acute Care (LTAC)
- Magnetic Resonance Imaging (MRI) Scanners
- Mobile Medical Imaging
- Neonatal Intensive Care
- New Hospitals or Hospital-Sized Investments
- Nursing Home Beds/ Long-Term Care Beds
- Open-Heart Surgery
- Organ Transplants
- Positron Emission Tomography (PET) Scanners
- Psychiatric Services
- Radiation Therapy
- Rehabilitation
- Renal Failure/Dialysis
- Substance/Drug Abuse

SOURCE: MERCATUS CENTER

Jurisdictions With the Most Restrictive Certificate-of-Need Laws

<i>Top 5 Most Restrictive Jurisdictions by Number of Services/Facilities Regulated</i>	
Hawaii.....	28
North Carolina.....	27
District of Columbia.....	25
Vermont.....	25
West Virginia.....	24



■ Five Most Restrictive CON Law States/Jurisdictions ■ Other States with CON Laws ■ States with no CON Laws

SOURCE: MERCATUS CENTER

DENTAL CARE ACCESS

POLICY ANALYST: **JORDAN ROBERTS**

INTRODUCTION

The importance of oral health is often overlooked in the broader health-care discussion. Proper oral health at a young age and into one's elderly years is an essential factor in one's overall health. However, accessing or affording a dental professional can be difficult, especially for those in more remote areas, or those with modest income. Dental therapy is a relatively new occupation in the United States that can help with access and affordability problems that burden so many North Carolinians.

Dental therapists are highly trained, mid-level dental professionals analogous to a nurse practitioner or physician's assistant. Generally, the scope of practice for a dental therapist includes many of the same duties as a dental hygienist, plus the ability to perform common restorative procedures such as drilling and filling cavities, simple extractions, and stainless-steel crowns. These professionals complete an educational program, usually two to four years, and work under the supervision of a dentist.

As of late 2020, 13 states allow some form of practice by dental therapists. North Carolina is not one of them. The introduction of dental therapists into North Carolina would likely help many who have trouble accessing or affording proper dental care. Dental therapists specialize in preventive care, so patients will benefit from having oral problems addressed before they become painful and expensive. With the appropriate regulatory framework in place, dental therapists will receive supervision from a dentist, but they still will have the flexibility to practice outside the traditional dental office. This is key. One of the easiest ways to provide patients in rural areas with access to oral care is to allow these professionals to travel to schools, community centers, or nursing homes.

Adding dental therapists to North Carolina's dental profession is a multi-step, multi-year process. First, lawmakers would need to approve licensure. Next, an academic institution would need to adopt a curriculum and enroll students. Once students have completed the requirements and receive a license, then patients could begin receiving care.

KEY FACTS

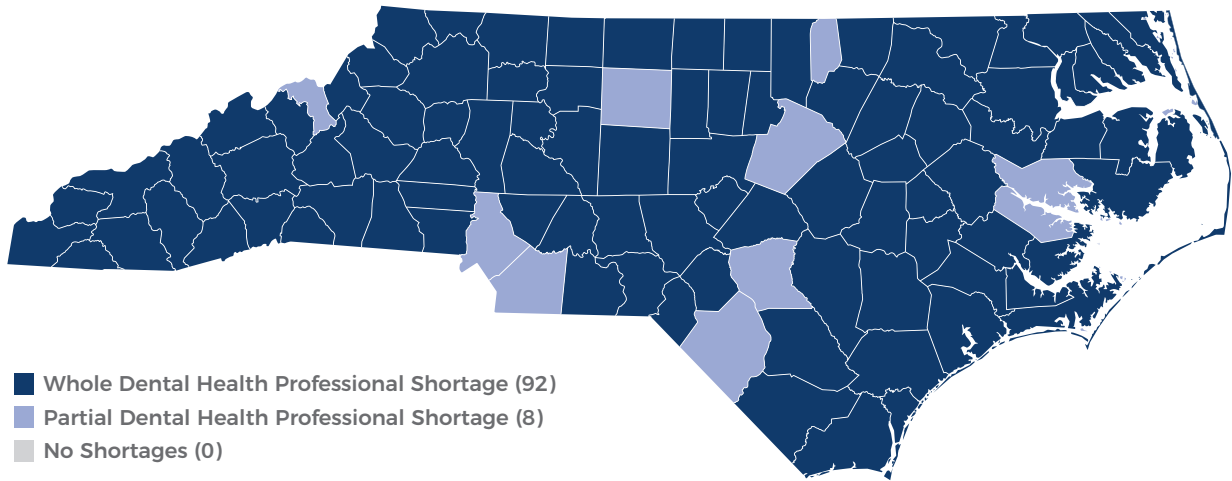
- » Health professional shortage areas (HPSAs) are geographic areas, populations, or facilities where the number of dental-care providers does not meet the needs of the nearby population. North Carolina has 193 dental HPSA designations where over 3.5 million individuals live, and as of late 2020, 92 of North Carolina's 100 counties were affected by “whole county” dental professional shortages, while the other eight experienced “partial county” shortages.
- » North Carolina could lead the southeastern United States in the dental field by allowing dental therapists to practice. As of late 2020, 13 states allow dental therapists to practice in some capacity. Arizona, Maine, Michigan, Minnesota, New Mexico, Connecticut, Nevada, and Vermont have authorized dental therapists to practice statewide. In Alaska, Idaho, Oregon, Montana, and Washington, dental therapists are only allowed to practice in tribal communities.
- » After Alaska approved the practice of dental therapy, more children and adults received preventive care in areas where dental therapists practiced. These communities also had fewer children with front-tooth extractions and fewer adults with permanent-tooth extractions. In total, the introduction of dental therapy in Alaska had expanded access to over 40,000 individuals in 80 rural communities.
- » In 2011, Minnesota licensed the state's first dental therapists and continues to be a leader in fostering this profession. Over 40% of these dental therapists practice in non-metropolitan areas. A report by the Department of Health and Minnesota Board of Dentistry observed 14 clinics where dental therapists treated over 6,000 patients, 84% of whom had public insurance.

RECOMMENDATION

- 1. North Carolina should amend Chapter 90 of the North Carolina General Statutes to establish, recognize, and regulate the practice of dental therapy.**

Furthermore, the North Carolina Board of Dental Examiners should be granted the power to oversee licensure.

N.C. Dental Health Professional Shortage Areas



SOURCE: RURAL HEALTH INFORMATION HUB, HEALTH PROFESSIONAL SHORTAGE AREAS, DENTAL CARE, BY COUNTY

DIRECT PRIMARY CARE

POLICY ANALYST: **JORDAN ROBERTS**

INTRODUCTION

The excessive amount of health-care regulation that deteriorates the physician-patient relationship is pushing some doctors to opt out of insurance contracts so they can spend more time with their patients.

This practice model is known as direct primary care (DPC). In exchange for a monthly fee, patients can see their DPC doctor for all of their primary-care needs. DPC is similar to concierge medicine, but the key difference is that these practices deliver basic health care at an affordable price with no insurance billing whatsoever.

For patients, DPC restores the incredible value of personalized medicine and offers treatment for patients at lower out-of-pocket prices compared to an insurance plan's out-of-pocket expenses.

For physicians, DPC may forestall burnout. Because DPC doctors are no longer subject to insurance companies' complex billing codes and prior authorizations, they can be creative in how they care for their patients. They also don't have to spend 40% of practice revenue on personnel who are responsible for filing insurance claims. Removing insurance costs and keeping a low overhead helps DPC practices break even on as little as four patient visits per day. In traditional practice settings, primary care physicians see as many as 32 patients per day to stay afloat financially.

For employers, DPC may decrease costs and increase employee satisfaction. While most direct care takes place in small-practice settings, there are DPC companies that specialize in contracting with large self-insured employers. In North Carolina, Union County saved over \$1.2 million in medical and prescription drug claims under its first-year contract with Paladina Health – a DPC-like franchise. For the plan year ending in 2018, DPC participants spent twice as much time with their physician compared to the traditional fee-for-service clinics. DPC participants also cost Union County less on a per-member, per-month basis than traditional consumer-driven options. Most importantly, 99% of DPC county participants reported both high satisfaction with provider access and a positive overall experience.

KEY FACTS

- » While DPC is a niche market, it is experiencing considerable growth. As of 2021, there were 1,542 DPC offices in the country, up from 125 in 2014, and 76 physicians in North Carolina who practice DPC.

- » DPC is an appealing health-care option for patients because it is price-transparent and affordable. Industry-wide data show that the average adult monthly membership is \$82, and 82% of family memberships cost between \$50 and \$225. In return, patients have quicker access to primary-care services such as comprehensive annual physicals, EKG testing, joint injections, laceration repairs, and skin biopsies. North Carolina practices can even dispense prescription drugs in-house at wholesale cost.
- » A study conducted by University of North Carolina and North Carolina State University researchers found that patients seeking treatment from Access Healthcare, a direct-care practice located in Apex, North Carolina, spent 85% less on total health-care spending and enjoyed an average of 35 minutes per visit compared to eight minutes in a nondirect-care practice setting.

RECOMMENDATIONS

1. Policymakers should protect and enhance the law that states direct-care providers do not act as a risk-bearing entity.

In July of 2020, Gov. Roy Cooper signed into law legislation that states DPC is not subject to insurance regulations. Lawmakers protect the freedom of DPC doctors by leaving this law alone.

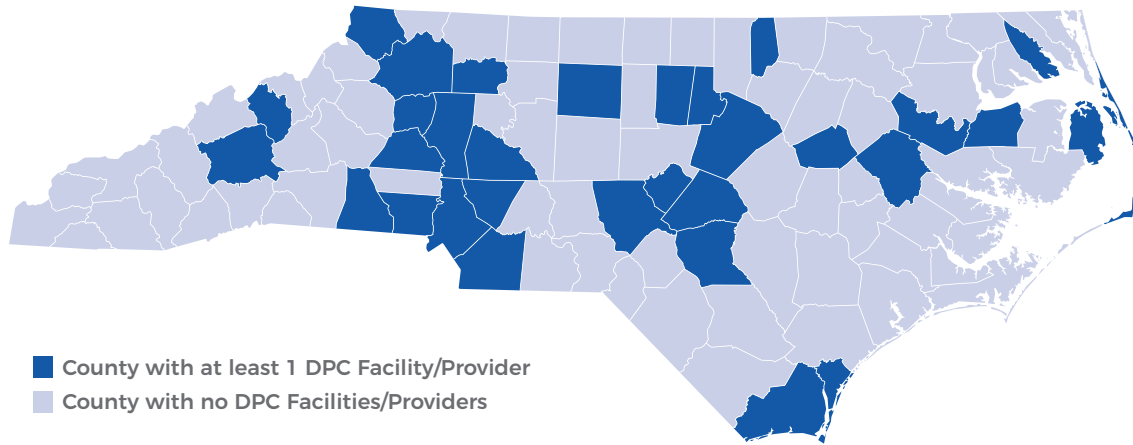
2. Find ways to utilize the DPC model for Medicaid patients.

The North Carolina Department of Health and Human Services (NCDHHS) could work within a federal waiver to administer and monitor health savings accounts (HSAs) or debit cards with a lump-sum contribution to eligible enrollees.

3. Implement a DPC benefit option for State Health Plan members.

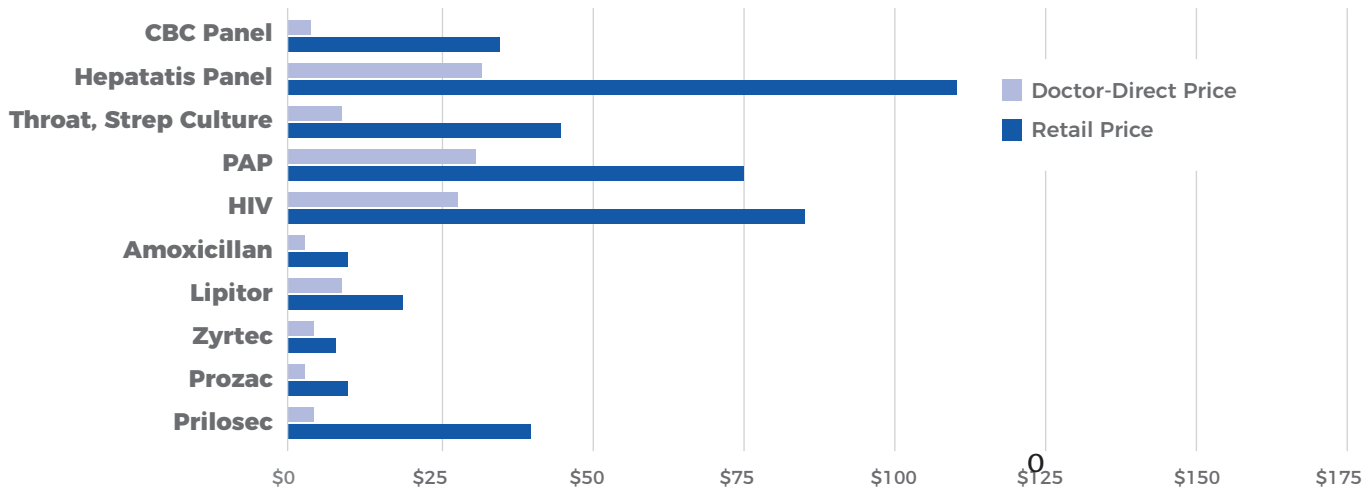
Union County employees continue to reap the benefits of the DPC option in their health plan. State employees should be afforded the same opportunities.

North Carolina Counties With Direct Primary Care Facilities – 2021



SOURCE: DPC FRONTIER'S DPC MAPPER

Discounted Lab and Medicine Pricing



	Doctor-Direct Price	Retail Price
CBC Panel	\$4.00	\$35.00
Hepatitis Panel	\$32.00	\$110.00
Throat, Strep Culture	\$9.00	\$45.00
PAP	\$31.00	\$75.00
HIV	\$28.00	\$85.00
Amoxicillin	\$3.00	\$10.00
Lipitor	\$9.00	\$19.00
Zyrtec	\$4.50	\$8.00
Prozac	\$3.00	\$10.00
Prilosec	\$4.50	\$40.00

SOURCE: WWW.DOCTORDIRECTMD.COM

HEALTH BENEFIT MANDATES

POLICY ANALYST: **JORDAN ROBERTS**

INTRODUCTION

There are many opportunities for North Carolina lawmakers to help lower the cost of health insurance. One way is to re-examine the 52 health-benefit mandates state officials have passed into law since the 1970s.

Health benefit mandates are laws that force insurance companies to cover specific health-care services, ensure access to desired providers, or expand the level of benefits offered to certain employers and people who purchase insurance policies on their own.

Historically, states have exercised most of the regulatory power over the number and scope of mandates. However, federal intervention accelerated in 1996 under the Newborns and Mothers' Health Protection Act and the Mental Health Parity Act. These laws specified that, if health plans offered hospitalization care, they were required to cover a minimum length of stay for postpartum women. Additionally, if insurance carriers sold plans that included mental health treatment, those benefits could not be less favorable than the plans' medical and surgical benefits in terms of out-of-pocket spending and scope of network providers. The Mental Health Parity Act was modified in 2008, requiring employers to offer comparable substance abuse services if they choose to provide mental health benefits for employees.

The 2010 passage of the Affordable Care Act (ACA), commonly known as Obamacare, further extended the federal government's authority over the insurance industry by enforcing limits on out-of-pocket cost-sharing for policyholders who access certain treatments that fall under the law's 10 categories of Essential Health Benefits. Required services range from maternity and newborn care to chronic disease management. The ACA further outlines that policyholders in the individual and group markets can access a variety of preventive services with zero out-of-pocket cost-sharing.

KEY FACTS

- » Between 1996 and 2011, one study concluded that state health insurance mandates are responsible for between 9% and 23% of all premium increases, and affect smaller firms more than larger firms. Data provided by the North Carolina Coalition for Fiscal Health estimate that mandates cost North Carolina policyholders in the individual and small-group insurance markets over \$218 million per year.

- » The insignificant cost of each mandate makes legislation relatively easy to sell to lawmakers. For example, people pay just 5 cents per month for pastoral counselor services. Access to dentists costs \$1.02. Podiatrists amount to \$2.17. This partly explains why there are now 2,200 mandates nationwide, up from almost zero in the 1970s. Individually, each mandate costs little, but collectively, they make insurance policies more expensive.
- » Because of the added costs associated with state benefit mandates, small businesses are discouraged from offering health coverage to their employees. A 2021 survey found that one in three small-business owners reported it was a challenge to obtain health insurance coverage for their employees during the pandemic.
- » Not all businesses are subject to state health-benefit mandate laws. Self-insured employers are exempt under the 1974 Employment Retirement Income Security Act. Nationwide, 61% of all firms are self-insured. However, the exemption from state regulation doesn't deter these firms from offering generous health benefits to their workers.
- » Another self-insured, mandate-free entity that provides generous coverage is North Carolina's State Health Plan. There are cases in which all members of the State Health Plan, including legislators, are subject to health-benefit mandates. But there are some exceptions in which legislators exempt the State Health Plan from health mandates they have voted to become law for other plans.

RECOMMENDATIONS

1. Limit benefit mandates.

Instead, legislators should allow for optimal competition among insurance companies and providers in order to serve patients and respond to policyholder demands.

2. Determine which health-benefit mandates are indeed cost-effective, and which ones are used by most policyholders.

Over half of the states have enacted mandate-benefit review laws to weigh the cost-benefit factors for any introduced mandate. Others conduct a retrospective analysis of all benefits that have been signed into law.

No Patient Cost-Sharing Allowed Under Affordable Care Act For Preventative Services

Evidence-Based Screenings and Counseling

- Depression
- Diabetes
- Cholesterol
- Obesity
- Cancer
- HIV
- Drug and tobacco use
- Healthy eating

Vaccines

- Influenza
- Tetanus
- Hepatitis A and B
- Measles

Preventative Services: Children and Youth

- Vision impairment
- Autism screening
- Iron and fluoride supplements
- Behavioral and developmental assessments

Preventative Services: Women

- Well-woman visits
- Contraceptives
- Breastfeeding support and supplies
- Domestic violence screening

SOURCE: THE HENRY J. KAISER FAMILY FOUNDATION; PREVENTATIVE SERVICES COVERED BY PRIVATE HEALTH PLANS UNDER THE AFFORDABLE CARE ACT.

North Carolina Health Benefit Mandates

- Procedures involving the jaw, face, or head
- Anesthesia and hospital charges for dental procedures
- Postmastectomy inpatient care
- Treat maternity as any other illness
- Bone mass measurement
- Prescription drug contraceptives or devices
- Colorectal cancer screening
- Synchronization of prescription refills
- Coverage for emergency care
- Autism Spectrum Disorder
- Services provided outside provider networks
- Mental illness minimum coverage
- Access to nonformulary drugs
- Access to specialist care for managed care plans
- Prescription drugs during an emergency or disaster
- Selection of specialist as a primary care physician
- Selection of pediatrician as primary care physician for minors
- Certain clinical trials
- Newborn hearing screening
- Ovarian cancer surveillance tests
- Diagnosis and treatment of lymphedema
- Hearing aids
- Comply with Public Health Service Act
- Nurse services
- Physician assistant services
- Right to choose providers
- Right to choose chiropractor
- Prohibition on exclusion of claims subject to Workers' Compensation Act
- Limitations on exclusionary periods for consideration of pre-existing conditions
- Coverage for use of intoxicants and narcotics
- Previous creditable coverage for individual health plans
- Eligibility extension for dependents who are mentally or physically handicapped
- Coverage for newborn and foster kids and coverage for congenital defects and anomalies
- Pharmacy of choice
- Direct access to OB/GYN
- Minimum benefit offering for alcoholism/drug abuse treatment
- Mammograms and cervical cancer screening
- Prostate cancer screening
- Certain off label drug use for the treatment of cancer
- Certain treatment of diabetes
- Group replacement requirements
- Coverage for children
- Coverage for adopted children
- Group continuation
- Individual conversion policy
- Limits on the definition of a pre-existing condition
- Small employer group guaranteed availability provision
- Guaranteed renewability of employer group health plans
- HIPPA eligible individual guaranteed availability provision
- Complications during pregnancy
- Treatment of HIV/AIDS
- Renewability standard for individual Accident and Health policy

MEDICAID EXPANSION

POLICY ANALYST: JORDAN ROBERTS

INTRODUCTION

Medicaid is a program funded jointly by the state and federal governments. Its core functions include paying medical providers for services rendered to low-income parents, children, pregnant women, the elderly, the blind, and the disabled.

The federal government currently funds two-thirds of North Carolina's \$16.9 billion Medicaid program. The Affordable Care Act, also known as Obamacare, allows states to expand Medicaid eligibility to individuals earning up to 138% of the federal poverty level. This figure equates to an individual earning \$17,774 per year, or a family of four earning \$36,570 in 2021. As of August 2021, North Carolina was one of 12 states that have not expanded Medicaid.

If North Carolina had chosen to expand Medicaid in 2014, the federal government would have fully funded its cost through 2017. States were then responsible for financing a portion of the total expense, reaching a maximum of 10% by 2020.

The experiences of states that have expanded Medicaid should temper the enthusiasm of those who champion expansion. For example, Arizona's expansion in 2014 initially projected slow enrollment growth, sustainable costs, a reduction in the number of uninsured, and reduced uncompensated care. Instead, the expanded population (mostly childless adults) ended up costing two to four times more than the cost of covering low-income parents.

Not only are cost overruns a concern, the program may not provide adequate health outcomes either. The 2008 Oregon Health Insurance Experiment is known as the "gold standard" of studies because it randomly assigned eligible patients to the state's Medicaid program. Two years later, the authors concluded that Medicaid had no statistically significant effect on major measures of health outcomes between those who had been chosen to participate and those who had not.

Most importantly, Medicaid expansion is even harder to justify knowing that North Carolina's current Medicaid population is not served adequately. A 2019 study published in the *Annals of Health Law and Life Sciences* suggests that Medicaid is not meeting the specific needs of North Carolinians. Duke University scholars found that the state's Medicaid program is plagued with serious issues that harm those who need help the most. This was a function of low supply of health professionals in marginalized areas and inefficiencies in the delivery of care for the Medicaid program as a whole.

KEY FACTS

- » Federal funding of Medicaid expansion and other health-care entitlements will necessitate either higher levels of deficit spending, which adds to the multitrillion-dollar federal debt, or substantial increases in taxes, which impedes economic growth.
- » Costs imposed on state taxpayers under Medicaid expansion is a key point of debate. Medicaid expansion proponents like Gov. Roy Cooper have repeatedly said that no state funds would be needed to finance the 10% state share. However, a 2020 John Locke Foundation study found that even with a proposed tax on providers and health insurers, the state could face a funding gap between \$119 and \$171 million in the first year that would need to be paid for by new appropriations or taxes.
- » Expanding Medicaid eligibility puts traditional program enrollees at risk. Low-income parents, children, pregnant women, the elderly, the blind, and the disabled would have to compete for access to health care with an estimated 500,000 people who would be added to Medicaid, 77% of whom are able-bodied, childless adults.
- » With less access to physicians that accept new Medicaid patients, new enrollees would likely turn to hospital emergency rooms for service. Studies show that Medicaid expansion is unlikely to reduce visits to the emergency room, one of the most expensive ways to receive care. In some cases, Medicaid expansion actually raises emergency room utilization.
- » Expanding the eligibility pool for government health insurance programs crowds out access to private insurance coverage. Studies indicate the crowd-out effect can lead to up to 50% of new Medicaid enrollees leaving private health insurance coverage for the public program.

RECOMMENDATIONS

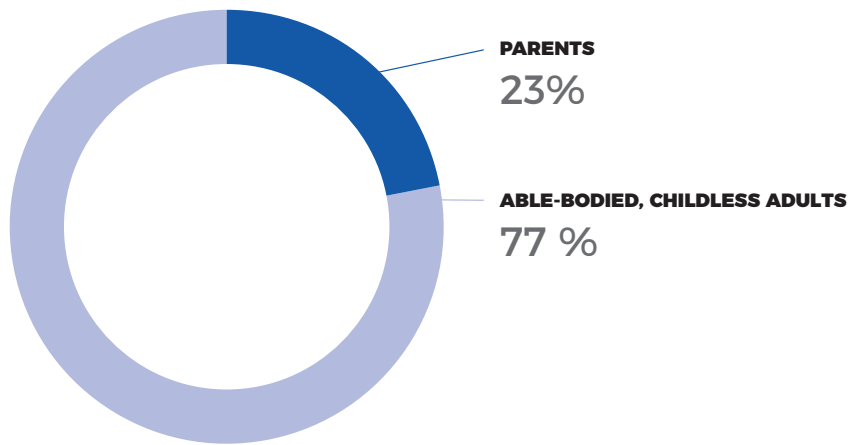
1. North Carolina should not expand Medicaid.

Policymakers should focus on free-market solutions that would reduce costs associated with health care and health insurance and find ways to create a more sustainable health care market, rather than shifting the costs to the taxpayers who fund government budgets.

2. Congress should restructure Medicaid to grant states more budgetary flexibility, including use of block grants to distribute federal funding.

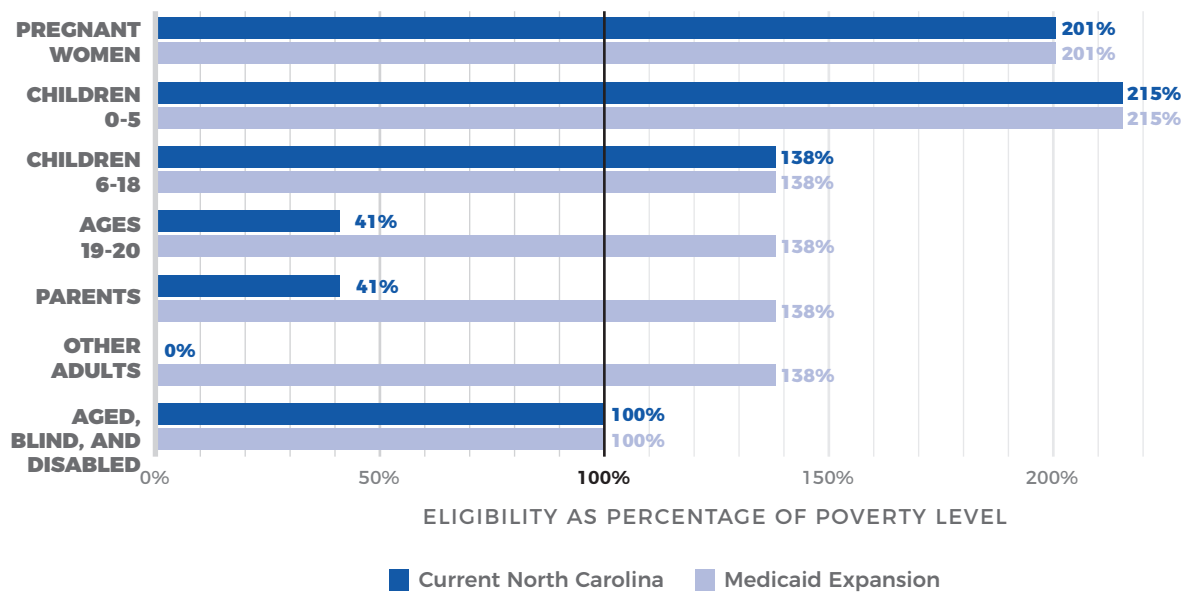
Converting the federal portion of North Carolina's Medicaid program into an annual block grant would go a long way toward limiting Medicaid's unpredictable annual cost overruns.

Medicaid Expansion Population



SOURCE: KAISER FAMILY FOUNDATION

Medicaid Income Eligibility Categories In North Carolina



SOURCE: NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

SCOPE-OF-PRACTICE REFORM

POLICY ANALYST: **JORDAN ROBERTS**

INTRODUCTION

For patients living in rural North Carolina, quality health care can be hard to find. Currently, over 2 million people, or one-fifth of the state's population, live in a primary-care shortage area.

Unlike other states, North Carolina does not have a physician shortage. The supply of doctors in the state is increasing, relative to population growth. Instead, it has a physician distribution problem. As of 2018, only 18% of North Carolina's family physicians practice in rural areas.

As lawmakers consider ways to increase access to primary care across the state, it would be wise for them to pass legislation that allows nurse practitioners (NPs) to treat patients to the full extent of their clinical training and without physician oversight. NPs are advanced-practice nurses who have graduate-level clinical knowledge and training to provide patient care directly. They assess patients' medical history, diagnose ailments, order lab work, and prescribe medications.

As of August 2020, if nurse practitioners want to practice in North Carolina, they must establish a collaborative practice agreement with a physician. The agreement outlines patient management and describes how the providers will interact. Interestingly, NPs are not required to be in the same geographic location as the overseeing physician, and they are required to meet only twice a year. The lack of oversight, then, demands asking why the contracts are even necessary.

Because nurse practitioners in North Carolina aren't geographically tied to the collaborating physician's practice location, one might believe the state's existing practice arrangements wouldn't necessarily hold back NPs from extending their reach into underserved areas. But these contracts can add uncertainty to the NPs' practice. For example, an NP may want to operate his/her own clinic, but the collaborating physician moves to another state. The NP must now find another physician who is willing to sign onto a new collaborative practice agreement.

If a collaborating physician becomes employed by a hospital system, that hospital's policy may also prevent the physician from signing or renewing a collaborative agreement with a nurse practitioner. Moreover, collaborative practice agreements can be expensive, which makes it difficult for some NPs to grow their own clinics. If an NP would like to recruit another to work at his/her clinic, the cost may be prohibitive because the collaborating provider asks for a specific percentage of the clinic's revenue.

KEY FACTS

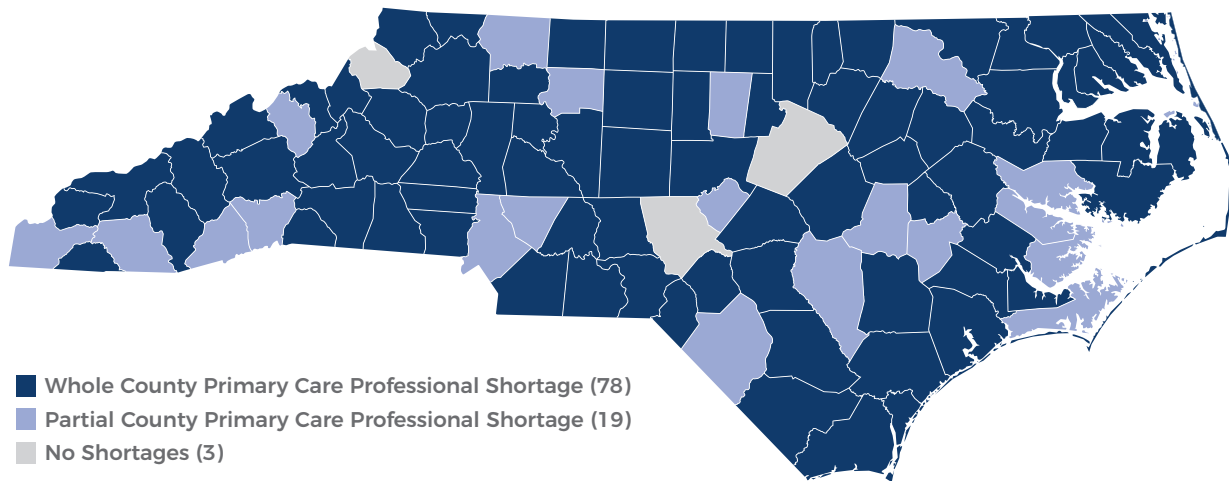
- » Twenty-four states and Washington, D.C., have granted full practice authority to nurse practitioners.
- » Nurse practitioners are valuable assets to the health-care workforce. As of 2017, there were over 6,500 nurse practitioners who are licensed in North Carolina, many of whom work in a primary-care setting and focus on managing chronic disease.
- » Nurse Practitioners will likely play a huge role in the future of the North Carolina health-care workforce. There are still significantly more physicians than nurse practitioners, however. Between 2000 and 2018, the number of NPs grew by 221%, compared to only 21% growth for physicians.
- » A report conducted by Dr. Chris Conover of Duke University found that the economic benefits of extending full practice authority to advanced-practice registered nurses would result in potential annual health cost savings ranging from \$433 million to \$4.3 billion.
- » Ending the requirement for a contract with a physician would open opportunities for nurse practitioners to deliver patient care in more rural and underserved areas. Arizona, for example, granted nurse practitioners full practice authority in 2002. Five years later, the state reported a 73% increase in the number of nurse practitioners serving rural counties.

RECOMMENDATION

1. North Carolina lawmakers should grant full practice authority to highly trained nursing professionals.

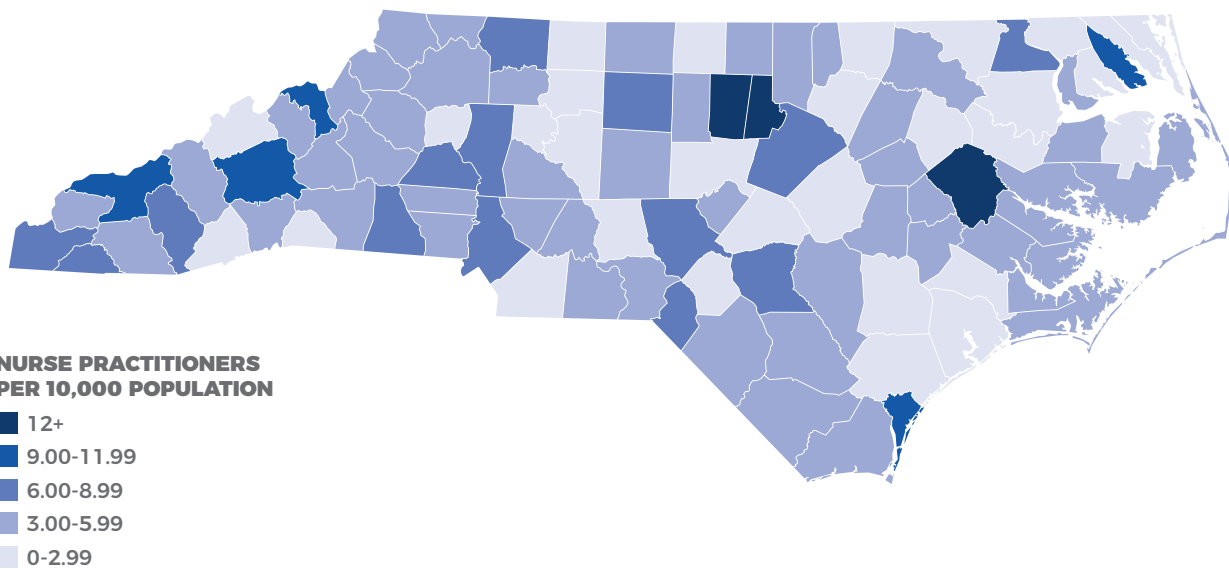
Policymakers should change how nurse practitioners and other advanced-practice nurse professions, i.e., certified nurse midwives, nurse anesthetists, and clinical nurse specialists, are governed.

Primary Care Professional Shortage Areas In North Carolina



SOURCE: NORTH CAROLINA OFFICE OF RURAL HEALTH

North Carolina Nurse Practitioner Workforce – 2018



SOURCE: UNIVERSITY OF NORTH CAROLINA, SHEPS CENTER FOR HEALTH SERVICES RESEARCH

TELEMEDICINE

POLICY ANALYST: JORDAN ROBERTS

INTRODUCTION

Telemedicine is a leading innovation that has proven to expedite the delivery of health care. Telemedicine is the use of technology to deliver health care, health information, or health education at a distance. It helps people connect more quickly to their primary, specialty, and tertiary medical needs. Its beginnings trace back to the late 1800s when providers began using the telephone to resolve patient consults at a distance, saving them from making time-consuming house visits.

Despite the convenience that telemedicine provides, some medical providers still resist adopting the practice because certain services don't always come with insurance reimbursement. Such pushback is one of the reasons why 43 state legislatures have passed telemedicine parity laws. Telemedicine parity laws force private insurance carriers to pay medical providers for services delivered via telemedicine at the same rate as those delivered during an in-person office visit.

More rigorous evaluation and data are needed to determine the overall impact of telemedicine parity laws on health-care costs, quality, and access. Nevertheless, evidence suggests that these laws may disincentivize the creation of treatment plans that meet the needs of individual patients. They may raise costs and conceal the cost of care from the consumer. And they may encourage the overconsumption of health care by paying providers based on the volume of services and not outcomes.

It is promising that lawmakers continue to advance legislation that encourages more medical professionals to adopt telemedicine so that patients can access care without having to travel long distances. To take the next step, legislators should assess the impact of licensure laws. As of January 2020, the law forces a physician in another state to obtain a North Carolina license for treating someone located in the state. The genius of telemedicine is that care can be provided at a distance. There is no reason to limit that distance to the boundaries of North Carolina.

KEY FACTS

- » In some cases, telemedicine parity laws may incentivize physicians to adopt telemedicine platforms. However, enforcing such a rule undermines telemedicine's cost-effective capabilities. A 2017 *Health Affairs* study found that telehealth visits on average cost about \$79, compared to \$146 for an office visit.
- » As telehealth becomes more familiar and widespread, more providers are incorporating the technology into their practice. During the COVID-19 pandemic, 95% of health centers reported using telehealth.

- » As early as the mid-1990s, Blue Cross and Blue Shield of North Carolina (BCBSNC) provided telemedicine benefits for psychiatric care, psychotherapy, health behavior assessments, and diabetic counseling. Meanwhile, UnitedHealthcare began covering virtual visits for its policyholders in 2015.
- » Basic health care can be accessible when it's not covered by insurance. In 2015, a group of emergency physicians in North Carolina founded RelyMD, an app that offers 24/7 virtual doctor appointments to patients in exchange for a \$50 per-visit fee. Patients can seek medical consultation or treatment in the comfort of their own homes via a computer, smartphone, or tablet in a matter of minutes.
- » Direct primary care (DPC) physicians incorporate telemedicine into their patients' monthly membership fees. Phone calls, texts, emails, FaceTime, secure messaging platforms, and specialty consults – the most common uses of telemedicine – are all included at no additional cost to the patient.

RECOMMENDATIONS

1. Do not pass telemedicine parity laws.

Parity laws set a precedent for state governments to further meddle in private enterprise by forcing insurers to pay for other telemedicine services that are beyond the scope of their original plan design. Insurance companies should not be required to treat in-person care the same as telemedicine care.

2. North Carolina should recognize out-of-state professional licenses of medical professionals who are in good standing in their state. License barriers limit telemedicine's growth.

North Carolina could increase the use of telemedicine by allowing out-of-state physicians to treat North Carolinians virtually.

ELECTION INTEGRITY

ABSENTEE VOTING

POLICY ANALYST: DR. ANDY JACKSON

INTRODUCTION

Absentee-by-mail voting is an important part of North Carolina's election system, despite the ballot security concerns it raises.

Voting absentee is a three-step process. First, voters must request an absentee ballot by completing an absentee ballot request form and submitting it to their county board of elections. They must include either their North Carolina Division of Motor Vehicle-issued driver's license or identification card number or the last four digits of their Social Security number with their application.

After receiving the ballot, the voter must mark the ballot in the presence of two witnesses, place it in the absentee ballot container envelope, and sign the envelope. The witnesses then complete and sign the witness portion of the envelope.

Finally, the voter or a near relative can return the ballot by mail or courier. It must be postmarked by election day and received by the county board of elections no later than 5 p.m. three days after election day. The voter or a near relative can also hand-deliver an absentee ballot to an early voting site or the county board of elections office by 5 p.m. on election day.

The witness requirement is an important part of assuring the integrity of absentee voting. It is how election officials confirm that the person who completed the ballot is actually the voter who was issued the ballot. Other states use signature matching to achieve that goal. There is no reason North Carolina cannot use both as an added layer of security, but doing so would require funding for signature-matching equipment and training for election personnel.

The witness requirement also helps investigators identify suspects in potential absentee-ballot fraud cases, since those engaged in such fraud are usually the people who sign as witnesses, providing evidence of a chain of custody of those ballots. Finding the same names on numerous absentee-ballot container envelopes was an important signal that ballot-harvesting operations were taking place in Bladen County in 2018. Ballot harvesting involves the collecting of ballots from registered voters by political operatives. Such a process is susceptible to fraud for several reasons, with the potential for the harvester completing uncompleted parts of the ballot or discarding ballots they believe support the 'wrong' candidate among them.

A commission led by former President Jimmy Carter and former Secretary of State James Baker found that mail voting is inherently riskier than voting in person because "citizens voting at home may come under pressure to vote for certain candidates, and it increases the risk of fraud." While that increased risk cannot be eliminated, it can be mitigated.

KEY FACTS

- » Between 4% and 5% of all ballots voted are typically absentee in most North Carolina elections. That proportion rose to 18% in the 2020 general election.
- » North Carolina is a “no-excuse” absentee-by-mail state. Voters do not have to state why they wish to receive an absentee ballot.
- » North Carolina does not require signature verification for absentee ballots as long as the name of the signature is the same as that of the voter. The North Carolina State Board of Elections says that the witness requirement is sufficient to prove that it was the voter who completed the ballot.
- » The deadline for county election boards to receive absentee ballots is three days after election day as long as they are postmarked by election day. The North Carolina General Assembly changed that deadline, from election day, in 2009. The State Board, however, extended that deadline to nine days after election day for the 2020 election due to coronavirus concerns. Republican legislators challenged this decision, which ultimately was upheld by the United States Supreme Court.
- » County boards of elections appoint Multi-Partisan Assistance Teams, which are groups of volunteers from both major political parties, to assist voters in assisted living facilities to vote absentee by mail.

RECOMMENDATIONS

1. Retain the two-witness requirement.

In addition to verifying that the voter made the choices on the ballot, the witness requirement is also crucial in suspected ballot-harvesting cases for establishing who took possession of the absentee ballots, since it is almost invariably the witnesses who take them. Requiring two signatures is superior to requiring one, since it prevents one-person ballot harvesting or vote-buying operations. In addition, it makes ballot harvesters sign as witnesses on more ballots, helping investigators identify harvesting operations.

2. Make election day the deadline for election boards to receive ballots.

The current deadline of three days after election day creates problems and confusion for voters and election officials and undermines confidence in the integrity of our elections. North Carolina should rejoin the majority of states that require absentee ballots to be received by election day.

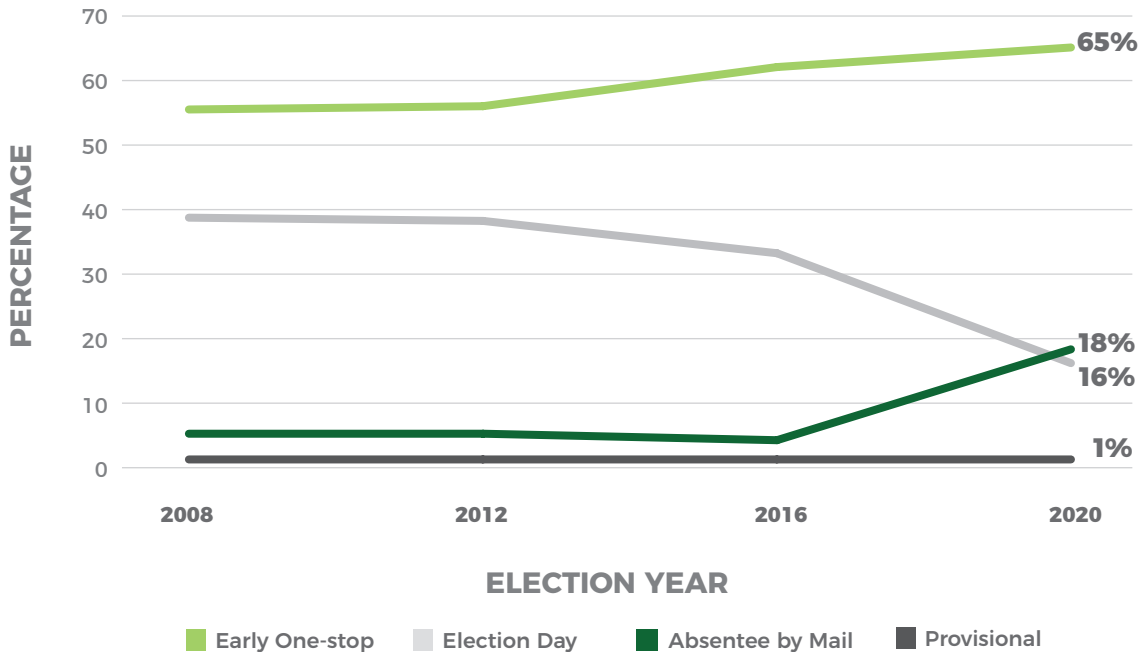
3. Tighten regulations on illegally transmitted ballots.

The State Board of Elections instructs county election boards to accept absentee ballots, no questions asked, even if they know that the ballots were transmitted by people not legally authorized to transmit ballots. The state board should, at a minimum, bring its policy more in line with North Carolina law by instructing county election boards at least to make inquiries about the origin of illegally transmitted ballots they find in their possession.

4. Require investigators and prosecutors to take absentee ballot fraud cases seriously.

Former State Board of Elections Executive Director Gary Bartlett spoke of his frustration when he reported cases of absentee ballot fraud, saying “We’ve reported it. We’ve had the (State Bureau of Investigation) turn us down. There have been referrals (to local prosecutors) and nothing has been done.” The State Bureau of Investigation should be required to investigate cases referred to them by the State Board of Elections.

Proportion Of Votes By Voting Method



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

ELECTION ADMINISTRATION

POLICY ANALYST: DR. ANDY JACKSON

INTRODUCTION

Article I, Section 4 of the United States Constitution gives state legislatures the primary responsibility for choosing the “Times, Places and Manner of holding Elections for Senators and Representatives.” That means state governments are responsible for setting most election laws and regulations.

In North Carolina, county boards of elections are responsible for registering voters, running elections, and counting ballots. County boards secure locations for election day polling places and early (one-stop) voting sites.

The North Carolina State Board of Elections (SBE) sets policies for the county election boards and provides guidance on election administration issues based on election laws. Those policies do not always conform to election law. For example, SBE voter outreach specialist Dr. E. Lee Cooley said in a 2016 presentation that people can request, mark, and send absentee ballots in the name of others, a violation of election law. In 2020, the SBE told county boards to accept absentee ballots even when knowing that those ballots were transmitted illegally.

As with other bureaucracies, SBE officials seek to expand their power and interpret laws as they see fit. We witnessed an example of that in 2020 when the SBE Executive Director Karen Brinson Bell tried to expand her emergency powers despite public opposition. The North Carolina Rules Review Commission (RRC) stopped her attempt when members unanimously voted against the change. The RRC is responsible for making sure that proposed agency rule changes follow state law.

Brinson Bell entered a lawsuit settlement with Democratic attorney Marc Elias that altered several election laws at the last minute for the 2020 general election. Legislative leaders intervened as defendants because the lawsuit involved North Carolina law, but Elias and the SBE cut them out of the settlement.

The SBE approved a touchscreen voting system for county boards by a 3-2 vote in 2019. Such systems are vulnerable to malfunction, hacking, and potentially high rates of voter error. Touchscreen voting systems in North Carolina have experienced problems ranging from lost votes to votes for the wrong candidates. The new generation of touchscreen systems approved for use in North Carolina are ballot-marking devices that produce a receipt-style paper ballot fed into a tabulator.

KEY FACTS

- » Citizens have two opportunities to voice opposition to changes in election regulations proposed by the SBE. First, they may write to the SBE or speak out at an SBE rule change hearing. If the SBE persists in seeking the rule change, citizens may speak out against the proposed change at a meeting of the Rules Review Commission.
- » Touchscreen voting systems involve people noting their choices on a computer screen. After the latest round of election equipment purchases ahead of the 2020 elections, the number of county boards of elections using touchscreen voting systems for nondisabled voters decreased from 22 to 11. All other counties use hand-marked paper ballots.
- » The SBE approved three voting systems in 2019, including Election Systems & Software's (ES&S) EVS 5.2.2.0 touchscreen ballot-marking device, after an extensive two-year testing process. After ES&S stated that it could not provide enough 5.2.2.0s for the 2020 election, the SBE approved the use of ES&S's 5.2.4.0 system, despite board member Stella Anderson's complaint that this approval was made using a "process requiring no further testing or evaluation the 5.2.4.0 system."
- » The University of Michigan published the results of an experiment on ballot-marking devices in 2020. Researchers programmed the machines intentionally to mark ballots differently from the choices voters made on the touchscreen. Only 6.6% of voters in the experiment noticed and reported the errors.
- » The SBE refused to provide members of the General Assembly access to inspect randomly selected voting systems for the presence of modem capacity after the 2020 election, claiming that it would compromise the security of those systems.
- » The 2021 budget bill included language requiring legislative approval for any lawsuit settlements altering how election law is implemented. This would prevent the type of collusive settlements such as the one between Bell and Elias mentioned above.

RECOMMENDATIONS

1. Require the State Board of Elections to follow the letter and intent of election law.

The SBE has a history of interpreting laws beyond lawmakers' intent and seeking to expand its power. The General Assembly must be diligent in oversight of the SBE, and the Rules Review Commission must continue to guard against SBE attempts to promulgate regulations at odds with election law.

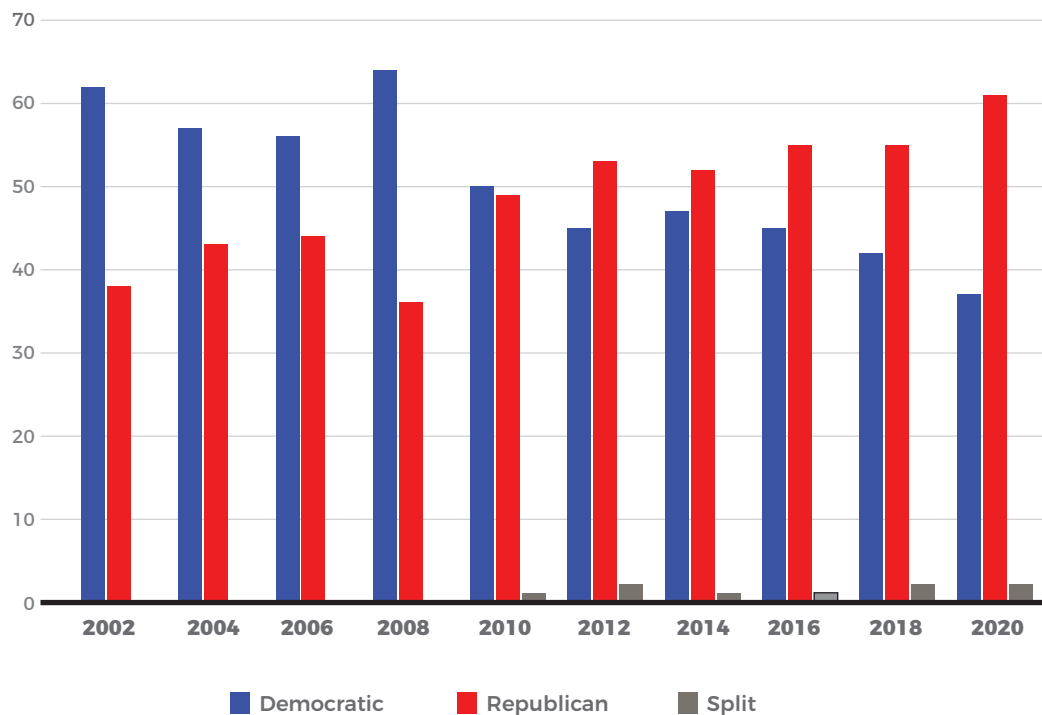
2. Use only hand-marked paper ballots (with touchscreen options for the disabled).

Hand-marked paper ballots cannot be hacked or misprogrammed. With ballots incorrectly marked by touchscreen ballot-marking devices, election officials cannot be sure if a mistake on the ballot was made by the voter or by the machine.

3. Conduct legislative or independent audits of election systems.

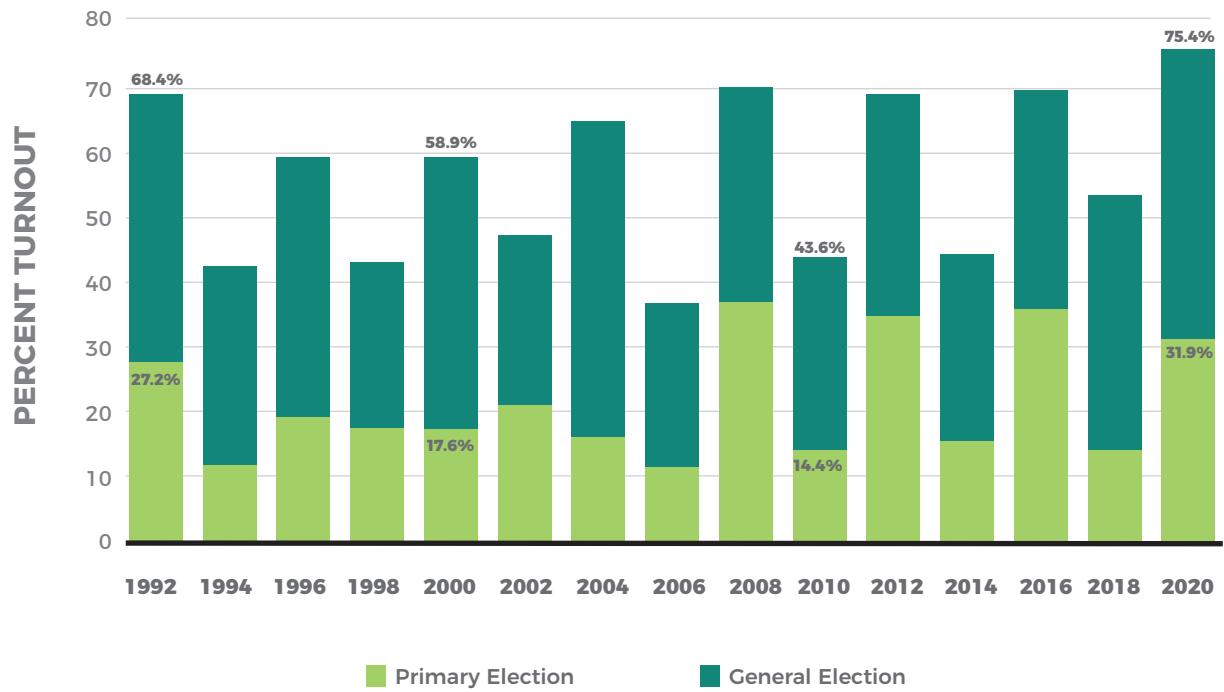
SBE concerns about voting system security can be address by having election officials opening the systems under the observation of legislative or independent observers.

Control of North Carolina County Commissions By Party, 2002-2020



SOURCE: NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS

Primary and General Election Voter Turnout 1992-2020



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

ELECTION FINANCE & CAMPAIGN REGULATIONS

POLICY ANALYST: DR. ANDY JACKSON

INTRODUCTION

The primary funding sources for county election boards are county governments, with some funding from the General Assembly. The General Assembly also funds the North Carolina State Board of Elections (SBE), which uses those funds for, among other things, regulating electioneering communications.

Due to extra expenses election boards faced to conduct elections in 2020, owing to the coronavirus and also to the availability of federal funds, the North Carolina General Assembly allocated millions of dollars above standard budgeted funds to the SBE and county boards of elections.

Some groups claimed that the additional taxpayer funding of elections was still insufficient and sought to fund election boards privately. One such group, the Center for Tech and Civic Life (CTCL), is a progressive advocacy organization founded by former employees of the New Organizing Institute (NOI), a foundation that trained digital organizers for Democratic and progressive groups. The CTCL distributed millions of dollars in “Zuck buck” grants to the SBE and 33 county boards from money provided by Facebook co-founder Mark Zuckerberg and his wife. Those grants bypassed the normal legal channels for election administration funding.

While the 2020 election featured private funding of government bodies, North Carolina has recently experimented with government funding of private election campaigns. The so-called “Voter-Owned Elections” program used taxpayer money to fund campaigns for statewide judicial races in five elections from 2004 to 2012. There was a similar program for State Auditor, Commissioner of Insurance, and Superintendent of Public Instruction candidates in the 2008 and 2012 elections.

A poll commissioned by the Civitas Institute in 2013 amid debate in the North Carolina General Assembly over eliminating public funding for election campaigns found that 70% of North Carolinians opposed public campaign funding, while only 21% supported it. Those findings were consistent with other polls on public campaign financing.

The General Assembly did eliminate public campaign financing in 2013. Media organizations and progressive groups periodically call for the programs to be revived, despite public opposition to them.

The SBE regulates election speech in North Carolina, particularly advertising by election campaigns, individuals, or interest groups. Members of the General Assembly from both major parties have called for more restrictions on political speech on the internet, especially regarding

speech about those politicians. A digital electioneering bill proposed in 2019 would have imposed a requirement that people or organizations putting political ads on the internet file a report with the SBE with exact details about the ad. No other form of paid political speech is so burdened.

The internet is distinct from other forms of mass communication. Ads on radio, TV, or newspapers are one-way channels: one side produces ads, and the other side receives them. The internet is different in that people are often simultaneously receivers and producers of content. Promoted political content on social media platforms like Twitter quickly attracts negative comments from opponents. In cases where internet ads do not offer direct opportunities for opposing viewpoints, the internet itself is full of countervailing views.

KEY FACTS

- » While the Center for Tech and Civic Life (CTCL) gave to both Democratic-leaning and Republican-leaning counties in 2020, voters in the 33 North Carolina counties granted CTCL funds backed the Democratic candidate for U.S. Senate, Cal Cunningham, 52.7% to 47.3%, while voters in the other 67 counties went for the Republican, Thom Tillis, 53.6% to 46.4%.
- » Fourteen states currently have some form of public campaign financing. Only two of those states, New Mexico and West Virginia, publicly finance judicial races.
- » North Carolina's public campaign financing program was funded by \$3 checkoffs on North Carolina tax forms and mandatory \$50 surcharges on attorneys' annual dues to the North Carolina State Bar.
- » Academic studies have found that the source of campaign funding, public or private, does not affect the behavior of elected officials.
- » Despite some well-known cases of social media companies banning users for their content, political communications through the internet are still generally less dependent on gatekeepers, such as editors or station managers, to get their messages out. That allows political speech from a variety of sources to flourish.

RECOMMENDATIONS

1. Ban private funding of election administration.

Private funding of election administration should be banned. The General Assembly could create a program allowing civic groups to donate to a fund that is equitably distributed among all county election boards.

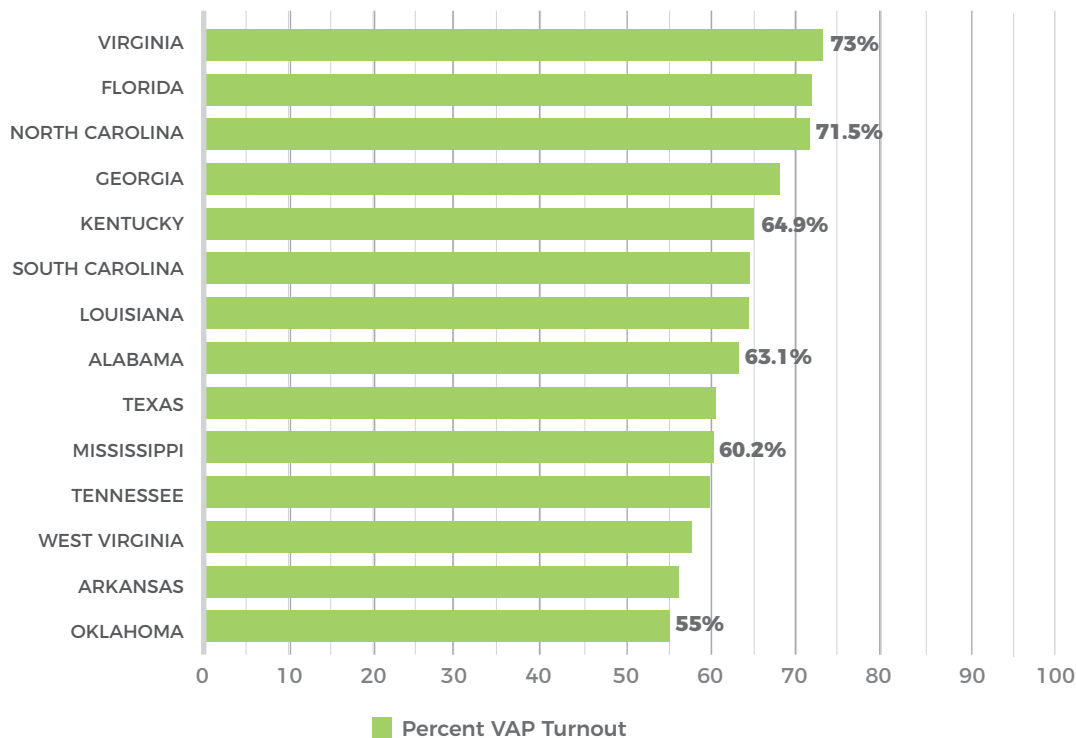
2. Resist calls for the return of taxpayer financing of political campaigns.

Requiring taxpayers or (in the case of judicial races) North Carolina State Bar members to pay for candidates they do not support, is compelled speech. There is no evidence that using taxpayer money to fund election campaigns produces positive results in the form of public officials being more responsive to the needs of the public.

3. Oppose restricting online political speech.

Government restrictions on internet communications create new barriers to entry in the political process for political novices and challengers who wish to promote their political speech online while doing little to stop trolls (people or groups who sow discord through divisive online messages) and dark-money groups.

Voting Age Population Turnout In Southern States - 2020



SOURCE: UNITED STATES CENSUS BUREAU

ONE-STOP EARLY VOTING

POLICY ANALYST: DR. ANDY JACKSON

INTRODUCTION

Early voting (officially “one-stop voting”) allows voters to cast their ballots during a two-and-a-half-week period before election day. It has become the most popular form of voting in North Carolina, being nearly two-thirds of all ballots cast in the 2020 general election.

Under guidance from the North Carolina State Board of Elections, county boards of elections determine how many early voting sites they will operate, where those sites will be located, and how many hours those sites will be open. When choosing the optimum number of sites and hours of operation, more is not necessarily better. Instead, county boards must “right-size” the number of early voting sites by balancing a desire for voter convenience with the need to maximize election board resources. Additionally, long early voting hours make it more difficult for parties to fully staff election observers, who verify that early voting is being conducted legally.

An incident in Anson County in the 2020 general election showed how voting assistance, especially during the early voting period, can be abused. John Montgomery, the husband of a Register of Deeds candidate, escorted dozens of voters that he met in the parking lot of an early voting site into the polling place and “assisted” them as they marked their ballots. In at least one instance, Montgomery marked a ballot while the voter stood behind him with his hands in his pocket. Montgomery’s actions became known because campaign volunteers started recording him escorting voters into the early voting site.

Same-day registration was instituted in 2007, allowing voters to register or change their registration and vote on the same day. Voters who register and vote on the same day must vote a retrievable ballot (marked so it can be identified with the registrant) that election officials can remove if the registrant is not a legal voter.

The North Carolina State Board of Elections (SBE) says that the ballots of individuals will not be counted if the county board of elections “determines that he or she is not qualified to vote that ballot.” That requirement is not always enforced, however. For example, the SBE admitted that 514 ballots were counted in the 2012 election even though the early registrations associated with those ballots were unverified (with a confirmation mailer to the registration address returned as undeliverable). Those ballots associated with unverified registrations would not have been counted if registered under the normal process.

Rocky Mount faced controversy in its 2019 mayoral runoff election when about two-thirds of city residents were barred from voting at its only

open early voting site. The city is divided between Edgecombe and Nash counties, and the voting site was located on the Edgecombe County side. In response to widespread criticism, the Nash County Board of Elections voted in an emergency meeting to immediately open up its own early voting site in the city.

KEY FACTS

- » Early one-stop voting has become the most popular way to vote in North Carolina by far. In the 2020 general election, 3,629,461 of the 5,544,018 ballots cast (65.5%) were one-stop.
- » North Carolina law requires that all early voting sites within a county, except the county board of elections office, remain open at the same time. Beaufort and Hyde counties are excepted from that requirement due to the geographic isolation of parts of those counties.
- » Any North Carolina voter may request the assistance of a near relative, such as a spouse, child, or parent, when voting in person. Disabled or illiterate voters may request assistance from any person of the voter's choice except the voter's employer or someone from the voter's union.
- » Under current law, the early voting period runs from the third Thursday before election day through the Saturday before election day.
- » County boards of elections dramatically increased early voting availability in 2020 due to the coronavirus, growing from 30,255.5 hours at 449 sites in 2016, to 53,276.5 hours at 475 sites in 2020. The number of sites and hours will likely decrease in the 2022 midterm and 2024 presidential elections.

RECOMMENDATIONS

1. Keep a log of those assisting voters at the polls.

Election officials should maintain a log with the names and addresses of those who assist voters in early voting sites or election day polling places. State law already requires those assisting absentee-by-mail voters to provide their names, addresses, and signatures.

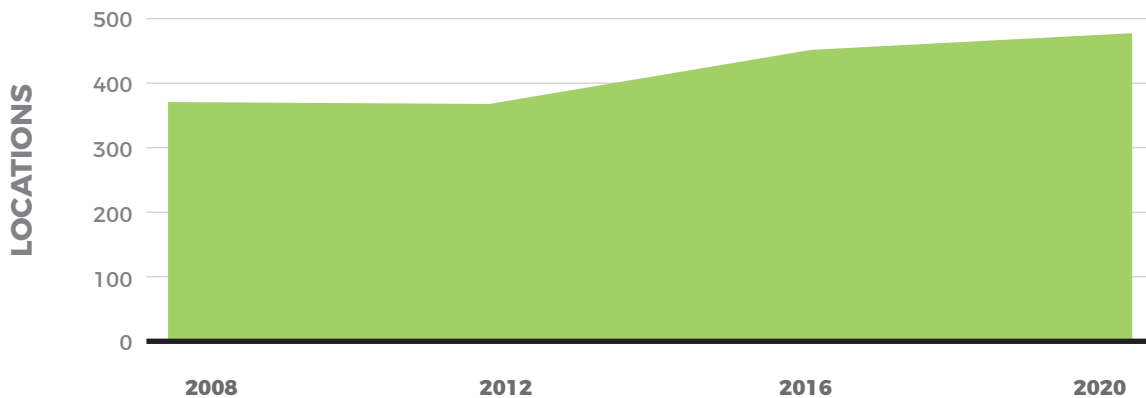
2. Uphold the legal requirement that same-day registration ballots must be verified to be counted.

State law requires county boards of elections to verify the registrant's address by mail by sending a verification mailing. County boards of elections should complete that verification by the time of the county canvass, 10 days after election day, before counting ballots associated with same-day registrations.

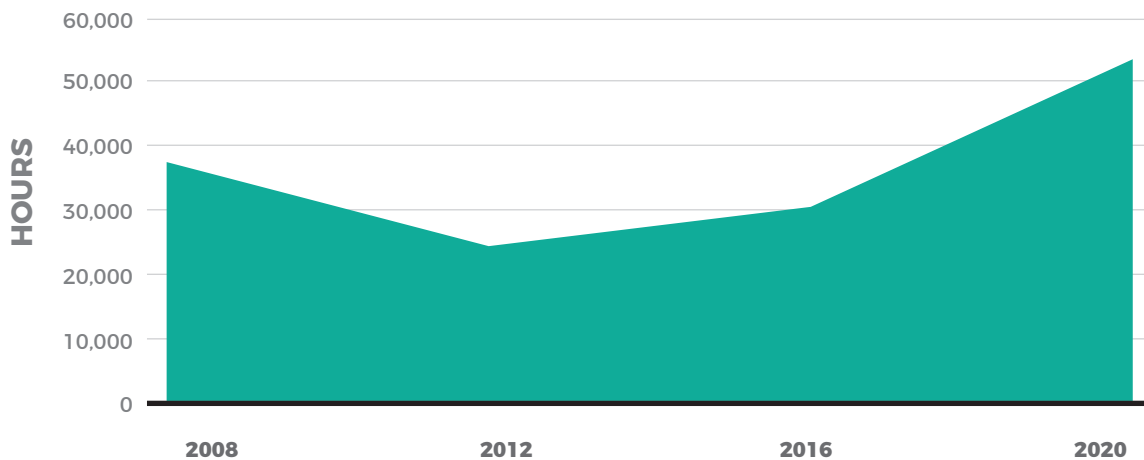
3. Maintain common hours for all early voting sites in municipalities located in multiple counties.

North Carolina law rightly requires counties to maintain common voting hours at early voting sites to provide equal access to voting opportunities. Counties that share major portions of municipalities should coordinate common hours for early voting sites in those municipalities.

Early Voting Locations In North Carolina General Elections



Early Voting Hours In North Carolina General Elections



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

REDISTRICTING

POLICY ANALYST: DR. ANDY JACKSON

INTRODUCTION

Few policy areas in North Carolina have been as contentious, let alone litigious, as redistricting. No set of North Carolina redistricting plans passed by the General Assembly since 1971 have survived unscathed by lawsuits. That is a function of both the highly competitive nature of North Carolina politics and multiple rules affecting redistricting that can be used as the basis for lawsuits.

Article 2 of the North Carolina Constitution (Section 3 for the House and Section 5 for the Senate) makes the General Assembly responsible for redistricting and states four criteria for drawing state legislative districts:

- Each state representative or senator shall represent “as nearly as may be” an equal number of people
- The district must be contiguous (but can cross bodies of water)
- Counties cannot be split (the “whole county” rule)
- Districts can be drawn only once every 10 years

The United States Constitution and federal law also affect redistricting. The U.S. Supreme Court has interpreted Article 2, Section 1 of the Constitution, and Section 2 of the 14th Amendment, as requiring equal representation in congressional (*Wesberry v. Sanders*, 1964) and state legislative (*Reynolds v. Sims*, 1964) districts. In addition, Section 2 of the Voting Rights Act prohibits states from drawing districts that dilute the voting power of voters based on race.

Numerous court cases have affected redistricting in North Carolina. Chief among them is *Stephenson v. Bartlett* (2002). It effectively ended the use of multimember legislative districts, although it left the door open to their return if justified by a strong state interest. It also created the “Stephenson rule” assigning counties to “clusters” based on population. That rule limits how creative legislators can get when drawing state legislative districts and encourages the legislature to keep communities of interest together.

Both Republicans and Democrats, depending on which party is out of power, have called for the creation of a commission to take responsibility for redistricting from the General Assembly. Bills mandating redistricting commissions have gone nowhere, however.

KEY FACTS

- » The North Carolina Constitution mandates that state legislative districts can be drawn only once every 10 years “until the return of another decennial census of population.” Congressional districts are also supposed to be drawn once every 10 years. Nevertheless, courts have ordered the state legislature to redraw districts numerous times over the past several decades.
- » Restrictions imposed by the North Carolina Constitution, the United States Constitution, federal law, and court cases have imposed limits on how creative legislators can be when they draw districts. They have not stopped legislators from either party from trying to draw districts favorable to their side.
- » North Carolina has a unique element in the process of drawing state legislative districts. The first step in that process is the creation of county clusters, which are groupings of one or more counties that can contain a whole number of legislative districts. Districts are drawn within those clusters, but cannot cross over into other clusters. For example, Duplin and Onslow counties were combined in 2011 into a two-county cluster containing three North Carolina Senate districts, and those three districts must be completely contained within those two counties.
- » Map drawers use the home addresses of incumbents to prevent “double-bunking” (putting the homes of two incumbents in the same redrawn district). North Carolina requires that state legislators live in the districts they represent.
- » Public hearings outside of Raleigh are part of the redistricting process. They may be of limited value, however, because party and political organizations seed those meetings with activists, meaning those meetings will not reflect the will of the general public.

RECOMMENDATIONS

1. Ban the use of data other than headcounts when drawing districts.

More specifically, forbid the use of voter registration data or data from past election results. Those data, especially from past election results, are key to finely gerrymandering districts. Also, map drawers should prohibit the use of voters’ demographic data, except to measure compliance with the U.S. Voting Rights Act, and rule out considering the addresses of incumbents when drawing districts.

2. Make districts compact, consistent with other standards and North Carolina's geography.

The basic principle of compactness is that citizens in a voting district should live as close to each other as possible. Following that principle increases the chance that citizens in a district will have shared interests. Compact districts are also more likely to survive judicial scrutiny.

3. Do not bring back multimember districts.

Multimember districts dilute minority (both political and racial) votes. Legislators in single-member district systems are more likely to be responsive to the needs of their constituents. In addition, the U.S. Supreme Court found that, under multimember district systems, “ballots tend to become unwieldy, confusing, and too lengthy to allow thoughtful consideration.”

4. Draw districts in the open.

As was done under court order in 2019, the actual drawing of districts should be done in legislative committees in open meetings on computers that members of the public can see in-person and online.

VOTER ID

POLICY ANALYST: DR. ANDY JACKSON

INTRODUCTION

Although the decade-long fight over voter ID in North Carolina shows little sign of abating, it is a necessary and constitutional reform that will help make our elections more secure.

Voters approved a voter ID amendment to the North Carolina Constitution in 2018. The General Assembly passed legislation enabling enforcement of the amendment over Gov. Roy Cooper's veto a month later. No sooner had the legislation been enacted than the litigation over the law began, with at least three lawsuits against the law being pursued in state and federal courts.

Despite the lawsuits against voter ID, it addresses a real problem. Researchers from the University of Chicago and Pepperdine University found in a 2014 report that "Voter fraud is usually difficult to detect without costly monitoring and investigation costs, especially in light of mail-in votes and failure to require picture IDs. Clearly voter fraud is real and can affect elections."

Inaccurate voter registration rolls compound the danger of election fraud. A 2012 report by the Pew Center on the States found one of every eight voter registrations in the United States are "no longer valid or are significantly inaccurate." That includes over 1.8 million dead people still on voter rolls and about 2.75 million people registered in more than one state.

A 2013 investigation by the New York City Department of Investigation illustrated concerns raised by the Pew study. "Investigators posed as the 63 ineligible individuals still on the voter rolls [due to death, felony conviction, or having moved out of New York] and were permitted to obtain, mark, and submit ballots in the scanners or the lever booths in 61 instances (or approximately 97%)."

The vast majority of North Carolinians already have some form of ID that they can use to vote. Those who do not have an acceptable ID can get a free ID from their county board of elections.

A 2021 United States Supreme Court ruling, *Brnovich v. Democratic National Committee*, could bolster North Carolina's voter ID law in federal court. The majority rejected the claim that "disparate impact" (election laws not affecting all groups in exactly equal proportion) was sufficient evidence by itself to require that an election law be overturned. Instead, the justices held that courts should use "the totality of circumstances," including disparate impact and legitimate government interests such as preventing election fraud, when considering election laws. Disparate impact arguments are at the heart of the federal lawsuit against North Carolina's voter ID law.

KEY FACTS

- » Thirty-five states currently enforce laws requiring some form of ID to vote.
- » Voters approved an ID amendment to the North Carolina Constitution by a 55.5% to 44.5% margin in November 2018.
- » North Carolinians can obtain free voter IDs from their county boards of elections.
- » Acceptable forms of photo ID for voting in North Carolina as laid out in the amendment include drivers' licenses, Department of Motor Vehicle IDs, voter IDs issued by a county board of elections, employee IDs issued by state or local government entities (including public and charter schools), tribal enrollment cards, U.S. passports, U.S. federal agency employee IDs, Veterans Identification Cards issued by the U.S. Department of Veterans Affairs, military IDs, and student IDs.
- » Lawsuits over North Carolina's voter ID constitutional amendment and law may not be resolved until as late as 2023.

RECOMMENDATIONS

1. The North Carolina Attorney General's office must vigorously defend voter ID in court.

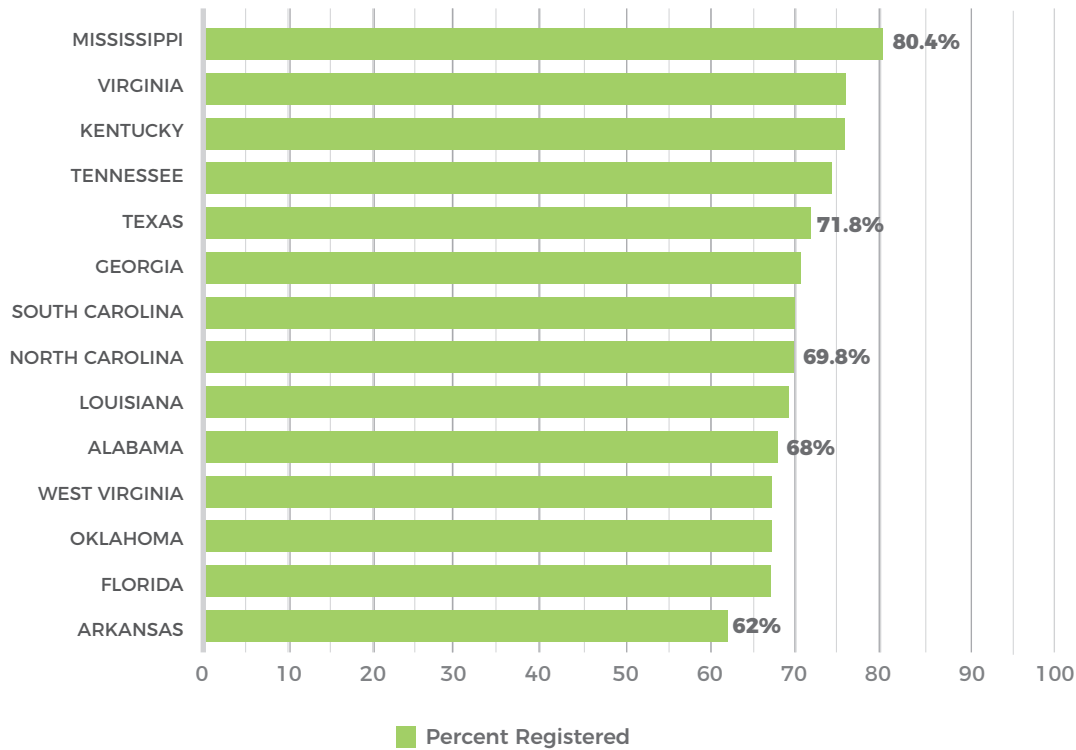
While the North Carolina Attorney General's office's duties include defending North Carolina's constitution and laws in court, current Attorney General Josh Stein's office has an uneven record of defending election laws. The office decided not to appeal a ruling that partially overturned North Carolina's law against felons voting before completing all their sentences. Stein's office also recommended that the State Board of Elections enter a settlement with Democratic attorney Marc Elias that overturned several election laws during the 2020 election.

2. County election officials should help qualified citizens get voter IDs.

Current law already requires that county boards of elections provide free voter IDs. County boards should notify voters that free IDs are available. The General Assembly should fund county boards to help them fulfill that requirement.

3. Voter ID holders should be able to use those IDs for a variety of services that require IDs.

Voters who request IDs from county boards of elections may not have other forms of identification. Legislators and administration officials should ensure that voters can use IDs issued by their county board of elections for other functions requiring IDs, such as purchasing medicine.

Citizens In Southern States Who Are Registered To Vote - 2020

SOURCE: UNITED STATES CENSUS BUREAU

VOTER REGISTRATION

POLICY ANALYST: DR. ANDY JACKSON

INTRODUCTION

Modern voter registration developed as part of Progressive Era (roughly 1895-1920) election reforms. Voter registration limited the power of the political machines of that era to use voter impersonation and repeat voting to run up turnout to their advantage.

North Carolinians can register to vote by downloading a voter registration form from the North Carolina State Board of Elections (SBE) website and mailing it to their county board of elections. They can also register at a Department of Motor Vehicle (DMV) office while getting a driver's license or ID. People who have already gotten a driver's license or ID may register online through the DMV.

By maintaining an accurate record of those eligible to vote, voter registration protects the right of citizens to vote while helping reduce election fraud. The system has proven to be successful in those dual missions. Today, every state uses voter registration rolls except North Dakota (which requires proof of residency and maintains precinct-level lists of voters).

County boards of elections maintain lists of registered voters and report any changes to their lists to the SBE. They regularly update those lists by adding new registrants and removing registrants who have died or have moved out of the county. The SBE provides data such as death records to county boards to help with updating registration lists. They also remove registrants who are ineligible to vote because they are actively serving a felony conviction, including probation or parole.

Many registrants, however, do not inform election boards when they move out of a county, meaning that lists become less accurate over time. To fix that problem, county boards perform biennial list maintenance by removing registrants who have both not voted in any election in the county over four federal election cycles (eight years) and not replied to a contact from the county board.

According to the SBE, "voter roll list maintenance is important because it ensures ineligible voters are not included on poll books, reduces the possibility for poll worker error and decreases opportunities for fraud."

List maintenance is effective only if election boards have accurate data on people who are no longer eligible to vote. The Electronic Registration Information Center (ERIC) shares death and new voter registration data between member states and allows member states to share purchased data, such as the U.S. Social Security Administration's death index, while protecting data privacy. ERIC requires annual dues of about \$30,000

per member state, a fee that is at least partially recouped through the sharing of purchased data by ERIC members. North Carolina has not joined ERIC, but the SBE is already authorized by law to do so.

KEY FACTS

- » County boards of elections are charged with keeping lists of registered voters. As part of that mission, they perform regular list maintenance every two years, removing inactive registrations.
- » Section 2 of the 14th Amendment to the United States Constitution allows states to deny the right to vote to anyone for “participation in rebellion, or other crime.”
- » The North Carolina Constitution states: “No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.”
- » Since biennial list maintenance only removes registrants who have not voted in at least four federal election cycles (eight years), its effect on voting is minimal.
- » North Carolina law allows the State Board of Elections to make “data-sharing agreements with other states to cross-check information on voter registration and voting records.”

RECOMMENDATIONS

1. Continue biennial voter registration list maintenance.

Regular list maintenance is an essential part of keeping voter registration lists accurate, helping maintain the integrity of our election process.

2. Join the Electronic Registration Information Center (ERIC).

The data-sharing done through ERIC would help improve list maintenance in North Carolina. It would also help boards of elections reach out to people who are eligible to vote but have not registered to vote.

3. Maintain voter registration ban on felons serving active sentences, including probation or parole.

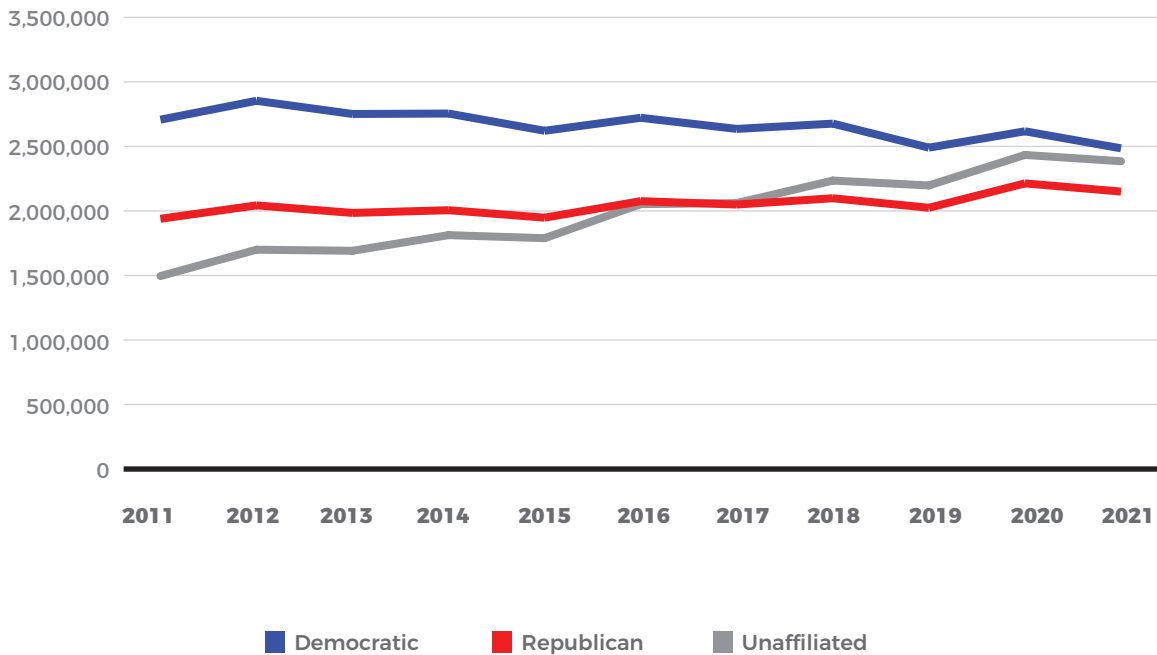
Convicted felons have demonstrated that they do not respect our laws or the rights of others. Felons on probation or parole are still serving their sentences. They rightfully have many of the rights and privileges of citizenship, including voting, taken from them until they complete their sentences.

4. Have the North Carolina court system share lists of potentially ineligible voters with election officials.

The Clerk of Superior Court should report those who are dismissed from jury duty due to non-citizenship, lack of North Carolina residency, or an active felony sentence, to the State Board of Elections. The elections board should check those reports against voter registration records and, if they confirm that some registrants are ineligible to vote in North Carolina, remove them from registration rolls.

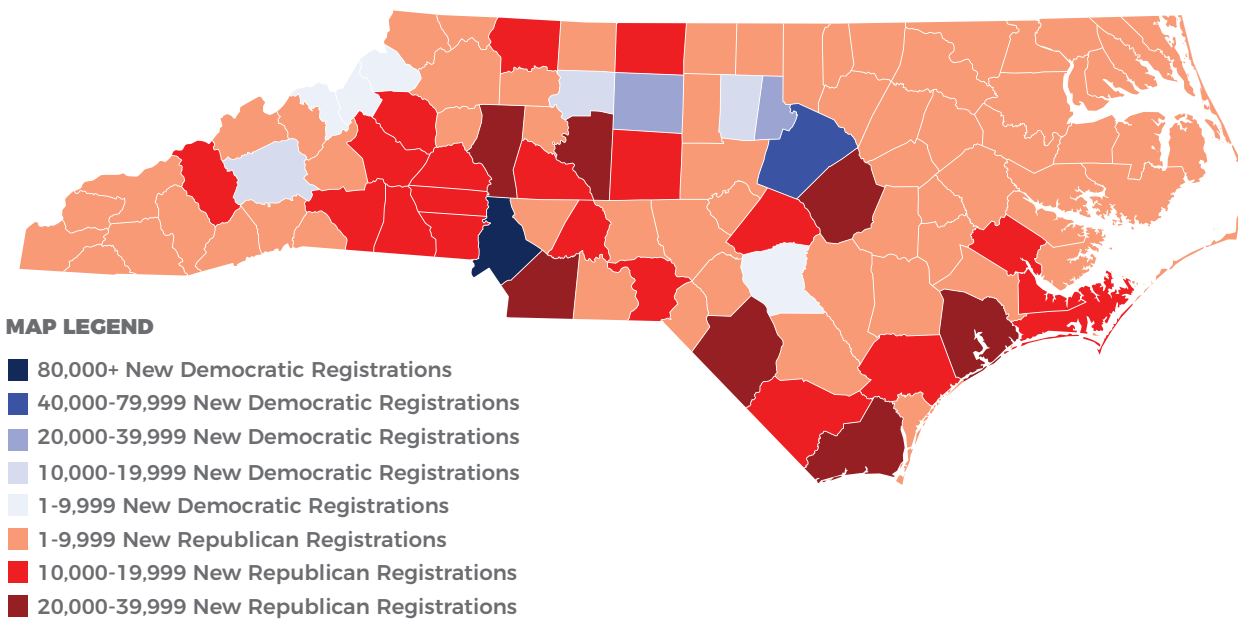
VOTER REGISTRATION

Voter Registration By Party, 2011-2021



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

Two-Party Voter Registration Change From 2004 To 2021



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

LAW, PUBLIC SAFETY, AND GUN RIGHTS

ASSET FORFEITURE

POLICY ANALYST: JON GUZE

INTRODUCTION

Civil asset forfeiture is a legal process that authorizes the confiscation of property suspected of having been used for, or derived from, criminal activity. Because the action is against the property itself, there is no need to convict the owner of the underlying crime. Indeed, the owner does not even need to be charged. And because it is a civil rather than a criminal action, the link between the property and the crime does not need to be proved beyond a reasonable doubt; a “preponderance of the evidence” is sufficient.

Civil asset forfeiture is inherently unjust. It violates property rights and the right to due process. Worst of all, it perverts the proper relationship between the police and the public by turning the former into predators and the latter into their prey. Despite these defects, the federal government started making extensive use of the practice in the 1970s, and in the years that followed, most states enacted similar civil asset forfeiture laws of their own.

Fortunately, North Carolina did not go along with that national trend. Under North Carolina’s criminal asset forfeiture statutes, property linked to a crime is only subject to forfeiture after the property’s owner has been convicted of that crime. And under the North Carolina Constitution, asset forfeiture proceeds do not revert to the agency that made the seizure. Instead, they must be used for maintaining public schools.

These features of North Carolina law protect the innocent and discourage abuse and have been awarded high marks in repeated editions of the Institute for Justice’s “Policing for Profit” report. In 2015, they also earned North Carolina the top score in a report by FreedomWorks titled “Civil Asset Forfeiture: Grading the States.”

Unfortunately, a federal program called “equitable sharing” makes it possible for North Carolina law enforcement agencies to circumvent these protections.

One form of equitable sharing is relatively benign. A state or local law enforcement agency that participates with a federal agency in a joint investigation receives a share of the proceeds from any assets seized in the course of the investigation. The fact that those assets can be taken through civil asset forfeiture is unfortunate, but at least joint investigations serve a legitimate law enforcement purpose.

The second form of equitable sharing, which is known as “adoption,” is worse. When a state law enforcement agency refers seized assets to a federal agency for adoption, those assets are processed under federal civil asset forfeiture law, and the bulk of the proceeds are then returned to the state agency that made the seizure. Adoptions serve only one purpose: to facilitate the circumvention of state asset forfeiture laws.

Compared with their peers in other states, law enforcement agencies in North Carolina have made very extensive use of equitable sharing in general, and of adoptions in particular. As a result, the Institute for Justice ranks North Carolina among the 10 worst states when it comes to using equitable sharing to circumvent state law.

KEY FACTS

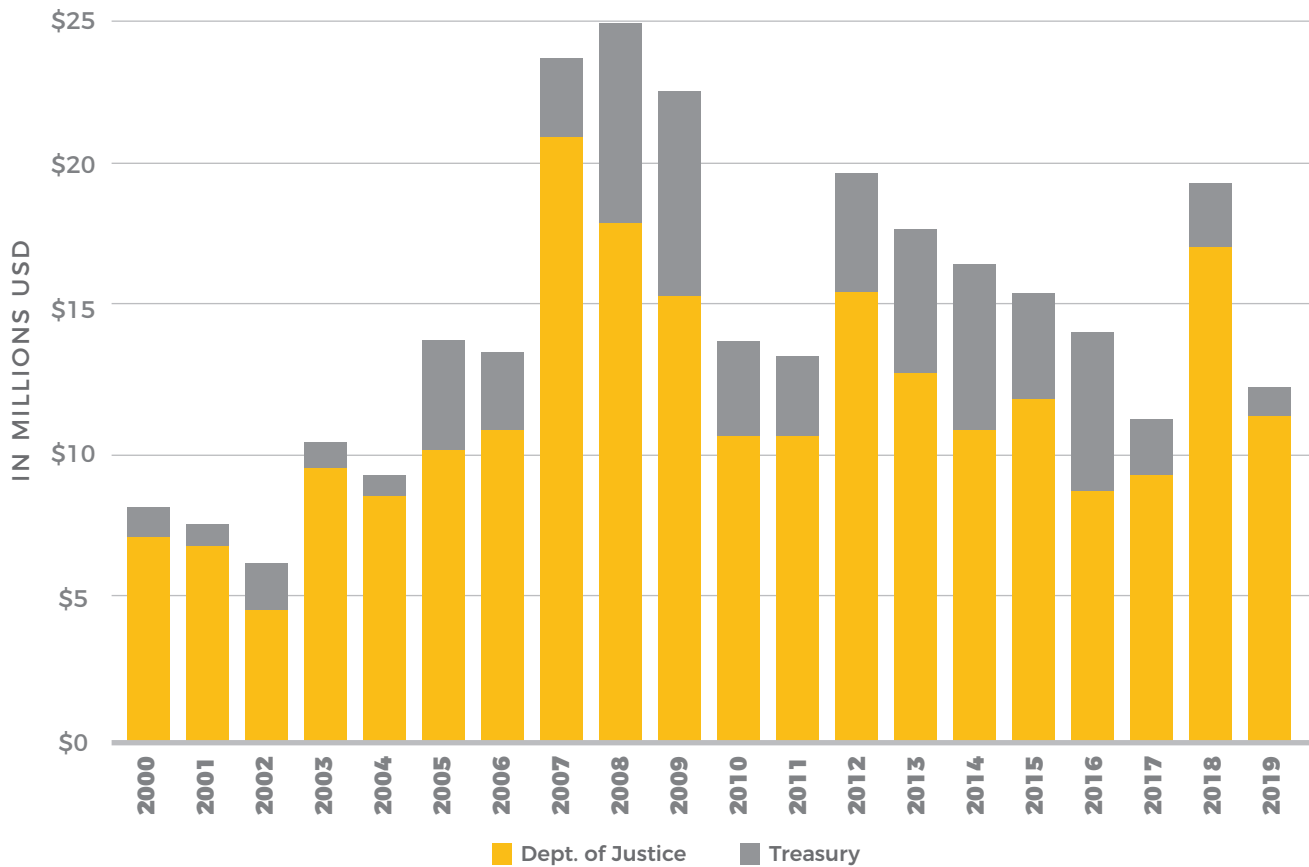
- » North Carolina's statutes and the state constitution protect the innocent and discourage abuse by requiring a criminal conviction before property can be forfeited and by requiring forfeiture proceeds to be used for maintaining public schools.
- » The federal government's equitable sharing program makes it possible for North Carolina law enforcement agencies to circumvent those protections.
- » More than 100 agencies in North Carolina, including the State Bureau of Investigation and the Highway Patrol, regularly process seized assets through the equitable sharing program. Between 2000 and 2019, those agencies collected almost \$300 million in equitable sharing proceeds.
- » Ten states and the District of Columbia have imposed restrictions on equitable sharing in the form of prohibitions on federal adoptions and monetary thresholds that must be met before asset sharing is permitted in joint investigations.

RECOMMENDATION

1. North Carolina should follow best practices of other jurisdictions by placing suitable restrictions on the use of equitable sharing.

Ideally, these restrictions will completely ban federal adoptions and prevent state law enforcement agencies from sharing the proceeds of assets seized in the course of joint investigations if the value of those assets is less than \$100,000.

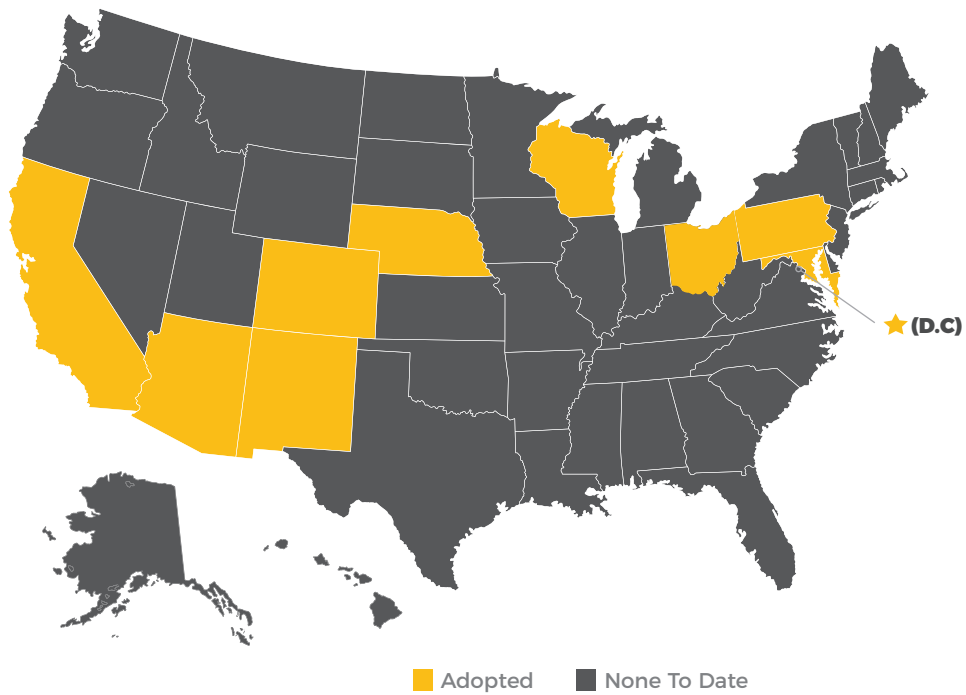
Total Equitable Sharing Proceeds In North Carolina



Year	North Carolina Forfeiture Revenues	Dept. of Justice Equitable Sharing Proceeds	Treasury Equitable Sharing Proceeds	Total Equitable Sharing Proceeds
2000	None Reported	\$7,125,291	\$1,018,000	\$8,143,291
2001	None Reported	\$6,808,539	\$754,000	\$7,562,539
2002	None Reported	\$4,581,800	\$1,632,000	\$6,213,800
2003	None Reported	\$9,480,431	\$899,000	\$10,379,431
2004	None Reported	\$8,536,628	\$720,000	\$9,256,628
2005	None Reported	\$10,121,517	\$3,802,000	\$13,923,517
2006	None Reported	\$10,817,405	\$2,675,000	\$13,492,405
2007	None Reported	\$20,920,094	\$2,734,000	\$23,654,094
2008	None Reported	\$17,964,512	\$6,888,000	\$24,852,512
2009	None Reported	\$15,445,754	\$7,081,000	\$22,526,754
2010	None Reported	\$10,600,785	\$3,276,000	\$13,876,785
2011	None Reported	\$10,603,162	\$2,761,000	\$13,364,162
2012	None Reported	\$15,563,496	\$4,108,000	\$19,671,496
2013	None Reported	\$12,763,130	\$5,002,000	\$17,765,130
2014	None Reported	\$10,805,901	\$5,736,000	\$15,541,901
2015	None Reported	\$11,883,462	\$3,651,000	\$15,534,462
2016	None Reported	\$8,709,152	\$5,480,000	\$14,189,152
2017	None Reported	\$9,256,927	\$1,915,000	\$11,171,927
2018	None Reported	\$17,116,834	\$2,237,000	\$19,353,834
2019	None Reported	\$11,277,342	\$1,019,000	\$12,296,342
Totals	\$0	\$230,382,162	\$63,388,000	\$293,770,162

NOTE: ALL REVENUE FIGURES INCLUDE BOTH CIVIL AND CRIMINAL FORFEITURES. REVENUES ARE NOT ADJUSTED FOR INFLATION.
SOURCE: INSTITUTE FOR JUSTICE

Status of Anti-Circumvention Laws Across the U.S.



SOURCE: JOHN LOCKE FOUNDATION

CONSTITUTIONAL CARRY

POLICY ANALYST: RAY NOTHSTINE

INTRODUCTION

Excessive politicization of an inherent right is keeping the gun debate at the forefront of society. Balancing public safety and preserving the textual integrity of the Second Amendment are seminal issues in American society and culture. Fortunately, for proponents of the Second Amendment, the courts and many state legislatures have broadened the scope of the Second Amendment to bolster original intent.

Unfortunately, here in North Carolina, there has been little positive legislative movement on the right to bear arms.

According to *Guns & Ammo* magazine, North Carolina no longer ranks in the nation's top half for firearms protections. In 1995, when North Carolina became a “shall issue” state on concealed carry, which requires local sheriffs to issue a concealed handgun permit to all applicants meeting certain requirements, it was considered a stronger state compared with much of the nation. Now the state ranks 26th.

When compared with the rest of the Southeast, North Carolina is far behind on firearms protections. Within its region, North Carolina only bests Virginia, which saw significant gun-control gains as Democrats consolidated legislative power in a state that continues to trend blue.

Constitutional carry, under which a person is not required to obtain a state permit to carry a firearm, is a reform making a lot of headway in state legislatures across the country. Montana, Tennessee, Iowa, Texas, and Utah have all passed constitutional carry in 2021, and 21 states overall now allow citizens fully to exercise the right to carry without a special government-issued permit. Passing a clean constitutional carry bill has become the gold standard to determine if a state champions the Second Amendment text.

While having success in the North Carolina House of Representatives, Republicans in North Carolina have never been able to pass constitutional carry, even when they had a supermajority in the General Assembly and a Republican governor. Most recently, N.C. Rep. Keith Kidwell, R-Beaufort, introduced House Bill 197, the “NC Constitutional Carry Act,” in March 2021.

In contrast, West Virginia and Missouri were able to pass the measure even by overriding vetoes from Democrat governors. Three New England states – Maine, Vermont, and New Hampshire – have constitutional carry. It's essential to note that constitutional carry doesn't negate any federal firearm laws already in existence and doesn't make it easier for those who can't legally own a firearm to obtain one.

According to a study published in the *Journal of the American College of Surgeons* in 2018, states that have enacted constitutional carry show no increases in violent crime. Arizona, one of the first states to implement constitutional carry in 2004, saw a steep decline in the murder rate.

Constitutional carry won't negate the importance of state-issued concealed-carry permits. Those who already have a permit or choose to obtain one in the future will have broader freedoms on where they can legally carry a firearm in the state. Furthermore, the state-issued concealed-carry permit still holds tremendous value for reciprocity in other states. Currently, North Carolinians with a concealed-carry permit can legally carry a concealed firearm in most states. Only in 12 states and the District of Columbia are North Carolina permit holders restricted from carrying concealed.

The class required to obtain the state-issued permit to carry concealed under current law is an important class for anyone new to firearms, and it should always be encouraged for those less familiar with firearms. It is worthwhile not only for safety training purposes, but also for teaching the firearm laws of the state.

When it comes to constitutional carry, North Carolinians should ask lawmakers why the citizens of 21 other states are more deserving of broader Second Amendment protections. The concept of inherent rights and a high view of self-government make it too important not to ask that question.

KEY FACTS

- » Constitutional carry simply means the U.S. Constitution is your permit to carry.
- » Twenty-one states currently have constitutional carry, including five states that passed the law in 2021.
- » A 2018 study published in the *Journal of the American College of Surgeons* revealed no uptick in violent crime in states with constitutional carry.
- » Constitutional carry does not negate the importance of state-issued concealed-carry permits, given that completing the training offers reciprocity with most other states, and given that educational training is important for those new to firearms.
- » Private companies and businesses can still decide to exercise their property rights and prohibit firearms on their premises.

RECOMMENDATION

1. Pass a clean constitutional carry bill.

North Carolina should be a leading state when it comes to protecting the rights of the people, and that should include inherent rights guaranteed by the Second Amendment.

CRIMINAL CODE REFORM

POLICY ANALYST: JON GUZE

INTRODUCTION

In *The Federalist* No. 62, James Madison wrote, “It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood.” More than 230 years later, Madison’s warning is as relevant as ever.

In North Carolina, the list of activities that can result in a criminal conviction has been growing rapidly for decades, and without much planning or oversight. Every year, dozens of new crimes are added to the statute books, and dozens of new rules and regulations that are subject to criminal penalties are put in place outside the statutory context. The result is a sprawling, incoherent, and unintelligible body of criminal law that places individuals and small businesses in constant legal jeopardy.

The sheer number of criminal laws and regulations, and the fact that their definitions are so haphazardly documented and so inaccessible, make it impossible for ordinary citizens to learn about and understand all the rules that govern their everyday activities and expose them to criminal liability. Moreover, because so many of those laws and regulations criminalize conduct that is not inherently evil and does not harm any identifiable victim, citizens cannot rely on their intuitive notions of right and wrong to alert them to the fact that they may be committing a crime. And yet for many crimes, including most regulatory crimes and many ordinance crimes, no *mens rea* (mental state) element is specified in the definition. As a result, citizens can be, and often are, prosecuted and punished for unintentionally breaking a law they did not even know existed.

This state of affairs, which is commonly referred to as “overcriminalization,” is patently unjust, but that’s not the only reason it is unacceptable. It discourages entrepreneurship and innovation; it reduces consistency in enforcement and erodes confidence in the rule of law; and it wastes scarce law-enforcement resources that could otherwise be devoted to preventing and punishing serious crimes against persons and property.

We must take steps to reduce the current level of overcriminalization in North Carolina and ensure that it does not rise to this level again in the future.

KEY FACTS

- » More than 2,500 separate crimes are defined in the North Carolina General Statutes. Approximately 900 are where one would expect to find them, in Chapter 14 under the title “Criminal Law,” but another 1,600 are sprinkled throughout 141 different chapters of the statute book.

- » Various “catch-all” statutes have made it a crime to violate the ordinances promulgated by counties, municipalities, and metropolitan sewerage districts, and the rules and regulations promulgated by administrative agencies and occupational licensing boards. Those criminalized ordinances and regulations do not currently appear in the statute book at all. Instead, a North Carolina citizen who wants to be fully informed about what is and is not a crime in our state has had to find and comb through hundreds of separate local codes and thousands of pages of the North Carolina Administrative Code.
- » Many of the crimes now on the books are obsolete, unnecessary, redundant, or unconstitutional, and the definitions are riddled with inconsistencies.
- » The definitions of many crimes are incomplete, and the *mens rea* (or “mental state”) requirement is among the most commonly missing elements. Incomplete definitions cause uncertainty, encourage mistakes, and raise the cost of adjudication. Moreover, when the *mens rea* requirement is missing, it exposes citizens who never knowingly or intentionally broke the law to the risk of unjust prosecution and conviction.
- » Legislation enacted in 2021 begins to address the problems listed above. S.L. 2021-84 repeals statutory provisions criminalizing the violation of rules promulgated by licensing boards. S.L. 2021-138 repeals statutory provisions automatically criminalizing the violation of local ordinances, and provides for criminal penalties only when such penalties are explicitly specified in the ordinance itself. S.L. 2021-138 also identifies types of ordinances for which no criminal penalty may be imposed and creates new statutory defenses for ordinance crimes. Finally, S.L. 2021-138 creates a bipartisan legislative working group to study all of the problems listed above and make recommendations regarding how to achieve a “streamlined, comprehensive, orderly, and principled criminal code.”

RECOMMENDATIONS

1. Address current overcriminalization by streamlining and cleaning up the criminal code.

Actions the General Assembly can take today include: Eliminating all crimes that are obsolete, unnecessary, redundant, or unconstitutional; resolving all inconsistencies; and, where appropriate, downgrading minor regulatory and municipal offenses from crimes to infractions.

This process should also include properly codifying all common-law offenses and defenses, ensuring that the definition of each crime is clear and complete and that it states explicitly what level of *mens rea*, if any, is required for conviction.

Finally, legislators can consolidate the entire body of revised criminal law into a clearly identified, well-organized, and intelligible criminal code that can be easily found within the General Statutes.

2. Prevent overcriminalization in the future with stronger safeguards and oversight of the criminal code.

Create a formal oversight body to review proposed crimes and periodically audit existing crimes.

Specify that to be enforceable, any regulation that carries a criminal penalty must be reviewed and approved by the General Assembly.

Provide a default “criminal intent” standard for all crimes created subsequent to recodification and require that strict-liability crimes can be created only by explicit statutory enactment.

Make “mistake of law” a defense for any crime created subsequent to recodification that is not clearly defined in the General Statutes and explicitly identified as a part of the criminal code.

EMERGENCY POWERS

POLICY ANALYST: JON GUZE

INTRODUCTION

The North Carolina Constitution declares that, “The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other,” and it assigns the legislative power exclusively to the General Assembly. That strict separation of powers requirement notwithstanding, in a true emergency there may be an urgent and immediate need to suspend existing rules of conduct and impose new ones, and there may not be time for the legislature to convene, debate, and approve the necessary changes. The Emergency Management Act (EMA) resolves that dilemma by delegating a limited amount of legislative power to the governor and to local authorities for the duration of declared emergencies.

While there is nothing wrong with such a delegation of power in theory, to comply with the separation-of-powers requirement and prevent abuse, such a delegation must be carefully constrained. There must be clear limits on the extent of delegation, suitable and effective checks must be put in place to enforce those limits, and the legislature must retain ultimate control. Unfortunately, as recent events have shown, in its current form the EMA fails to constrain the use of emergency powers in any of those ways.

In response to the threat posed by COVID-19, Gov. Roy Cooper declared a state of emergency on March 10, 2020, and, as of October 2021, that state of emergency remains in effect. Throughout most of that time, Cooper imposed and enforced an extreme lockdown regime entirely on his own authority, in the face of multiple lawsuits challenging its legality, and without any oversight by the General Assembly, which convened for two regular sessions during that time and could easily have enacted whatever measures were required.

No one person should be able to exercise so much power over so many people for such a long time. Fortunately, language in the 2021 budget bill effectively curbed these emergency powers while restoring meaningful checks and balances on the governor’s unilateral emergency powers.

KEY FACTS

- » Not every serious or dangerous problem constitutes an emergency. Only problems that arise suddenly or unexpectedly and require immediate action should qualify because only the need for immediate action justifies the delegation of emergency powers.
- » The EMA defines “Emergency” as simply, “An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property.”

- » The 2021 budget bill included language requiring Council of State approval for a state of emergency to extend beyond 30 days. Moreover, General Assembly approval will be required to extend the declared emergency beyond 60 days. Previously, North Carolina was among a few states placing no time limits on emergency declarations, and allowing only the governor the power to rescind the declaration.
- » The 2021 budget also updated the EMA by strengthening the language that ensures Council of State approval for a declared emergency, eliminating the loophole citing circumstances in which “local control is insufficient” exploited by Cooper in 2020.
- » In North Carolina, and all across the country, much of the controversy and litigation over governors’ use of emergency powers in response to COVID-19 arose when emergency orders infringed fundamental constitutional rights. The EMA does nothing to clarify how such conflicts are to be resolved.

RECOMMENDATIONS

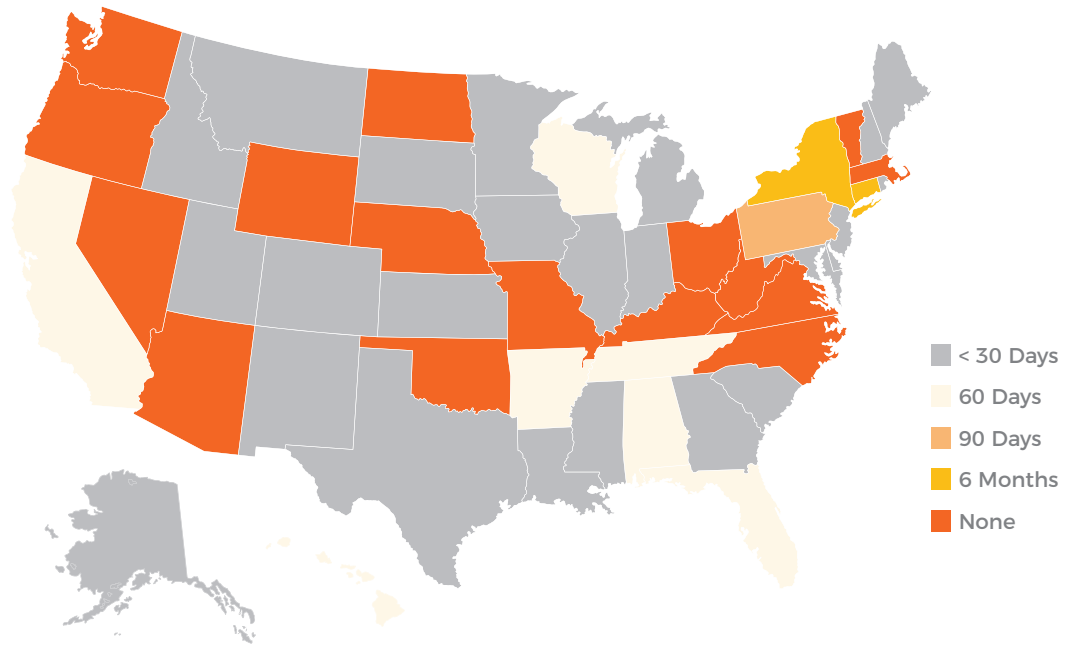
1. Revise the definition of “Emergency” in the General Statutes.

The current definition in §166A-19.3 should be updated to make it clear that an “occurrence or imminent threat” only qualifies as an emergency if it requires an immediate, short-term response and that, regardless of how severe and threatening it may be, an ongoing problem requiring a long-term response does not constitute an emergency.

2. Provide safeguards for constitutionally guaranteed rights of citizens.

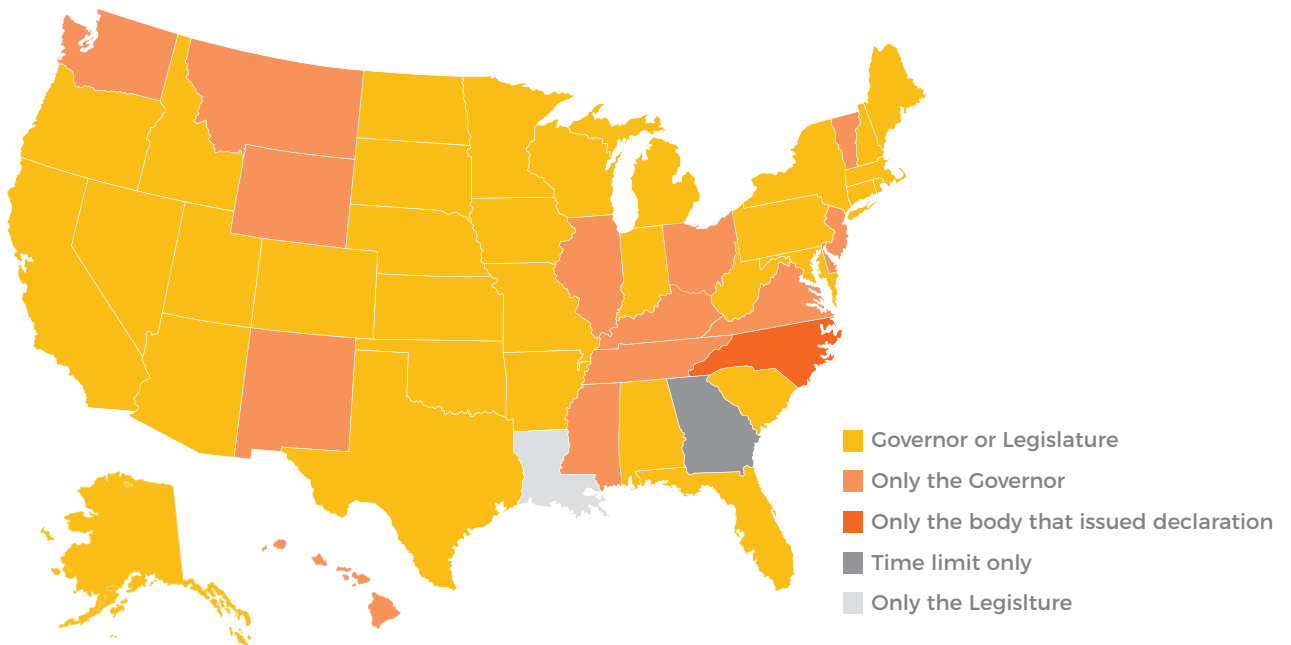
Add a new section stating that emergency orders that infringe upon constitutionally guaranteed rights must be narrowly tailored to serve a compelling public health or safety purpose and limited in duration, applicability, and scope, and that inequality in the applicability or impact of emergency orders with regard to analogous groups, situations, or circumstances may constitute a basis for invalidating or enjoining such orders.

Time Limits On Emergency Declarations By State



SOURCE: MAINE POLICY CENTER

Ability To Rescind Emergency Declared By Governor By State



SOURCE: MAINE POLICY CENTER

EMINENT DOMAIN

POLICY ANALYST: JON GUZE

INTRODUCTION

Eminent domain refers to the government's power to take land from property owners who are unwilling to sell it voluntarily.

The Takings Clause of the Fifth Amendment to the United States Constitution ("Nor shall private property be taken for public use without just compensation") was traditionally thought to restrict the use of eminent domain to cases in which the government itself required the land for such things as roads, military bases, and other public facilities, or in which a "common carrier" with a specific duty to serve the public required the land for such things as railroad rights-of-way and utility lines.

The country was shocked, therefore, by the U.S. Supreme Court's 2005 decision in *Kelo v. City of New London*, to uphold New London's use of eminent domain to take and demolish working-class citizens' homes so that it could give the land to a private corporation for "high-end" commercial development.

The court held that, while the Takings Clause might forbid a transfer from one private party to another "for the purpose of conferring a benefit on a particular private party," it does not prohibit such a transfer when it serves a "public purpose" like promoting economic development. It also held that the question of whether a specific taking serves a public purpose is not one the federal courts should attempt to answer. Instead, state and local governments should be allowed to determine for themselves "what public needs justify the use of the takings power." At the end of the opinion, the court added, "We emphasize that nothing in our opinion precludes any State from placing further restrictions on its exercise of the takings power."

Many states responded to that invitation by taking steps to protect their citizens from eminent domain abuse. The states in the Southeastern U.S. did particularly well in that regard. Almost all of them adopted highly effective measures to prevent eminent domain abuse, and the measures adopted by Florida and Virginia are generally regarded as the best in the country.

In both Florida and Virginia, the reform process began with legislatively enacted statutory changes designed to prevent eminent domain abuse. Significantly, however, in both states, the voters later approved constitutional amendments that supplemented statutory protections with specific, constitutional restrictions on takings in which property is transferred from one private party to another for the sake of economic development.

Unfortunately, despite the persistent efforts of several members of the North Carolina House of Representatives, the North Carolina General Assembly still has not taken steps to protect North Carolinians from the kind of eminent domain abuse the U.S. Supreme Court authorized in *Kelo*. It has not added suitable restrictions on the use of eminent domain to the North Carolina General Statutes, and it has not given voters an opportunity to add such restrictions to the North Carolina Constitution.

Our failure to protect the property rights of our citizens adequately is one of the primary reasons why, when it comes to regulatory freedom, North Carolina languishes in the bottom third of states, both nationally and regionally.

KEY FACTS

- » The U.S. Supreme Court decision in *Kelo v. City of New London* brought two serious but previously little-known problems to the attention of the American public. First, in the name of economic development, state and local governments across the country were using eminent domain to transfer property from ordinary citizens to politically connected developers and industrialists. Second, the federal courts would do nothing to prevent such transfers.
- » Most states responded to *Kelo* by changing their own statutes and constitutions in ways designed to protect their citizens from eminent domain abuse. Unfortunately, North Carolina is one of the few states that hasn't taken such steps.
- » While large, bipartisan majorities in the North Carolina House of Representatives have passed eminent domain reform bills in every long session since *Kelo*, no eminent domain reform bill has been approved by the North Carolina Senate.

RECOMMENDATIONS

1. **Amend the state constitution to state that private property may be taken only for public use and only with just compensation.**
2. **Stipulate that a court must decide the question of whether a taking complies with the public-use requirement without deference to any legislative or administrative determination.**

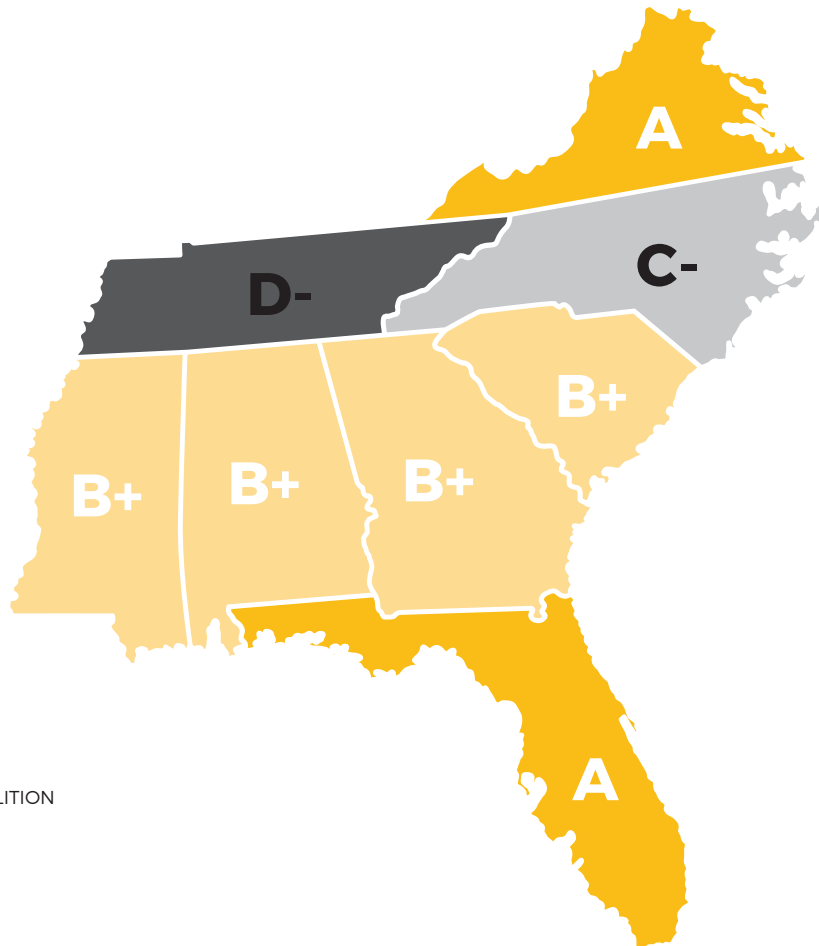
3. Clarify the term “public use.”

Define “public use” in a way that forbids transfers from one private party to another for the sake of economic development and permits such transfers only when the property is needed by a common carrier or public utility to carry out its mission, or, in cases of blight, when the physical condition of the property poses an imminent threat to health or safety.

4. Define “just compensation” in a way that ensures property owners are properly reimbursed.

Reimbursement should ensure owners are made whole for all losses and costs, including loss of access, loss of business goodwill, relocation costs, and reasonable attorney’s fees.

Report Cards: Eminent Domain Laws In The Southeastern United States



SOURCE: CASTLE COALITION

GUN RIGHTS IN CHURCH ASSEMBLIES

POLICY ANALYST: **RAY NOTHSTINE**

INTRODUCTION

In June of 2021, Gov. Roy Cooper vetoed a commonsense piece of legislation called “The Religious Assembly Security and Protection Act of 2021.” The bill simply closes a loophole that makes it illegal for concealed permit holders to carry their firearm in churches that are attached to or on an “educational property” campus. Rep. Jeff McNeely, R-Iredell, has told members of the General Assembly that North Carolina had 533 schools that share a property with churches.

The legislation passed through the General Assembly with veto-proof margins but on second go arounds the legislative body has not been able to overcome a Cooper veto since December 2018.

Simply put, the legislation allows for firearms to be concealed by those licensed on a religious premises when school or educational activities are not in session. Some churches rely on trained armed parishioners as part of their security team. This bill reinforces property rights for a church or religious meeting house. Additionally, it empowers the congregation to set their own security protocols to protect congregants. There is no requirement for a church attached to a school to opt in for allowing firearms on its campus. If they wish to remain a “gun-free zone,” that is their right. A religious house of worship attached to a school could still ban any or all firearms or only allow certain security members to carry. The one-size-fits-all mandated law across the state is not a best practice for protecting potentially vulnerable gatherings.

Many North Carolinians saw the impact of how trained permit holders can save lives in White Settlement, Texas in 2019. In December of that year, two congregants were killed, but much further loss of life was prevented when a volunteer security team member named Jack Wilson, 71, gunned down an assailant armed with a sawed-off shotgun. Wilson’s own shooting skills ended the life of the violent perpetrator within six seconds of the initial attack.

In 2007, Jeanne Assam, a member of the New Life Church safety team, shot a perpetrator who opened fire on the campus of the Colorado Springs congregation. Assam’s quick reaction potentially saved dozens of lives.

Gov. Roy Cooper vetoed a nearly identical bill over a year ago, citing incorrectly that the legislation will allow for guns in schools. Part of Cooper’s reasoning is that somebody might accidentally leave behind a firearm that could potentially fall into the wrong hands. This is an extremely

rare scenario that could conceivably happen at any stand-alone church where many concealed-carry holders across the state have been allowed to be armed in services for over two and a half decades.

Gov. Roy Cooper continues to move to the far left on Second Amendment issues. As attorney general, he received an “A” rating from the National Rifle Association (NRA). Cooper now opposes all legislation that is favorable of Second Amendment protections.

KEY FACTS

- » Gov. Roy Cooper has vetoed this legislation two years in a row (2020, 2021)
- » The United States has experienced 19 fatal church shootings from the infamous Columbine School shooting in 1999 to early 2020.

RECOMMENDATION

- 1. Pass the Religious Assembly Security and Assembly Protection Act so that all churches have more freedom to protect their congregants.**

INTENSIVE COMMUNITY POLICING

POLICY ANALYST: **JON GUZE**

INTRODUCTION

The old saying “An ounce of prevention is worth a pound of cure” is particularly apt when it comes to protecting public safety and maintaining public order. The reason is obvious. Compared to trying to catch and punish offenders after they commit crimes, and compared to trying to mitigate the suffering of crime victims and their neighbors after the fact, it is far better for everyone if potential offenders can be deterred from committing crimes in the first place.

The good news is that, whatever our missteps in the past, we now know how to put that old saying into practice. Intensive community policing (the strategic deployment of large numbers of well-trained and well-managed police officers in high-crime, high-disorder neighborhoods) has been shown to be an effective, efficient, and humane method for deterring crime and maintaining public order.

The bad news is that, despite the pressing need for effective, efficient, and humane crime control, anti-police sentiment inspired by the 2020 death of George Floyd in Minneapolis may make intensive community policing hard to implement.

The wave of crime that swept the country in the second half of the 20th century was terrifying for everyone, but it was Black Americans and the poor who bore the heaviest burden. Compared to other demographic groups, Blacks and the poor were far more likely to be crime victims, and they were far more likely to live in neighborhoods in which drug dealers, pimps, and gang members had taken over the streets and other public spaces. Making matters worse, the rise in crime and the breakdown of public order drove away businesses and discouraged investment in those neighborhoods, which began a cycle of poverty that continues to this day.

America responded to the late 20th century crime wave by putting a few more police on the streets and by putting a lot more people in prison. Both approaches probably helped slow the rise in crime, and the crime wave eventually crested in the 1980s and 1990s and then began to recede. Nevertheless, while crime rates declined overall, victimization rates continued to be much higher for Blacks and the poor than for other demographic groups. Moreover, because it resulted in the incarceration of so many Black men, the emphasis on punishment rather than deterrence had the effect of exacerbating the poverty cycle in Black neighborhoods.

The continuing burden that crime and mass incarceration imposed on Black Americans and the poor would have been reason enough to search for an alternative to the punitive approach to crime control, but

recent developments make that search more urgent. Levels of crime and disorder began to rise again in 2014, due at least in part to a handful of violent anti-police protests that began that year and continued in the years that followed. Worse still, after declining slightly in 2019, they rose again in 2020, this time precipitously, and the recent rise was also due at least in part to the hundreds of violent anti-police protests that followed the death of George Floyd. Judging by what happened after the earlier protests, unless something is done quickly to curtail it, this new wave of crime will continue into the future, and just as with previous crime waves, the consequences for African Americans and the poor will be dire.

If we want to save Black lives and help the poor escape from poverty, and if we want to ensure that the current spike in violent crime does not spiral out of control, we must stop vilifying the police and calling for them to be defunded. These things only make matters worse. Instead, we should invest in a program of intensive community policing as recommended here.

KEY FACTS

- » Research has consistently found that police presence deters criminal conduct and that the benefits that accrue from increased police presence greatly exceed the costs.
- » Intensive community policing refers to the strategic application of those findings by deploying large numbers of well-trained, well-managed police officers to act as peacekeepers in high-crime, high-disorder neighborhoods.
- » The resulting reduction in criminal conduct will benefit those who would otherwise be crime victims by saving lives and preserving property, improving the quality of life via safer streets, and encouraging investment and job creation .
- » The resulting reduction in criminal conduct will even benefit those who would otherwise have engaged in that conduct by reducing the likelihood of being arrested, charged, and convicted. There will be lower levels of incarceration and fewer people with criminal records.
- » Intensive community policing will help prevent the kind of police misconduct that has recently been the subject of so much national concern. Higher pay scales will attract a larger and better-qualified pool of applicants. A larger and better-qualified pool of applicants will reduce the incentive to keep or rehire bad actors and improve the overall level of professionalism. Police officers who maintain higher professional standards will be less likely to misbehave.

RECOMMENDATIONS

1. Hire more police officers and pay them more.

Deploying large numbers of well-trained officers to patrol high-crime areas is a proven method of deterring crime. Higher pay will attract better-qualified officers more likely to act in a more professional manner.

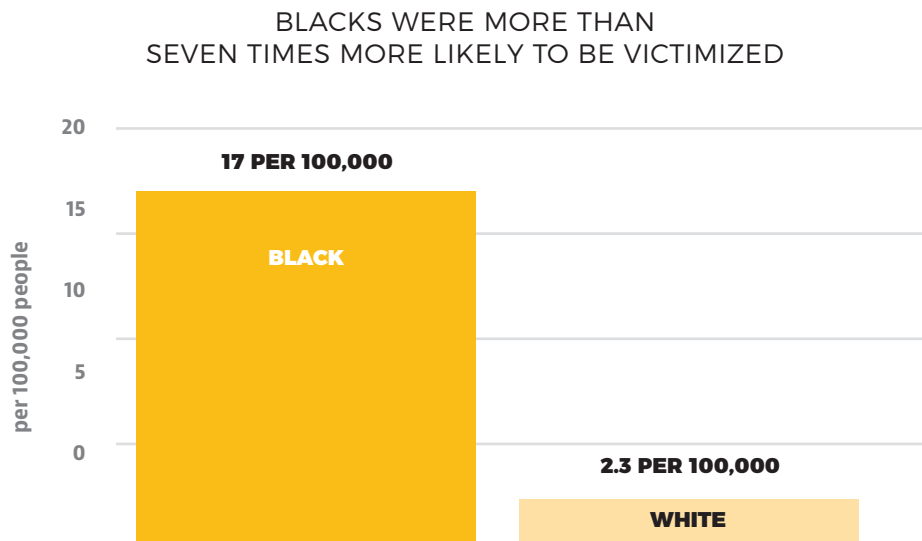
2. Provide officers with state-of-the-art training and support.

Higher investments in training will help avoid unprofessional conduct that sows distrust in high-crime communities.

3. Deploy officers as “peacekeepers” in communities that suffer high levels of crime and disorder.

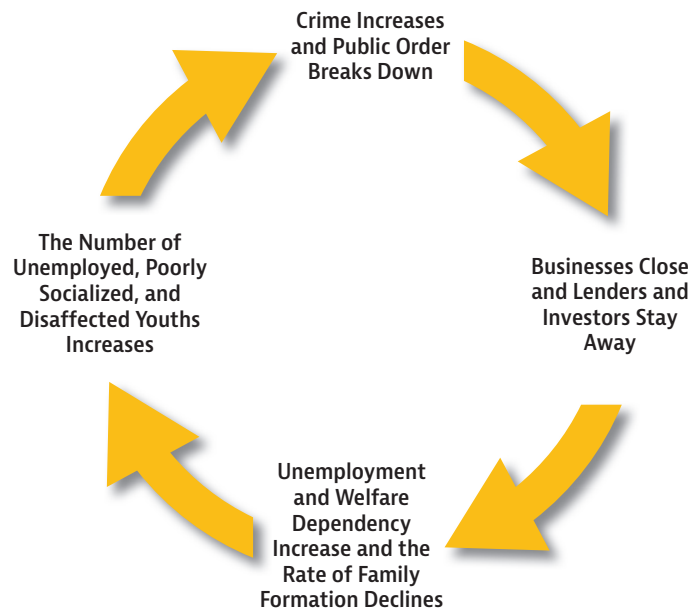
Targeting officers where they are most needed ensures efficient use of scarce human resources.

Black Victimization Rate Compared To White Victimization Rate In 2019

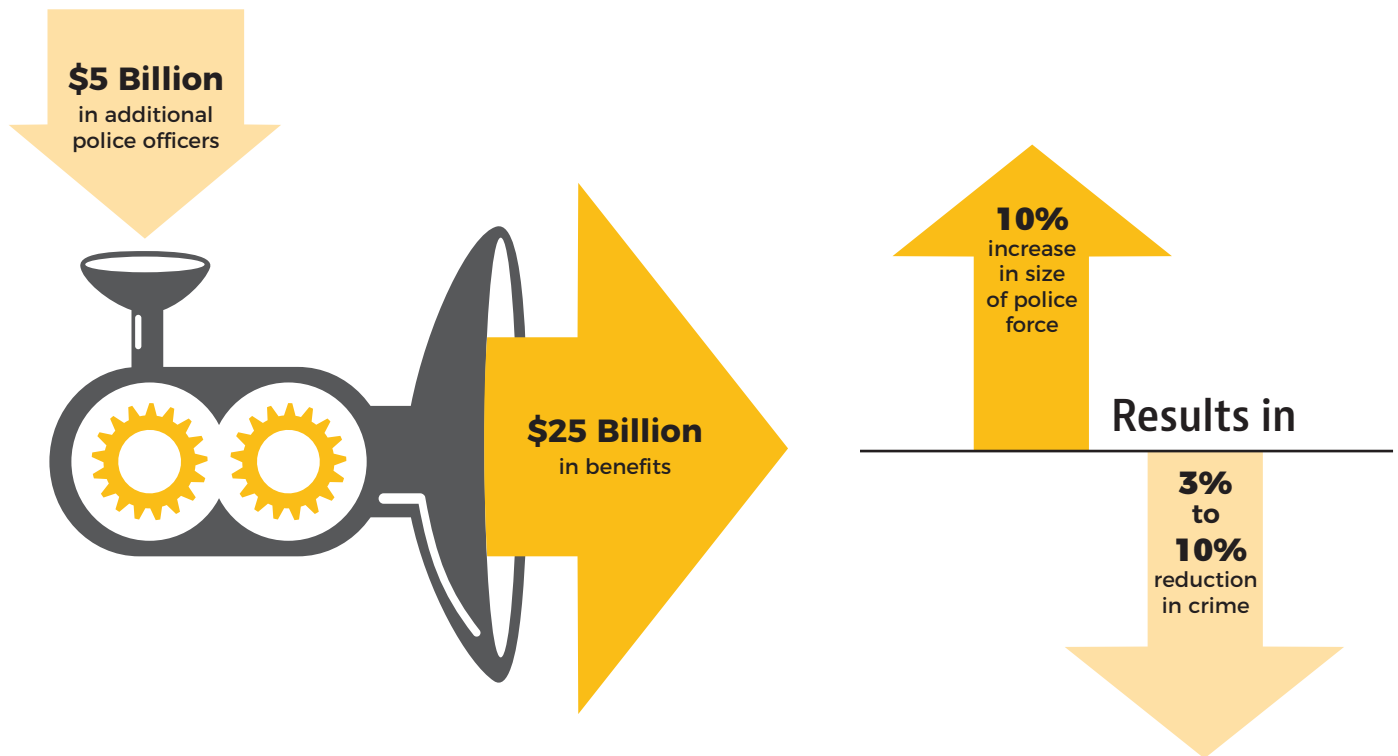


SOURCES: [HTTPS://UCR.FBI.GOV/CRIME-IN-THE-U.S/2019/CRIME-IN-THE-U.S.-2019/TABLES/EXPANDED-HOMICIDE-DATA-TABLE-1.XLS](https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/expanded-homicide-data-table-1.xls); [HTTPS://WWW.CENSUS.GOV/QUICKFACTS/FACT/TABLE/US#](https://www.census.gov/quickfacts/fact/table/us#)

The Role of Crime In the Poverty Cycle



Benefits of Intensive Community Policing



SOURCES: COUNCIL OF ECONOMIC ADVISORS (WASHINGTON, D.C.: THE WHITE HOUSE, APRIL 23, 2016), [HTTPS://OBAMAWHITEHOUSE.ARCHIVES.GOV/THE-PRESS-OFFICE/2016/04/23/CEA-REPORT- ECONOMIC-PERSPECTIVES INCARCERATION-AND-CRIMINAL-JUSTICE](https://obamawhitehouse.archives.gov/the-press-office/2016/04/23/cea-report-economic-perspectives-incarceration-and-criminal-justice). MARK A.R. KLEIMAN, "WHEN BRUTE FORCE FAILS: STRATEGIC THINKING FOR CRIME CONTROL," LEGISLATION/POLICY ANALYSIS (NATIONAL INSTITUTE OF JUSTICE, MARCH 31, 2005)

PISTOL PERMIT PROCESS

POLICY ANALYST: RAY NOTHSTINE

INTRODUCTION

For some readers, gun control is not synonymous with racism, but that's how the pistol permit process came about. *Reason* magazine called the pistol permit process the "Klan's favorite law" in 2005. "As Jim Crow intensified, Southern states enacted gun registration and handgun permit laws," wrote David B. Kopel. "Registration came to Mississippi (1906), Georgia (1913), and North Carolina (1917). Handgun permits were passed in North Carolina (1917), Missouri (1919), and Arkansas (1923)."

Simply put, pistol permit laws were enacted in the post Reconstruction and racial segregation era to keep Black Americans from obtaining handguns. Most states repealed those laws, including every other Southern state, but North Carolina fully enforces its law. The pistol permit process is a major reason North Carolina is slipping in national rankings on state gun-rights rankings. If a state resident doesn't pay the fees and complete the coursework for a concealed-carry permit in North Carolina, he or she must submit to a county sheriff's pistol permit process. That includes filling out paperwork and paying a \$5 fee for every purchase. One can only bypass this step of the pistol permit process if they take the concealed-carry course, pay a \$90 fee on top of other smaller fees, plus a fee for the course. The county sheriff still must approve the concealed-carry permit, much like a pistol permit. A permit is valid for five years. Fortunately, North Carolina is a shall issue state. That means applicants are approved after paying their fees, and fingerprinting and paperwork. On top of that they must meet the legal and residency requirements.

Only eight states currently require a pistol permit, and North Carolina is the only Southern state. In the push to repeal the permits, some states specifically noted the racist legacy of the laws. "As one Florida judge explained, the licensing laws were 'passed for the purpose of disarming the negro laborers... [and] never intended to be applied to the white population,'" writes Kopel.

Gov. Roy Cooper, while mum about the racist legacy of the law, supports the permit process because he says he's an advocate of more background checks. Yet, the pistol permit process has been made redundant by the speed and efficiency of the National Instant Criminal Background Check system (NICS), which is required by federal law under any firearm purchase from a licensed dealer. The North Carolina Sheriffs' Association now supports a full repeal, given that the instant national background check has been updated to account for mental health records.

Pistol permits gained renewed attention in the news during the COVID-19 pandemic. Wake and other North Carolina County sheriffs were sued for using the pandemic to halt permits in late April and early

May of 2020. One week after announcing a suspension to the permits, a Wake County Superior Court judge ordered the resumption of permits.

One of the critical arguments against the pistol permit process is that it can vary by county, potentially running afoul of the entire notion of equality under the law for an inherent right. What the sheriff's office decides and the timetable for obtaining a pistol permit may be different in Mecklenburg County compared to Johnston County. In fact, Gun Owners of America, Gun Owners Foundation, Grass Roots North Carolina, Rights Watch International, and three residents filed a lawsuit against Mecklenburg County for failing to process pistol permits in a timely manner. State law requires pistol permits to be issued 14 days after they are filed. Some state lawmakers noted that Mecklenburg has delays of up to six months. Counties routinely cite lack of manpower for the delays, but some think political ideology plays a role.

The truth is that the pistol permit process system is outdated and redundant. A repeal passed the North Carolina House of Representatives once again in May 2021 with House Bill 398, but it has yet to receive a vote in the Senate, where many pro-Second Amendment laws have stalled. North Carolina will continue to lag in Second Amendment rankings if it clings to the outdated pistol permit system, not to mention the continued burden it puts on the citizenry to exercise a fundamental right.

KEY FACTS

- » Eight states require a permit to own a pistol: North Carolina, Hawaii, Maryland, Connecticut, Massachusetts, Michigan, Nebraska, and New Jersey. New York and Illinois require special permits for any firearm.
- » According to current law, pistol owners must obtain a county-issued pistol permit even if they inherit a handgun from a deceased individual.
- » A pistol permit may only be obtained in the county in which one resides.

RECOMMENDATION

- 1. Pass a clean repeal of the outdated North Carolina county pistol permit system.**

REGULATION AND LOCAL GOVERNMENT

ALCOHOL POLICY

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

North Carolina was once the nation's leader in wine production and distilleries, legal industries killed off by state prohibition in 1908. In 1937, in response to the end of federal Prohibition, North Carolina policymakers chose separate paths for sales of different types of alcoholic beverages. For beer and wine, North Carolina became a "license" state, letting the distribution and retail sales be handled by private ventures with permits from the state Alcoholic Beverage Control (ABC) Commission.

For liquor, however, North Carolina became a "control" state. It exerts total government control over liquor distribution and sales. Only 16 other states are control states, but North Carolina is different even from them. North Carolina is the only state with local government control over liquor sales, which is done through 170 different ABC boards operating 436 different ABC stores.

Look at all the layers of control in North Carolina. Before a distiller's product can reach a consumer, it must first be approved by the ABC Commission, then find storage in the ABC warehouse, then be ordered by a local ABC board, and then be offered for sale by that board's ABC store at the price set by the ABC Commission.

As a government monopoly, North Carolina's ABC system seeks to maximize revenues and minimize choice and competition. Advocates for the ABC system are quick to point to its nearly \$1.4 billion in sales and talk up its government revenue transfers. But most of the sales revenue covers business expenses, of course. In 2020, only 38.7% of ABC revenue went to government purposes.

Furthermore, state government revenue from liquor sales doesn't require North Carolina to be a strict control state with an ABC system, as opposed to a license state. It is already built into state law by taxes and surcharges.

Beyond government transfers, advocates for keeping the ABC system speculate that without it, North Carolina would see a spike in teenage drinking, teenage binge drinking, DUIs, and alcohol-related deaths, which would create havoc for the Alcohol Law Enforcement Division (ALE) and local law enforcement. Research and further consideration suggest those fears, while understandable, are overblown.

Research finds no significant differences between control and license states with respect to those negative outcomes. Meanwhile, sales of bottles of liquor for off-premise consumption (sales at ABC stores) are a small subset of alcohol consumption in North Carolina, dwarfed by sales of beer and wine for on- or off-premise consumption and also liquor-by-the-drink sales at restaurants, bars, clubs, etc.

KEY FACTS

- » In 2019, the General Assembly loosened state restrictions on alcohol in several ways. Among other things, distillers were allowed to hold tastings at ABC stores, receive ABC permits to sell beer, wine, and mixed drinks on premises, sell bottles to distillery visitors without limit, and self-distribute to mixed-beverage permittees and out-of-state consumers. In a major compromise, craft breweries were given much greater freedom to self-distribute.
- » Other state restrictions remain. For example, taverns, bars, etc. cannot offer “happy hours” or “ladies nights” promotions or a variety of drink specials that other states allow. Liquor stores can’t make package sales on Sundays and state holidays. Neither can distilleries, but breweries, wineries, bars, taprooms, etc. can.
- » Under the lighter regulatory regime for beer and wine, North Carolina sees thriving industries bringing pride to their communities, with over 340 breweries and 200 wineries in 2021. Given North Carolina’s strict control over liquor in general, and tighter regulations against distilleries in particular, however, there were only about 80 active distilleries. Some examples: distilleries can’t sell bottles at farmers markets or state fairs, hold for-profit events, sell bottles or drinks off-site, or even self-distribute. Not only are tastings strictly limited, but distilleries can’t even sell a bottle in-house unless the buyer has participated in a tour.
- » There are at least 28 cideries in the state, mostly in western North Carolina, and most supported by apples from Henderson County, the seventh-most productive county for apples in the U.S. The state’s definition of cider, however, is stricter than the federal government’s, and the state taxes cider like unfortified wine instead of beer. Taxing cider like beer would result in a 38% tax cut, and matching the state’s definition of cider to the federal government’s would remove uncertainty from cider production and allow that natural industry to grow faster.

RECOMMENDATIONS

1. Make North Carolina a license state in liquor sales, as it is with beer and wine.

Dissolve the ABC boards, sell the ABC stores, divest the state of the ABC warehouse, and free distillers from the ABC Commission dictating an approved products list and statewide prices.

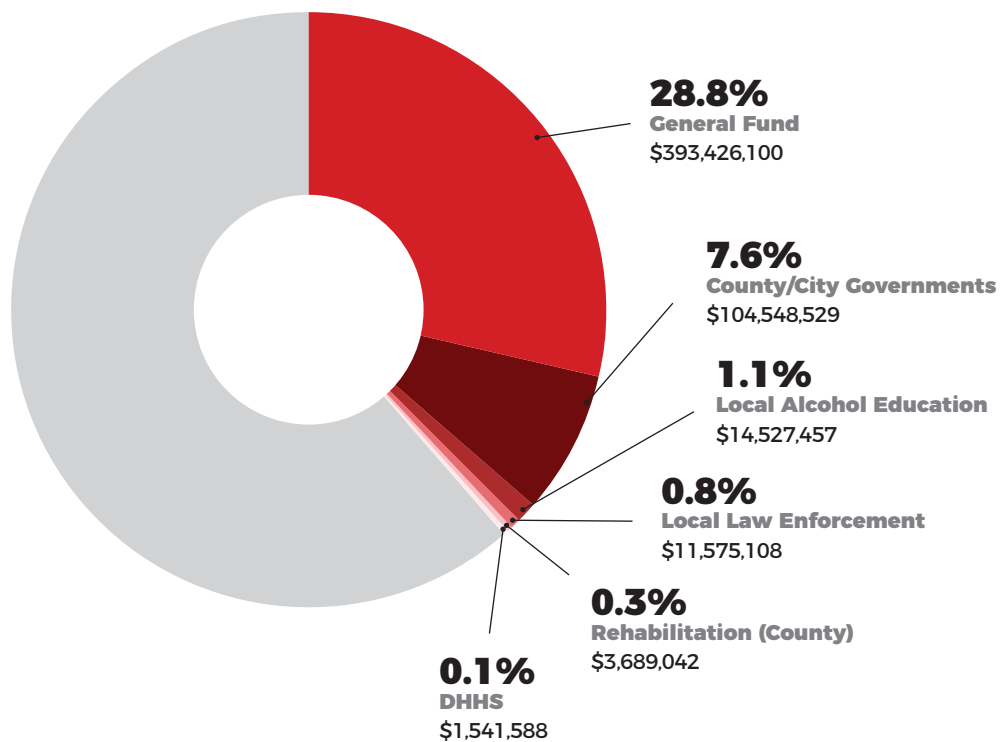
2. Continue to remove anticompetitive restrictions and overregulation of the alcohol industry.

Consumers, distillers, brewers, vintners, cideries, private retailers, future entrepreneurs, local job-seekers, and local communities would all benefit from relaxing unnecessary alcohol restrictions in North Carolina.

Some examples: Distilleries ought to be able to self-distribute, sell bottles at farmers markets or state fairs, hold for-profit events, open on Sundays, etc. Bars ought to be able to hold drink specials the way bars in other states can. Liquor stores ought to be able to make sales on Sundays and holidays.

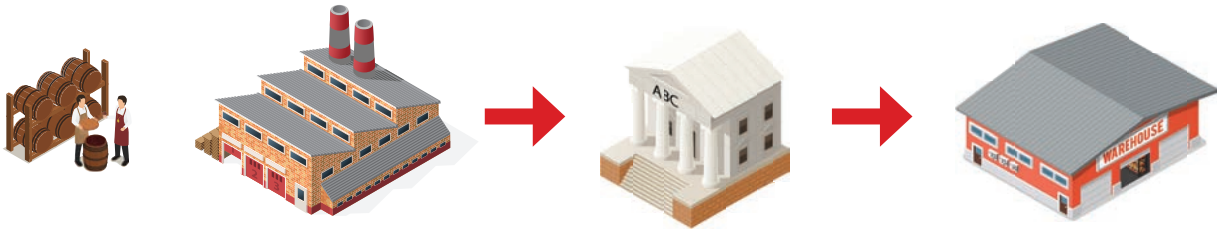
Revenue Transfers To Government From Total ABC Sales Revenue

Only 38.7% of ABC's \$1.37 Billion in Total Revenue Went to Government Purposes



SOURCE: 2020 ANNUAL REPORT, NORTH CAROLINA ABC COMMISSION

Components of North Carolina's ABC System



SMALL LOCAL DISTILLERIES AND BIG-NAME NATIONAL/INTERNATIONAL DISTILLERIES

- Ship product to the ABC Warehouse
- Compete against each other for listing by the ABC Commission and to be sold by each ABC board
- Compete against each other for ABC Warehouse space
- Compete on name recognition, distributor group, marketing ability, etc.
- Compete on the basis of overall profitability to the ABC system
- Cannot ship directly to consumers
- Distilleries in North Carolina may not offer tasting samples greater than 0.25 ounce to visitors or provide more than 1.0 ounces total in tasting samples

ABC COMMISSION

- Determines which liquor products are sold in North Carolina
- Sets statewide prices
- Contracts out the ABC Warehouse
- Sets profit thresholds for products, which are used to determine whether ABC stores can sell them
- Commissioner and two associate members are appointed by the governor

ABC WAREHOUSE

- Receives and stores products approved by the ABC Commission
- Delivers product orders placed by ABC stores
- One state-owned, 200,000-sq.ft. facility in Raleigh
- Another 200,000-sq.ft. facility in Clayton under lease since 2011
- ABC Commission contracts warehousing to a private vendor

Across state lines, a different system...



LOCAL LIQUOR STORES

- Owned and operated by private entrepreneurs
- Sell liquor directly to the general public or indirectly via sales to mixed-beverage license holders (restaurants, bars, etc.)
- Each decides which products to order from which vendors
- Each decides prices independently
- Low, competitive profit margins
- Number of stores depends on entrepreneurs' judgment of area viability
- Pay local property taxes, privilege license fees, liquor and other excise taxes, sales taxes, corporate income tax, and other levies and fees
- Not allowed in North Carolina

ABC STORES

- Owned and operated by local ABC boards
- Sell liquor directly to the general public or indirectly via sales to mixed-beverage license holders (restaurants, bars, etc.)
- Number of stores kept limited to ensure high profit margin
- Staff hired by ABC board

LOCAL ABC BOARDS

- The only legal entities allowed to sell packaged liquor in North Carolina
- Own and operate ABC stores
- Place orders for products to sell
- Can order only products approved by the ABC Commission
- Can order only from the ABC Warehouse
- Cannot set prices
- Either countywide or city-based, depending on local-option votes
- North Carolina is the only state in the nation with local government control of liquor sales
- County board of commissioners or the city governing body (depending) appoints 3-5 members of the respective boards

LOCAL CONSUMERS

- Can buy packaged liquor only from ABC stores
- Can buy mixed beverages from restaurants, clubs, bars, hotels, etc.
- Can buy other alcoholic products (beer and wine) in grocery stores, convenience stores, specialty shops, etc., as well as restaurants, clubs, bars, hotels, etc.
- Can buy bottles directly from a small local distillery
- Cannot comparison-shop for packaged liquor within state lines; prices are uniform across the state
- Must go out of state to make purchases in specialty or boutique liquor stores
- Cannot order liquor online or otherwise have it shipped directly
- Can receive wine shipped directly if the winery has an ABC permit

CONNECTIVITY AND BROADBAND

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

Government directives and people's choices amid Covid-19 have fast-tracked the American reliance on high-speed broadband. Work from home, remote learning, and telemedicine are three big examples of this transition. At the same time, this greater reliance on broadband has heightened the rural/urban divide, prompting worries that people, patients, and students in underserved rural areas could get left behind.

Fortunately, North Carolina's leaders have done well in recent years producing policies to help speed access to unserved areas by eliminating obstacles without playing favorites. Those include promoting collocations of facilities, boosting small wireless facilities, making trench-sharing easier (dig-once policies), and also forbidding exclusive arrangements for use of city rights-of-way.

Meanwhile, as part of the Federal Communications Commission's (FCC) \$20.4 billion Rural Digital Opportunity Fund, the FCC will spend \$166.6 million to bring broadband to over 155,000 unserved areas identified across North Carolina. Practically, what it means is that while the funding is there, North Carolina will be in a race against other states for labor and materials to bring service to their unserved locations faster. The way to do that will be to have policies in place ensuring that these funds and resources are put to the most efficient and cost-effective uses possible.

With good policies regarding wireless provision already in place for North Carolina, a 2021 paper by the John Locke Foundation argued for turning attention first to utility pole attachment issues: making cost-sharing more equitable between utility pole owners and attaching entities, expediting disputes over pole attachments, and using the same FCC cable rate formula for pole attachments.

In general, policymakers should stay focused on removing regulatory roadblocks, easing permitting, and otherwise letting the private sector flourish in wireless and wireline broadband provision. Sometimes, however, local officials can become convinced that government provision is the solution, but public networks are notorious for financial difficulties.

Earlier this century a handful of North Carolina cities – Wilson, Salisbury, Mooresville, Davidson, and Morganton – chose to set up municipal broadband services. In short order, however, their residents faced higher taxes and even higher electricity and water rates, as the cities were borrowing from other funds to cover their broadband network losses. In response, legislators passed the Level Playing Field Law in 2011 to protect citizens from being hit by such problems of cross-subsidization. The Level Playing Field Law also protects any existing or future service providers from facing unfair competition from governments.

KEY FACTS

- » Nine different companies won bids in the first round of the FCC's Rural Digital Opportunity Fund auctions to deploy broadband to eligible unserved and rural locations in North Carolina. The bid-winners plan to expand broadband access to 155,137 locations across the state – nearly all of the 158,805 eligible locations in North Carolina that the FCC had identified.
- » The R Street Institute's most recent Broadband Scorecard Report for the states awarded North Carolina a B+ grade (higher than 32 other states). The scorecard ranks states on a broad range of laws concerning broadband deployment, including right-of-way access, zoning to construction permits, franchising, etc.
- » Examining rural broadband issues in North Carolina, the Mercatus Center at George Mason University in 2017 recommended first that North Carolina policymakers rely on the private sector rather than building public networks. Government could help, primarily by lessening state and local regulatory obstacles to building wireless infrastructure on public property and public rights-of-way.
- » There have been attempts in the General Assembly to exempt local governments' leased systems from the Level Playing Field Law. In competing versions of a "FIBER NC Act" in 2021, the Senate version would include this exemption for leased systems (Senate Bill 547), but the House version would instead uphold the principle of anti-exclusivity (House Bill 384).

RECOMMENDATIONS

1. Leave broadband service to private providers and focus government efforts on removing regulatory roadblocks and streamlining permitting.

The private sector, featuring competing enterprisers seeking new opportunities and innovations, is best suited to solve difficult market problems. North Carolina policymakers have found the most success in promoting rural broadband when they have adhered to that wisdom.

2. Uphold the Level Playing Field Act.

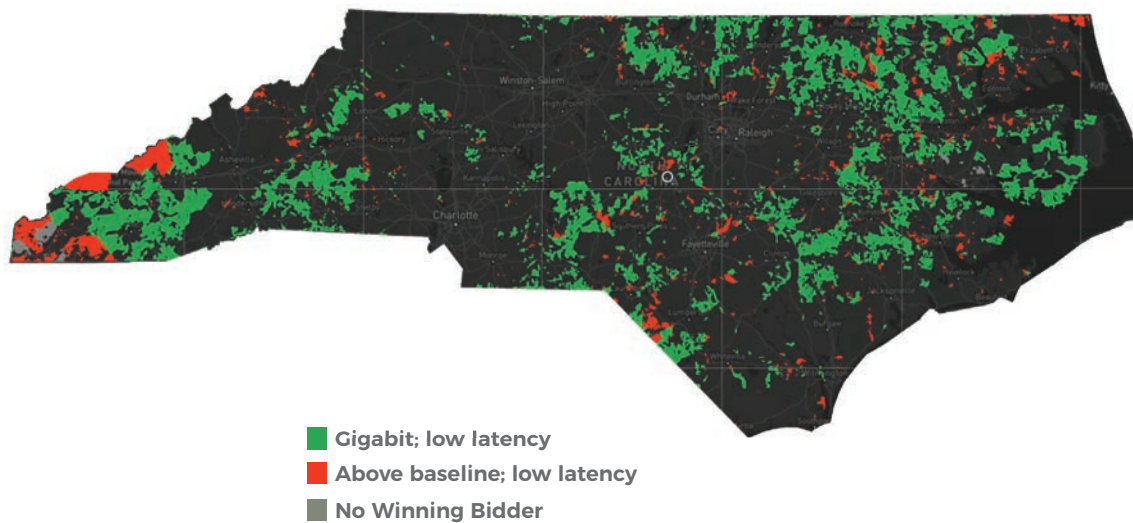
Oppose any bill that would exempt local government broadband efforts from the Level Playing Field Act, whether to build a new network or to build network infrastructure to lease to a private company. Cross-subsidization hides the costs and hits poor residents especially hard.

3. Address pole-attachment issues to make expanding broadband into unserved areas more cost-effective, less costly, and less time-consuming.

When a pole attachment necessitates purchasing and installing a replacement pole, have pole owners share in the cost so that the new attaching entity is responsible for the remaining net book value of the pole being replaced, not the full cost. Require the Utilities Commission to expedite disputes concerning pole attachments. Have all utility pole owners adhere to the same FCC cable rate formula for pole attachments.

N.C. Rural Digital Opportunity Funds Phase I Winning Locations

Nine companies, \$166.58 million total assigned support to 155,137 out of 158,805 eligible locations



SOURCE: FEDERAL COMMUNICATIONS COMMISSION

ELECTRICITY AND ENERGY

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

Because electricity is a basic human need, North Carolina's standard in law requires least-cost, reliable electricity at the flip of a switch. It's what people should expect.

When people have no choice but to buy from (a) a monopoly provider at (b) whatever price they're given for (c) something they need just to survive, true public servants see a clear duty to protect them. Scheming politicians and special interests, however, see an unbelievably easy target for exploitation – like shooting fish in a barrel.

North Carolina policymakers have pursued aggressive policy interventions in electricity provision all century: Clean Smokestacks in 2002, a 35% investment tax credit for renewable energy in 2005, Renewable Energy Portfolio Standards (REPS) in 2007, and an 80% property tax abatement for solar energy systems in 2008. North Carolina's interpretation of the Public Utility Regulatory Policies Act of 1978 (PURPA) is highly favorable to solar facilities, giving them the region's longest contract terms by far at rates 10% to 20% higher than even the next most expensive state's, sticking our consumers with abnormally high rates for years even as the cost of solar falls. All those government policies are what made North Carolina "second in solar" and home to 60% of the nation's PURPA-qualifying solar facilities.

The General Assembly sought to address this problem in 2017 with Session Law 2017-192, a major compromise between utilities and solar facilities. But Gov. Roy Cooper gutted this compromise by forcing Duke Energy to contract with 240 solar companies under the older, costlier scheme before granting approval to key pipeline permits – costing consumers at least \$1.25 billion more than necessary.

In April 2019, Cooper's Department of Environmental Quality (DEQ) suddenly reversed itself against scientific evidence and declared that Duke Energy should fully excavate and remove coal ash from nine basins formerly categorized as "low risk." A lawsuit ended in a settlement agreement in which Duke, DEQ, and several environmental groups – but not consumers – agreed that Duke should clean those basins and pass the costs to consumers.

In January 2021, in a surprise settlement agreement, Attorney General Josh Stein agreed with Duke to place 75% of the cost of cleaning the other coal ash basins on consumers. So Cooper and Stein, despite having promised to protect consumers from bearing the costs of coal ash cleanup, socked North Carolina consumers with nearly 90% of coal ash cleanup costs – which are projected to reach \$9 billion.

On top of all that, Cooper’s “Clean Energy Plan” would increase household electric bills by more than \$400 each year, as a June 2021 John Locke Foundation research paper showed. Cooper’s energy plan, heavy promotion of unreliable energy sources, opposition to building new natural gas pipelines even though solar and wind facilities need natural gas for backup generation, and opposition to nuclear power threatens to make California-style rolling blackouts a Carolina reality.

KEY FACTS

- » Greenhouse gas emissions in North Carolina have been plummeting all century. Since 2000, carbon dioxide emissions are down 40.1% percent. Price-competitive, comparatively low-emissions natural gas from fracking is a major reason.
- » Nuclear is North Carolina’s top source of electricity, producing 32% in 2019 (most recent data available). Natural gas (31.4%) and coal (23.4%) follow close behind. Solar provides only 5.7%. In 2002, natural gas provided only 0.9%, while coal produced a whopping 62.1%. Nuclear was steady (32%).
- » Nuclear is a zero-emissions source of electricity, and at 92.5% it has by far the highest capacity (i.e., it is by far the most reliable and efficient source). Solar (25.4%) and wind (35.4%) are among the worst, plus they are so unreliable they require backup generation, which actually increases emissions.
- » The levelized cost of energy from existing nuclear power plants is only about a third of the cost of energy from new wind and solar plants plus their required backup generation.
- » Nuclear and natural gas plants have much, much smaller environmental footprints than wind and solar. To produce 1,000 megawatts over a year, nuclear requires 0.5 square miles of land; natural gas, two; solar, 60; and wind, 575 (onshore) or 265 (offshore). Also, disposal of used solar panels and retired wind turbine blades is a significant and growing environmental challenge.
- » For least-cost, reliable, and least-emissions electricity, existing nuclear power checks all the boxes. Relicensing and maintaining North Carolina’s nuclear fleet is critical. Policymakers should study how best to promote utilities retaining existing nuclear plants.

RECOMMENDATIONS

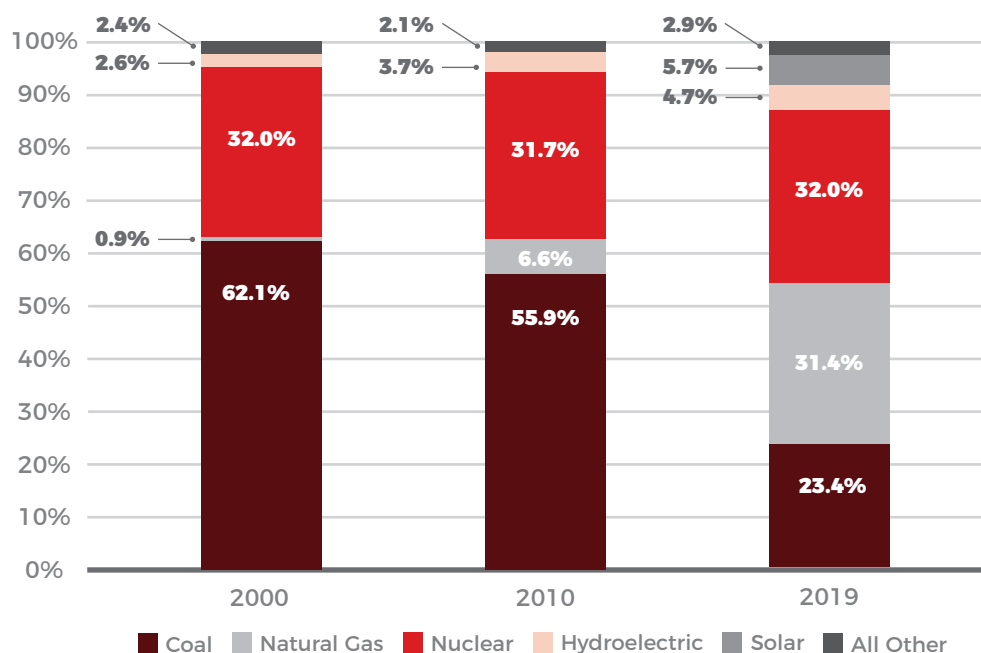
1. Study how to promote the retention of existing, zero-emissions nuclear plants.

Their levelized cost of energy are by far the lowest of any source. Their loss would lead to higher emissions and much more expensive and unreliable electricity. There is no way to reduce the state's reliance on nuclear power without increasing prices, unreliability, and emissions.

2. Institute a moratorium on new solar and wind facilities and incentives until further study.

The potential unintended impacts on the grid, ratepayers, and even the environment, are too great to risk. The prudent course is to pause and take stock. Going forward, standard environmental protections of decommissioning and reclamation bonding must be required for solar and wind projects.

Change In Electricity Generation In North Carolina, By Source, 2000–19

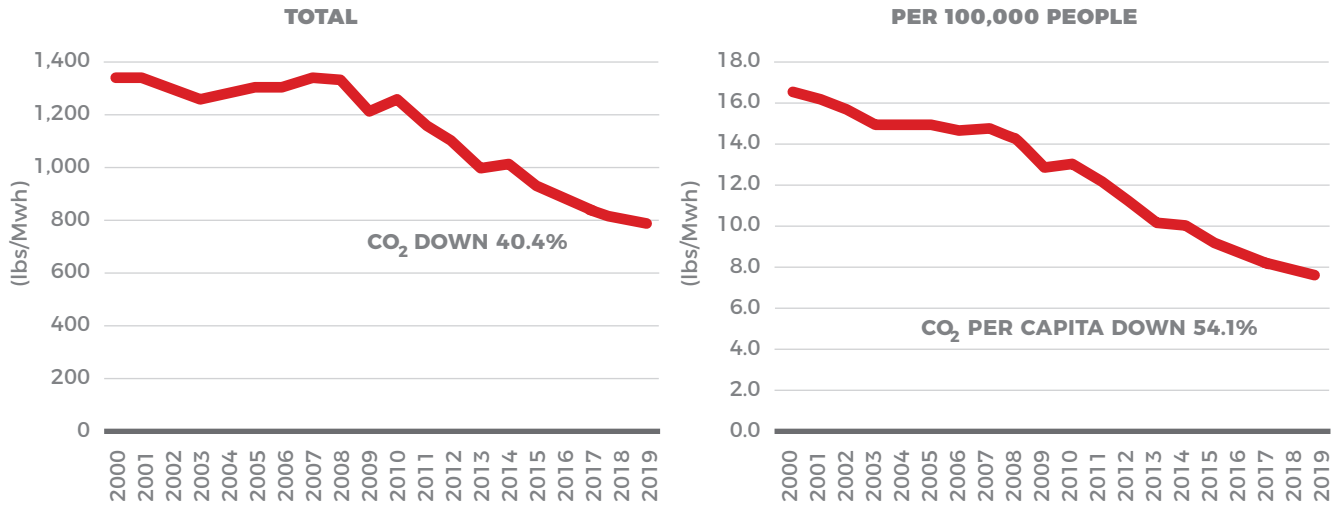


NOTES: NUMBERS MAY NOT SUM TO 100 DUE TO ROUNDING

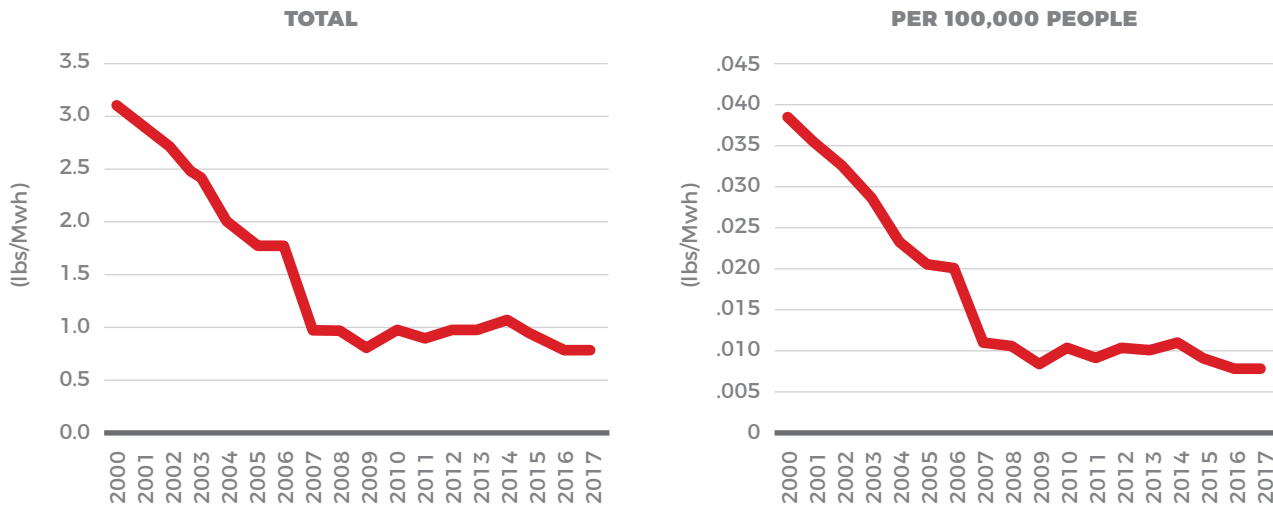
NATURAL GAS INCREASED FROM 0.9% TO 31.4% **COAL** DECREASED FROM 62.1% TO 23.4% **NUCLEAR** HELD STEADY (32%) **SOLAR** REACHED ONLY 5.7% **MAJOR CHANGE:** IN 2000, **COAL** PRODUCED NEARLY TWO-THIRDS (62.1%) OF NC'S POWER, BUT BY 2019 **NUCLEAR** AND **NATURAL GAS** WERE PRODUCING NEARLY TWO-THIRDS (63.4%).

SOURCE: U.S. ENERGY INFORMATION ADMINISTRATION

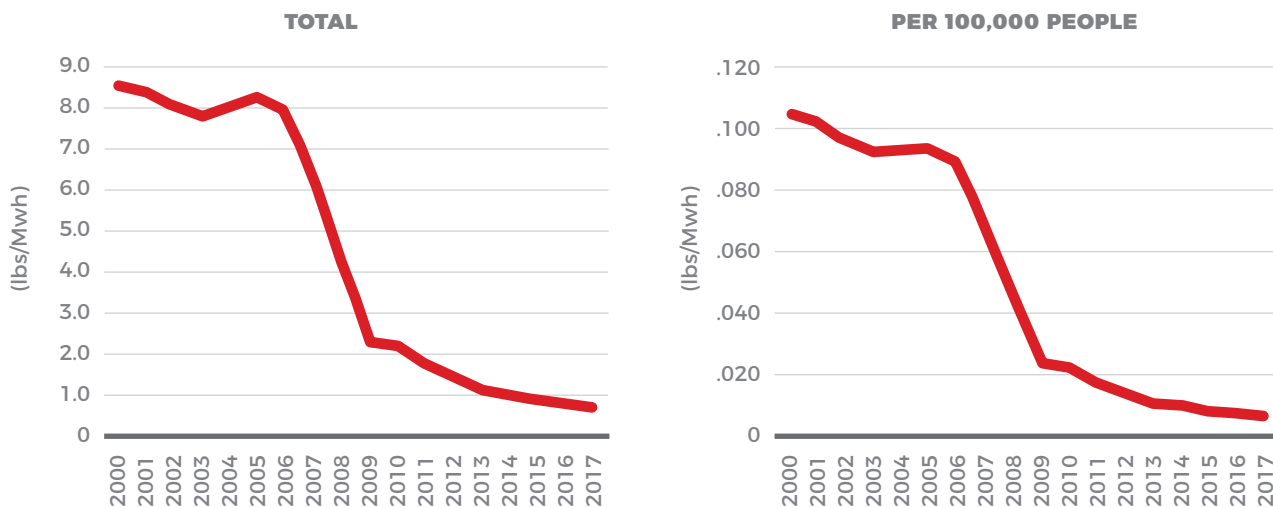
Carbon Dioxide Emissions From Electricity Generation In North Carolina



Nitrogen Oxide Emissions From Electricity Generation In North Carolina

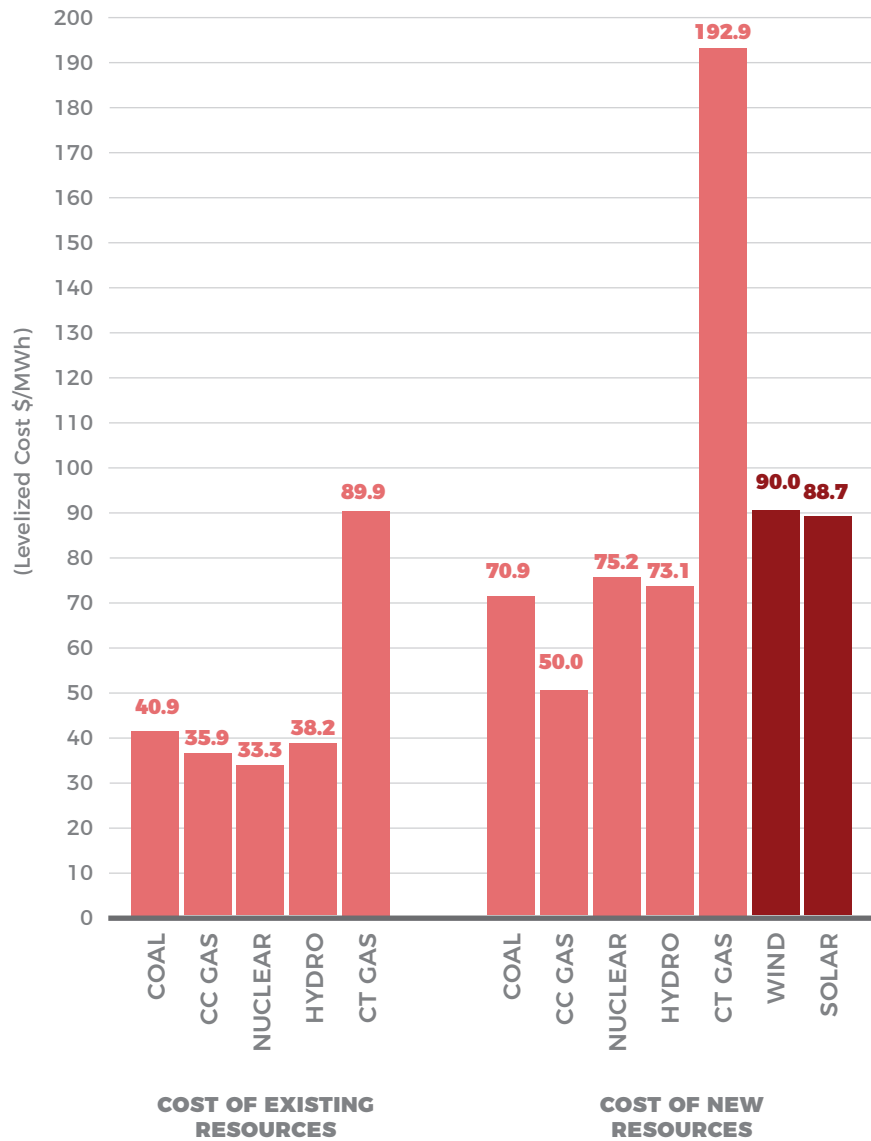


Sulfur Dioxide Emissions From Electricity Generation In North Carolina



SOURCE: U.S. ENERGY INFORMATION ADMINISTRATION

Levelized Cost of Electricity From Existing and New Resources



NOTES: CC GAS REFERS TO CONVENTIONAL COMBINED CYCLE GAS, CT GAS REFERS TO CONVENTIONAL COMBUSTION TURBINE GAS, WIND INCLUDES COST IMPOSED ON CC GAS, AND SOLAR INCLUDES COST IMPOSED ON CC AND CT GAS

SOURCE: THOMAS F. STACY AND GEORGE S. TAYLOR, PH. D., "THE LEVELIZED COST OF ELECTRICITY FROM EXISTING GENERATION RESOURCES," INSTITUTE FOR ENERGY RESEARCH, JUNE 2019

EMERGING IDEAS AND THE SHARING ECONOMY

POLICY ANALYST: JON SANDERS

INTRODUCTION

Emerging innovation in a free society springs out of the restless yearning for newer, better, faster ways. All it takes is for someone to ask “Why hasn’t someone thought of this before?” and sometimes the next great product or service is born.

What can stop them, however, is unimaginative policymakers resorting to regulation whenever a new idea emerges. While the entrepreneur may have happened upon an idea that’s never occurred to anyone else, the rush to regulate is an idea that’s happened far too often. We don’t understand it, we don’t know if it will make things better, so let’s block it before it upsets the way things are doing around here.

In 2013, marketing technologist Scott Brinker introduced the concept of what he called Martec’s Law: technological change is exponential, but organizational change is logarithmic. What it means for regulation is that while innovative change is rapid and gets quicker as it goes, a regulatory body changes gradually and slowly.

For their communities and their striving innovators, policymakers should be attentive to persistent regulatory obstacles already blocking the way. For example, protectionist food truck regulations needlessly prevent mobile restaurant offerings and food diversity. Local entry regulations and public service restrictions stifle business opportunities in cities and counties, and worse, they can vary wildly from one jurisdiction to the next. Outdated zoning, rent controls, and other regulations are preventing people in high-demand urban settings from providing all kinds of affordable housing arrangements.

Technology widely available over smartphones and the internet has given rise to new marketplaces – platforms – by which people can obtain and offer goods and services. They include well-known services such as ride-sharing and home-sharing, but also such things as dog walking and home delivery from your favorite local restaurant.

Fast-emerging new forms of competition may please consumers, but they upset existing businesses and worry local and state officials about unregulated providers. Too often their answer is to saddle the new marketplaces with all the red tape afflicting the older marketplaces – or add new ones. But ill-conceived regulations can persist and have ongoing negative effects on local economies, consumers, and entrepreneurs.

In June 2015, the Federal Trade Commission (FTC) held a workshop on the sharing economy to examine the regulatory, competitive, consumer

protection, and other economic issues of emerging marketplaces, receiving over 2,000 public comments in response. The FTC recommended a cautionary approach to regulation, “only when there is evidence regulation is needed,” “narrowly tailored,” and “no more restrictive than necessary.”

With emerging ideas, innovations, and platforms, policymakers should still adhere to the wisdom of the Hippocratic Oath: “First, do no harm.”

KEY FACTS

- » In 2021, the General Assembly considered “regulatory sandboxes” for finance and insurance products and services. The idea would waive certain regulations for newly emerging products and services for 24 months to give them a test run while keeping other consumer protections in place. Regulatory sandboxes have been wildly successful around the world as well in several U.S. states.
- » Based on a highly restrictive law passed in California in 2019, the Protecting the Right to Organize (PRO) Act of 2021 would strike at the business models of many platforms (and freelancing in general). In addition to annulling state Right to Work laws and allowing many methods for coerced or involuntary unionization, it would define most independent contractors as company employees and therefore subject to the full scope of employment regulations. The new annual payroll expenses imposed by California’s law have been estimated at \$6.5 billion. As of this writing, the measure passed the U.S. House and awaits action in the Senate.
- » Many platforms are often regulated by their own users, with buyers and sellers rating each other. Users are more likely to trust those ratings from users like themselves than they would trust decisions by unknown bureaucrats. Trust is a key component in how platforms work – to stay viable, they have to attract and keep buyers and sellers.
- » Tight restrictions on home-sharing imposed by Asheville and Raleigh led to the General Assembly passing a law in 2019 limiting the ability of local governments to regulate properties subject to the state Vacation Rental Act.
- » Cities and towns across North Carolina have tried to “protect” brick-and-mortar restaurants from food trucks. For example, in 2021, Farmville imposed daily operating fees of \$75, limited how many days a week a food truck could be in town, and stipulated how far it must be from existing restaurants. In 2021, Jacksonville began allowing food trucks outside of festivals and events, but with annual permits of \$300 for residents and \$500 for nonresidents. In 2020, Boone debated banning food trucks in downtown. Under threat of a lawsuit in 2018, Carolina Beach scrapped its prohibitions on food trucks from out of town or unaffiliated with existing restaurants.

RECOMMENDATIONS

1. Resist the rush to regulate emerging consumer options and new ideas.

Regulation for regulation's sake can stifle improvements for no good reason.

2. Seek to correct regulatory imbalances not by piling burdens on emerging marketplaces, but by lessening burdens on existing ones.

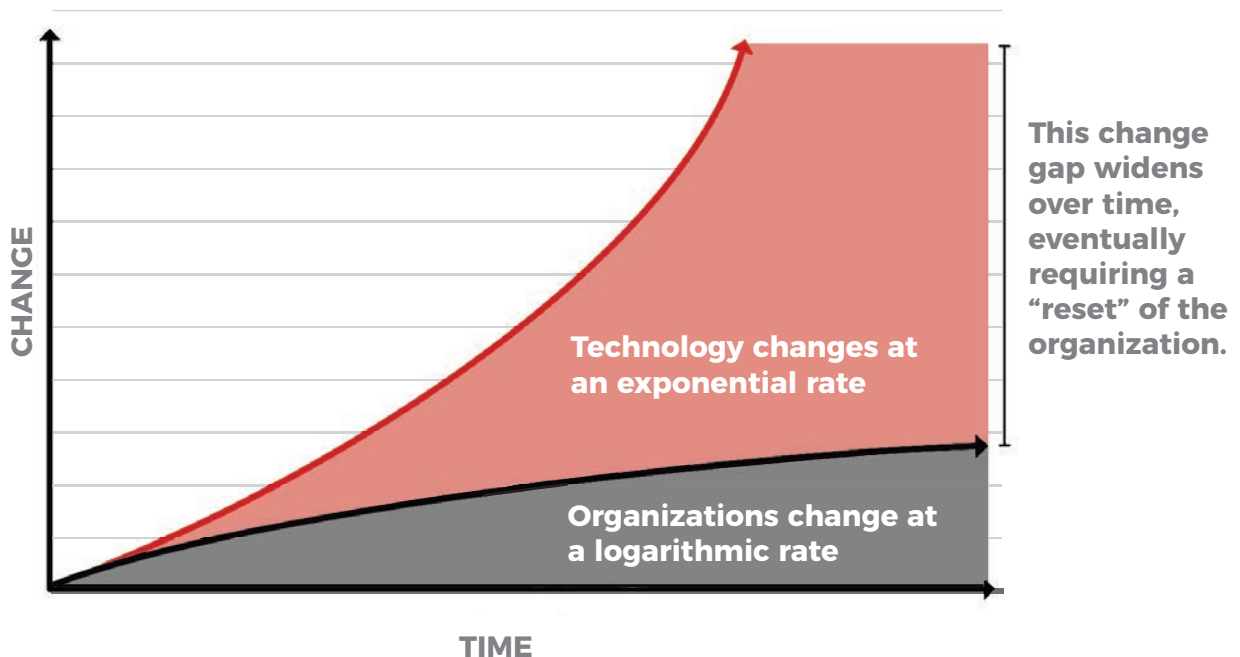
Established providers may object to new competitors figuring ways around roadblocking regulations, but the answer is to remove the roadblocks, not install new ones.

3. Expand North Carolina's regulatory sandboxes to all industries, not just finance and insurance.

South Korea and Utah have successful regulatory sandboxes for all industries.

Martec's Law

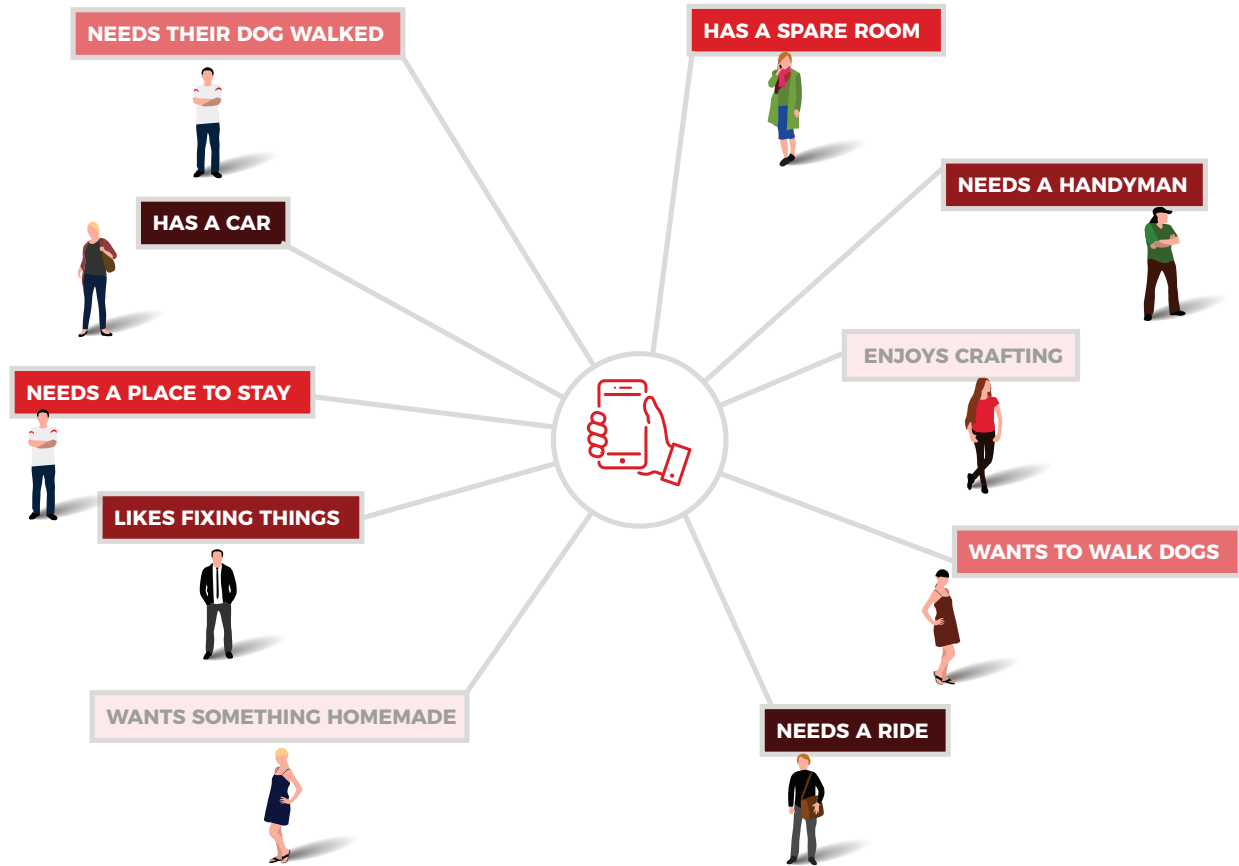
Technology changes exponentially (fast), yet organizations change logarithmically (slow)



SOURCE: SCOTT BRINKER, CHIEFMARTEC.COM

The Platform Revolution

CONNECTING PEOPLE WHO DIDN'T KNOW THEY NEEDED EACH OTHER



GOVERNMENT ACCOUNTABILITY

POLICY ANALYST: **JOSEPH COLETTI**

INTRODUCTION

Government needs to be open and accountable to taxpayers. Many of the tools needed to achieve that goal also help government employees succeed in their jobs. Traditionally, the state auditor and the General Assembly's Program Evaluation Division (PED) are the two entities that have done the most to examine state government performance.

In 2021, however, legislative leaders decided to shutter the PED – which was established in 2007 – and replace it by staffing up the Joint Legislative Commission on Government Operations to focus on oversight and more efficient use of taxpayer dollars.

It is hard to make information available to the general public if it does not exist or if it is in a format that makes it possible to identify a person, company, or information protected by privacy laws. Process and system problems have hampered past efforts to improve state government transparency and accountability. As a result, few could answer how many trucks the state owns or how much it costs to provide a driver's license. In response, employees have created their own systems. Managers have retyped numbers from the accounting and budget systems into their own ad-hoc spreadsheets to understand their agencies. The Department of Health and Human Services even used personally identifiable information in its invoices.

Few agencies have meaningful measures of their results, and even fewer make those measures available online. Without such measures, policy-makers and agency managers can only guess what works in order to develop better ways to spend scarce tax dollars. This lack of transparency makes it difficult to reform government operations and improve efficiency.

Efforts to make information more available have had mixed success. In 2017, the Office of State Budget and Management (OSBM) received funds and direction to implement a Results First initiative with assistance from the Pew Charitable Trusts and the MacArthur Foundation. Lawmakers created the Office of Program Evaluation Reporting and Accountability (OPERA) in the Department of Health and Human Services in 2015, but after years providing appropriations, no staff has been hired and no reports produced. Legislators have sought to repeal it in the last three budget bills.

New financial management systems are in the works for state agencies, community colleges, public schools, and the UNC system that could help answer questions about how well programs are working and how

cost-effective they are. If successfully implemented, these systems would integrate with one another, providing a single source with detailed information on how the state spends money.

KEY FACTS

- » Until 2009, the governor's budget proposal included performance measures. Agencies still have strategic plans and measures, but they are not systematically collected, analyzed, or connected to spending decisions.
- » Financial systems in state government were designed to produce specific reports, not to provide performance analytics for management.
- » Few programs at any level of government have been evaluated for effectiveness. Performance-based contracts have led to disputes over measurement and outcomes.
- » North Carolina software company SAS created a new tool for the Office of State Budget and Management that allows citizens and government employees to explore or search for spending. OpenBudget contains data on state grants, contracts, vendor payments and more from fiscal years 2013 through 2021.

RECOMMENDATIONS

1. Develop meaningful outcome measures for state agencies and hold them accountable for their results.

Although state agencies have multiple missions that can seem disconnected from one another, each mission has programs with definable outcomes and performance measures. These measures should be considered while formulating budgets and should be presented with the budget.

2. Continue to fund and implement transparency with new and updated software systems.

Funding has been made available for new tracking and reporting systems in core government, public schools, community colleges, and universities. These systems should provide simple interfaces to enter, manage, and analyze financial and performance data. Each state agency should provide an easily accessible link to its transaction information on every page of its website.

3. Experiment with Pay for Success (PFS) contracts.

PFS contracts, also known as Social Impact Bonds, are public-private partnerships in the human services that measure results of interventions compared to targets over a set period. Initial funding comes from a foundation, investors, or a mix of private sources. If the project meets or exceeds those targets, the government provides a success payment and renews the program. Pay for Success contracts have been used in other states to build accountability into criminal justice, social services, and water infrastructure. They could have positive impacts here in North Carolina.

OCCUPATIONAL LICENSING

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

Everyone in North Carolina has a self-evident, inalienable right to “the enjoyment of the fruits of their own labor.” It’s in North Carolina’s Constitution, Article I, Section 1.

Occupational licensing threatens this fundamental right. It is an entry barrier against people enjoying the fruits of their own labor in many kinds of jobs. It means you cannot even begin to work in a licensed field until you have satisfied all the state’s requirements first. A 2020 report to the General Assembly by the legislature’s Program Evaluation Division rightly characterized occupational licensing as the state’s “Most Restrictive” occupational regulation, only for when the “Risk to Public Welfare” was highest. It’s an extreme regulation supposedly for use only in extreme cases.

Policymakers believe licensing ensures safety and quality of service work. But does it? Research findings on that question are inconclusive at best. The most consistent finding in the academic research literature is that occupational licensing boosts the earnings of people already in the profession – by limiting their competition and allowing them to charge higher prices.

For workers, getting a license costs time and money: school tuition and fees to satisfy educational credits, time spent studying, sitting fees for required qualifying exams, time spent logging job experience, opportunity costs of forgone work, passing a criminal background check, and license and renewal fees. These costs can be very large hurdles for the poor, the less educated, minorities, mothers returning to the workforce, relocated military families, older workers seeking a new career, migrant workers, workers seeking better opportunities by moving across state lines, and even workers with conviction records unrelated to the work they seek to do.

Just how necessary are most occupational licenses? States disagree widely. Of over 1,100 state-regulated professions, only 60 (a little over 5%) are regulated by all states. But employment within an occupation grows 20% faster in states where it isn’t subject to state licensing than in a state where it is. States grow best under policies that increase economic opportunities for everyone, promoting and encouraging competition, innovation, job growth, investment, and wealth expansion. Occupational licensing does just the opposite.

KEY FACTS

- » North Carolina has 59 occupational licensing boards licensing 22% of the state's workforce. According to the Economic Development Partnership of North Carolina, the state has "almost 950 regulatory, state-issued and occupational licenses and permits: 319 occupational licenses, 498 business licenses, and 80 business/occupational licenses." That count doesn't include local licenses and permits.
- » In 2015 the U.S. Supreme Court ruled against the state in *North Carolina Board of Dental Examiners v. Federal Trade Commission*, making it clear that licensing boards everywhere were not safe from federal antitrust violations.
- » Many states have reformed their licensing regimes since NC Dental. Some de-licensed occupations (most notably, Rhode Island eliminated 27 licenses). Arizona, Tennessee, Mississippi, and Nebraska passed the Right to Earn a Living Act or similar reforms. A near-unanimous Florida legislature passed the Occupational Freedom and Opportunity Act, eliminating many licenses and lowering several burdens to getting licenses. A growing number of states now have universal license recognition. Nebraska, Idaho, and Ohio instituted sunset with periodic review of occupational licenses, and New Mexico added occupational licensing consumer choice. North Carolina, which unwittingly touched off this revolution, has still not reformed.
- » The Right to Earn a Living Act makes occupational licensing the regulation of last resort, and then only if ensuring public safety and health cannot be met by other, less intrusive state regulations.
- » North Carolina's default policy option should be occupational freedom, trusting competitive forces, consumers, information providers, and the courts. If legitimate, serious safety concerns are identified, policymakers have several policy options that preserve occupational freedom without barring entry: inspections, bonding, registration, recognizing certification, and strengthening the office of the Attorney General and the deceptive trade practices act. The keys are to (a) match the regulation to the concern and then (b) go no further.

RECOMMENDATIONS

1. Adopt the Right to Earn a Living Act approach to protect people's freedoms to work and to choose.

Make licensing the policy of last resort, and include tests for whether an occupational license is demonstrably necessary, carefully tailored, and designed for legitimate health, safety, and welfare objectives.

2. Adopt the Occupational License Consumer Choice Act.

Protect people's right to work while promoting fully informing consumers through non-license disclosure agreements, and otherwise encourage workers to seek and display any professional certification, credentials, and outside licensing (and prosecute fraudulent claims of credentials).

3. Subject all licensing boards and their licenses to periodic review, eliminating questionable ones.

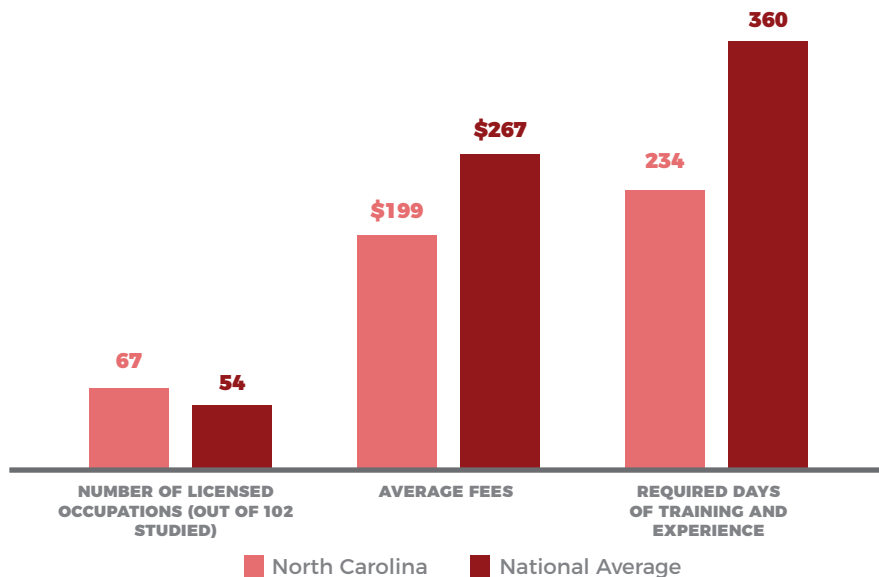
4. Adopt a standard of least-burdensome-state.

Licensing is the most extreme form of occupational regulation. Why should North Carolinians be saddled with licensing for work that other states simply allow? For licensed work, why should North Carolinians be made to fulfill more education credit hours, log more experience, take more exams, and pay more in licensing fees than their peers in other states?

5. Adopt universal license recognition for remaining licenses.

How North Carolina Compares With the Nation In Licensing Low-Income Professions

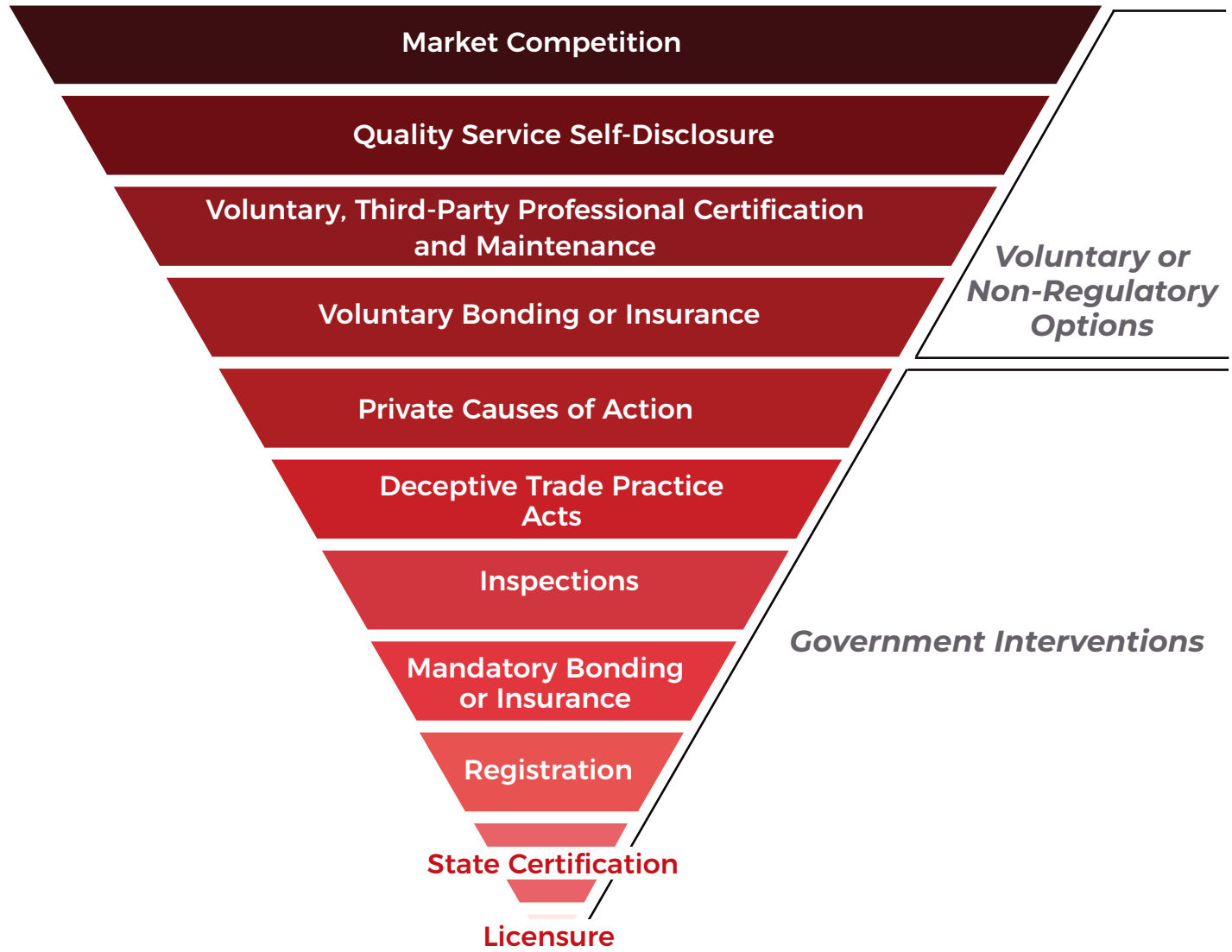
Affected Occupations, Amount in Fees, and Required Training and Experience



SOURCE: DICK M. CARPENTER II ET AL., *LICENSE TO WORK: A NATIONAL STUDY OF BURDENS FROM OCCUPATIONAL LICENSING*, 2ND ED. (ARLINGTON, VA. INSTITUTE FOR JUSTICE, NOVEMBER 14 2017)

The Inverted Pyramid

A Hierarchy of Alternatives to Licensing



NOTE: ADOPTED FROM JOHN ROSS, THE INSTITUTE FOR JUSTICE, "THE INVERTED PYRAMID: 10 LESS RESTRICTIVE ALTERNATIVE TO OCCUPATIONAL LICENSING," NOVEMBER 2017

PUBLICLY FUNDED STADIUMS

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

The nation is peppered with examples of stadium and convention center projects built on empty promises of boosting the local economy, complete with “economic impact” studies that show how crowds on game days and during conventions will bring new spending on restaurants, hotels, and shops, and will raise the city’s profile. Those studies aren’t geared to reflect reality; they’re built to sway public officials on their best hopes and civic pride.

Economic research consistently finds a negative economic impact overall with subsidized sports stadiums and convention centers. Funds used to build the facilities have unseen opportunity costs not accounted for by impact studies’ projections. The projects habitually underestimate construction costs to seem affordable and wildly overestimate spending by the public. Actual game days are few, and an oversupply of convention space means centers end up offering discounted rates while their cities offer greater subsidies to keep them going. Much of the “new” spending they attract is actually the same old spending redirected from other entertainment options already in the area.

Stadium projects should be left to the private sector to build when private risk-takers are willing to bet they’re viable projects. Likewise, municipal convention centers unfairly compete against private centers (such as the Koury Center in Greensboro and the Sea Trail Convention Center in Brunswick County) as well as hotels offering their own meeting spaces, including smaller meeting spaces.

No matter how nice a new stadium or event center might seem, trying to force it with government spending invariably turns into having taxpayers subsidize money sinks for years to come. It means harming, not helping, economic growth for the overall community.

KEY FACTS

- » A 2008 survey by sports economists Dennis Coates and Brad Humphrey of nearly 20 years’ of published economic research on the subject found “strikingly consistent” results across cities or geographical areas regardless of estimators, model specifications, and variables used: “almost no evidence that professional sports franchises and facilities have a measurable economic impact on the economy.” A 2017 University of Chicago poll found only 2% of economists disagreed with the statement that “Providing state and local subsidies to build stadiums for professional sports teams is likely to cost the relevant taxpayers more than any local economic benefits that are generated.”

- » Based on a study projecting it would create 5,715 jobs and have an economic impact of \$3.8 billion over 15 years, the State of South Carolina offered the Carolina Panthers \$115 million in tax credits to move their headquarters south. An economist's evaluation found the study overstated economic impact by \$2.7 billion and projected only 208 jobs, costing South Carolina over a half a million dollars per job. Nevertheless, the Panthers' headquarters in Rock Hill, S.C., is slated to be completed in 2023, while Panthers owner David Tepper continues to press the City of Charlotte for a new stadium.
- » Teams can attract private stadium funding. The Los Angeles Rams opened the NFL's most expensive stadium in 2020, entirely privately funded. Closer to home, Raleigh's bid in 2017 for a Major League Soccer team included a \$150 million stadium funded by private investors.
- » In his 2014 book "Convention Center Follies," Prof. Heywood T. Sanders wrote: "In city after city, from Anaheim and Atlanta to Seattle and Washington, D.C., the consultant forecasts simply are not realized, the actual center performance in terms of new convention and tradeshow attendees and hotel room nights often half or a third of what the consultants promised."
- » In 2016, John Locke Foundation City and County Policy Analyst Julie Tisdale warned that the Rocky Mount Event Center would result in "tens of millions of dollars in additional tax burden" falling on taxpayers in Rocky Mount. Three tax increases later, in 2020 Rocky Mount's budget projected spending far more on operating the center (\$2.5 million) than it expected in center revenues (\$1.83 million) – not even counting the \$3.1 million debt service payment.

RECOMMENDATIONS

1. Resist public funding of private ventures, including stadiums and convention centers.

Private investors risking their own capital are better poised to recognize viable opportunities than elected officials whose expertise lies elsewhere, and local governments have no business entering into competitive enterprises. For that matter, avoid cronyism, sweetheart deals, playing favorites with the tax code, etc. for those projects.

2. Consider lowering tax rates and easing the regulatory burden for all businesses, including sports teams.

Underlying the push for a higher city profile via sports teams and convention centers is the civic desire to attract private investment. Maintaining a business-friendly tax and regulatory environment is a proven way of doing just that, and not just in the downtown core.

3. Ease planning and zoning restrictions.

Less restrictive zoning can encourage business growth, local innovation, creative uses of space, and outside interest. Easing planning restrictions would allow private developers to build stadiums and ballparks where there is real demand.

4. Demand a true cost/benefit analysis of a proposed project.

Consultants' economic-impact reports are notorious for over-promising. Have a disinterested third party (such as an economist from one of North Carolina's many universities) evaluate a project responsibly, including accounting for opportunity costs and unforeseen negative consequences.

Public Financing of NFL Stadiums

Stadium Name	Location	Cost	Renovations	Public	Private	Tenant
SOFI STADIUM	Los Angeles, CA	\$5,500,000,000.00		0	100%	Los Angeles Rams
GILLETTE STADIUM	Foxboro, MA	\$325,000,000.00		0	100%	New England Patriots
STUBHUB CENTER	Carson, CA	\$150,000,000.00		0	100%	Los Angeles Chargers
METLIFE STADIUM	East Rutherford, NJ	\$1,600,000,000.00		0	100%	New York Jets
METLIFE STADIUM	East Rutherford, NJ	\$1,600,000,000.00		0	100%	New York Giants
LEVI'S STADIUM	Santa Clara, CA	\$1,300,000,000.00		12%	88%	San Francisco 49ers

Public Financing of NFL Stadiums (Continued)

Stadium Name	Location	Cost	Renovations	Public	Private	Tenant
BANK OF AMERICA STADIUM	Charlotte, NC	\$242,000,000.00		23%	77%	Carolina Panthers
FEDEX FIELD	Landover, MD	\$250,000,000.00		28%	72%	Washington Redskins
MERCEDES-BENZ STADIUM	Atlanta, GA	\$1,500,000,000.00		30%	70%	Atlanta Falcons
AT&T STADIUM	Arlington, TX	\$1,000,000,000.00		32.50%	67.50%	Dallas Cowboys
LINCOLN FINANCIAL FIELD	Philadelphia, PA	\$500,000,000.00		36.30%	63.70%	Philadelphia Eagles
NRG STADIUM	Houston, TX	\$449,000,000.00		43%	57%	Houston Texans
US BANK STADIUM	Minneapolis, MN	\$500,000,000.00		45.20%	54%	Minnesota Vikings
FORD FIELD	Detroit, MI	\$500,000,000.00		51%	49%	Detroit Lions
LAMBEAU FIELD	Green Bay, WI	\$295,000,000.00	YES	57.30%	42.70%	Green Bay Packers
HEINZ FIELD	Pittsburgh, PA	\$2,810,000,000.00		61.10%	38.90%	Pittsburgh Steelers
UNIVERSITY OF PHOENIX STADIUM	Glendale, AZ	\$455,000,000.00		62.70%	37.30%	Arizona Cardinals
SOLDIER FIELD	Chicago, IL	\$600,000,000.00		65.90%	34.10%	Chicago Bears
SPORTS AUTHORITY FIELD	Denver, CO	\$364,000,000.00		68.40%	31.60%	Denver Broncos

Public Financing of NFL Stadiums (Continued)

Stadium Name	Location	Cost	Renovations	Public	Private	Tenant
CENTURYLINK FIELD	Seattle, WA	\$360,000,000.00		69.80%	30.20%	Seattle Seahawks
NISSAN STADIUM	Nashville, TN	\$290,000,000.00		70.90%	29.10%	Tennessee Titans
FIRSTENERGY STADIUM	Cleveland, OH	\$290,000,000.00		74.70%	25.30%	Cleveland Browns
LUCAS OIL STADIUM	Indianapolis, IN	\$720,000,000.00		85%	15%	Indianapolis Colts
EVERBANK FIELD	Jacksonville, FL	\$121,000,000.00		85.80%	14.20%	Jacksonville Jaguars
M&T BANK STADIUM	Baltimore, MD	\$220,000,000.00		90%	10%	Baltimore Ravens
HARD ROCK STADIUM	Miami Gardens, FL	\$115,000,000.00		90%	10%	Miami Dolphins
PAUL BROWN STADIUM	Cincinnati, OH	\$450,000,000.00		94.40%	5.60%	Cincinnati Bengals
NEW ERA FIELD	Buffalo, NY	\$22,000,000.00		100%	0	Buffalo Bills
ARROWHEAD STADIUM	Kansas City, MO	\$43,000,000.00		100%	0	Kansas City Chiefs
OAKLAND COLISEUM	Oakland, CA	\$200,000,000.00	YES	100%	0	Oakland Raiders
MERCEDES-BENZ SUPERDOME	New Orleans, LA	\$134,000,000.00		100%	0	New Orleans Saints
RAYMOND JAMES STADIUM	Tampa, FL	\$194,000,000.00		100%	0	Tampa Bay Buccaneers

SOURCE: WWW.STADIUMSOFPROFOOTBALL.COM

RED TAPE AND REGULATORY REFORM

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

North Carolina's regulatory environment has improved steadily in recent years. The General Assembly under Republican leadership has passed Regulatory Reform Acts regularly since 2011, preventing and even reducing some unnecessary red tape that holds back small businesses, domestic industries, and local entrepreneurs.

This effort is making North Carolina a national model for other states seeking ways to boost employment and job creation by giving risk-takers and job creators ever more room to move.

Still, plenty of work remains. The John Locke Foundation's First in Freedom Index ranked North Carolina's regulatory freedom 36th out of the 50 states – eighth out of the 12 Southeastern states. Red tape and fussy bureaucratic rules prevent the state's economy from growing as fast as it could and especially harm small business. More lightly regulated industries grow much faster and produce at much greater rates than more regulated industries.

Cutting red tape and keeping regulatory burdens light and up-to-date are important for economic growth – which means personal income growth, too.

KEY FACTS

- » A 2015 study by economists at Beacon Hill Institute at Suffolk University estimated that state regulations cost North Carolina's economy as much as \$25.5 billion – and that's just for one year. Those costs include compliance costs, lost economic activity from government-imposed entry barriers, opportunity costs, and unintended negative consequences of rules, in addition to direct costs such as fees.
- » In 2013, the General Assembly enacted a significant reform for administrative rules: sunset provisions with periodic review. It has removed about one out of every 10 state rules examined, but we must wait 10 years between reviews. Meanwhile the state's rulemaking keeps going.
- » State agencies craft rules under authority delegated by the legislature to interpret and implement laws, but sometimes those rules cost the state's private sector dearly. Are those costs necessary or overreach? Legislative rules ratification is a proven, effective "rules throttle" approach to ensure legislative scrutiny of any rule

whose costs exceed a defined high-cost amount. A bureaucrat's costly rule couldn't take effect if it wasn't debated and okayed by legislators accountable to the people.

- » North Carolina is one of only six states without small-business regulatory flexibility to let agencies make common-sense adjustments to small businesses' regulatory burdens, such as compliance and reporting requirements. Those things are more expensive for small businesses, which make up 99.6% of North Carolina's employers.
- » Alongside overt regulations, state agencies also have what's known as "regulatory dark matter": policies, guidelines, memos, other interpretive statements, etc. that actually function as rules according to the official state definition of a rule. Without formal adoption, they are violations of the state's Administrative Procedures Act.
- » From 2020–21, Gov. Roy Cooper's various executive orders shut down untold businesses statewide over COVID-19 and also greatly restricted their normal business operations. Those orders amount to a regulatory taking, the effects of which are not unlike an eminent domain taking. The government has deprived business owners use of their property, ostensibly for a public purpose. As with eminent domain takings, North Carolina law should have clear and fair guidelines for compensating business and property owners victimized by regulatory takings such as executive shutdown orders.
- » Several other reforms would help free North Carolina of unnecessary red tape. For example, states have reduced their total stock of rules using regulatory budgeting (to adopt a new rule, you must retire "x" amount of old rules) and dedicated efforts such as Red Tape Reduction Commissions. Having stated objectives and outcome measures would help ensure rules perform as intended. Implementing strong cost/benefit analysis would help agencies make better choices. North Carolina already has no-more-stringent laws to keep environmental agencies from placing greater burdens on businesses and people than the federal government already does; those should be expanded to apply to all state agencies.

RECOMMENDATIONS

1. Pass legislative rules ratification for proposed rules that would impose a significant cost on the private sector.

If a rule (or set of rules) would have costs projected above a threshold amount, it would not take effect until the legislature has scrutinized it and passed a bill ratifying it.

2. Shorten the sunset period for rules absent periodic review from 10 years to five, and require stated objectives and outcome measures for rules.

Agencies should always scrutinize and look to remove unnecessary and outdated rules, including those that fail to achieve their original purposes.

3. Have all state agencies, divisions, etc. identify and either repeal or codify all regulatory dark matter.

Policies, guidelines, memos, other interpretive statements, etc. that actually function as rules according to the official state definition of a rule are regulations in violation of the state Administrative Procedures Act.

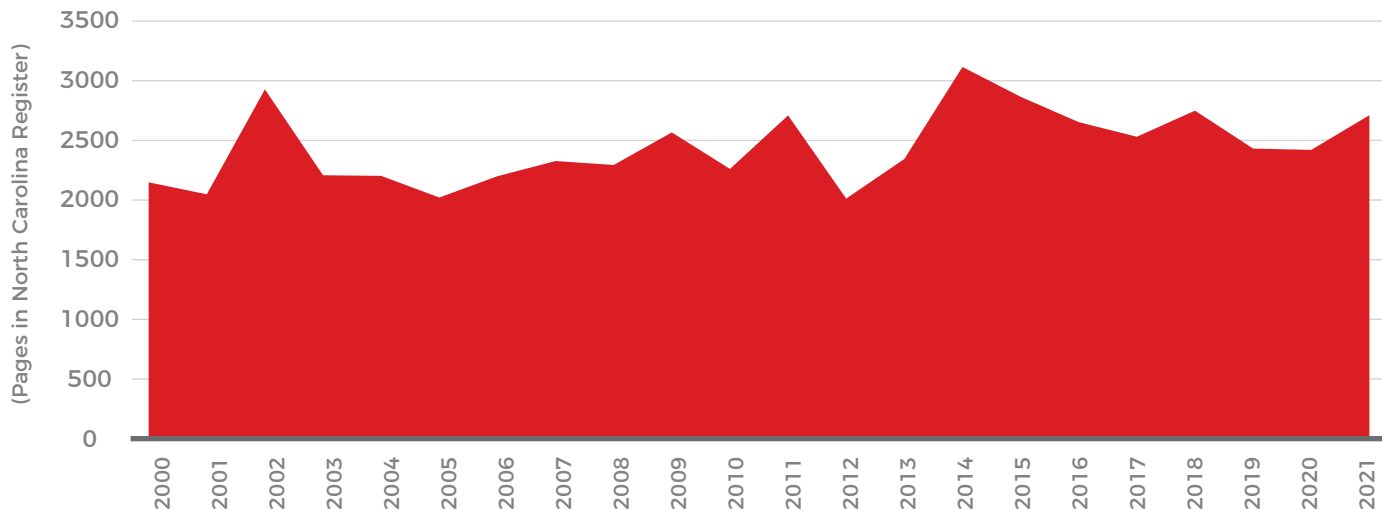
4. Create clear and fair guidelines for compensating business and property owners victimized by regulatory takings.

When business owners are deprived of the use of their property by government, ostensibly for a public purpose, including fighting a virus, they should be compensated as a matter of law.

5. Enact regulatory budgeting, a Red-Tape Reduction Committee, small-business flexibility analysis, strong cost/benefit analysis, and no-more-stringent laws.

These reforms would all further the goal of producing good, common-sense rules only when needed and without unnecessarily hamstringing the economy.

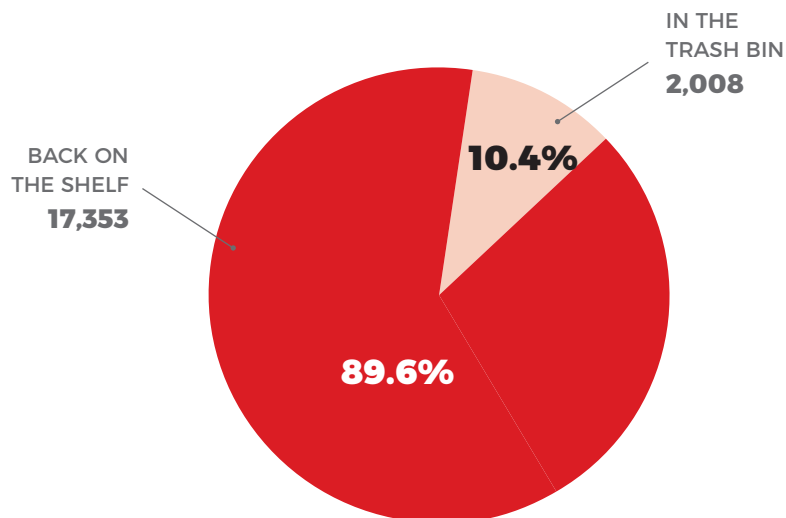
Trends In North Carolina Regulatory Activity, 2000-21



NOTE: PAGES IN THE NORTH CAROLINA REGISTER GIVE A QUICK SNAPSHOT OF THE STATE'S REGULATORY ACTIVITY THAT YEAR. PUBLISHED TWICE A MONTH, THE NORTH CAROLINA REGISTER GIVES INFORMATION ON AGENCY RULE-MAKING, EXECUTIVE ORDERS, PROPOSED ADMINISTRATIVE RULES, CONTESTED CASE DECISIONS, NOTICES OF PUBLIC HEARINGS, AND OTHER NOTICES REQUIRED BY OR AFFECTING CHAPTER 150B OF THE GENERAL STATUTES.

SOURCE: NC OFFICE OF ADMINISTRATIVE HEARINGS

Spring Cleaning: Results of NC's Sunset and Periodic Review of State Rules Through July 2019



SOURCE: RULES REVIEW COMMISSION

A bronze statue of John Locke, shown from the back, standing on a stone pedestal. The statue is wearing a long coat and holding a cane. The background is a blurred city street with blue diagonal overlays.

locke

THE JOHN LOCKE FOUNDATION


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