

NORTH CAROLINA POLICY SOLUTIONS



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THE JOHN LOCKE FOUNDATION



**NORTH
CAROLINA
POLICY
SOLUTIONS**

2024-25

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THE JOHN LOCKE FOUNDATION

MEANINGFUL CHANGE. A BLUEPRINT FOR EXCELLENCE.

North Carolina has transformed profoundly since Locke first emerged in 1990. Our commitment to presenting effective and practical policy recommendations has undoubtedly contributed to this remarkable growth. Today, the Old North State proudly stands as the third-fastest growing state in the nation and has repeated as CNBC's "Top State for Business." Our state's economic outlook also ranks second in the respected American Legislative Exchange Council's "Rich States, Poor States" rankings.



Donald Bryson
CEO

These achievements, my friends, are a testament to our collective vision and determination. We have tirelessly advocated policies promoting free-market principles, enabling individual growth, and fostering a vibrant economy. Witnessing the tangible results of our endeavors and our positive impact on North Carolina's prosperity is heartening.

Yet, even with these fantastic accomplishments, work still needs to be done. We must not rest on our laurels but seize this moment to propel our state forward. North Carolina has the potential to become the envy of the nation, and we have a responsibility to guide lawmakers in other states through these uncertain economic times.

Bold and innovative solutions lie before us, waiting to be embraced. We possess the tools to address pressing issues across various sectors, including agriculture, healthcare access, energy policy, and public school finances. Our 2024 Policy Solutions, born out of rigorous research and dynamic discourse, serve as a blueprint for excellence, providing a compass for meaningful change.

As a think tank, the John Locke Foundation serves a crucial role in the state legislative process by offering valuable, well-researched policy analysis and recommendations. Think tanks act as idea incubators, providing lawmakers with expert insights, data-driven research, and innovative solutions to complex societal challenges. Our job is to bridge the gap between academia, policy, and practical implementation, serving as repositories of specialized knowledge that help lawmakers make informed decisions. In doing so, we offer a non-partisan perspective, enriching the legislative discourse and formulating effective, evidence-based policies that benefit North Carolina and its citizens.

Together, we can pave the way for North Carolina to unlock its full potential. We have the opportunity to champion policies that empower individuals, create jobs, and foster an environment where innovation thrives. This extraordinary journey cannot be traversed alone - it requires

the collective efforts of passionate individuals like you, who envision a brighter future for our state.

Let's continue collaborating, challenge the status quo, and ignite transformative change. North Carolina's greatest days are still on the horizon, just within our reach. By remaining steadfast in our commitment to sound policies and free-market principles, we will navigate these uncertain times and emerge stronger than ever before.

Thank you for your unwavering support and dedication. Together, let us shape North Carolina's destiny and lead toward an even more prosperous future.

Freedom is our mission. Join us.

A handwritten signature in black ink, reading "Paul Brysa". The signature is written in a cursive, flowing style with a large initial "P" and "B".

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BUDGET, TAXATION, AND THE ECONOMY

CAPITAL AND INFRASTRUCTURE

POLICY ANALYSTS: **JOSEPH COLETTI AND 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 sets aside 4% of annual state tax revenue and one-fourth of any year-end unreserved cash balance for construction, repairs, and debt payments. As the state pays off existing debt, more money becomes available to build new facilities, maintain what already exists, and address other pressing liabilities such as benefit costs related to retired state employees.

The 2022 budget, however, changed the General Fund statutory contribution to the SCIF from 4% of General Fund revenue to a set amount ranging from \$1.4 billion to \$1.1 billion each year from fiscal year 2023-24 to fiscal year 2025-26. The contribution will grow by 3.5% each year after fiscal year 2025-26.

Advocates of using the pay-as-you-go method of financing capital projects via SCIF point out that it saves taxpayers millions of dollars in avoided interest payments that would be owed if the capital projects were debt financed. Paying for capital projects in real time also frees up future budgets, which will be unburdened by debt payments.

KEY FACTS

- » According to the most recent data available, 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 in North Carolina's case.
- » Principal and interest payments on state debt supported by the General Fund amounted to roughly \$650 million in the 2022-23 budget, down from \$728 million five years prior.
- » Liberal leadership ballooned tax-supported General Fund state debt from \$2.83 billion in 2001 to \$6.5 billion in 2012, a whopping 130% increase. Conservative leadership elected in 2010 began to reverse that

trend, dropping the debt to \$3.5 billion by 2022, a decrease of 46% in just over a decade.

- » The State of North Carolina continues to maintain its AAA credit rating from the three primary credit rating agencies. This is the highest possible rating, and currently, just 13 other states enjoy the same rating from all three agencies. This rating means that North Carolina – when it chooses to do so – can issue debt at the lowest possible interest rates, thereby saving taxpayer dollars.
- » The recommended target for tax-supported debt service payments by state government is 4% of General Fund revenues. Thanks to prudent, conservative fiscal management over the past decade, the state is well below that target.

RECOMMENDATIONS

1. Continue to use the State Capital and Infrastructure Fund (SCIF) to pay for construction, repairs, and renovations of state property.

Paying for capital from current revenue ensures that 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.

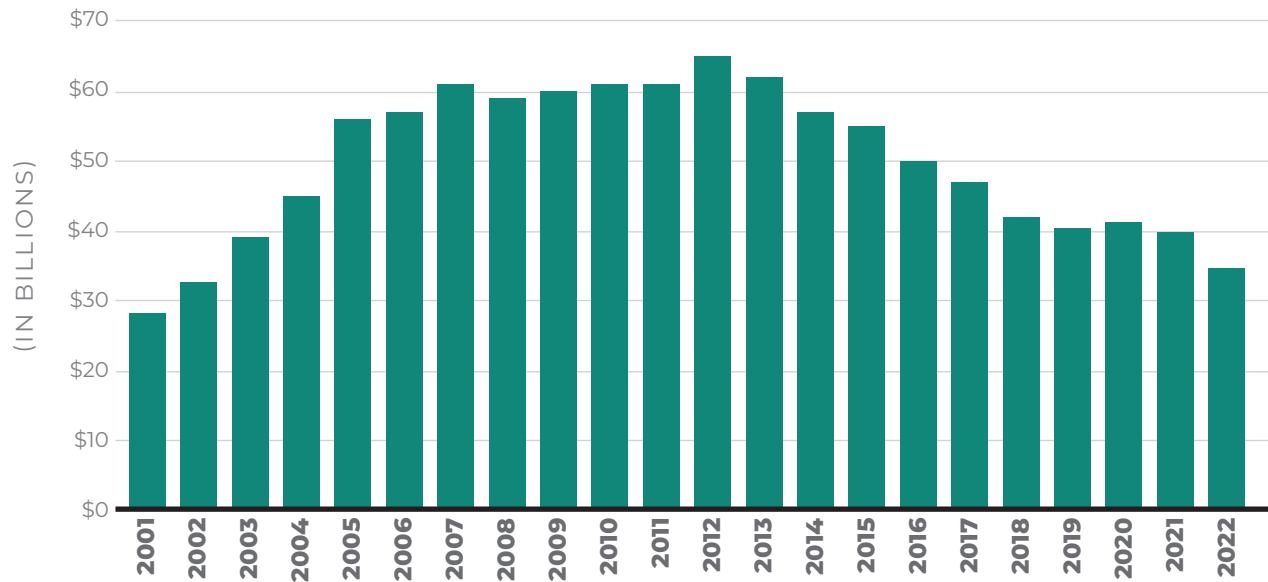
Sell what is not needed, improve what is left, and consider ways to use space more effectively in prime locations for retail.

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

According to the 2023 North Carolina Comprehensive Annual Financial Report, the unfunded liability for the Teachers' and State Employees' Retirement pension system (TSERS) is \$14.8 billion.

The unfunded liability for retiree health benefits, the largest portion of other post-employment benefits, is \$23.7 billion. These figures represent the amount of benefits that have been promised to current and future state retirees over the next 30 years for which no funding has been set aside.

Tax Supported General Fund Debt



SOURCE: NORTH CAROLINA STATE TREASURER'S OFFICE; ANNUAL DEBT AFFORDABILITY STUDY, YEARS 2021, 2019, 2014, 2009 AND 2006. AVAILABLE ONLINE AT: [HTTPS://WWW.NCTREASURER.COM/OFFICE-STATE-TREASURER/TRANSPARENCY](https://www.nctreasurer.com/office-state-treasurer/transparency)

ECONOMIC GROWTH

POLICY ANALYST: **DR. ROY CORDATO**

INTRODUCTION

Beginning with the passage of tax and regulatory reform in 2013, the North Carolina General Assembly deliberately began to pursue policies meant to enhance overall economic growth, that is, to expand economic well-being typically measured by Gross State Product (GSP). Specifically, legislative actions have taken the form of policies designed to enable businesses to act efficiently and entrepreneurs to innovate and pursue opportunities. In short, lawmakers' policies allowed the overall allocation of resources and investment to be determined by the free interaction of consumers and businesses. The GSP growth chart in this section shows the positive impact of this approach, especially over the last few years as North Carolina has been better prepared to weather and recover from COVID lockdowns.

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 of a handful of industries or in one part of the state where subsidies or tax incentives are directed. This targeted growth, however, comes at the expense of jobs and economic activity elsewhere.

Although growth-enhancing policies have dominated both tax and regulatory reform efforts in recent years, unfortunately, economic development policy continues to lure politicians and bureaucrats who are anxious to direct private resources toward pet projects but who erroneously claim that 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, are best situated to know how to allocate resources efficiently. Policymakers who aim to promote economic growth, then, must 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 avoid favoring one industry or form of economic activity over another through subsidies or special tax breaks.

ECONOMIC GROWTH

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. The governor's office has handed out targeted tax breaks to Apple and VinFast, thereby committing unprecedented billions in taxpayer dollars to these companies over the course of three decades. Such massive commitments can often be regrettable. For instance, in September 2023, it was reported that VinFast had suffered \$4.5 billion in losses over the two and a half years since it began delivering electric vehicles in 2021.

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 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 they 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 laws and regulations, 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, and this distorts 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, thereby hindering economic growth.
- » Business subsidies that end up hampering economic growth might be most egregious at the local level, where city and county governments are 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 zeroes it out in 2030.

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 sticking to the legislative plan to eliminate the corporate income tax by 2030, abolishing or reducing taxation on capital gains, eliminating the franchise tax, and allowing businesses to deduct all expenses from their taxable income in the year that the expenses 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.

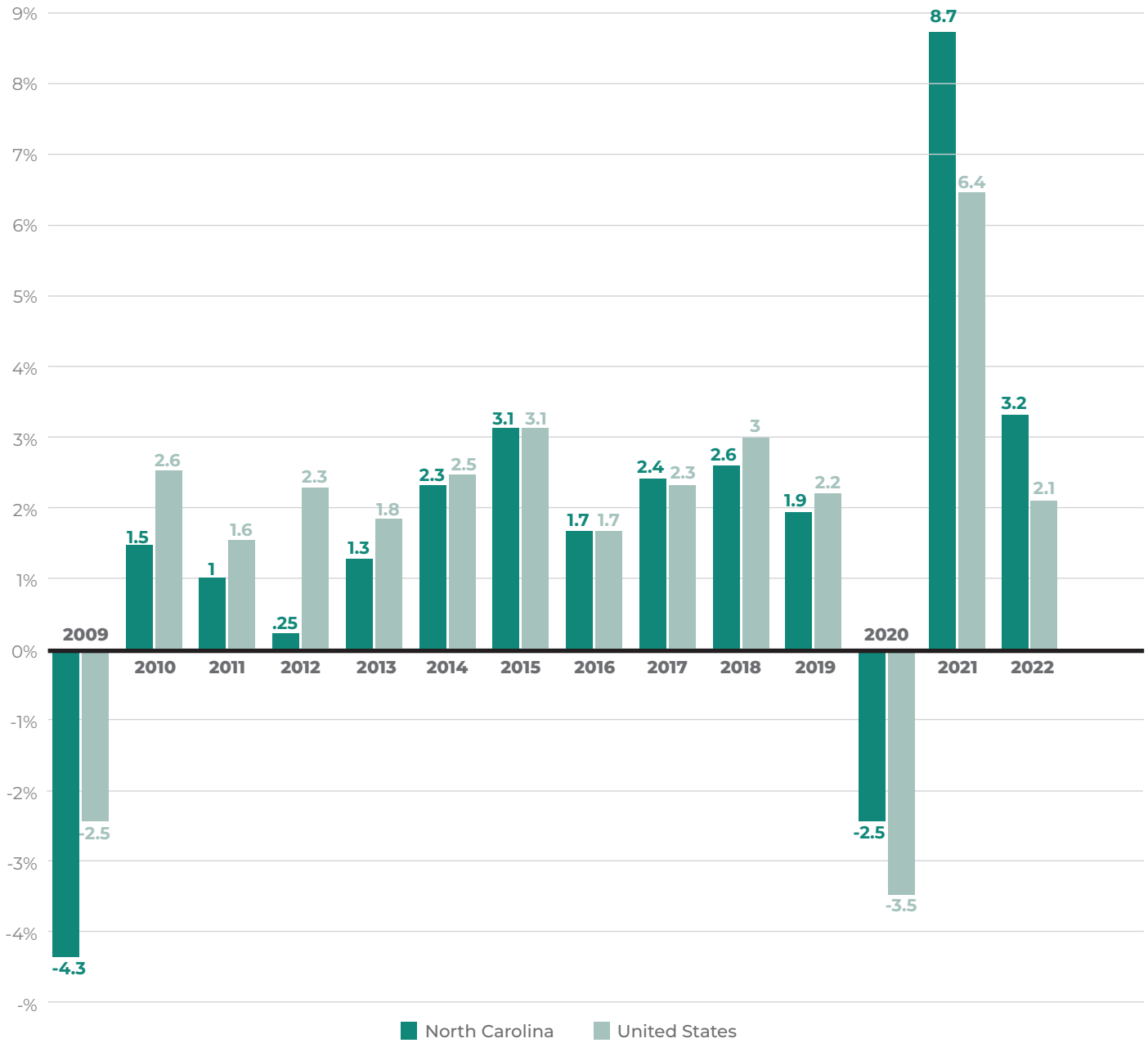
4. Eliminate or make changes to occupational licensing laws that tend to block entrepreneurship.

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. In fact, they were made years before state officials ever thought the industry required government help.

Several features make North Carolina an attractive location for filming. The state 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), checked the growth of state spending, and eliminated intrusive red tape. Taken together, these attributes have recommended North Carolina even more highly as an attractive place in which to do business, invest, and relocate. Indeed, CNBC ranked North Carolina the top state for business in 2023.

A freer business climate powerfully incentivizes untold numbers and kinds of business enterprises that create 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 their 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

FILM GRANTS

million per production. The tax credit was repealed in 2014. It was replaced the following year by a modest grant program of \$10 million that lawmakers have since tripled.

- » In 2019, the General Assembly overrode Gov. Cooper's veto to enact a bill that would modestly expand the grant program by lowering thresholds for eligibility and increasing the maximum award amount for a television series filmed in the state.
- » State film incentive programs were a fad popular in the early 2000s. By 2009, all but six states had some kind of film incentive. Meanwhile, studies consistently found the programs to have significantly negative returns on investment, so states began getting out of the bidding war. Now, about one-third of states don't offer film incentives.
- » 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").
- » Peer-reviewed research consistently finds that state film incentive programs have no impact on their states' economies or industries and basically benefit only outside film production companies and current workers.
- » Out-of-state recipients of film incentives have even sought to leverage the programs to extort state lawmakers into passing laws conforming to their social politics. Hollywood activists have actually threatened not to take handouts in North Carolina, Georgia, Louisiana, and elsewhere unless policymakers passed certain unrelated legislation they favored. Policymakers who've told taxpayers these incentives are critical to growing the state's economy are unable to call their bluff.
- » Thanks in part to a decade's worth of tax and regulatory reforms, North Carolina boasts a freer business climate, a vibrant economy, and lower costs of doing business. Those are appealing factors to add to the state's many natural amenities in attracting outside film productions. Importantly, they're already attracting hosts of other business endeavors that will be here for the long haul.

RECOMMENDATIONS

1. End the film production grant program.

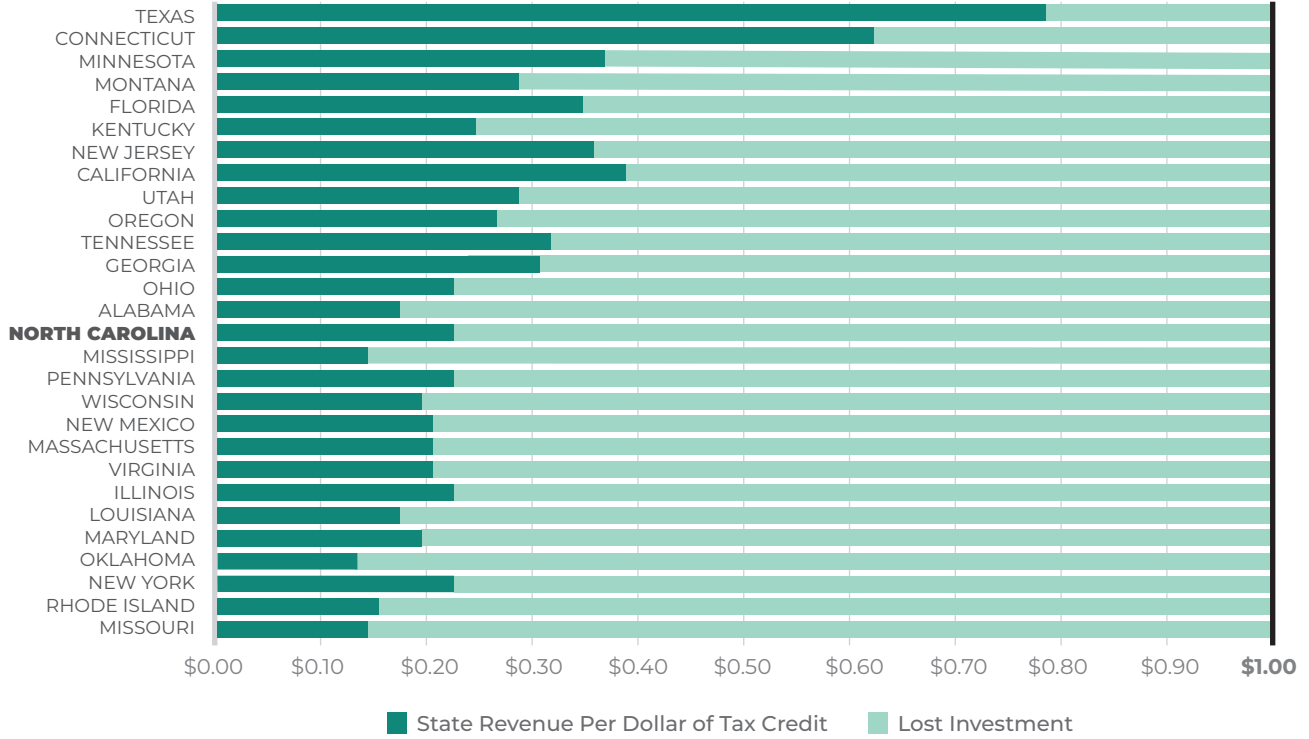
State leaders should ignore, not reward, outside film productions' demands for higher incentives bids in their search for a state to pay them for their short-term business endeavors.

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

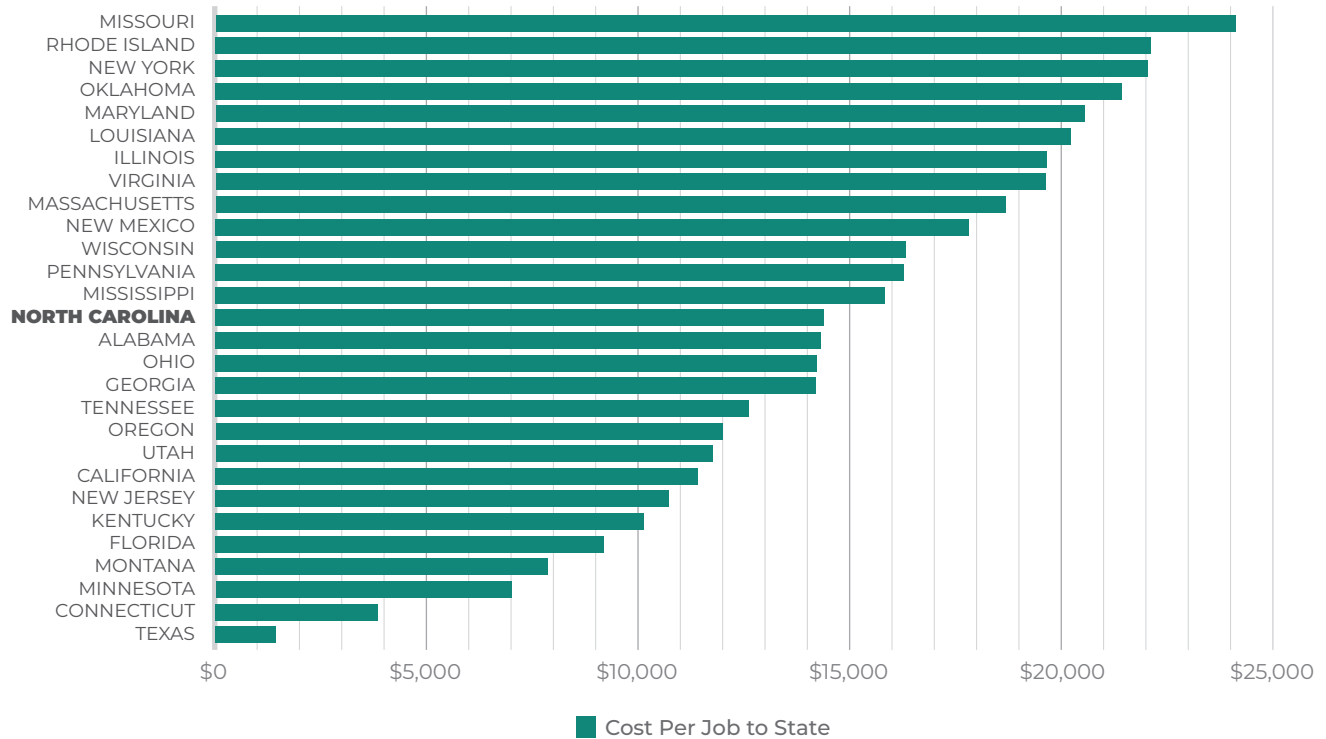
Thanks in part to more than a decade of tax and regulatory reforms, North Carolina boasts a freer business climate, a vibrant economy, lower costs of doing business, and beautiful natural amenities. These are already attracting hosts of other business endeavors that will be here for the long term.

FILM GRANTS

States Get Negative Returns On Investment Trying To Incentivize Film Productions



How Much States Spend In Incentives Per Temporary Film Job



STATE SPENDING

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

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 88 percent of the \$27.9 billion in Fiscal Year (FY) 2022-23 General Fund appropriations, including debt service. Taxes on personal income and sales provided 83 percent of the \$33.5 billion in FY 2022-23 General Fund revenues.

More specifically, however, the majority of General Fund expenditures are dedicated to paying salaries and benefits to employees and retirees. A 2022 Locke Foundation article reported that roughly 73 cents of every General Fund dollar spend goes toward employee salaries, employee health insurance benefits, pension contributions, and retiree healthcare benefits.

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. The General Fund, however, does not capture all of the state's expenditures. Transportation expenses are provided for in the Highway Fund and Highway Trust fund, financed primarily by the state gas tax, that totaled \$2.9 billion and \$1.8 billion in FY 2022-23, respectively. Federal funds add about \$20 billion. Lottery sales, tuition payments, unemployment insurance, and other sources contribute more than \$5 billion, bringing total state spending to more than \$55 billion.

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 2022-23 totaled \$27.9 billion, including debt service. Actual revenue collected during the year \$33.5 billion, roughly \$3 billion above projections. The year ended with the state's Savings Reserve Fund at a historic high of \$4.7 billion.
- » In FY 1989-90, when the John Locke Foundation was launched, General Fund appropriations per person, adjusted for inflation, was \$1,672. After peaking in FY 2008-9 at an inflation-adjusted \$2,414, appropriations in FY 2021-22 were back to \$1,913.
- » The General Assembly finally passed a FY 2023-24 state budget in late September 2023. The total General Fund expenditures totaled \$29.8 billion, however another \$7.2 billion were set aside into various "reserves," and therefore were off budget. Included in those set asides was a statutorily mandated allotment to the State Capital and Infrastructure Fund (SCIF), but billions more were diverted to economic development funds that should have been included in the General Fund appropriations. Such measures mask the true amount of spending.
- » Government savings in the Rainy-Day fund, also known as Savings Reserve, climbed to \$2.0 billion before Hurricane Florence in 2018. As of July 2023, it stood at \$4.75 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 supermajority, (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 continue to 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. When recession depletes reserves, the reserve fund should be built back up again once the economy recovers.

3. Implement the “Insko Rule.”

To increase transparency and accountability, every special spending provision asked for in the budget should be accompanied by the name or names of the legislators making the request. The public should know who is requesting that their tax dollars be spent on pork and earmark projects. The rule is named after Verla Insko, a long-time Orange County Democrat legislator who proposed such legislation in 2017.

4. Stop creating new “reserves” to divert money off budget.

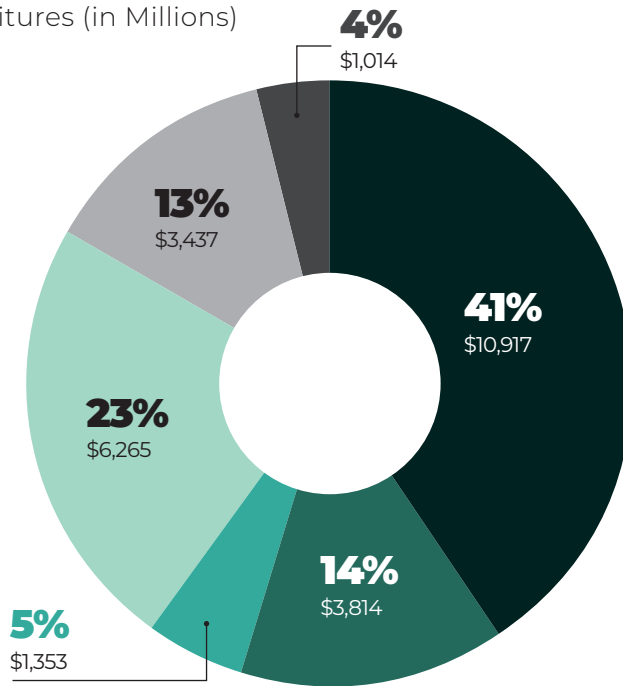
Diverting money into various economic development and miscellaneous “reserves” harms transparency. Such spending should be itemized in the General Fund rather than sent into a reserve where the expenditures become nearly impossible to track. Also, the diversion of such funds masks the true amount of spending occurring.

STATE SPENDING

Where Does the Money Go?

FY 2022-23 General Fund Expenditures (in Millions)

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



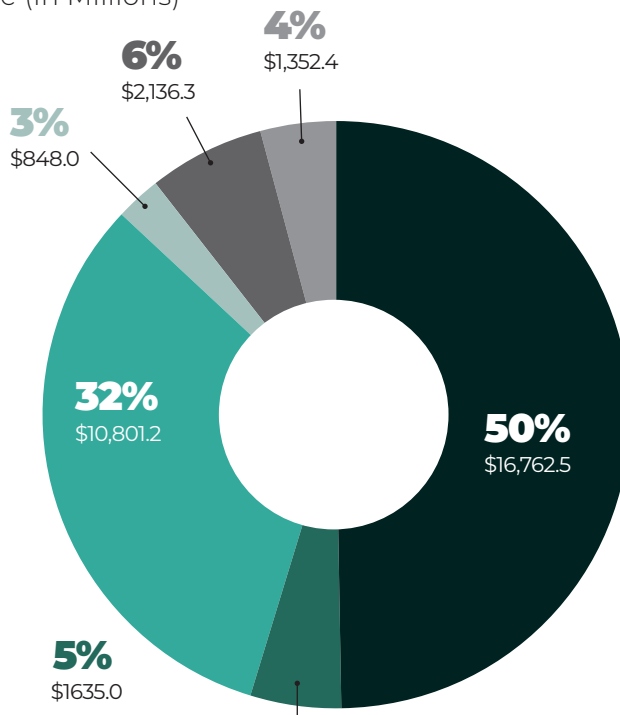
NOTE: "OTHER" INCLUDES: GEN. GOV., ECON. DEVELOPMENT, ENVIRONMENT & NAT RES. AND AGRICULTURE

SOURCES: OFFICE OF THE STATE CONTROLLER

Where Does the Money Come From?

FY 2022-23 General Fund Revenue (in Millions)

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

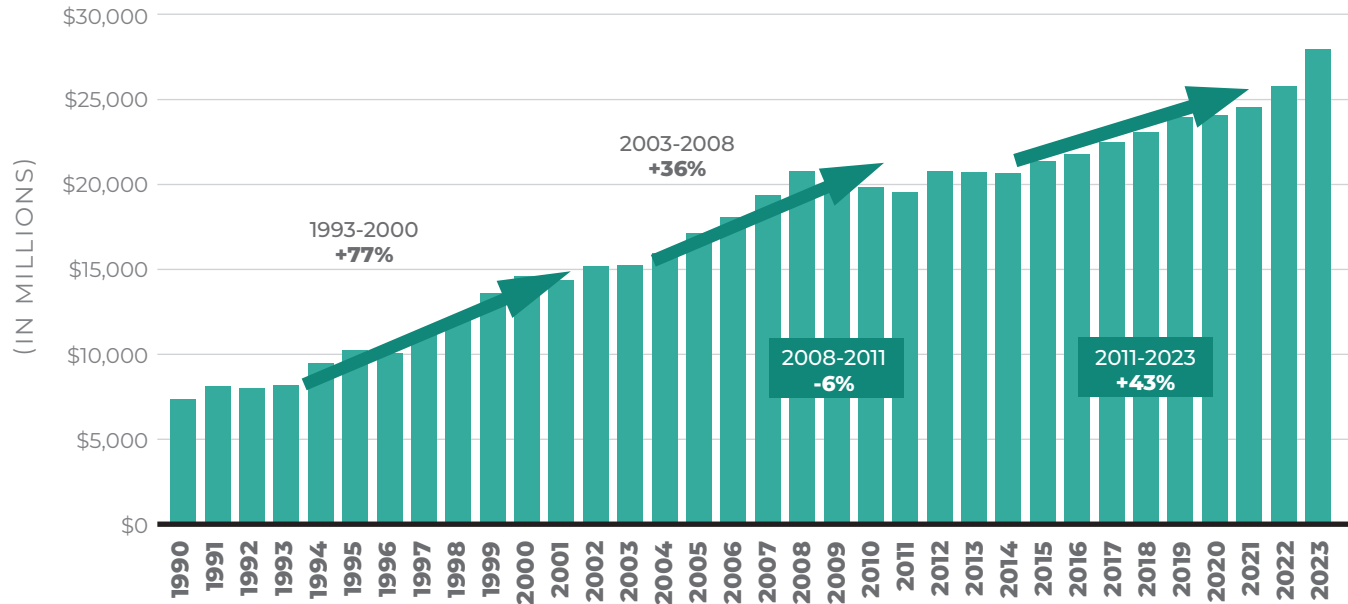


NOTE: TOTALS MAY NOT SUM TO 100% DUE TO ROUNDING

SOURCES: OFFICE OF THE STATE CONTROLLER,

STATE SPENDING

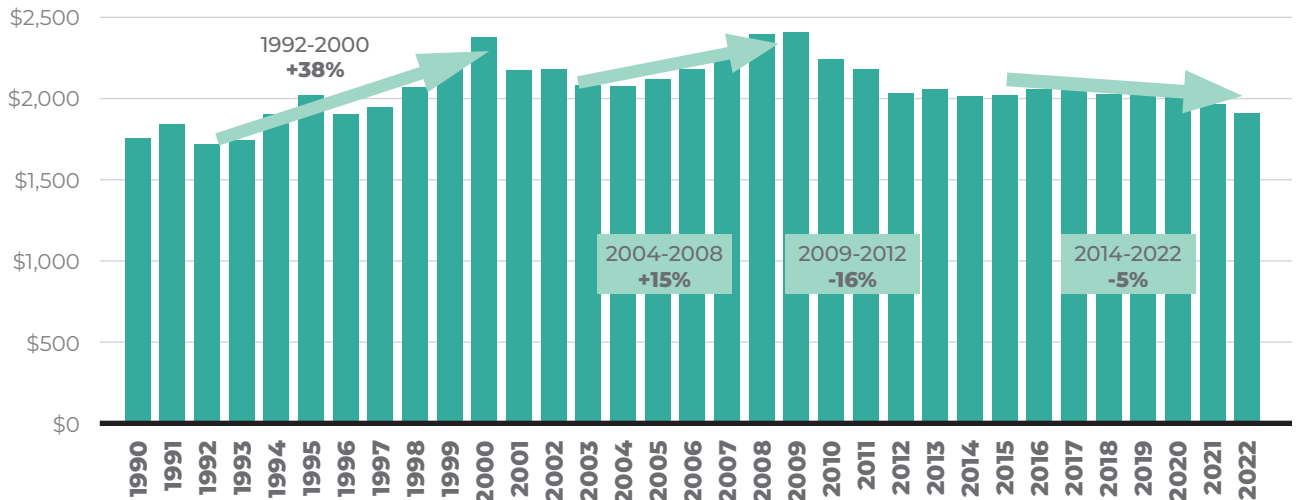
General Fund Appropriations



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), EXPENDITURES FROM SUBSEQUENT YEARS TAKEN FROM THE RESPECTIVE BUDGET BILLS

General Fund Appropriations Per Person

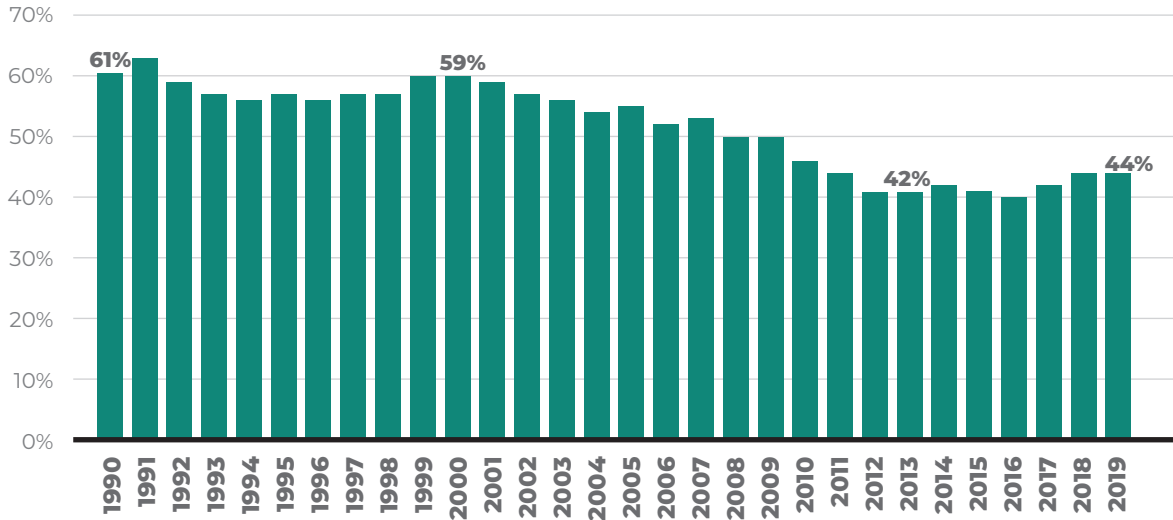
Adjusted for Inflation



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

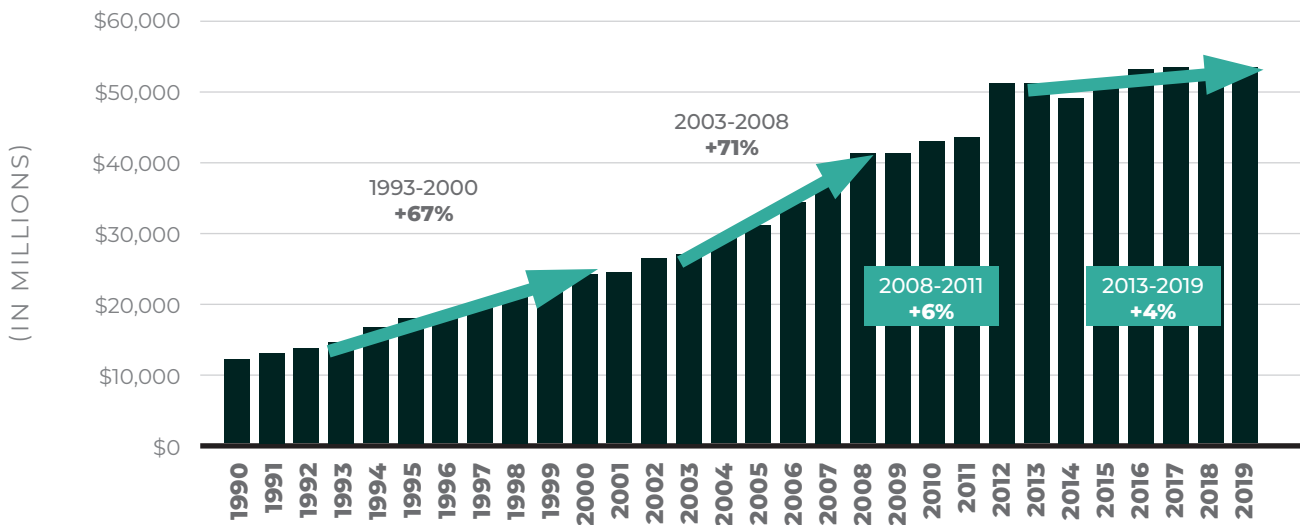
STATE SPENDING

General Fund Share of Total Spending



SOURCES: OFFICE OF THE STATE CONTROLLER

Total Spending



SOURCES: OFFICE OF THE STATE CONTROLLER

STATE EMPLOYEE BENEFITS

POLICY ANALYST: **JOSEPH COLETTI**

INTRODUCTION

State government is the largest employer in North Carolina, with more than 320,000 full-time-equivalent positions. State employees have been working for the state for an average of 12 years. Attracting and keeping employees is a constant challenge, however. Benefits beyond salary have traditionally been a factor in the desirability of government jobs. In 2022, state employees received benefits worth \$36,369 in addition to their average salary of \$58,017. This means that, on average, each state government employee costs taxpayers more than \$94,000 per year.

The 2022 total compensation figure marked a 60% increase over 2008 and a 13% increase in just the past two years.

The fastest-growing component of employee compensation is the state payment for pensions and health benefits. The cost to taxpayers of providing these two benefits increased by a whopping 188% from 2008 to 2022, nearly tripling from \$7,318 to \$21,099.

Retired state employees receive generous health insurance at no cost, and they have the option of upgrading to even more generous coverage for a small monthly premium. In 2022, the unfunded liability for retiree health-plan benefits totaled \$23.7 billion. North Carolina state employees who start work after Dec. 31, 2020, however, 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. Still, 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), has assets valued at almost \$79 billion yet owes current and future retired teachers and state employees \$94 billion, thereby creating an unfunded pension liability of nearly \$15 billion. Investments have fallen short of the assumed rate of return, even though former state treasurers took advantage of greater latitude to invest in hedge funds and other nontraditional assets. Significant market downturns during the 2020 COVID lockdowns and the 2022 inflation scare have put the pension fund further behind pace.

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%.

STATE EMPLOYEE BENEFITS

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 would need either to raise taxes or to cut spending in other areas. The risk to employees is that the liability, left unaddressed, would be so great that the state would need to 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 without warning.

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

KEY FACTS

- » Employer contributions for state pension and health benefits totaled more than \$21,000 per employee in 2022, an increase of 125% from 2010. A 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 benefits for new employees who begin their employment after Dec. 31, 2020.
- » State pension investments have not met the assumed rate of return over the past 20 years, even with the recently reduced rate of 6.5%. Treasurer Dale Folwell has adjusted the portfolio, cut fees, and reduced the expected rate of return, 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 each is at least 95% funded.

2. **Continue reducing investment return expectations for pensions.**

Setting a lower bar for investment returns will allow pension manag-

ers to stop chasing riskier investments in the hope of meeting overly ambitious targets. It will also produce more realistic liability figures.

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

Several services 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 pushing for clear pricing from hospitals.

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

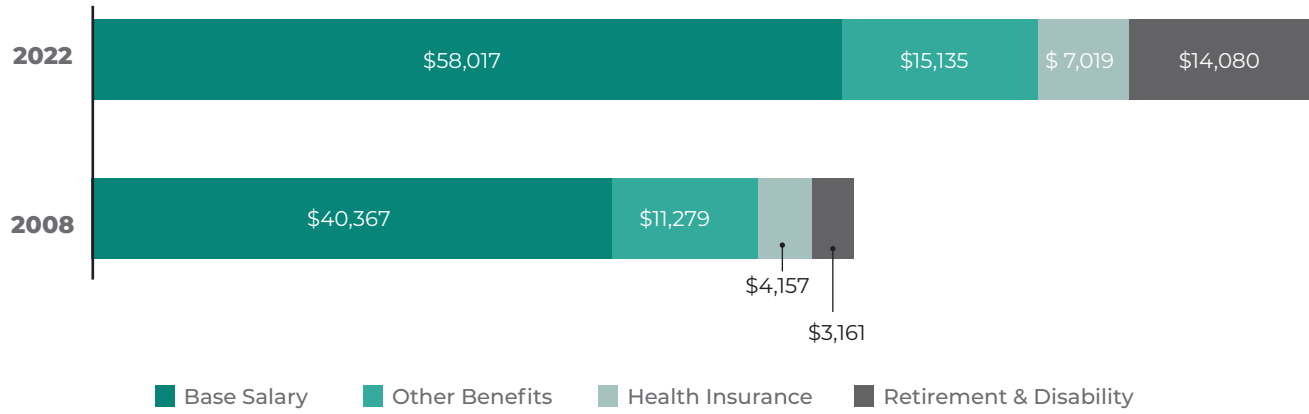
New teachers, corrections officers, and other state employees often do not reach the five years of service needed to vest in the pension system. They should have better choices, and those choices should be open to longer-service employees as well. Employees enrolled in 401(k)-style defined-contribution plans immediately have 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 of 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.

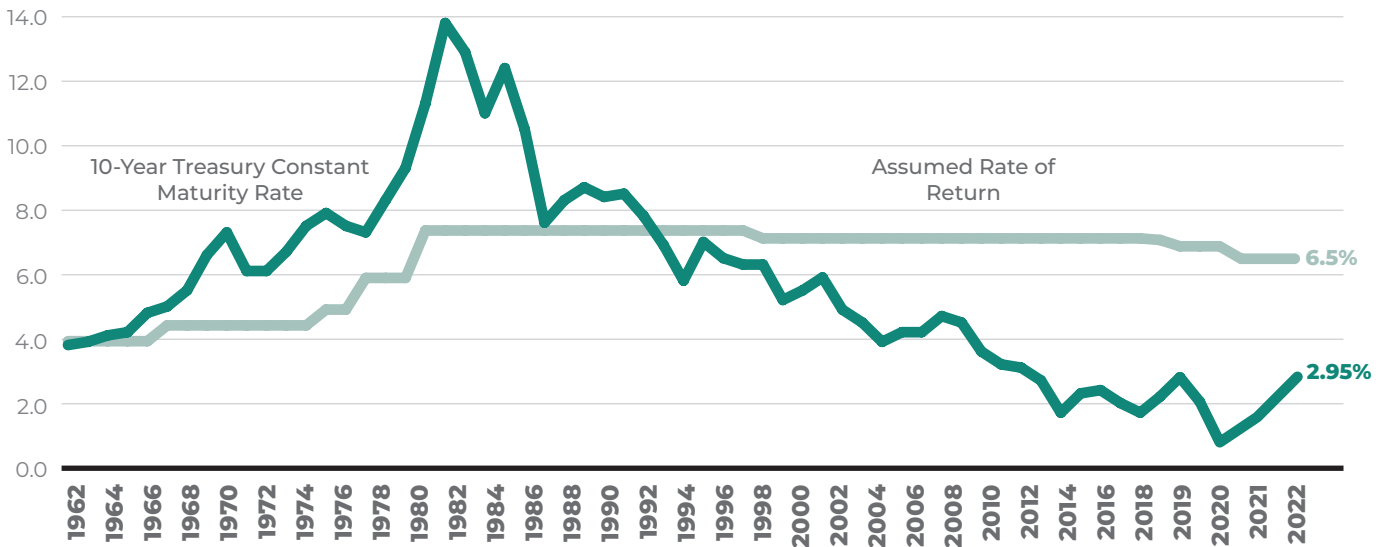
STATE EMPLOYEE BENEFITS

Growth In State Employee Benefits



SOURCE: OFFICE OF STATE HUMAN RESOURCES

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



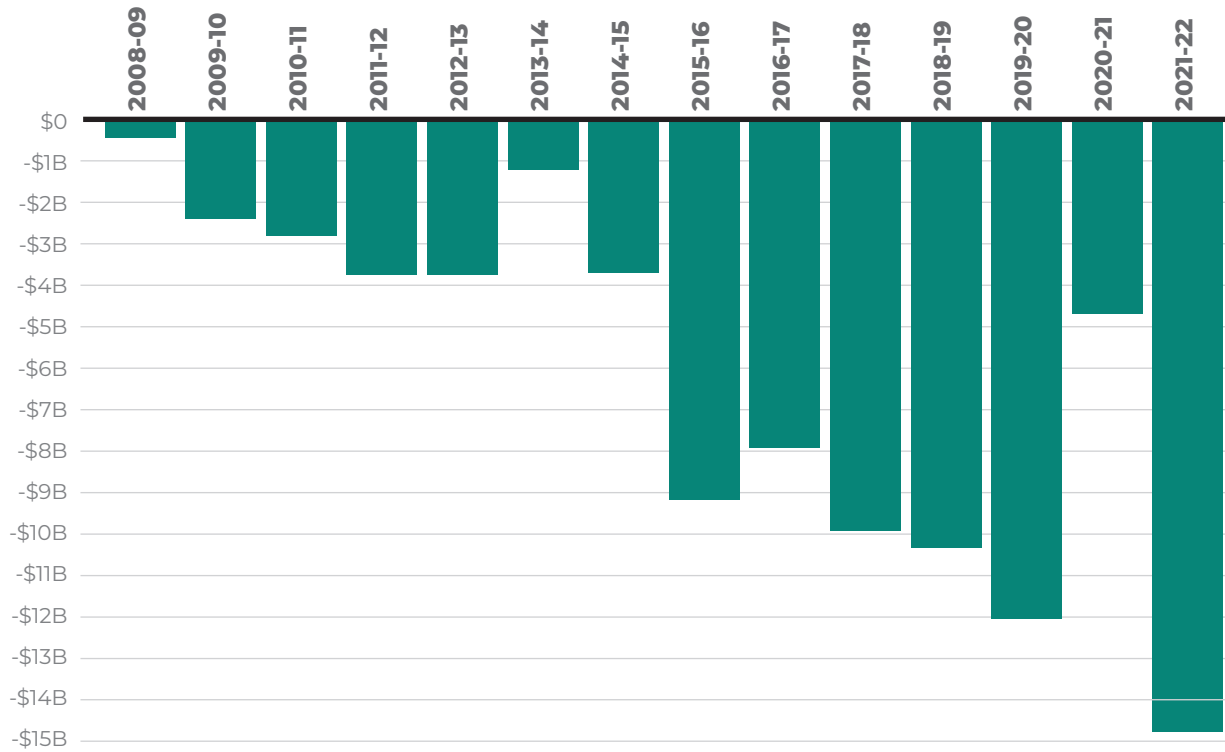
SOURCE: DEPARTMENT OF THE STATE TREASURER, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

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

TAX REFORM

POLICY ANALYST: **DR. ROY CORDATO AND BRIAN BALFOUR**

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, 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 ranked North Carolina as having the 10th best business tax climate in the nation in 2023. In 2012, just prior to the major 2013 reforms, North Carolina ranked 7th worst in this index.

During the 2021 legislative session, the General Assembly continued its tax-cutting ways when it approved a budget plan including personal income tax cuts, a phaseout of the corporate tax by 2029, and a reduction in the franchise tax. The 2023 budget increased the rate of the personal income tax cuts, putting them on schedule to fall to 3.99% in 2026, with a path to reach 2.49% through 0.5% annual increments in years in which certain revenue targets are met.

While this progress is laudable, more improvements should be made. North Carolina's tax code still has some features that are biased 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 should be preserved, and the franchise tax should be eliminated. Meanwhile, 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%, then to 5.25%, and then to its current rate of 4.99%, which took effect in January 2022. The rate is now scheduled to fall to 3.99% by 2026, with a path to 2.49% contingent on revenue targets being met. 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 \$25,500 for a couple filing jointly in 2022. 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 included a phaseout of the tax by 2029.
- » The state 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 from paying a “double tax” on gains from investments made with money that had already been taxed by the income tax.

RECOMMENDATIONS

1. Future reform efforts should focus on excluding 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, to create 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. Index the “zero tax bracket” to inflation.

The income tax’s standard deduction should be indexed to inflation so that wage increases merely keeping up with inflation (or not rising as fast as inflation) do not get pushed up into the taxable income category.

3. Eliminate the capital gains tax and franchise tax.

These taxes are particularly harmful to wages, investment, and economic growth. The 2023 budget placed a cap on the franchise tax, and legislators should take the next step by eliminating it.

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

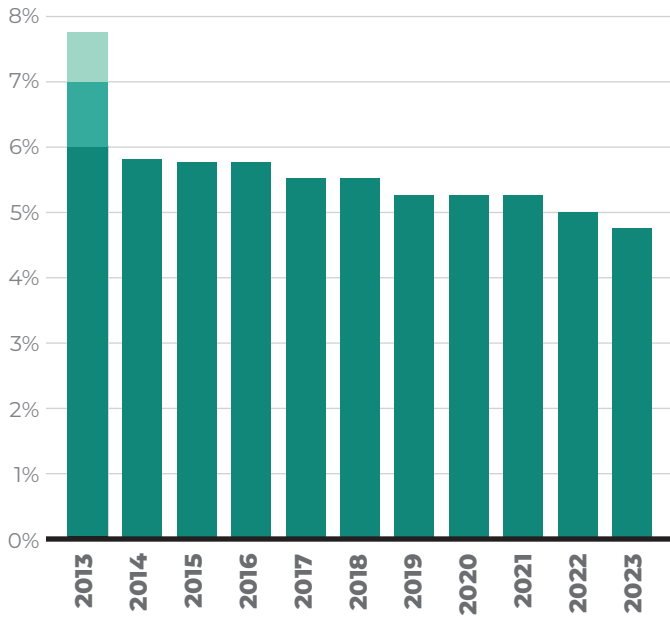
This approach has recently been adopted at the federal level and will also apply to North Carolina. But federal policy in this regard will expire after five years. North Carolina should go beyond federal tax policy and make immediate expensing a permanent feature of the tax code.

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.

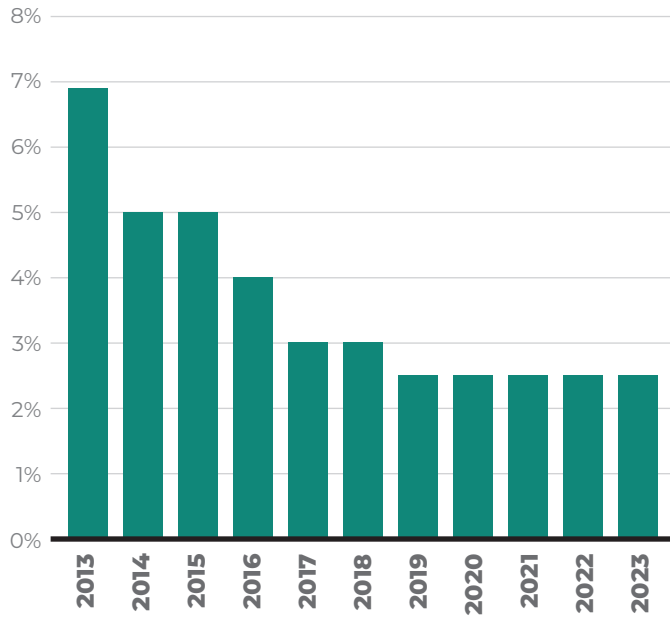
This is a hidden double tax embedded in the system.

TAX REFORM

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 more than 80,000 miles of state-owned 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 the state government owns more than half of the road miles in the state. As a result, to build and maintain roads, its road network depends far more on user fees from 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 General Assembly approved up to \$300 million in new Build NC borrowing per year, over 10 years, to fund additional road construction.

In 2017, North Carolina created the State Capital and Infrastructure Fund (SCIF), which is used to fund capital and infrastructure projects on a pay-as-you-go basis, rather than through debt financing.

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, approved in legislation in 2013, 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

TRANSPORTATION FUNDING

needs, and a 2021 report by NC FIRST (Future Investment Resources for Sustainable Transportation), which provides recommendations for how to fund those plans.

A 2021 report written by transportation expert Randal O'Toole and released by the John 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 a document that outlined wants rather than needs. O'Toole's recommendations for improving the funding and focus of North Carolina's transportation system are included in part below.

KEY FACTS

- » North Carolina state government dedicates roughly 78% of the \$5 billion in current annual transportation spending – which includes \$1.3 billion in federal funds – to building and maintaining more than 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 the proliferation of more fuel-efficient vehicles, including an increase in electric vehicles, raising revenue from the motor fuels tax to pay for roads will remain a challenge. The current gas tax rate of 38.5 cents (as of the end of 2022) comes in a little shy of the inflation-adjusted 41.6-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 57% of respondents opposed toll roads, 68% opposed increasing the gas tax, and 84% opposed taxing motorists per 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 it can still be improved. Costs to the community may be understated in the current formula.

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

The gas tax has been a convenient and effective user fee, but fuel-economy improvements combined with a growing market share

for electric vehicles make it a questionable source of future road funds. Prominent among future financing options would be shifting 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 airports or public transportation like Amtrak or light rail 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 are declining, suggesting the need for more maintenance. Meanwhile, some highways are more dangerous than others, but NCDOT seems to have little interest in understanding why or addressing the problem.

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

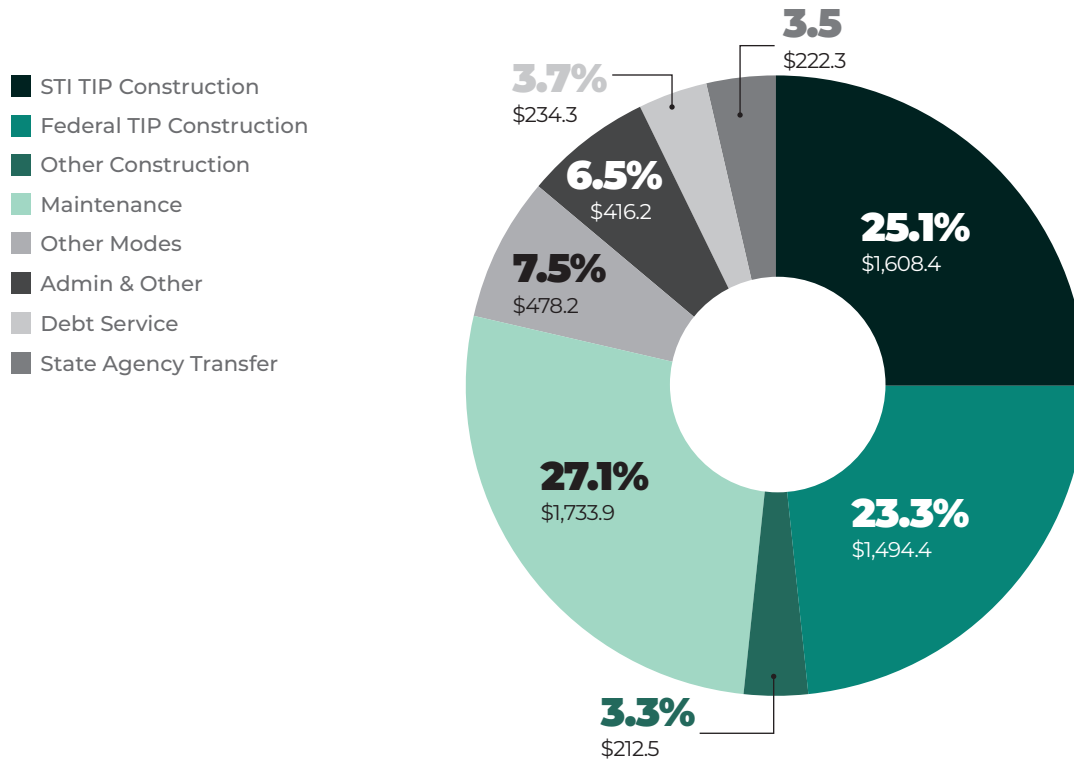
Municipalities are responsible for few roads in North Carolina, and counties are responsible for none. As a result, property tax, which could capture the value created by proximity to the transportation network, is not available to pay for most roads. Public/private partnerships could also open new ways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

6. Develop a plan for “orphan roads.”

In 2023, the Locke Foundation published a report examining the issue of “orphan roads.” These are roads for which there is no clear owner. Typically, orphan roads are located outside of incorporated areas and are not maintained by local or state government.

TRANSPORTATION FUNDING

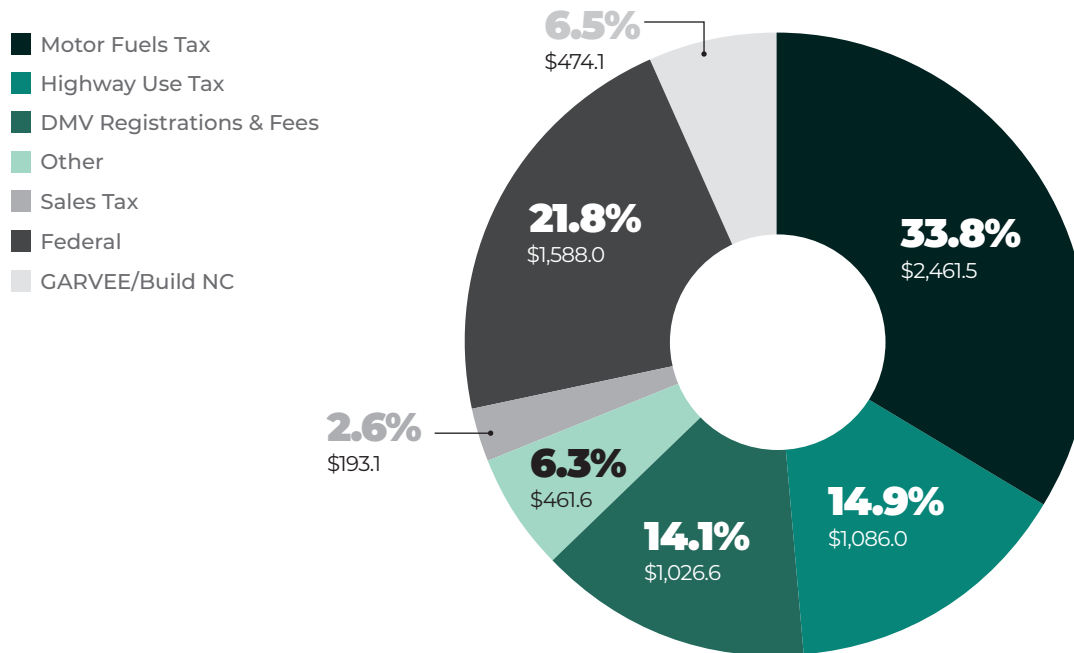
Transportation Spending, FY 2022-23 (in millions)



SOURCE: NC DEPARTMENT OF TRANSPORTATION

TOTAL: \$6.4 BILLION

Sources of Transportation Funding, FY 2022-23 (in millions)



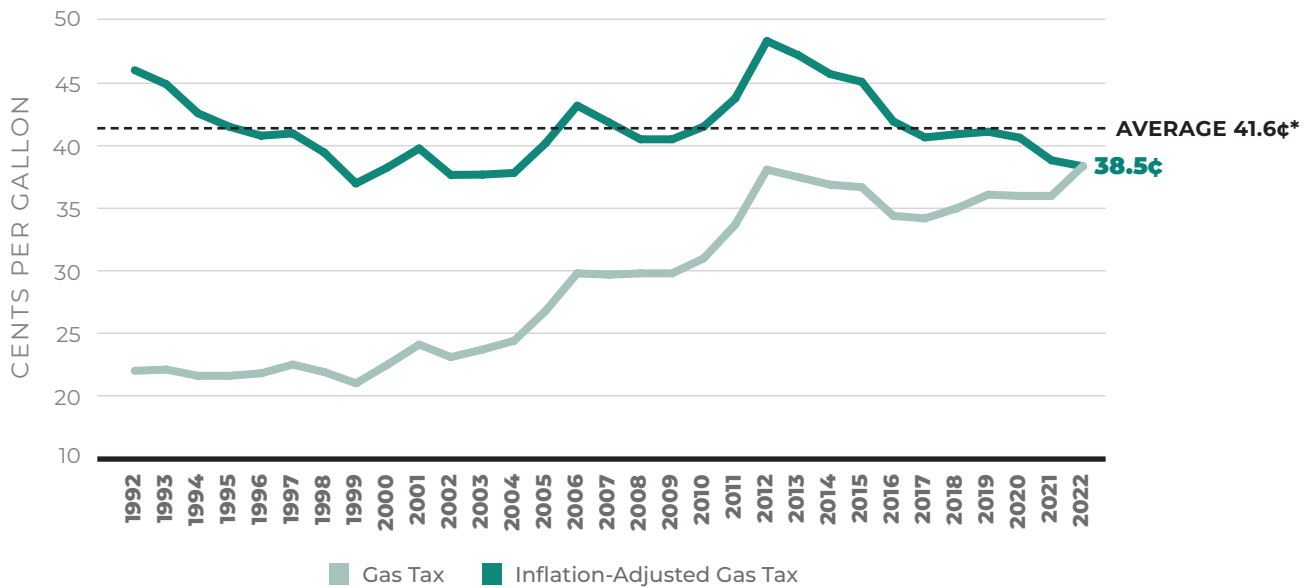
SOURCE: NC DEPARTMENT OF TRANSPORTATION

NOTES: "OTHER" INCLUDES "OTHER FEDERAL AGENCIES & GRANTS" PLUS "OTHER"

TOTAL: \$7.29 BILLION

TRANSPORTATION FUNDING

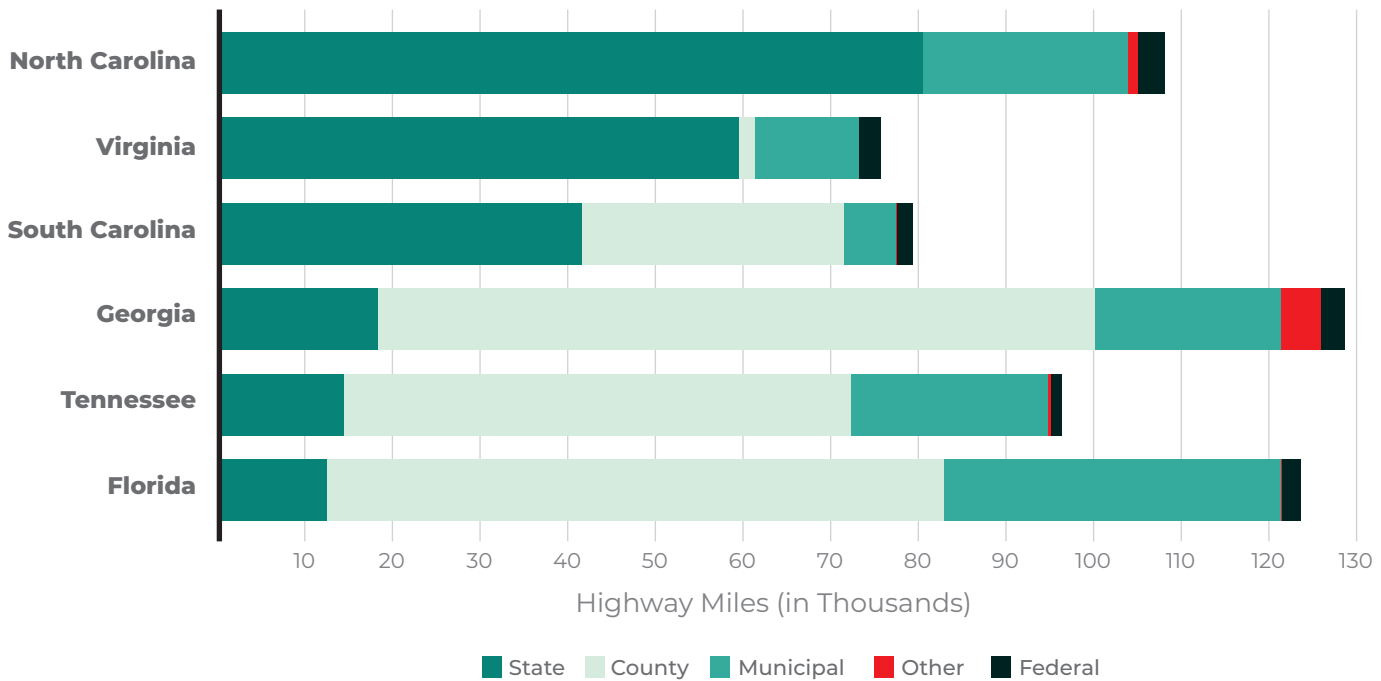
North Carolina Gas Tax Over Three Decades



*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. ROBERT LUEBKE**

INTRODUCTION

The Charter School movement began with the passage of North Carolina's charter school law, House Bill 955, NC Session Law 1995-731. Charter schools were set up for teachers, parents and pupils to establish schools that operate independently of existing schools. According to the founding statutes, charter schools were set up to improve student learning, increase learning opportunities for all students, encourage the use of different and innovative teaching methods, create professional opportunities for teachers, provide parents and teachers with expanded choices and hold schools accountable for meeting measurable student achievement results (General Statutes 115C-238.29A)

Today 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 206 schools with an enrollment of over 137,00 students. While the pandemic produced enrollment declines in many traditional public schools, charter school enrollment in North Carolina increased 18.7% from 2019-20 to 2021-22.

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. In exchange for this freedom, charter schools 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 the board. Unlike public schools, which are governed by elected school boards, charter schools are operated by nonprofit boards. Each board is responsible for ensuring that the charter school follows relevant laws and the provisions of its 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, 54 charter schools have been closed for failure to maintain sufficient academic progress or financial sustainability.

Charter schools enjoy additional flexibility with regard to administrative regulation and teacher certification requirements. 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

CHARTER SCHOOLS

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. Since 2011, charter school enrollment has increased 208%. According to the 2022 Office of Charter Schools Annual Report, North Carolina Charter Schools have a waitlist of 77,000 students statewide. Some of this demand is a function of natural population growth. Some of it derives from policies that have restricted demand for charter schools. In recent years, enrollment provisions for siblings and for specific grades, and modification of teacher certification requirements have helped charter schools respond to the demands of growth.

Two significant charter school bills were approved this past session. S.L.2023-110 among other things created a Charter School Review Board to authorize charter school applications. Unlike the State Board of Education whose members are largely appointed by the Governor, the new board will be mostly appointments by the State House and Senate. Under the new legislation the State Board of Education will hear appeals of such decisions. Previously, the State Board would authorize all charter applications, on the recommendation of the Charter School Advisory Board. In addition, SL 2023-107 authorizes counties – if they so choose – to contribute capital funds to charter schools. That provision is a major victory, since charter schools receive no capital funds and building expenses are a charter school’s largest budget expenditure.

KEY FACTS

- » According to the North Carolina Department of Public Instruction, the statewide average per pupil expenditure for charter schools for the 2021-22 school year was \$12,482. At the same time, the statewide average expenditure for traditional public schools was \$12,345 and \$1,029 per student for capital expenses. To date, charter schools receive no state or local capital funding to help with debt, and capital costs which can often be significant. As previously mentioned, recently passed legislation will give counties the option to contribute to charter school capital costs if they so choose.
- » North Carolina charter schools are in 64 of the state’s 100 counties. Charter schools allow families to cross county boundaries to attend their preferred school, and most North Carolina families have access to a charter school. In addition, North Carolina has two virtual charter schools to help meet the needs of students who wish to attend school online.

CHARTER SCHOOLS

- » As of the 2021-22 school year, charter school students represented 9.7% of the public-school population in North Carolina, up from 6.1% in 2019.
- » Since 1997, there has been a total of 77 charter terminations. This includes schools that were in operation and those that may have been in the planning year program prior to opening the school to students.
- » North Carolina charter schools enroll a higher percentage of Black students (26.2%) than traditional public schools (24.6%).
- » The U.S. Department of Education granted charter schools and public schools a waiver from federal testing requirements during the COVID-19 pandemic.

RECOMMENDATIONS

1. The State Board of Education should establish uniform performance standards for 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 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.

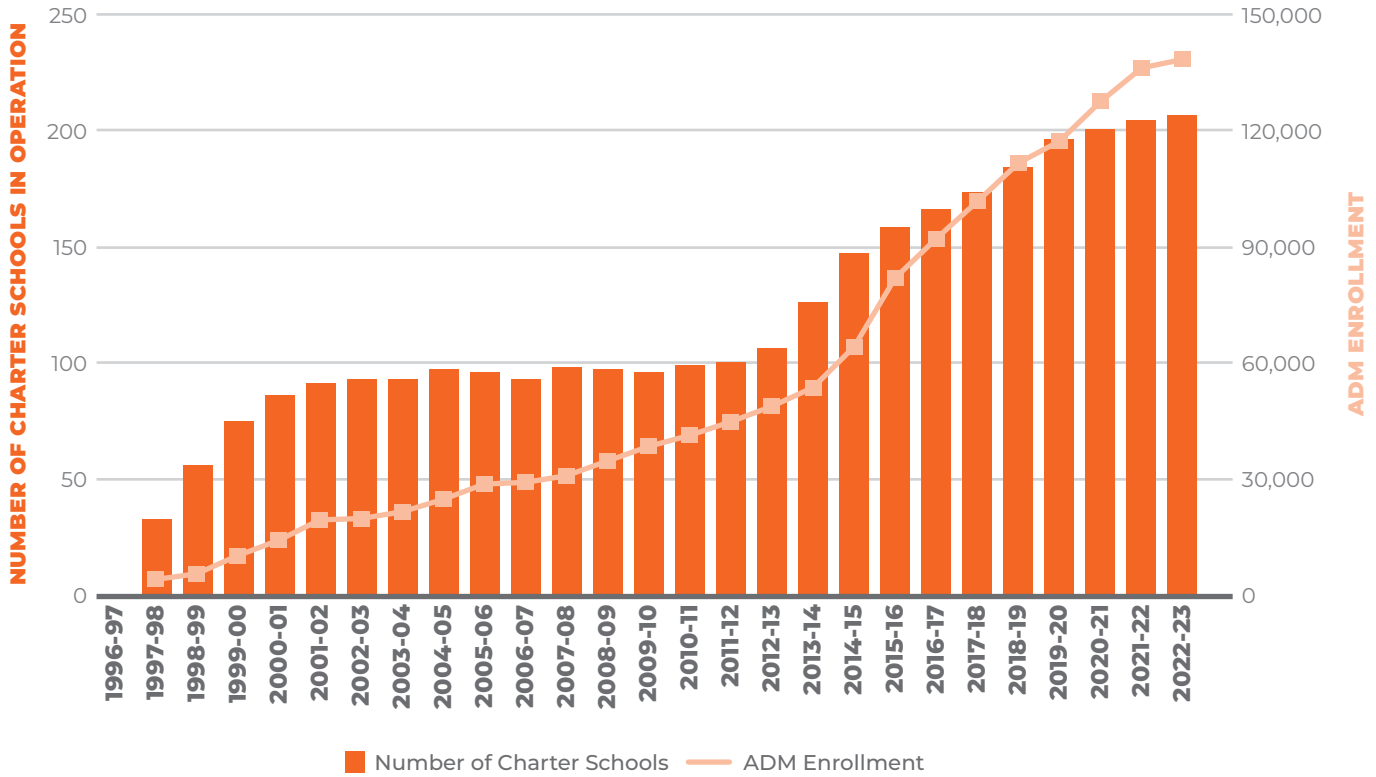
North Carolina law affirms the principle that district, and charter schools should be funded equitably. Still, the way local school funds are administered has created a system where, on average, a public charter school receives between 55 and 75 cents per student in local funds for every local dollar provided to a district school.

3. Allow all schools – public, private, and charter – to build in all zones.

Charter and private schools are frequently at a disadvantage because of zoning laws which restrict development in certain areas. Selected permitting must end. In addition, local governments should be prohibited from requiring traffic and transportation improvements as a condition of approval.

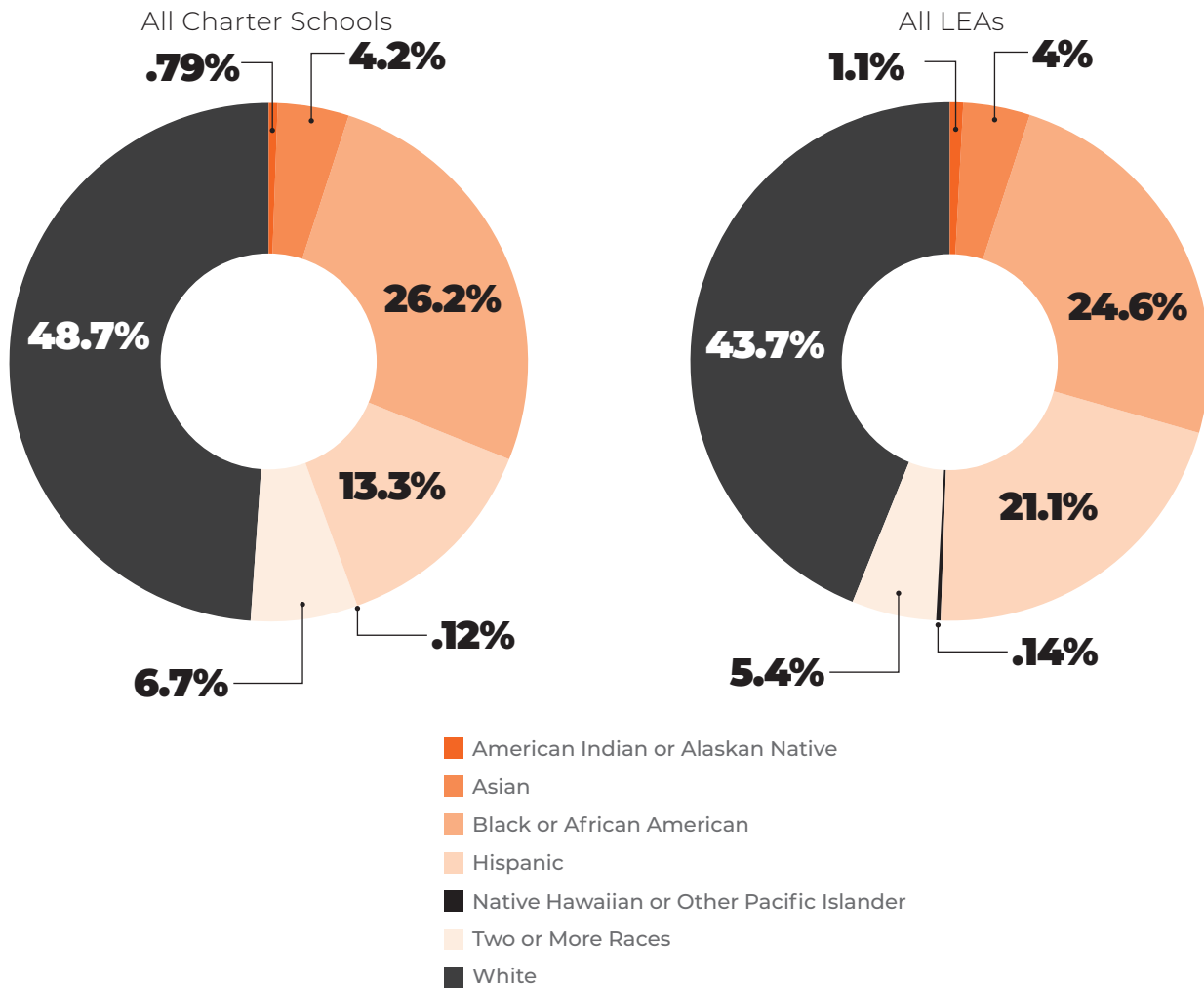
CHARTER SCHOOLS

North Carolina Charter Schools in Operation and ADM Enrollment



SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET, 2023

Charter Schools: 2022 Ethnicity and Racial Data



SOURCE: 2022, CHARTER SCHOOL ANNUAL REPORT TO THE GENERAL ASSEMBLY OF NORTH CAROLINA

SOURCE: 2022, CHARTER SCHOOL ANNUAL REPORT TO THE GENERAL ASSEMBLY OF NORTH CAROLINA

EDUCATION AND THE WORKFORCE

POLICY ANALYST: **KAITLYN SHEPHERD**

INTRODUCTION

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

BLS analysts predict that jobs requiring a high school diploma, associate degree, or postsecondary certificate will be plentiful through 2032. Of the 20 occupations projected to have the largest numeric growth in jobs, only 12 require a bachelor's or graduate degree for entry-level positions. Of the occupations that require a four-year degree or higher, software developers lead the pack with more than 410,000 jobs estimated to be created nationwide by 2032. By comparison, 804,600 new jobs are estimated to be created for home health and personal care aides, who typically need only a high school diploma. These positions are projected to have the "largest increase in new jobs of any occupation over the 2022-32 projections period" and "account for approximately 1 of every 6 new jobs."

Similarly, the North Carolina Department of Commerce projects that nearly 60% of occupations will require "no formal education or only a high school diploma" by 2030. The department estimates that the fastest-growing occupational sectors in North Carolina from 2021 to 2030 will include arts, entertainment, and recreation; professional, scientific, and technical services; and health care and social assistance. Significant estimated declines will be in the utilities sector (8.1% decline) and the agriculture, forestry, fishing, and hunting sector (2.4% decline).

Elected officials have taken notice of these trends. Over the last decade, the North Carolina General Assembly has passed laws to increase access to functional and practical career and technical education. These 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.

During her tenure as state superintendent of public instruction, Catherine Truitt has emphasized the importance of workforce development training in preparing students for college, a career, or military service.

Declaring 2022 the “Year of the Workforce,” Truitt set out four priorities to promote greater alignment between the K-12 education system and workforce needs: preparing students for the workforce and cultivating the school-to-workforce pipeline; increasing access to postsecondary pathways leading to in-demand, high-wage careers; giving students and families the information necessary to make informed postsecondary plans; and advocating for career exploration opportunities and work-based learning for every student.

In January 2022, Truitt announced that career and technical education programs would receive \$3 million in new funding that year. In October, the North Carolina Department of Public Instruction unveiled its “Portrait of a Graduate,” an aspirational profile that aims to ensure that all students are prepared for future academic and professional opportunities. The Portrait of a Graduate was aligned with Truitt’s “Year of the Workforce” and identified seven core competencies that all students should have when they graduate from high school so that they can “thrive in the 21st century.”

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 prospective employees. Furthermore, these students would have plentiful employment opportunities in North Carolina for years to come.

KEY FACTS

- » Certain 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. During 2021-22, more than 37,000 North Carolina students took the WorkKeys assessment, and 37% of them 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 had been rising sharply in recent years but was negatively impacted during the Covid-19 pandemic, changes in federal law, and the decision to exclude WorkKeys credentials from the overall number of earned credentials since they are not aligned with a specific CTE (Career and Technical Education) course. During the 2010-11 school year, North Carolina students earned nearly 25,000 career and technical education credentials. By 2019-20, that figure had risen to 241,338 credentials. During the 2021-22 school year, students earned 239,200 credentials.
- » Popular credentials earned by public-school students include the Conover Workplace Readiness Credential, accredited food handler certification, CPR/AED, Microsoft PowerPoint and Word, and entrepreneurship.

EDUCATION AND THE WORKFORCE

- » According to the Department of Public Instruction, more than 931,000 students across North Carolina participate in CTE courses.
- » In February 2022, the Department of Public Instruction announced that it had partnered with Microsoft and Prodigy Learning to offer a “Coding in Minecraft” credential program to all middle-school students in North Carolina. The program is intended to help students develop coding skills, gain experience using programs like JavaScript and Python, and cultivate “durable skills,” such as creativity, collaboration, and problem-solving.
- » In October 2022, the State Board of Education adopted a policy designed to strengthen North Carolina’s Career and College Promise Program, which helps students earn college credits through local community colleges while they are still in high school. The State Board’s new policy requires all school districts to “develop formal agreements with their community college partners addressing several factors found to improve both student participation and successful outcomes.”
- » In 2023, lawmakers introduced a bill that would have required middle- and high-school students who attend traditional public schools to put together a career development plan by the end of 7th grade and update it by the end of 10th grade. Charter schools would have been encouraged, but not required, to have their students complete career development plans as well. The bill passed the Senate but stalled in the House Rules Committee.

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. It 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 North Carolina’s 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.

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. ROBERT LUEBKE

INTRODUCTION

The North Carolina State Constitution requires the General Assembly to provide funding for “a general and uniform system of free public schools,” but it also allows the legislature to delegate additional responsibility to local governments. The legislature may “assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate.”

That provision means that governing boards of local units of government may use local revenues to add to or supplement any public school or postsecondary school program. The North Carolina Supreme Court has interpreted it to mean the state must provide citizens with “access to a sound basic education” but that the legislature may delegate funding responsibility for schools to provide a “sound basic education” to local governments who may provide funds at or above what is required by the state legislature.

Further definition of how the public schools are funded can be found in the North Carolina General Statutes. G.S. § 115C-408 states that “it is the policy of the State of North Carolina to provide from State revenue sources the instructional expenses for current operations of the public school system as defined in the standard course of study” and that “[it] is the policy of the State of North Carolina that the facilities requirements of a public education system will be met by county governments.”

While these statutes are often cited as reasons for which level of government is responsible for what expenses, it should be noted that the statute does not assign any specific funding responsibilities. Rather, it lays out the goals or desires of the legislature. Even though the law is intended to give clarity, the matter has become less clear over time. State government is charged with providing for instructional expenses, and local governments are responsible for capital funding. In recent years, however, state government has provided more and more funding to local districts for capital costs.

County commissions have the primary responsibility of funding school district facilities at the local level. 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.”

EDUCATION FACILITIES

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 do require voter approval). The state also permits local governments to impose local option sales taxes and other supplementary taxes to pay for school facilities.

How much are North Carolina local taxpayers spending on school construction? According to the UNC School of Government, from November 2012 through November 2022, North Carolina voters approved 202 of 213 (95%) of county and municipal general obligation bond referenda. As a result, voters authorized counties and municipalities to issue nearly \$14.4 billion in general obligation debt for school construction.

Considering the importance of school facilities and the expenses involved in building and maintaining them, county commissions and school boards must be committed to spending capital dollars wisely, utilizing efficient building practices, and adopting innovative solutions to ensure that all children have an adequate learning environment.

KEY FACTS

- » Since 2000, North Carolina's local governments have spent over \$15.3 billion on school facilities, averaging \$668.7 million per year. Locally funded capital expenditures represented 90.6% of all public-school capital spending in the state.
- » The state legislature occasionally provides state funds for school facilities. Since 1949, the General Assembly has passed one facility appropriation bill and five state school bonds. The legislature approved the last statewide facilities bond in 1996. Since 2000, the State of North Carolina has provided local schools with \$1.5 billion in funds for school facilities.
- » State funding for local school districts is usually distributed via the Public-School Building Capital Fund (PSBCF). Three revenue sources have been used to fund PSBCF. From 1987 to 2009 a portion of corporate income-tax revenues was set aside for counties based on schools' average daily membership (the ADM Fund). During that period, over \$1.2 billion in tax revenue was collected. Since then, how-

EDUCATION FACILITIES

ever, no allotments have been made to the ADM Fund. State lottery revenues and local option sales taxes are the other two sources of revenue. All counties levy two half-cent additions to the state sales tax: with 30% and 60% of the revenue, respectively, going to schools. Counties may also levy either an additional quarter-cent sales tax or a land transfer tax for funding 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.
- » Over the past five years, the Needs-Based Public School Capital Fund has awarded \$739 million to local school districts for new schools and replacement schools for economically distressed counties.
- » 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. In 2023 legislation was passed to allow local counties to contribute local tax revenue to help charter schools fund building needs.

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. Doing so 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 would not burden county taxpayers but would 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-

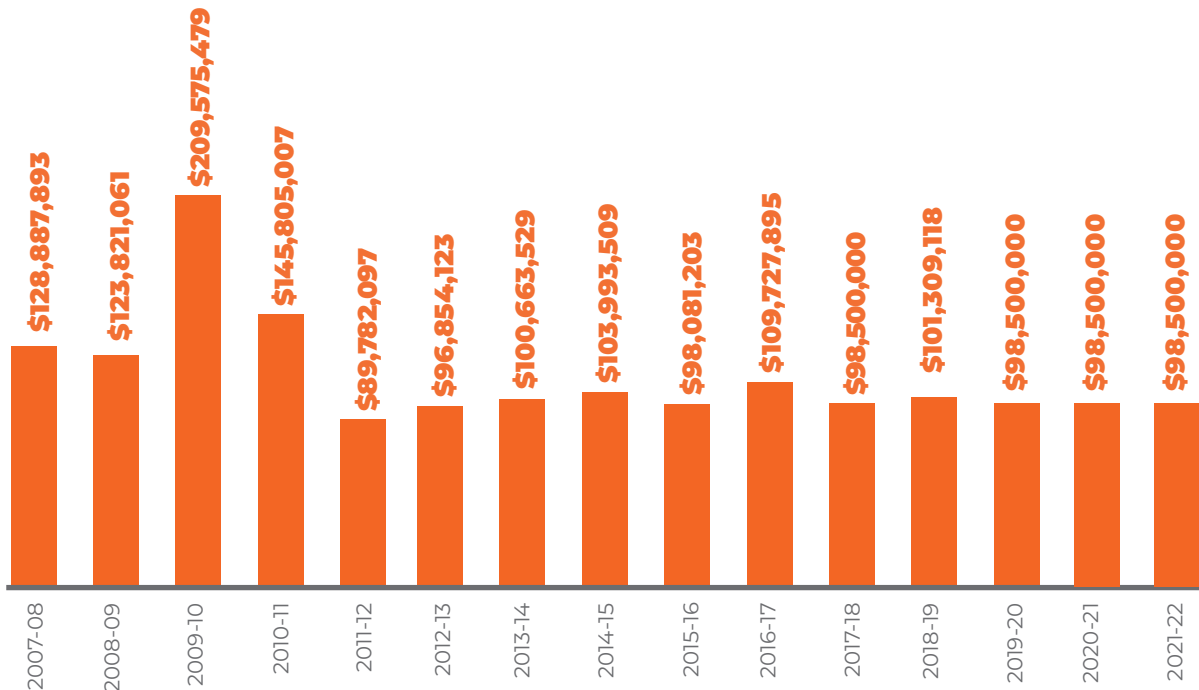
EDUCATION FACILITIES

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. Revamp how school construction needs are assessed.

Currently, North Carolina statutes require local school boards to submit long-range plans to the State Board of Education every five years. Under the current plan, North Carolina public schools have \$12.7 billion in planned new construction, addition, and renovations. With increased interest and growth in charter, private, and home schools, demographic changes, and an increasingly competitive environment for public investment, however, North Carolina should begin a full evaluation of its Five-Year K-12 Facility Needs Report to ensure the process can deliver timely, reliable recommendations and estimates that are cost-effective and responsive to public needs.

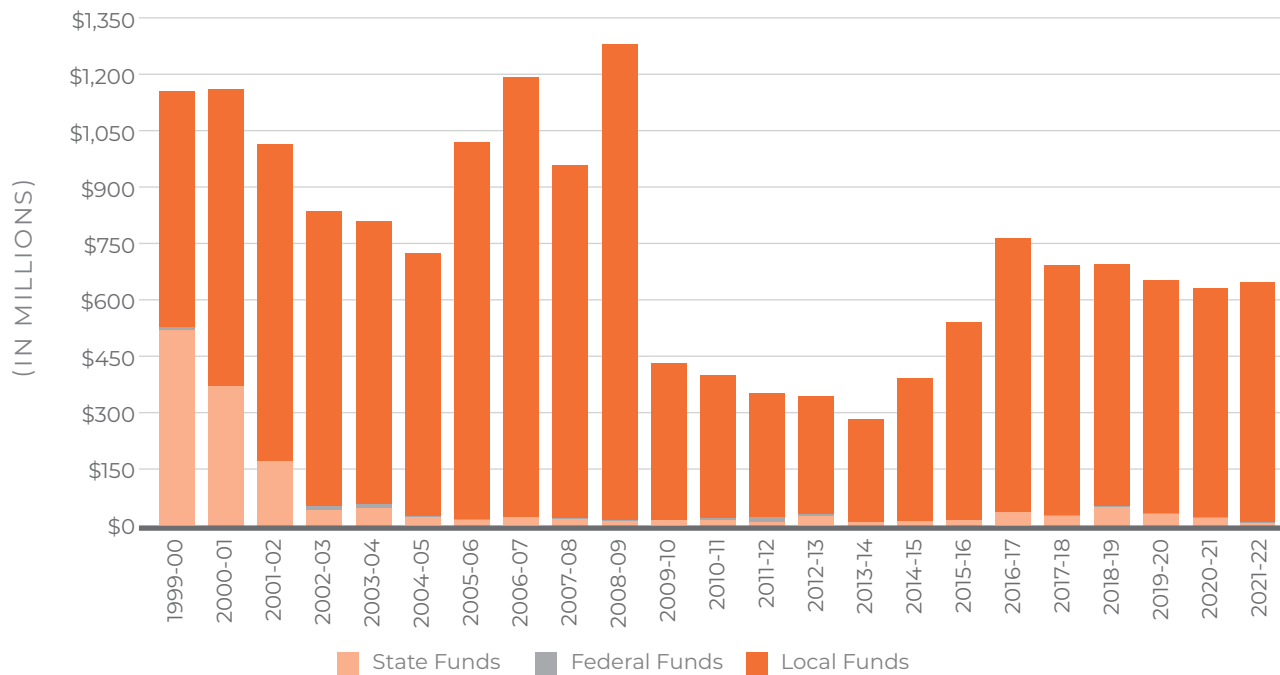
Public School Building Capital Fund: Lottery Revenue



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

EDUCATION FACILITIES

Sources of Funding for Education Facilities



Fiscal Year	State Funds	Federal Funds	Local Funds	Total
1999-00	\$518,506,820	\$8,272,720	\$627,673,264	\$1,154,452,804
2000-01	\$371,109,242	-	\$789,866,134	\$1,160,975,376
2001-02	\$170,257,261	\$517,911	\$842,184,297	\$1,012,959,469
2002-03	\$41,949,345	\$9,697,902	\$782,630,041	\$834,277,288
2003-04	\$46,210,952	\$9,528,857	\$752,716,127	\$808,455,936
2004-05	\$21,169,420	\$3,690,000	\$699,746,058	\$724,605,478
2005-06	\$13,842,620	\$1,790,866	\$1,003,523,533	\$1,019,157,019
2006-07	\$21,216,361	\$743,931	\$1,170,080,840	\$1,192,041,132
2007-08	\$18,024,915	\$212,220	\$939,450,137	\$957,687,272
2008-09	\$12,741,320	\$139,932	\$1,266,076,911	\$1,278,958,164
2009-10	\$13,211,971	\$2,370,296	\$415,228,020	\$430,810,287
2010-11	\$15,124,664	\$3,810,633	\$381,005,150	\$399,940,447
2011-12	\$8,709,622	\$12,880,229	\$330,098,767	\$351,688,618
2012-13	\$23,736,874	\$7,449,196	\$313,077,437	\$344,263,507
2013-14	\$8,873,255	\$43,251	\$273,651,671	\$282,568,177
2014-15	\$11,780,490	-	\$380,063,582	\$391,844,072
2015-16	\$14,860,996	-	\$524,878,167	\$539,739,163
2016-17	\$34,350,149	-	\$729,937,634	\$764,287,783
2017-18	\$23,997,621	\$2,905,316	\$664,272,950	\$691,175,887
2018-19	\$49,522,076	\$750,638	\$644,225,456	\$694,498,170
2019-20	\$30,802,421	\$1,383,773	\$619,429,337	\$651,615,531
2020-21	\$25,051,964	\$2,900,004	\$600,232,048	\$628,184,013
2021-22	\$13,683,420	\$1,476,165	\$630,081,167	\$645,240,752
Total	\$1,508,733,779	\$70,563,837	\$15,380,128,728	\$16,959,426,345

SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

FEDERAL EDUCATION POLICY

POLICY ANALYST: **DR. ROBERT LUEBKE**

INTRODUCTION

The United States Constitution does not mention education. From our nation's infancy, Congress generally adhered to the principle that the federal government had no authority to undertake functions and duties not enumerated in the Constitution. As such, the nation relied on families, communities, and state and local governments to direct the education of the citizenry. As an acknowledgment of this fact, all fifty states, including North Carolina, include passages on public education in their state constitutions and statutes.

This was the reigning orthodoxy until the mid-1960s. The passage of the Elementary and Secondary Education Act (ESEA) in 1965 changed all that.

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 middle of the 1960s the federal government had committed to aiding local state departments of education, low-income students (Title I), and special-needs children (Title VII), all via the ESEA Act of 1965 and amendments in 1966. Growing federal programs such as child nutrition (National School Lunch Program) and vocational education (Perkins Act) continued to expand the federal role in education.

At no time before, however, did the federal government's role become larger or more controversial than Congress' 2002 reauthorization of the 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.

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

It didn't take long for the requirements to start accumulating. 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 also required to identify and initiate research-based interventions in the state's lowest-performing schools. Like No Child Left Behind, ESSA also required 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 required all states to begin reporting school-level financial data to the department starting in 2019.

More recently, in response to the Covid-19 pandemic, three pieces of federal legislation distributed about \$190 billion to K-12 schools nationally. About \$6.2 billion of those funds were allocated to North Carolina – around \$4,000 per public school student. The federal aid required massive development of plans and reporting requirements for states and local school districts as a condition of receipt of funds.

In an average year, federal support for K-12 education in North Carolina would be about 10% of all funds. Most of those funds would be spent on Title I schools for poor or disadvantaged children, aid for special-needs children, and child nutrition programs.

The federal response to Covid changed all that. As a percentage of total support, federal dollars now comprise about 20% of all funds; state support, about 60%. Local funds make up the remaining 20%.

The increase in the federal role has given the federal government a greater presence in an area where they have traditionally not been a major player. The increase in federal programs means more applications, more program monitoring, more program reporting, and more administrative costs. Furthermore, the costs of compliance are more than monetary. The increase in administrative overhead erodes school level leadership based on the needs of students.

Accountability is important, but we also need to ask, accountability to whom and for what? Funding needs to be targeted on the right ends. North Carolina's \$6.2 billion in federal Covid relief dollars came with significant administrative and reporting requirements but no apparent overall strategy. The federal government provided little oversight over how schools choose to spend Covid funds and, even worse, no requirement to demonstrate those funds are accomplishing their intended purpose.

It's characteristic of federal intervention as a whole: distracting because of the many compliance burdens it puts on states and localities. They give the federal government a sizeable presence in state accountability efforts. The federal government's growing financial and ideological encroachment into public education is worrisome. It invites the kind of centralization of public schooling wisely resisted by most Americans and detracts from true, proper accountability to those who have the most at stake in education: parents, students, and other taxpayers.

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, multiyear initiatives. They 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.
- » Expenditures from federal funds — state aid and grants — totaled \$3.3 billion and accounted for 20% of North Carolina’s \$16.7 billion public school operating budget for the 2021-22 school year. It contributed about \$2,460 in funding per student — slightly more than local per-student funding (\$2,458) and considerably less than state-provided funding per student (\$7,426).
- » Federal Covid relief funding will inflate the federal share of public schools’ budgets and increase total public-school expenditures for at least until the end of 2024 — and in some cases even later.
- » During the 2022-23 school year, North Carolina public schools used federal funds to support 15,236 public school personnel. That’s up from 12,792 public school employees, or 6.9% of all district school personnel in the state in 2021.
- » Major Covid 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).
- » How did North Carolina public schools spend these funds? As of September 2023, 45% of funds were spent on salaries; 9%, on employee benefits; 22%, on supplies and materials; 10%, on purchased services and capital outlay; and 5%, on other expenses.

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 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. If using federal funds, use them prudently.

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

4. Require all federal grants be required to include a summary of the costs of compliance.

It should include listing the true costs of complying with grant regulations as well as other personnel and staff costs involved. Policy-makers should be provided this assessment to know the full administrative, financial, and economic costs of taking federal dollars.

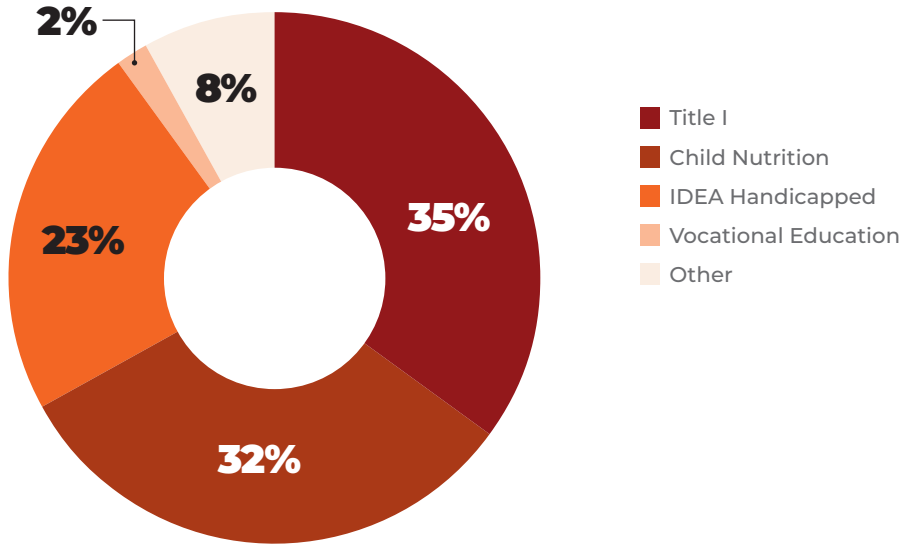
5. Restructure federal grants.

Federal grants should be structured so that not only can dollars be tracked, but also their impact. States should be able to show what impact grants have had. Have they accomplished their intended purpose? Currently all we can show now is how much in federal funding has been spent.

FEDERAL EDUCATION POLICY

Federal Funds Received FY 2022-23

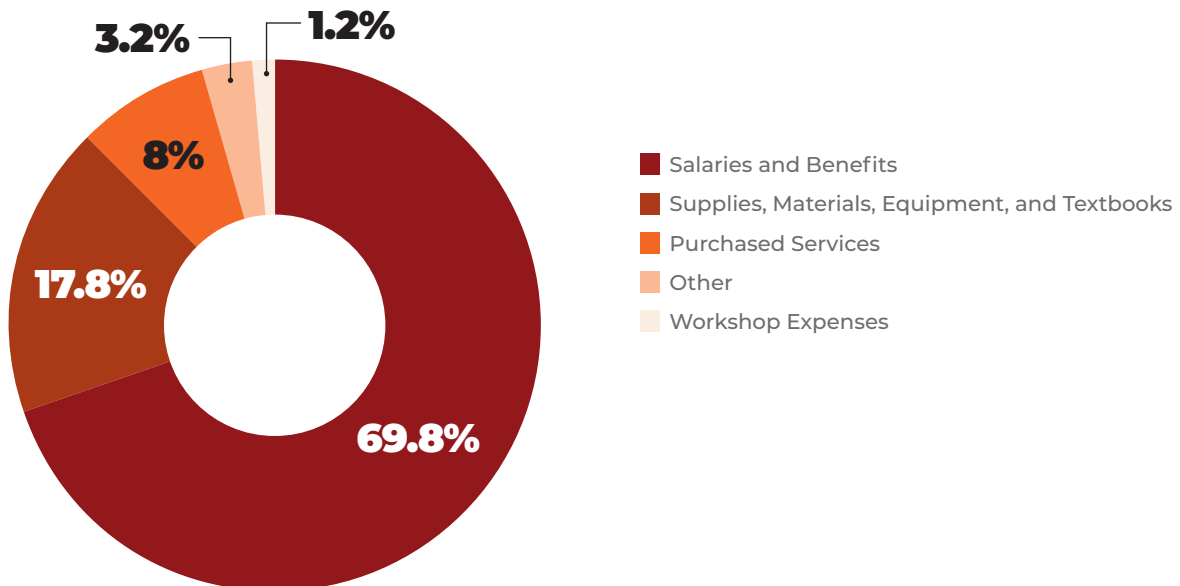
Includes Charter Schools but does not include Covid Funds



SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET, 2023

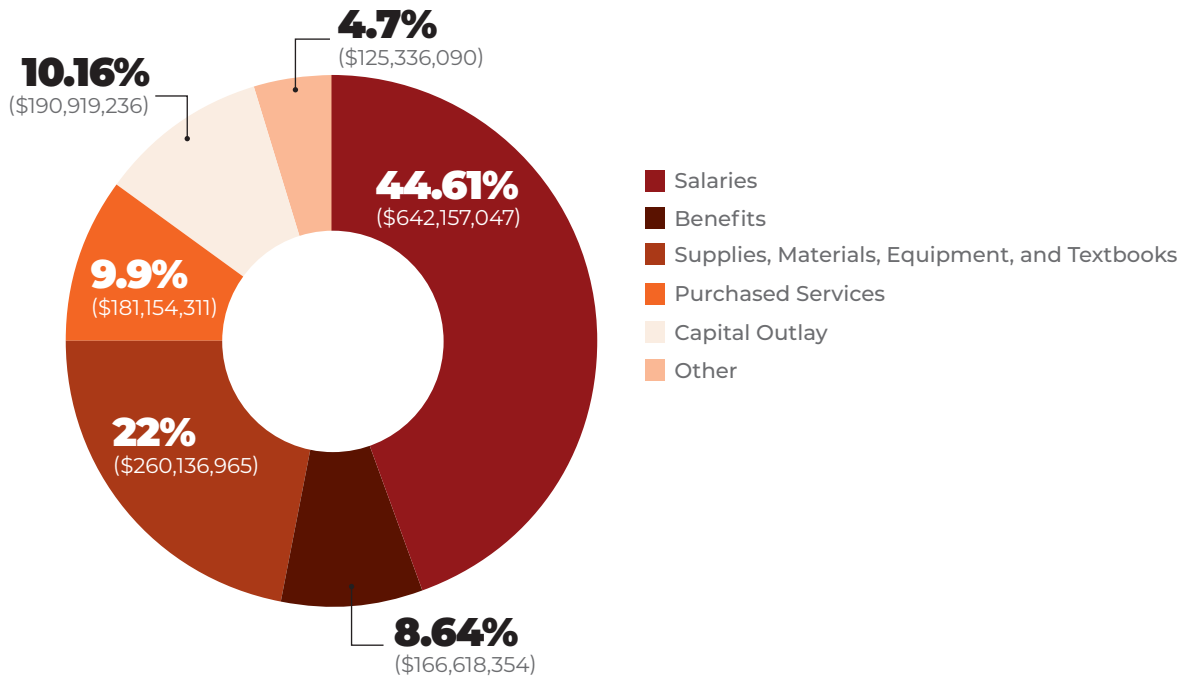
Federal Funds Expenditures 2021-22

Does not include funding in response to Covid



SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET, 2023

Total Covid Expenditures FY 2023



SOURCE: COVID FUNDS: EXPENDITURE AND ALLOTMENTS DATA, NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

NORTH CAROLINA EDUCATION LOTTERY

POLICY ANALYST: **DR. ROBERT LUEBKE**

INTRODUCTION

The North Carolina Education Lottery was born in controversy and division, having squeaked through the General Assembly by a narrow, one-vote margin in 2005. In the almost 20 years since the legislation was passed, neither the controversy nor the division has subsided.

Today lottery tickets are marketed via noisy advertisements, press releases, and nightly televised drawings. There is no doubt that the North Carolina Education Lottery is a very visible contributor to education funding in the state. Since its inception the lottery has contributed \$11.9 billion in education funding to schools. In 2021-22, public schools received \$1.05 billion from the lottery. While the ever-growing dollars are a reality, what isn't clear is the lottery's actual effect 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 historically been some of the state's poorest and most economically distressed counties.

While the lottery has transferred a growing amount of money to the state's General Fund for education, 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 in 2005. Nevertheless, a growing percentage of lottery funds are going instead 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 impression 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 has wound up taking the place of some of the funding in the stream. As a result, budget writers then feel free to find "new money" for other spending items.

In 2022, a reported record \$4.3 billion in lottery sales resulted in \$1.05 billion dollars forwarded for education. Quick math reveals that's about 23 cents of every dollar spent on the lottery actually goes to education. How was that small proportion of lottery dollars divided in 2021-22? This past year, about 86% went to either school construction (\$525 million, or 49.7%) or Non-Instructional Support Personnel (\$386 million, or 36.5%). The other expenditures — pre-kindergarten, college scholarships, UNC need-based aid, and local school transportation — totaled only about 14% of all expenditures. Revised budgets for 2023 are similar, with 40% devoted for school construction and about 44% dedicated for Non-Instructional Support Personnel. Actual amounts spent are not available as of this writing.

Are lottery funds getting into the classroom? It is not difficult to see how school construction and personnel costs absorbed the majority of lottery expenditures the last few years. They are paying for educational expenditures. If you track expenditures over the last few years, however, lottery dollars are increasingly being used for nonclassroom expenditures.

Is the lottery aiding education? Or merely supplanting dollars that North Carolina would have spent on education anyway? That's a question that has not been fully answered but requires closer scrutiny.

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.
- » From the lottery's beginning, data have consistently shown lottery sales 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.
- » A review of 2019-20 lottery sales (the most recent data available as of this writing) found 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.
- » Schools continue to spend the large amounts of lottery money on nonclassroom expenses. Does that mean the lottery is paying for expenses that would have been financed in another way?

- » Each year the General Assembly decides how lottery money is to be apportioned by category. This decision allows lawmakers to be able to respond to urgent funding needs, but it also makes it easier for lawmakers to thwart the original purpose of lottery funding to get more resources into the classroom.

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.

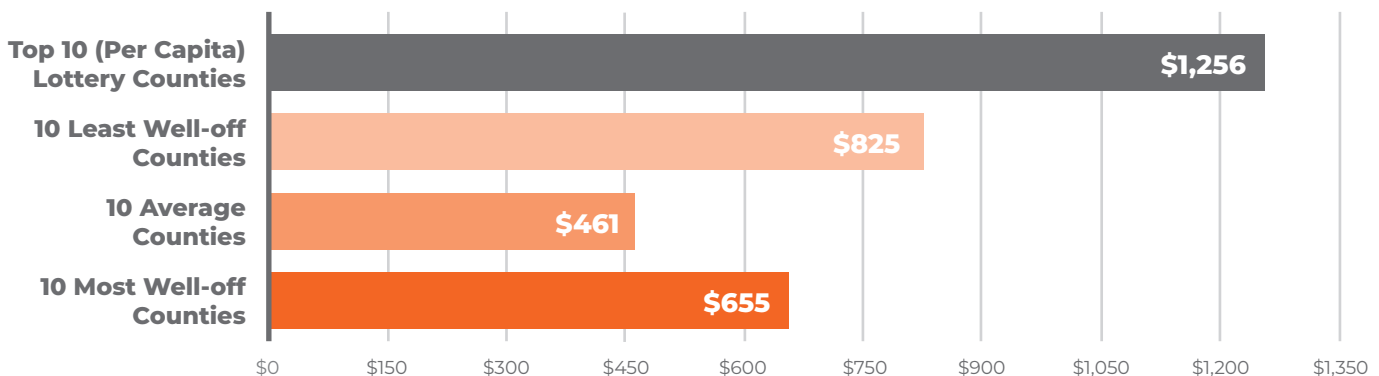
2. If North Carolina approves private gaming to provide for education revenue, the North Carolina State Lottery should be ended.

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.

Measures must be taken to ensure that lottery money is allocated and spent in accordance with public intentions. In recent years, too much money has been siphoned away from the classroom and spent on other expenses, such as college scholarships, prekindergarten programs, and school construction.

Average Per-Capita Sales by County Type



* NOTE: CHATHAM COUNTY, INCLUDED IN THE WELL-OFF COUNTY AVERAGE, IS AN OUTLIER OF MORE THAN \$2500. THE AVERAGE WITHOUT CHATHAM COUNTY IS \$361, WHICH SHOWS A MUCH GREATER DISCREPANCY WHEN COMPARED TO THE \$825 AVERAGE OF THE 10 LEAST WELL-OFF COUNTIES.

County Lottery Sales Per Adult and Economic Well-Being — 2022

Unemployment and County Lottery Sales

County Unemployment	Number of Counties	Sales Per Adult
Below 4%	65	\$476
Between 4-5%	18	\$570
Between 5-6%	11	\$718
Over 6%	6	\$872

Median Income and County Lottery Sales

County Median Income	Number of Counties	Sales Per Adult
Over \$60K	20	\$298
Between \$50-60K	34	\$371
Between \$40-50K	42	\$364
Below \$40K	4	\$522

SOURCES: [HTTPS://WWW.BLS.GOV/LAU/LASTRK22.HTM](https://www.bls.gov/laui/lastrk22.htm), [HTTPS://WWW.COMMERCE.NC.GOV/REPORT-COUNTY-TIERS-RANKING-MEMO-CURRENT-YEAR/DOWNLOAD?ATTACHMENT](https://www.commerce.nc.gov/report-county-tiers-ranking-memo-current-year/download?attachment), [HTTPS://WWW.COMMERCE.NC.GOV/REPORT-COUNTY-TIERS-RANKING-MEMO-CURRENT-YEAR/DOWNLOAD?ATTACHMENT](https://www.commerce.nc.gov/report-county-tiers-ranking-memo-current-year/download?attachment)

Poverty Rates and County Lottery Sales

County Poverty Rate	Number of Counties	Sales Per Adult
Below 12%	20	\$543
Between 12-16%	38	\$400
Between 16-20%	19	\$459
Between 20-24%	18	\$708
Over 24%	5	\$850

Property Taxes and County Lottery Sales

County Property Tax Rate	Number of Counties	Sales Per Adult
<\$100K	43	\$590
\$100K - \$120K	10	\$1,064
\$121K - \$140K	16	\$382
\$141K - \$160K	11	\$435
>\$160K	20	\$936

SOURCES: [HTTPS://WWW.CENSUS.GOV/QUICKFACTS/FACT/TABLE/YANCEYCOUNTYNORTHCAROLINA,NC/PST045222](https://www.census.gov/quickfacts/fact/table/yanceycountynorthcarolina,nc/pst045222), [HTTPS://WWW.COMMERCE.NC.GOV/REPORT-COUNTY-TIERS-RANKING-MEMO-CURRENT-YEAR/DOWNLOAD?ATTACHMENT](https://www.commerce.nc.gov/report-county-tiers-ranking-memo-current-year/download?attachment)

2021-22 Lottery Funding

Program	Amount Assigned	Percentage
Non-Instructional Support Personnel	\$385,914,455	36.5
Pre-Kindergarten	78,252,110	7.4
School Construction	525,785,890	49.7
College Scholarships	35,755,184	3.4
UNC Need-based Aid	10,328,843	1
LEA Transportation	21,386,390	2

SOURCE: NORTH CAROLINA EDUCATION LOTTERY

NC Education Lottery Expenditures for Education Programs by Year

Fiscal Year	Amount
2007-08	\$325,533,152
2007-08	\$350,007,430
2008-09	\$412,425,969
2009-10	\$419,463,271
2010-11	\$462,856,959
2011-12	\$457,380,272
2012-13	\$473,492,963
2013-14	\$481,832,724
2014-15	\$584,635,507
2015-16	\$528,995,331
2016-17	\$593,527,109
2017-18	\$674,117,350
2018-19	\$761,736,062
2019-20	\$692,840,646
2020-21	\$744,351,537
2021-22	\$1,057,422,572
Total	\$9,020,618,854

SOURCE: NORTH CAROLINA EDUCATION LOTTERY

PRE-KINDERGARTEN EDUCATION

POLICY ANALYST: **KAITLYN SHEPHERD**

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, programs sponsored by religious organizations, and informal arrangements such as care by a relative or care in the child's home. To qualify, parents must meet situational and financial criteria. Parents must be employed (or seeking employment) or enrolled in an educational 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. A portion 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 four-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 Exceptional Children’s Program (Preschool EC), Title I Preschool, and Head Start. Preschool EC 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.

Whether to provide prekindergarten programs is a contentious issue, as is the size and scope of such programs. Advocates for universally available prekindergarten programs argue that they are needed to solve pressing educational and workforce problems and address students’ social-emotional development. Critics of such programs point out that they extend “the reach and control of government into the lives of preschool children” and are “rooted in a belief that ... government should be the solution to all problems.”

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 12 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. Communities can also use 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 problem behaviors and social skills. A study published in May 2020 by Duke University researchers, however, concluded that students who had received NC Pre-K services demonstrated academic benefits that lasted through middle school. A follow-up working paper released in August 2022 studied the effects of NC Pre-K funding in greater detail and concluded that “the positive effect of financial investments in NC Pre-K was larger for students who subsequently enrolled in school districts with lower rates of growth in academic achievement on average.”

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 health or social-emotional, cognitive, and behavioral development.

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

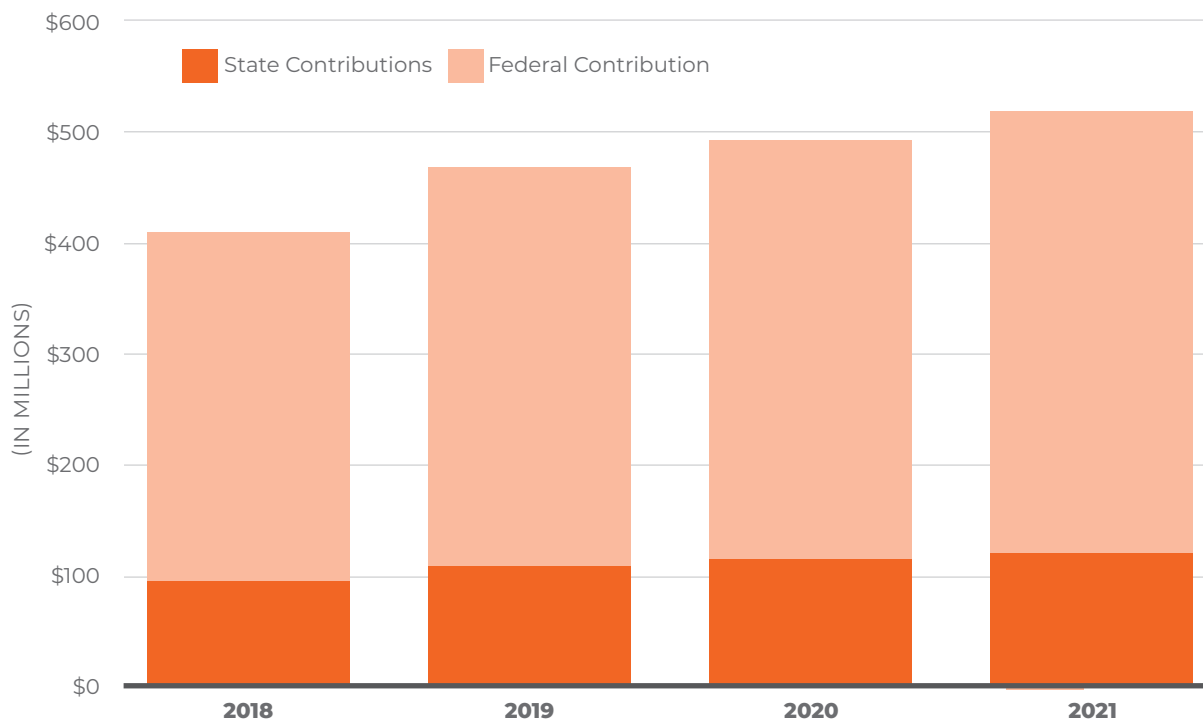
3. NC Pre-K eligibility requirements should be narrowed to focus resources on education and services for low-income children or those who are academically at risk.

State-subsidized preschool programs are more likely to provide lasting benefits to children from distressed households than to 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 receive the greatest benefit.

4. Preschool regulations should be rolled back to make the cost of child care and prekindergarten programs more affordable.

The high costs of prekindergarten services and child care make these services unaffordable for many families. Rolling back regulations by, for example, doing away with unnecessary qualifications for certain positions or changing rules regarding staff/student ratios could help more families access these services if desired.

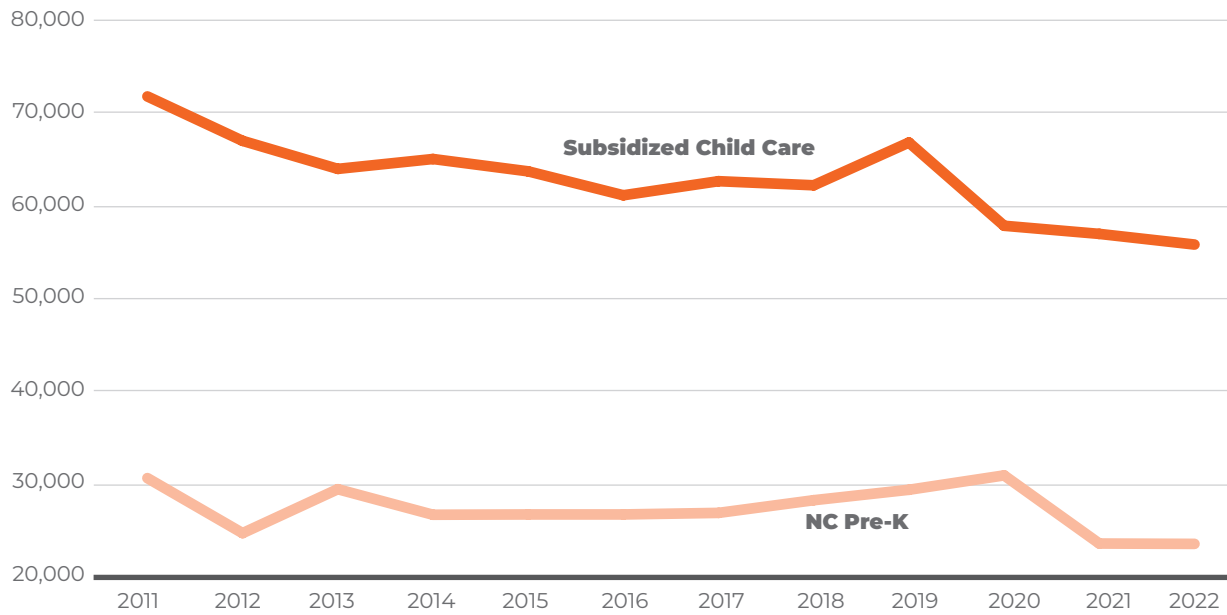
Total Subsidies Granted to North Carolina Pre-K Programs 2018-21



SOURCE: NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION

PRE-KINDERGARTEN EDUCATION

Subsidized Child Care and NC Pre-K Enrollment by Year, 2011-22



SOURCES: NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES EXPENDITURE REPORTS (TOTAL CHILDREN SERVED IN JANUARY OF YEAR); NATIONAL INSTITUTE FOR EARLY EDUCATION RESEARCH, STATE PRESCHOOL YEARBOOKS 2011-22

PUBLIC SCHOOL FINANCE

POLICY ANALYST: **DR. ROBERT LUEBKE**

INTRODUCTION

Article IX, Section II of the North Carolina State 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.”

By 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. It also states counties can supplement state school operating expenses.

In 2021-22 North Carolina spent \$16.7 billion on K-12 public education. Of that amount, \$10 billion came from state government and approximately \$3.3 billion each came from local and federal governments. In 2021-22, North Carolina state government provided local public schools 60% of all revenue. Local and federal government accounted for about 20% each of the remainder. In addition to current expenses, state government also distributes supplemental funds to educate specific populations such as special-needs students, at-risk students, and gifted and talented students. In addition, the state also provides special financial support to small 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. Unfortunately, today most people equate the quality of a school finance system with the level of inputs associated with it – 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 automatically mean 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, improving educational outcomes

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 cause us to rethink how state government should approach 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 schools in North Carolina are financed.

KEY FACTS

- » In 2021-22, North Carolina spent an average of \$12,345 per K-12 student in federal, state, and local operating funds and \$1,029 (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 2021-22 was \$13,374.
- » During the 2021-22 school year, state, federal, and local operating expenditures exceeded \$16.7 billion.
- » North Carolina distributes funds to local districts using over 40 different formulas or allotments. The allotments function as taxpayer-funded gift cards, most of which come with restrictions on how the money can be used. The allotments are essentially state grants and range from funding teachers and instructional staff to providing funding for driver education programs.

RECOMMENDATIONS

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

Policymakers on both sides of the aisle know the current method of funding schools in North Carolina is too complicated and centralized. It offers little flexibility and transparency and makes it difficult to determine if funding is being used effectively and efficiently. In place of the current system, 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 than how schools are currently evaluated. A dashboard of relevant financial, institutional, academic, and economic indicators can help to inform the public of school and student performance and encourage school districts to be more transparent.

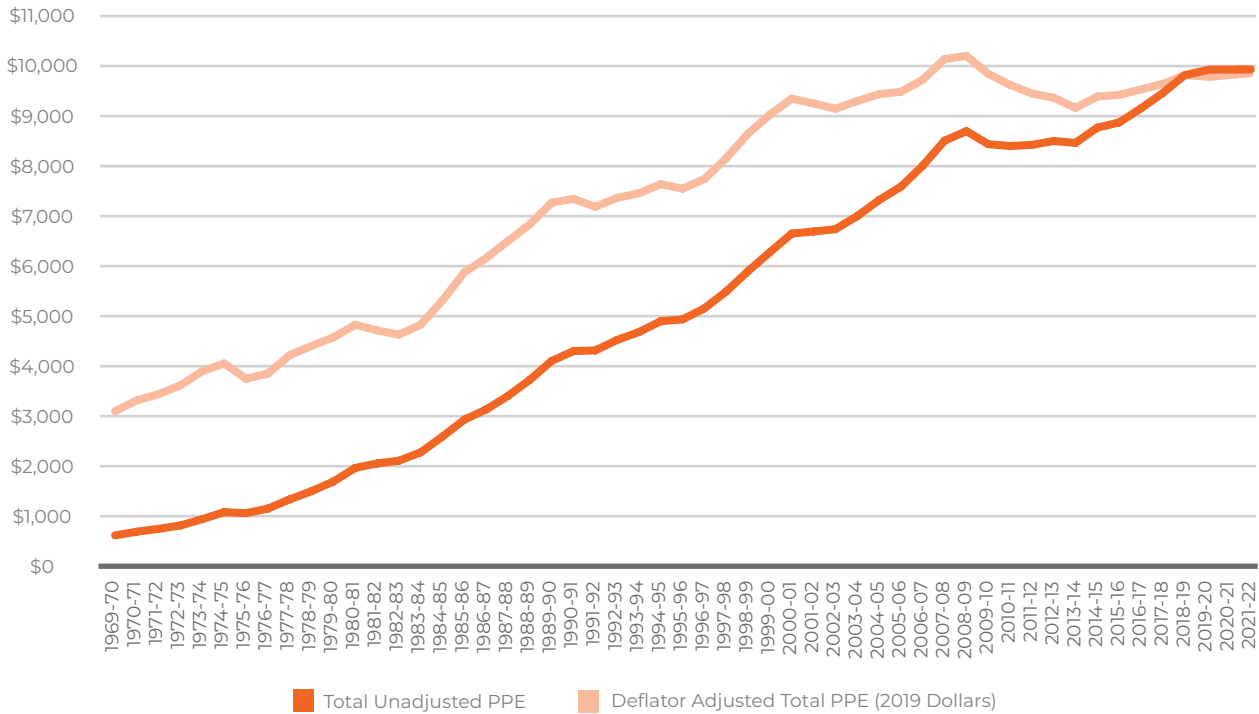
3. Publicize research on education spending and outcomes.

Policymakers and the public need to be educated about the weakness of the link between spending and educational outcomes. Good decision-making understands both sides of that equation.

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

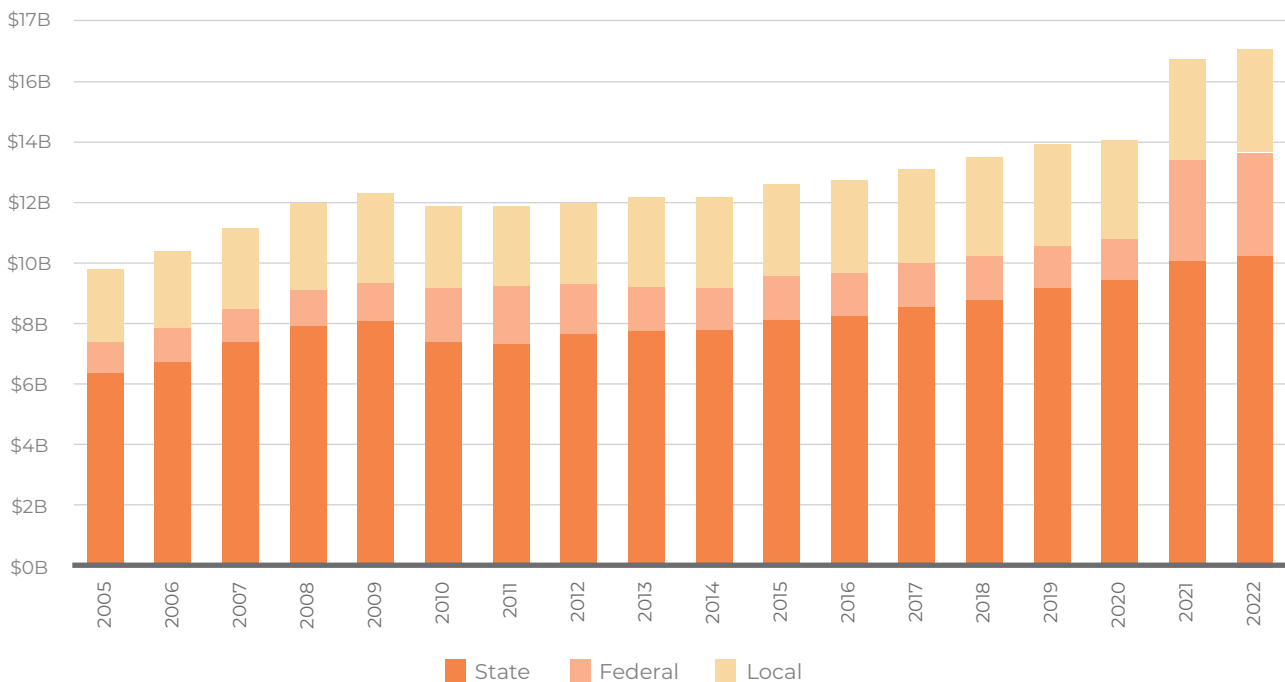
Parents and policymakers lack information about school and school district spending. As such, it's difficult to know if schools are making wise decisions about spending. Requiring schools to post spending records would improve financial transparency and aid decision-making.

Inflation-Adjusted and Unadjusted Per-Pupil Expenditures, 1970-2022



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

Total Unadjusted Expenditures



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

SCHOOL CHOICE

POLICY ANALYST: **KAITLYN SHEPHERD**

INTRODUCTION

The North Carolina State 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.” In the landmark school finance decision *Leandro v. State* (1997), the North Carolina Supreme Court defined the right to the privilege of education as the right to a “sound, basic education.” While all children enjoy those rights, it is a regrettable fact that not all children have access to schools that honor those obligations.

School quality varies, often correlating to neighborhood income. For families who live in an area where the public schools are satisfactory to excellent, it isn’t a problem. If, however, they live in an area where the schools are substandard and produce disappointing test scores or an unsafe environment, it’s a big problem.

Families who can afford to pay tuition can access a better education for their children by sending them to a private school. Unfortunately, however, quality educational options are financially out of reach for many families who are unable to afford the costs of private-school tuition or relocating to a better school or 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 the opportunity to access better educational options through public and private choice programs.

In *Hart v. State* (2015), the North Carolina Supreme Court upheld the state’s ability under its constitution to fund school choice programs that help parents access educational options outside of the public school system. In the opinion for the court, then-Chief Justice Mark Martin wrote, “[O]ur framers chose not to limit the State from appropriating general revenue to fund alternative educational initiatives. ... [P]ublic funds may be spent on educational initiatives outside of the uniform system of free public schools.”

As a result of the policy decisions made during Covid, many families realized their need to avail themselves of some of these alternative educational initiatives. The content of lessons and instructional materials as well as the inability of many public schools to pivot successfully to online educational delivery during the pandemic propelled the popularity of school choice.

SCHOOL CHOICE

Parents demanded more choices, and lawmakers answered. In 2023, lawmakers removed income-eligibility restrictions from the Opportunity Scholarship voucher program to allow more families to apply. They streamlined the process for charter school applications and renewals by vesting authority over these matters in a new Charter School Review Board and eliminating a duplicative layer of review by the State Board of Education. Lawmakers also removed enrollment caps on certain charter schools and enabled counties to use property tax revenues for charter school capital costs if they so choose.

These were all significant victories, but there are still more opportunities to empower families by broadening access to educational opportunities.

KEY FACTS

- » Between 2011 and 2023, the home school population in North Carolina grew 83%, increasing from 83,609 students to 152,717. During the 2022-23 school year, there were 94,154 home schools across North Carolina.
- » Between 2011 and 2023, private school enrollment in North Carolina increased 32%, growing from 96,229 to 126,768. During that same time, the number of private schools in North Carolina increased from 693 to 884.
- » 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 in grade 11, it must also measure competencies in the verbal and quantitative areas.
- » In 2013, North Carolina lawmakers approved the Opportunity Scholarship Program. The program helps eligible students attend private schools by providing state vouchers worth up to 100% of the average amount the state spent per public-school student during the prior fiscal year. During the 2022-23 school year, the Opportunity Scholarship Program enrolled over 25,500 students and awarded over \$134.6 million in scholarships.
- » Since 2018, North Carolina has implemented the Education Savings Account (ESA+) Program. This program gives eligible special-needs students awards of up to \$9,000 per year to use on a wide range of educational expenses, including private-school tuition and fees, speech therapies, tutoring costs, certain educational technologies, and more. Students with certain disabilities could receive up to \$17,000 per year. During the 2022-23 school year, the state awarded 3,355 ESA+ awards worth over \$37.6 million in scholarships.

SCHOOL CHOICE

- » School-choice advocates won a major victory in 2020 when Gov. Roy Cooper, an opponent of school choice, signed a budget bill that not only secured federal 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 a total of 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 a certain percentage of state public-school per-student spending.
- » In 2023, the General Assembly expanded the Opportunity Scholarship Program by removing income-eligibility restrictions and replacing them with a sliding-scale system that allows all families in the state to apply but awards larger scholarships to the families with the greatest financial needs. North Carolina distinguished itself as the first state to pass a universal school choice program in a political environment in which the legislative and executive branches were not controlled by the same party.
- » Also in 2023, policymakers empowered home school students to take the PSAT or PreACT at their local public schools.

RECOMMENDATIONS

1. Increase funding for existing school-choice programs to ensure that all eligible applicants can receive scholarship awards.

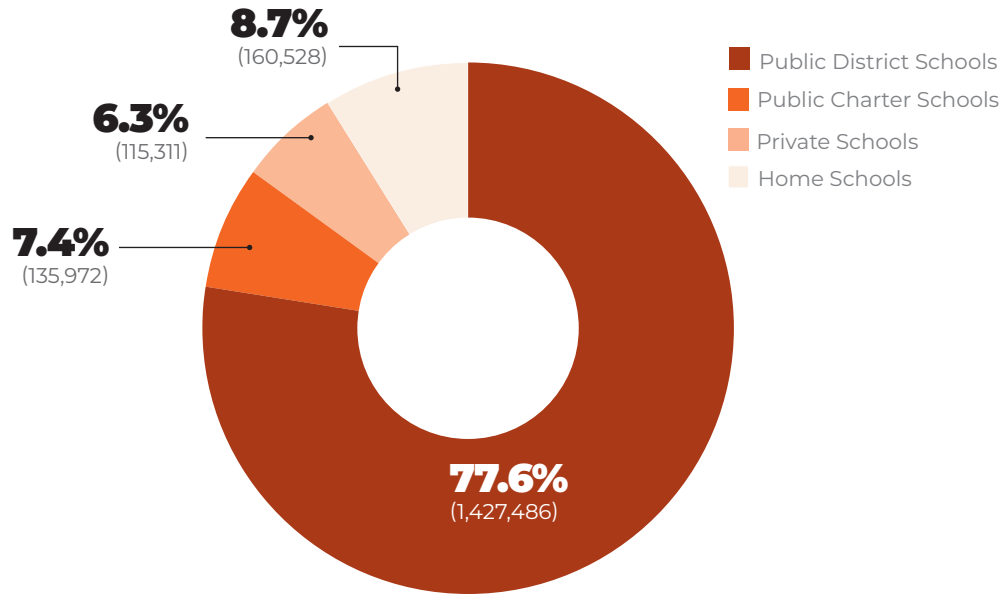
Because of limited funding, North Carolina's voucher programs continually result in waiting lists, and eligible students who would greatly benefit from an Opportunity Scholarship or an ESA+ award are turned away.

2. Pass an open-enrollment law to give students more educational options within the public school system.

Open-enrollment laws allow students to attend a public school other than the one to which they are residentially assigned. Interdistrict policies allow students to choose a public school in a different district, while intradistrict policies allow them to select a different public school within the same district. North Carolina does not currently have any open-enrollment policies at the state level.

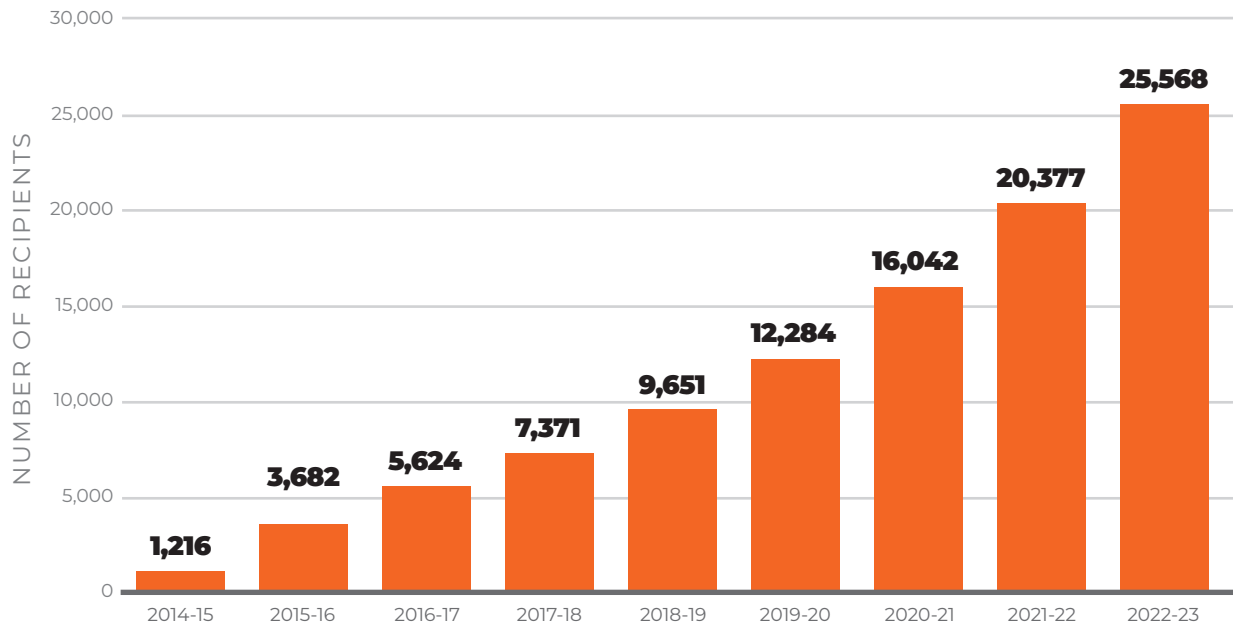
SCHOOL CHOICE

K-12 Student Enrollment Market Shares, 2021-22



SOURCES: NORTH CAROLINA PUBLIC SCHOOLS STATISTICAL PROFILE AND NORTH CAROLINA DEPARTMENT OF ADMINISTRATION, DIVISION OF NON-PUBLIC EDUCATION

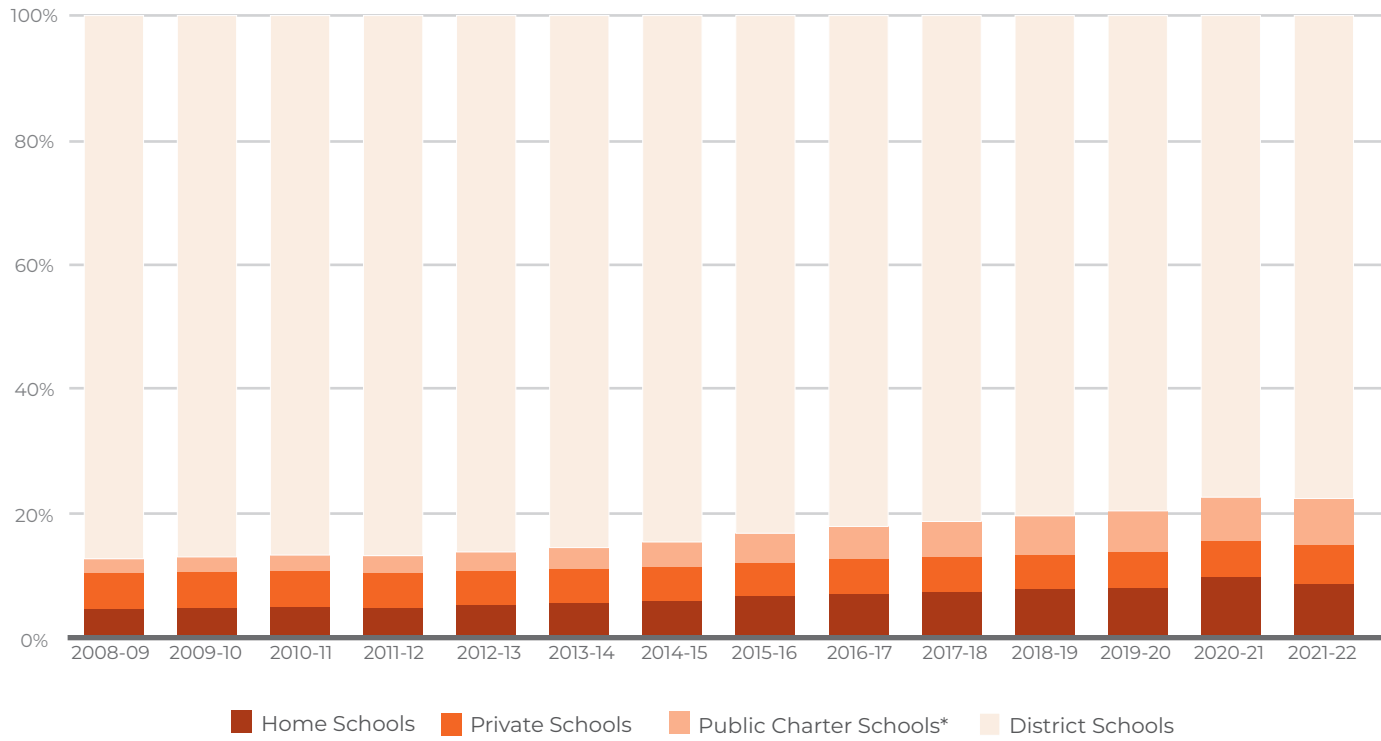
Opportunity Scholarship Program Recipients, 2014-2023



SOURCE: NORTH CAROLINA STATE EDUCATION ASSISTANCE AUTHORITY

SCHOOL CHOICE

Public and Non-Public School Market Shares, 2008-2022



SOURCES: NORTH CAROLINA PUBLIC SCHOOLS STATISTICAL PROFILE AND NORTH CAROLINA DEPARTMENT OF ADMINISTRATION, DIVISION OF NON-PUBLIC EDUCATION

STANDARDS AND CURRICULA

POLICY ANALYST: **KAITLYN SHEPHERD**

INTRODUCTION

While the terms “standards” and “curricula” are often used interchangeably, they are not the same thing, and it is important to differentiate them.

Standards can be understood as a framework containing broad course objectives. According to the North Carolina Department of Public Instruction (DPI), 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 must be approved by the State Board of Education. Typically, the revision and approval process takes around one year to complete and occurs without too much controversy. Sometimes, however, controversies erupt, as they did over the Common Core State Standards in 2010 and the social studies standards in 2010 and 2021.

Although school districts must align their teaching with the state-approved standards, they retain the flexibility to choose the specific curricula and instructional materials used to implement the standards. Curricula may originate from one source or several. Teachers may develop their own course content or collaborate with other teachers. Schools or districts may opt to purchase a prepackaged curriculum, or educators may avail themselves of free or low-cost materials from universities, nonprofit organizations, or education-related websites.

Because districts are not required to adopt a standard curriculum, students can be subjected to endless variations in instructional methods and assigned tasks. This arrangement has benefits as well as drawbacks. On the one hand, it gives teachers the flexibility to adapt lessons to the unique needs of their students. On the other hand, however, it permits ill-equipped educators to fill students’ time with unproductive busywork. At worst, teachers exploit this flexibility to push critical race theory or social justice ideologies on their impressionable students.

The bottom line is that raising student achievement requires excellent content standards as well as a first-rate curriculum. In fact, the controversy over the Common Core State Standards highlighted how focusing exclusively on standards is not sufficient 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.
- » 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 offers crosswalks, glossaries, and “unpacking” documents to teachers without mandating that they adopt any of them.
- » North Carolina law prescribes the teaching of curricular content in certain grades and course areas. For example, it 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. Two notable curriculum mandates passed into law are the requirements to teach multiplication tables and cursive writing.
- » In 2023, the General Assembly passed a law that requires students in public district and charter schools to take a computer science course in order to graduate from high school. According to DPI, the course will be optional starting in the 2024-25 school year but will become mandatory for students who enter high school beginning in the 2026-27 academic year. Students will be instructed about “the study of computers and algorithmic processes, including their (i) principles, (ii) hardware and software designs, (iii) implementation, and (iv) impact on society.”
- » Also in 2023, the State Board of Education approved a new version of the standards for K-12 science. The standards incorporate beneficial material about the process and importance of the scientific method, but they also contain some one-sided perspectives and vague language that compromise their clarity and objectivity, such as certain assumptions about human impact on climate and its consequences. The new standards will be implemented in schools beginning in the 2024-25 school year.

RECOMMENDATIONS

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

The commissions' goals should be: 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 ensure 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. Legislators should reject federal sex education grants.

The federal government offers several grants that fund sex education programs. Federal dollars often come with strings attached and can be used to implement programs or curricula that undermine strong health education standards. North Carolina should reject this federal money.

4. North Carolina should adopt additional curriculum transparency requirements.

North Carolina's Parents' Bill of Rights, which became law in August 2023, requires school districts to adopt policies and procedures that allow parents to "inspect and review all textbooks and supplementary instructional materials that will be used in their child's classroom" and object to any of these materials. North Carolina could go further by requiring teachers to post outlines of lesson plans and assignments to publicly accessible websites after the conclusion of the school year. Curriculum transparency measures should also mandate that schools outline procedures for the documentation, review, or approval of the learning materials used for student instruction.

Combined with vigilant parents monitoring and evaluating their child's daily activities, academic transparency may deter indoctrination and related forms of professional misconduct.

5. 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 school boards the power to establish policies and procedures for adopting library books, periodicals, audiovisual materials, and other supplementary instructional materials. School boards can even select textbooks that the State Board of Education has not adopted through its formal textbook adoption process.

TEACHING PROFESSION

POLICY ANALYST: **DR. ROBERT LUEBKE**

INTRODUCTION

One truth about education has been underscored repeatedly over the last decade: a high-quality teacher is one of the most significant influences on student achievement. It's a truth regularly confirmed by personal experience and research. As such, there are compelling reasons why North Carolina should work hard to ensure every classroom is staffed with a well-trained, caring, and qualified teacher.

Regrettably, 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., master's 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.

Tying pay to time on the job and academic credentials creates disincentives for excellence. Great teachers will be limited in how much they can be paid. Oftentimes they will be paid the same as teachers who are not so great. Placing limits on what teachers can earn and when causes the best teachers to rethink a career in education. What sort of message does that send?

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.

One effort to help redress these concerns is the Professional Educator Preparation and Standards Commission (PEPSC). The commission was established to advise the North Carolina State Board of Education on matters of teacher preparation and entry as well as professional conduct and training. In February of 2023 the commission developed a proposal that would move teacher pay from the current model based on years of experience to a new one based on different levels of licensure and pay. The proposed model would award teachers significantly higher compensation than under the current plan and would also provide a range

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of licensure options from apprentice to advance leadership roles. The commission and State Board of Education are hoping to develop pilot programs to test the new pay model in selected school districts in the 2023-24 school year.

Teacher recruitment and teacher retention are two indicators of a healthy teaching profession. Compensation (pay and benefits) is one of the ways state policy influences teacher recruitment. After losing ground with small or no raises for the first half of the last decade, increases in salaries and in the value of benefits both helped to improve North Carolina's ranking on average teacher pay to 32nd nationally and boost North Carolina's teacher compensation to third best in the Southeast behind Virginia and 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. A law passed in 2019 did just that, making it easier to obtain an initial professional license and creating a new limited license for teachers already licensed in other states. The reform also allowed districts to rehire retired teachers in certain high-need areas.

KEY FACTS

- » In the 2022-23 school year, North Carolina public schools employed 92,681 full-time teachers. Charter schools employed 9,127 full-time teachers.
- » As of 2023, 23,418 teachers in North Carolina held National Board Certification. It is the highest number of board-certified teachers of any state. North Carolina teachers who achieve certification receive a 12% supplement to their pay.
- » Over the past decade North Carolina's unadjusted teacher pay increased from \$45,737 (2012-13) to \$57,805 (2022-23), an increase of 26.3%. From 2001-02 to 2022-23, annual pay for state employees was increased by 42%, while teacher pay grew by 84.1%. Over the same period, the Consumer Price Index rose by 72.9%.
- » According to the state salary schedule for 2022-23, a beginning teacher with a bachelor's degree on a typical 10-month contract had a base salary range of \$37,000. Likewise, a teacher with a doctorate with over 25 years of teaching experience and National Board Professional Teaching Standards Certification (NBPTS) will earn \$68,410. These figures do not include local supplements.
- » Most teachers also receive an annual salary supplement from the local school districts. In 2022-23, the average local salary supplement

TEACHING PROFESSION

for teachers was \$6,053. Two districts, Graham County Schools and Weldon City Schools, provided no local salary supplement. Chapel Hill-Carrboro Schools provided the largest salary supplement (\$10,135), while Mitchell County Schools provided the smallest supplement (\$216).

- » For academic year 2022-23, North Carolina's estimated average teacher pay was \$57,805. This figure does not include benefits, which include Social Security, medical/hospitalization insurance, retirement benefits, and liability insurance. With the value of benefits included, average North Carolina teacher compensation was \$83,786.
- » The cost of benefits continues to climb, with hospitalization and retirement costs rising faster than all other costs. Over the past decade, the total cost of benefits for the average teacher increased from \$15,242 in 2013 to \$25,981 in 2023.
- » According to the 2021-22 "State of the Teaching Profession in North Carolina" report, the teacher attrition rate for the state's 115 school districts was 7.78%, slightly more than the 2020-21 rate of 7.53% and the 2018-19 rate of 7.39%. 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. One way to address these concerns is by encouraging alternative certification programs for teachers in North Carolina, just as the state already has alternative licensure programs. Another is to make the candidate selection process more democratic and focused on the needs of schools. Giving local education agencies more leeway in supervising and selecting candidates is a step in the right direction.

2. Eliminate the teacher pay schedule.

The current salary schedule has significant flaws. It limits what a teacher can earn and links salary to time on the job or educational credentials instead of student learning. Tying pay to time on the job provides a disincentive to excellence. To remedy these flaws, replace the salary schedule with grants to school districts that give districts and principals the flexibility they need to have more say over local pay schedules and ability to respond to individual personnel needs and labor markets. Since principals and superintendents are the most knowledgeable about teacher performance and local labor markets, they should have the flexibility to influence salary levels.

3. Raise admission requirements for teacher preparation programs.

Standardized test scores of education graduates are some of the lowest of any subject area. Raising admission standards for colleges of education and calling for more rigorous subject-area course requirements would improve the quality of the graduates. In addition, providing greater academic value for students with rigorous instructional, research, or subject-specific backgrounds can boost the quality of the graduates and help schools develop graduates who have subject mastery and can effectively teach children of different backgrounds.

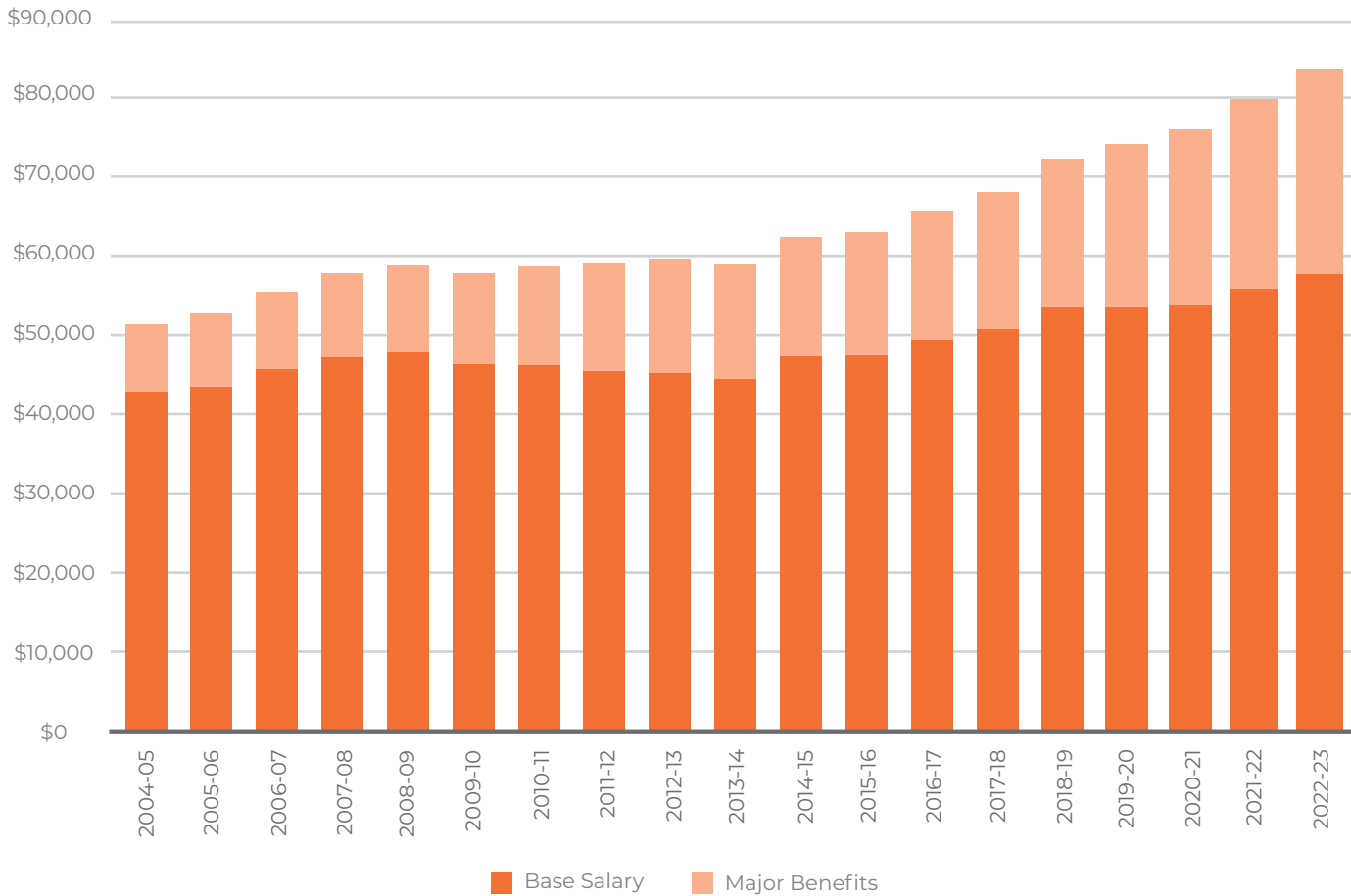
Average Teacher Compensation, 2022-2023

Compensation	Amount
Salary	\$57,805
Social Security	\$4,422
Retirement	\$14,162
Health Insurance	\$7,397
Total Benefits Package	\$25,981
Total Average Compensation	\$83,786

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

TEACHING PROFESSION

Average Teacher Compensation, 2005-2023



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: **KAITLYN SHEPHERD**

INTRODUCTION

In 2022, North Carolina spent over \$16.7 billion on K-12 public education. Was the money used wisely? Answering that question involves informal as well as formal processes. Informally, parents render their own assessments by choosing to stay or leave certain schools or districts. Voting with their feet is a powerful way for parents to express their sentiments and hold public institutions — many of them monopolies — accountable for achieving results.

A more conventional or formal way to hold public schools accountable is to gauge how well students are learning and how well schools are teaching.

The North Carolina READY Accountability Model was developed in 2012 to provide data to answer those questions. The READY Accountability Model consists of: (1) a standard course of study focused on most critical skills and knowledge needed 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 that students are college- and career-ready upon graduation.

As part of the READY Accountability initiative, 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 annually assigns A-F grades to schools based on calculations that combine school achievement and school growth 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 topics of endless debate and discussion. In recent years, there has been a push to revise the model to factor in other indicators of school quality, such as postsecondary outcomes, school climate, and rates of chronic absenteeism.

The 2023 expansion of North Carolina's Opportunity Scholarship voucher program to universal eligibility raised important questions about the nature of accountability and whether traditional measures of accountability have been successful. Is accountability a top-down affair, ensured by governmental regulations and measured primarily by standardized test results? Or is accountability best understood from a bottom-up

perspective and measured by whether parents choose to keep their children enrolled in a particular school? Indeed, the traditional measures of accountability seem to have fallen short. Despite the fact that spending on the public school system continues to increase year after year, test scores indicate that many students still can't read or do math at grade level.

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 and 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.
- » Although student test scores have been approaching pre-Covid performance levels, there is still room for improvement. For example, in 2022-23, 47.8% of third graders demonstrated grade-level proficiency in reading on the end-of-grade test. The percentage of third graders meeting this standard was higher than in 2021-22 (46.4%) and 2020-21 (45.1%) but less than before the pandemic (56.8% in 2018-19).
- » North Carolina also participates in a federal testing program, the National Assessment of Educational Progress (NAEP), perhaps more commonly known as the Nation’s Report Card. NAEP samples 4th, 8th, and 12th grade students and provides 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 other states and the nation.
- » Since 2019, state law has required combining career- and college-readiness indicators for school performance grades, which are mandated under both state and federal reporting requirements. It 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 NC 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,” which places an emphasis more on formative assessments, for all state-mandated assessments. It also required school district boards of education to review local standardized testing requirements every two years.
- » In spring of 2020, owing to disruptions in education caused by policy responses to Covid-19, North Carolina received a waiver from the

federal government exempting the state from all end-of-grade and end-of-course testing requirements as well as from 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.

- » In September 2021, Superintendent of Public Instruction Catherine Truitt released her plans for Operation Polaris, a four-year strategic plan to improve outcomes for public-school students. One focus area of Operation Polaris, revised and expanded in January 2023, is redesigning testing and accountability.
- » One key component of North Carolina’s READY Accountability Model is school performance grades. Currently, 80% of the grade is based on academic achievement as shown by standardized test scores, while the other 20% is based on students’ academic growth compared with the previous year.
- » In May 2023, the Department of Public Instruction presented a series of proposed changes to the state’s accountability framework at the State Board of Education’s monthly meeting. The recommendations were developed by an advisory committee consisting of policy experts, state leaders, and education practitioners. The committee suggested studying eight indicators for possible inclusion into the performance grading system: five-year graduation rates, improvement in student subgroup performance, rates of chronic absenteeism, postsecondary inputs and outcomes, participation in extracurricular or intracurricular activities, durable skills, and school climate.

RECOMMENDATIONS

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

The end-of-grade and end-of-course assessments developed by DPI are controversial, were not independently developed, and required revisions to get the quality of the tests to 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 who attend failing schools the option of in-school tutoring

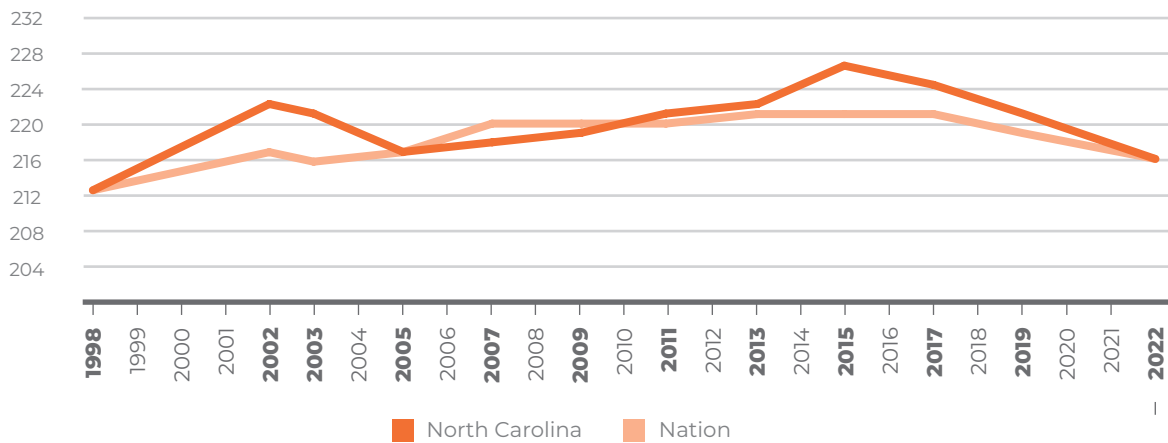
In the wake of Covid shutdowns, student assessments needed a recalibration. Grants should be provided to students for assessing academic progress and needs. Parents should have access to a variety of options to address their child’s academic shortcomings, including traditional tutoring, online coaching, or summer or evening classes.

3. Explore ways to strengthen accountability by tying funding to gains in student achievement

States such as Arizona, Tennessee, and Florida have experimented with different ways to allocate funding to K-12 schools based in part on improving academic outcomes.

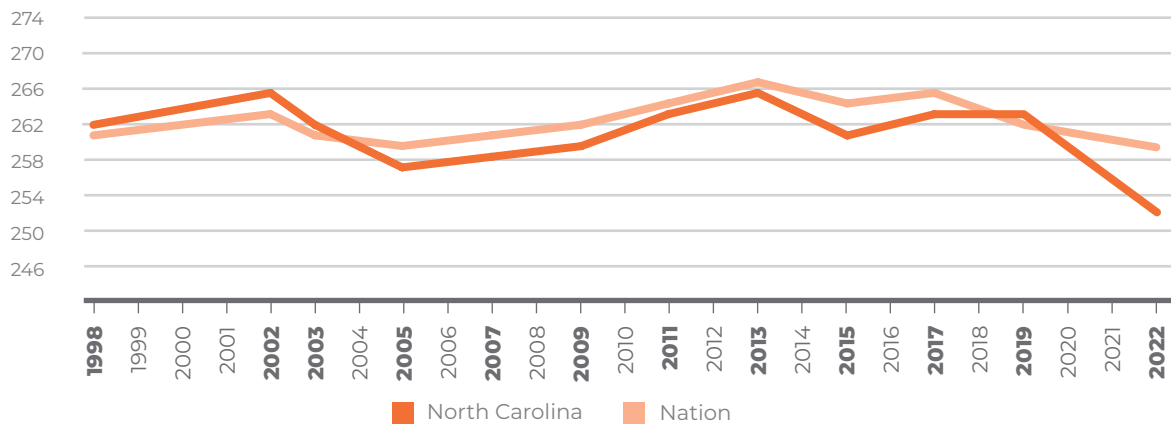
North Carolina should explore ways to use performance-based funding to reward high-performing schools and districts. Steps toward implementing performance-based funding could include convening a study commission or legislative study committee to examine other states' models and recommend ways to tailor them for North Carolina. Policymakers could also consider implementing a voluntary pilot program that tests a performance-based funding model in select schools or districts.

NAEP Scores: Fourth-Grade Reading



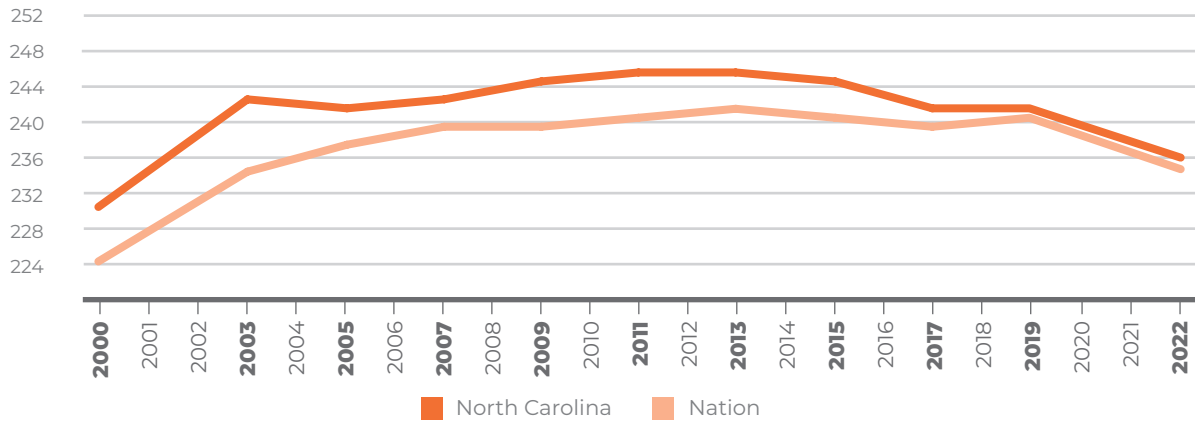
SOURCE: NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP) AVERAGE SCALE SCORES

NAEP Scores: Eighth-Grade Reading

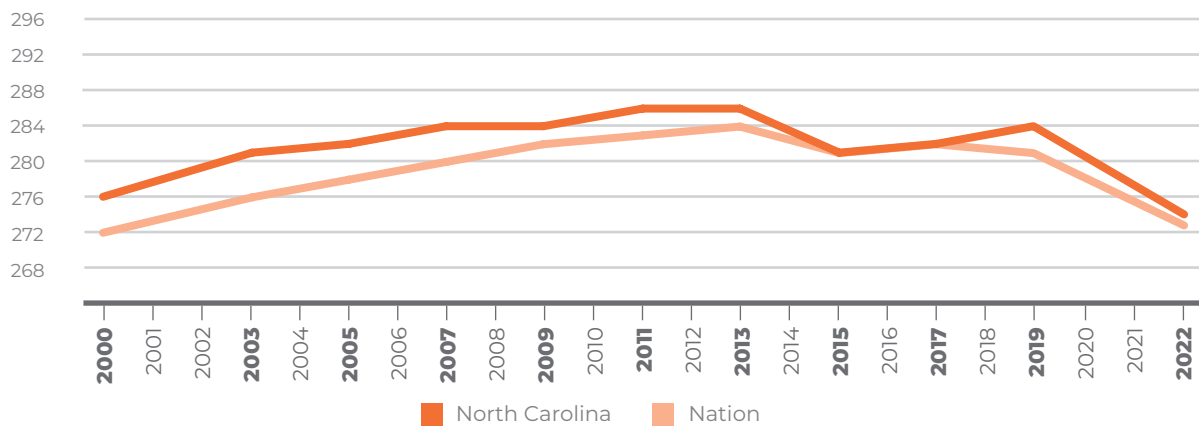


TESTING AND ACCOUNTABILITY

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
2023	National	510	493	1003
	North Carolina	567	556	1122
2022	National	521	507	1028
	North Carolina	569	561	1130
2021	National	524	514	1038
	North Carolina	575	572	1147
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

TESTING AND ACCOUNTABILITY

Average ACT Scores

Year	Jurisdiction	English	Math	Reading	Science	Composite
2023	National	18.6	19	20.1	19.6	19.5
	North Carolina (Graduates)	16.9	18.3	19.3	18.9	18.5
	North Carolina (11th Grade)	16.6	18.1	18.9	18.5	18.2
2022	National	19	19.3	20.4	19.9	19.8
	North Carolina (Graduates)	17.1	18.5	19.2	18.8	18.5
	North Carolina (11th Grade)	16.4	18.1	19	18.6	18.2
2021	National	19.6	19.9	20.9	20.4	20.3
	North Carolina (Graduates)	17.3	19	19.4	19.3	18.9
	North Carolina (11th Grade)	16.7	18.3	18.9	18.6	18.2
2020	National	19.9	20.2	21.2	20.6	20.6
	North Carolina (Graduates)	17.3	18.9	19.5	18.9	18.8
	North Carolina (11th Grade)	N/A	N/A	N/A	N/A	N/A
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: **KAITLYN SHEPHERD**

INTRODUCTION

Virtual schools have many advantages. Their students can receive instruction through a computer and an internet connection without having to be physically present in the classroom. Virtual schools may be used for primary or supplementary instruction at relatively similar cost levels. They can offer instruction that is wholly online, or they can provide blended instruction combining online and in-person learning. Moreover, the relative ease of posting class notes, instructional materials, or additional resources gives virtual schools distinct learning advantages and means that they have the potential to be very content-rich options.

Currently, North Carolina has three statewide virtual public schools to which any student in the state can apply (there are also several district-based virtual academies). Their teachers are certified in online instruction, and 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 these three 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. Although operated like a school, it is far from a normal school. NCVPS does not grant degrees or have full-time students. Instead, students take online courses through NCVPS, and their grades and scores are reported to their local public school, which awards academic credit and grants degrees. NCVPS exists to serve students and other schools by offering content that some schools find difficult to provide, such as AP courses or foreign-language classes.

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 NCVPS, since the 2019 school year, costs to district schools for NCVPS courses are \$235 for summer classes, \$349 for fall/spring block classes, and \$438 for year-long classes.

North Carolina’s other two statewide virtual public schools are online charter schools. Legislation to create the two charter schools resulted from 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. Virtual charter schools grant diplomas, while their virtual public-school counterparts do not. In addition, independent organizations, not a school district or the state, run the virtual

VIRTUAL SCHOOLS

charter schools. Both of North Carolina's virtual charter schools opened in 2015 with enrollment caps of 2,592 students.

Problems with online educational delivery stemming from the Covid-19 pandemic increased the visibility of virtual learning and highlighted some of its limitations. Issues of quality and accessibility rose to the forefront as online delivery frequently varied by geography and income. Parental satisfaction with online education waned, and it's clear that a lot less education occurred. Additionally, both the North Carolina Cyber Academy and NC Virtual Academy have been plagued with persistent criticism for underperforming. How to redress these problems and optimize the niche for virtual schools remain open questions.

KEY FACTS

- » The North Carolina Virtual Public School (NCVPS), which opened as a full-fledged school in 2007, has served over 740,000 students. In 2022-23, NCVPS served 31,609 students and had over 52,820 course enrollments (some students are enrolled in multiple classes). Students came from all 115 North Carolina school districts, 1,067 schools, 117 charter schools, and 2,409 home or private schools.
- » NCVPS offers classes in math, science, English, social studies, arts, and world languages, as well as AP and honors courses. It also offers test prep, credit recovery, and Occupational Course of Study (OCS).
- » In 2022-23, the courses with the largest enrollments in NCVPS were all blended courses and included Intro to Math (1,571 students), Applied Science (1,535 students), English I (1,466 students), and Financial Management (1,384 students).
- » In October 2022, NCVPS was recognized by the Quality Matters organization “for high quality learning” and awarded the Making a Difference for Students Award.
- » The budget bill passed in 2023 modified funding provisions related to virtual charter schools so that those schools will be treated more like brick-and-mortar public schools in terms of certain aspects of state and local funding. The budget also raised attendance caps at virtual charter schools to allow for up to 20% growth during the 2023-24 school year. It also extended the pilot program for North Carolina's two virtual charter schools through 2025-26.

RECOMMENDATIONS**1. Assess student and parental satisfaction regarding student performance and fiscal issues.**

The need for greater oversight was made clear by a 2020 performance audit from the state auditor, which found that eight of 12 NCVPC courses “did not meet required curriculum content standards” and that 11 of 12 courses failed to meet standards for academic rigor.

2. Expand competition in course offerings.

First would be to expand the number of virtual schools. Policymakers should also lower barriers to entry to incentivize the creation of more public and private online schools. Additionally, the University of North Carolina system, which already has a significant online presence, should be encouraged to use its assets to create classes for K-12 students.

3. Encourage local districts to implement virtual academies.

Virtual schooling is likely here to stay, so local school districts should have the flexibility to meet the differing needs of their students through virtual learning and should be encouraged to do so effectively.

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

Most virtual schools have higher enrollments than traditional public schools. They need the right staff to help students and families navigate the new learning environment. Their teachers, whose training is for in-person instruction, must be given adequate training for online and blended instruction to help them know how to apply the best teaching methods.



HEALTH CARE

CERTIFICATE OF NEED

POLICY ANALYST: **JORDAN ROBERTS**

INTRODUCTION

A Certificate of Need program (CON) 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. There are a few exemptions to the rule, but in general, 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).

Intending to cut down on health care cost inflation, Congress enacted CON laws under the federal Health Planning Resources Development Act in 1974. 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 finds that such laws fail to lower health care costs. On the contrary, limiting the supply of health services is far more likely to increase health care costs because doing so reduces competition as well as access to care.

Since the federal CON repeal, 15 states have scrapped their CON programs. North Carolina has not. The state still has one of the most stringent CON programs in the nation, regulating 24 services that range from kidney dialysis units to hospital beds and rural ambulatory surgical centers.

Some minor CON rollbacks have been implemented over the years. For instance, a 2005 law allowed gastroenterologists to perform colonoscopies in their own endoscopy units. This increased access to service and lowered prices. More recently, the state legislature allowed select rural hospitals to bypass the CON process when adding or converting unused acute-care beds into inpatient behavioral-health beds.

Furthermore, as part of legislation passed in 2023 to expand Medicaid, some additional CON restrictions were rolled back. These included: urban ambulatory surgical centers in counties with populations above 125,000, MRI scanners in urban counties, diagnostic equipment if the total investment is less than \$3 million, psychiatric beds and chemical-dependency treatment beds, and licensed home-care agencies providing early and periodic screening, diagnosis, and treatment services (EPSTD) to children up to 21 years of age.

The degree to which CON laws restrict the efficient and effective provision of medical care was on full display during the COVID-19 pandemic. As state hospitals and health care providers geared up to treat the influx

CERTIFICATE OF NEED

of seriously ill patients, Gov. Roy Cooper suspended the complete CON process. In its place, 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. Only by suspending those laws could priceless resources be made available to COVID patients. The lesson learned during the pandemic applies even in regular times. Providers on the ground are far better equipped than a bureaucratic board in Raleigh to make determinations of health care needs.

Ideally, all hospitals and health centers, not the state, should be able to decide for themselves how to provide resources. Fully eliminating all CON review requirements would result in a significant victory for patients.

KEY FACTS

- » When CON laws were implemented, 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 the 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 local communities and consumers, especially those who live in small towns and rural areas. States with CON laws have 30% fewer rural hospitals and 13% fewer rural ambulatory surgical centers than 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 that such programs are necessary to ensure hospitals can provide “charity care” or 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 do not.
- » 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 laws, it would likely have an additional three psychiatric hospitals. The study also estimates that in a CON-free North Carolina, six additional substance-abuse facilities would accept private insurance, and 12 more would accept Medicaid.

RECOMMENDATIONS

1. Fully 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 people are most vulnerable. North Carolina families deserve access to quality care and lower costs, unencumbered by government control.

Services That Require a Certificate of Need In North Carolina

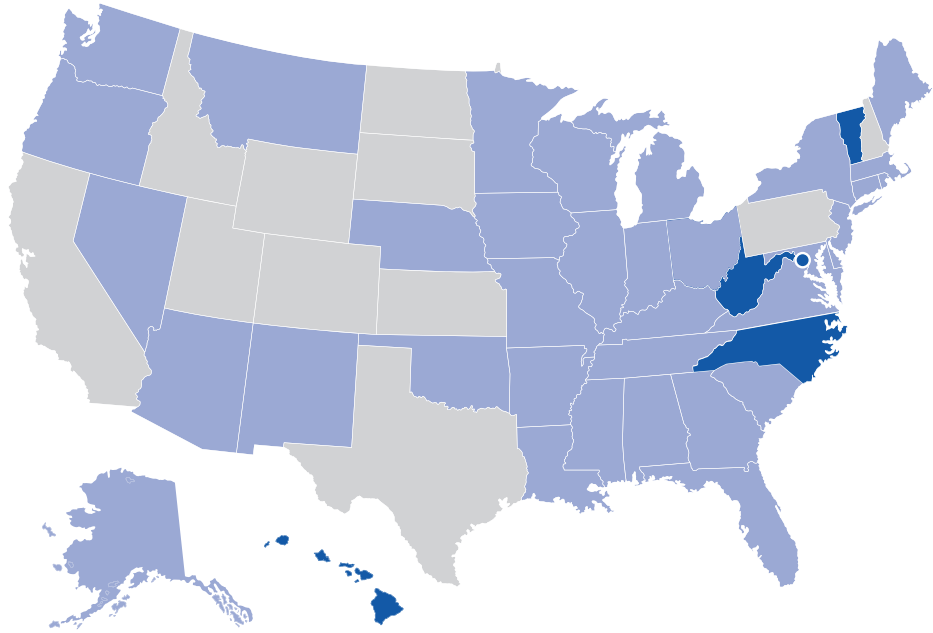
- Air Ambulance
- Ambulatory Surgery Centers (ASCs) in rural counties
- Assisted Living & Residential Care Facilities
- Burn Care
- Cardiac Catherization
- Computed Tomography (CT) Scanners
- Gamma Knives
- Home Health
- Hospice
- Hospital Beds
- Intermediate Care Facilities (ICFs) for Individuals with Intellectual Disabilities
- Linear Accelerator Radiology
- Lithotripsy
- Magnetic Resonance Imaging (MRI) Scanners) in rural counties
- Mobile Hi Technology (CT/MRI/PET, etc.)
- Neonatal Intensive Care
- New Hospitals or Hospital-Sized Investments
- Nursing Home Beds/Long-Term Care Beds
- Open-Heart Surgery
- Organ Transplants
- Positron Emmission Tomorgraphy (PET) Scanners
- Radiation Therapy
- Rehabilitation
- Renal Faliure/Dialysis

SOURCE: MERCATUS CENTER

Jurisdictions With the Most Restrictive Certificate-of-Need Laws

Top 5 Most Restrictive Jurisdictions by Number of Services/Facilities Regulated

Hawaii.....	28
District of Columbia	25
Vermont.....	25
North Carolina.....	24
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. Sustaining proper oral health at a young age and into one's elderly years is an essential factor in maintaining one's overall health. Accessing or affording a dental professional can be difficult, however, especially for those who live in more remote areas or have modest incomes. Dental therapy is a relatively new occupation in the United States that can help alleviate some of the accessibility and affordability problems that burden so many North Carolinians.

Dental therapists are highly trained, mid-level dental professionals who are analogous to nurse practitioners or physician's assistants. Generally, dental therapists have many of the same duties as dental hygienists, plus they are allowed to perform common restorative procedures such as drilling and filling cavities, handling simple extractions, and fitting stainless-steel crowns. Dental therapists complete an educational program that usually lasts two to four years, and they work under the supervision of a dentist.

As of late 2022, 14 states allow dental therapists to practice in one capacity or another, but North Carolina is not one of them. Permitting dental therapists to work in North Carolina would likely help many people who struggle to access or afford 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 will still 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 dental therapists to travel to schools, community centers, or nursing homes to serve them.

Incorporating dental therapists into North Carolina's dental profession would be a multistep, multiyear 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, patients could then begin receiving care.

KEY FACTS

- » Health professional shortage areas (HPSAs) are geographic areas, populations, or facilities where there are not enough dental-care providers to meet the needs of the nearby population. North Carolina has 208 dental HPSAs where over 3.7 million individuals live,

DENTAL CARE ACCESS

and as of January 2022, all 100 counties in North Carolina have been partially or fully designated as areas that are affected by shortages of dental professionals.

- » North Carolina could lead the southeastern United States in the dental field by allowing dental therapists to practice. As of late 2022, 14 states allow dental therapists to practice in some capacity. Arizona, Maine, Michigan, Minnesota, New Mexico, Connecticut, Nevada, Oregon, Colorado, and Vermont have authorized dental therapists to practice statewide. In Alaska, Idaho, Montana, and Washington, dental therapists are allowed to practice only 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 expanded access to preventative dental care to over 40,000 individuals in 80 rural communities.
- » In 2011, Minnesota licensed the state's first dental therapists, and the state continues to be a leader in fostering this profession. Over 40% of these dental therapists practice in non-metropolitan areas. A 2014 report by the Department of Health and the Minnesota Board of Dentistry on the early impacts of dental therapy observed 14 clinics where dental therapists treated over 6,000 patients, 84% of whom had public insurance.

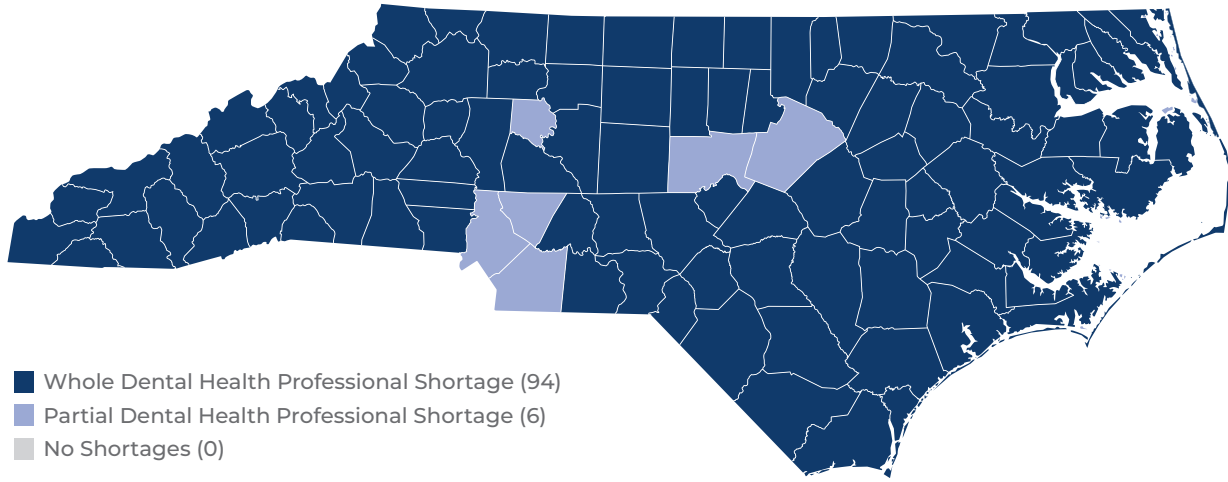
RECOMMENDATIONS

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

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

DENTAL CARE ACCESS

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 (now Everside 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 2023, there were more than 2,000 DPC offices in the country, up from 125 in 2014, and more than 80 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 median individual monthly membership ranges from \$75 to \$88, and the median monthly membership price for a family of four ranges from \$150 to \$179. 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 non-direct 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 that 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.

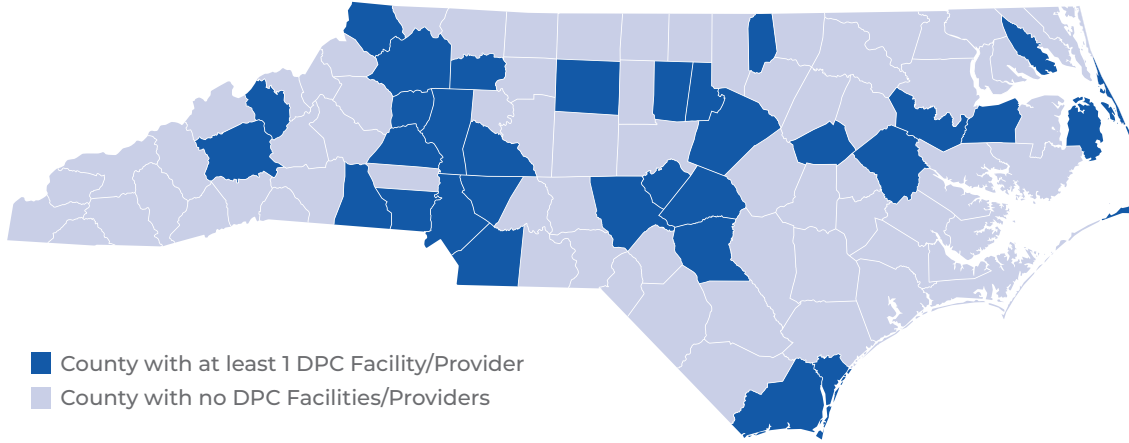
The North Carolina Department of Health and Human Services (NC-DHHS) could work within a federal waiver to administer and monitor health savings accounts (HSAs) or debit cards with a lump-sum contribution to eligible enrollees. This would be particularly beneficial in light of Medicaid expansion.

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.

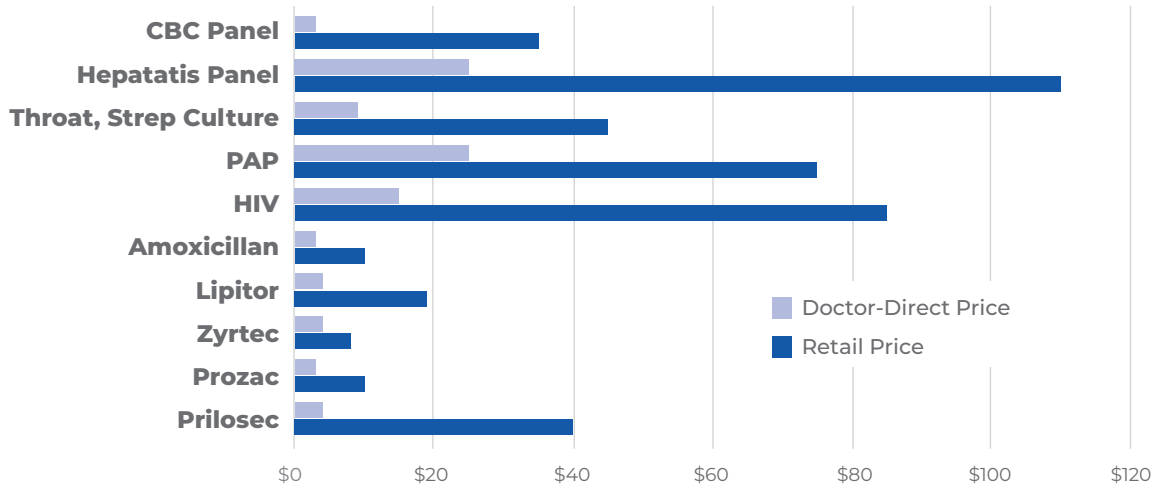
DIRECT PRIMARY CARE

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	\$3.00	\$35.00
Hepatitis Panel	\$25.00	\$110.00
Throat, Strep Culture	\$9.00	\$45.00
PAP	\$25.00	\$75.00
HIV	\$15.00	\$85.00
Amoxicillan	\$3.00	\$10.00
Lipitor	\$4.00	\$19.00
Zyrtec	\$4.00	\$8.00
Prozac	\$3.00	\$10.00
Prilosec	\$4.00	\$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 57 health benefit mandates that 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 (see chart below).

Aside from these federal mandates, ample opportunities remain for state legislators to loosen insurance requirements and provide more affordable insurance options for North Carolinians.

KEY FACTS

- » One study concluded that state health insurance mandates were responsible for between 9% and 23% of all premium increases between 1996 and 2011 and affected smaller firms more than larger firms.
- » 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 counseling services. Access to dentists costs \$1.02. Seeing a podiatrist amounts 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 that 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, 65% of covered workers were enrolled in a self-funded plan in 2022. However, the exemption from state regulation does not 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. Reduce benefit mandates.

Legislators should allow for optimal competition among insurance companies and providers to let them best serve patients and respond to policyholder demands. Consumers should be able to select from insurance options with varying amounts of coverage; insurance plans with less coverage can provide affordable and sensible options, especially for younger, healthier customers who need only basic catastrophic coverage.

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

More than half the states have mandated benefit review procedures 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.

After resisting for more than a decade, North Carolina passed a bill to expand its Medicaid program in 2023. The bill tied expansion to the passage of a state budget bill, which finally became law months after the beginning of the fiscal year. Federal dollars will cover 90% of the costs of the expansion population, while the state share is expected to be covered by a tax on the state's hospitals. As part of the 2021 American Rescue Plan Act, North Carolina is also expected to receive a \$1.8 billion "signing bonus" in the form of enhanced federal reimbursements for the traditional Medicaid population to be paid out over the first two years of expansion.

While advocates emphasize how expansion will provide "coverage" to nearly 600,000 more North Carolinians, significant reasons to oppose expansion remain.

For starters, coverage does not mean access to care. Fifteen years ago, enrollment in Medicaid was 1.8 million. In 2023, prior to expansion, 2.9 million North Carolinians were enrolled in Medicaid, which marks an increase of 61%. Adding 600,000 more would bring total enrollment to 3.5 million, nearly *doubling the number of enrollees since 2008*. As a result, *roughly one in three North Carolinians would be enrolled in the government program*. During the same time that North Carolina has witnessed this massive swelling of the Medicaid rolls, the number of hospitals accepting Medicaid patients has fallen by 15%, while the number of physicians enrolled as Medicaid providers has risen by only 11%. Additionally, the number of dentists accepting Medicaid has fallen by 35%. Expansion may provide people with a Medicaid card, but that card does not guarantee timely access to care.

Second, the federal dollars are not "free." The federal government is already more than \$33 trillion in debt, and the billion in additional costs to fund North Carolina's Medicaid expansion will add to that debt. Mounting debt will be paid either through newly created Federal Reserve dollars, which will add to the price inflation crushing working households, or through increased taxes, which reduce the take-home pay of workers while discouraging job creation and investment.

The experiences of states that have expanded Medicaid should temper the enthusiasm of those who are celebrating North Carolina's expansion.

MEDICAID EXPANSION

For example, Medicaid expansion costs have exceeded most cost projections in expansion states by about 50%. Ohio underestimated costs by \$1.5 billion in the first few months of expansion. Illinois miscalculated costs by \$800 million and Kentucky by \$1.8 billion. Washington State increased its biennial budget by \$2.3 billion just to deal with expansion costs.

A 2023 report by the Foundation for Government Accountability found that expansion states saw Medicaid enrollment explode at a rate roughly three times their original estimates (6.5 million estimated vs. 19 million total). Why should North Carolina expect conditions to be different?

Moreover, what can North Carolina do about Medicaid's rampant fraud problem? The federal Centers for Medicare and Medicaid Services estimated that in 2020 more than one in five dollars expended in Medicaid claims were improper payments (21.3%), which cost taxpayers \$86 billion nationally.

While the cost overruns and fraud associated with Medicaid are a significant concern, studies suggest that the program may not improve 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. These issues are a function of a low supply of health professionals in marginalized areas and inefficiencies in the delivery of care for the Medicaid program as a whole.

Adding up to 600,000 adults who are mostly childless, healthy, and of working-age would further overwhelm this already strained system.

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 and causes price inflation when financed through Federal Reserve money printing, or substantial increases in taxes, which impede economic growth.
- » Costs imposed on state taxpayers under Medicaid expansion continue to be 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 will have to compete for access to health care with an estimated 600,000 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 will 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 reverse course on Medicaid expansion.

Policymakers should find a path to unwind Medicaid expansion. They 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 the use of block grants to distribute federal funding.

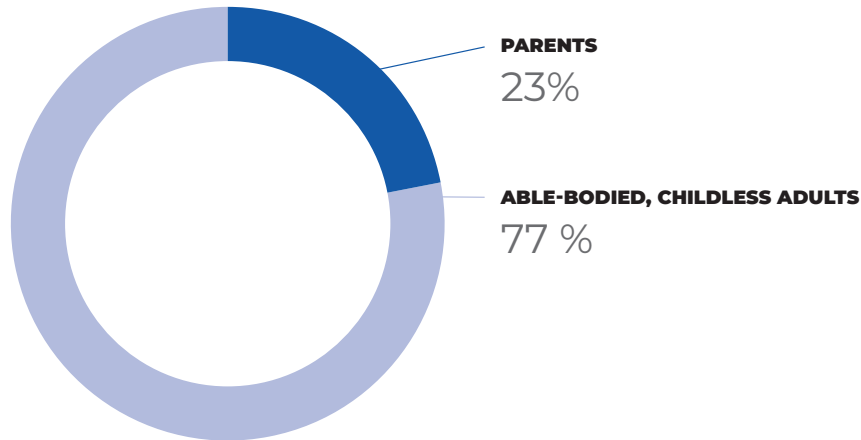
Converting the federal portion of North Carolina's Medicaid program into an annual block grant would go a long way toward limiting Medicaid's unpredictable annual cost overruns.

3. Congress and North Carolina lawmakers should relax Medicaid rules and regulations.

Regulatory relief would stimulate competition in the insurance market and allow individuals to purchase affordable plans that best meet their needs.

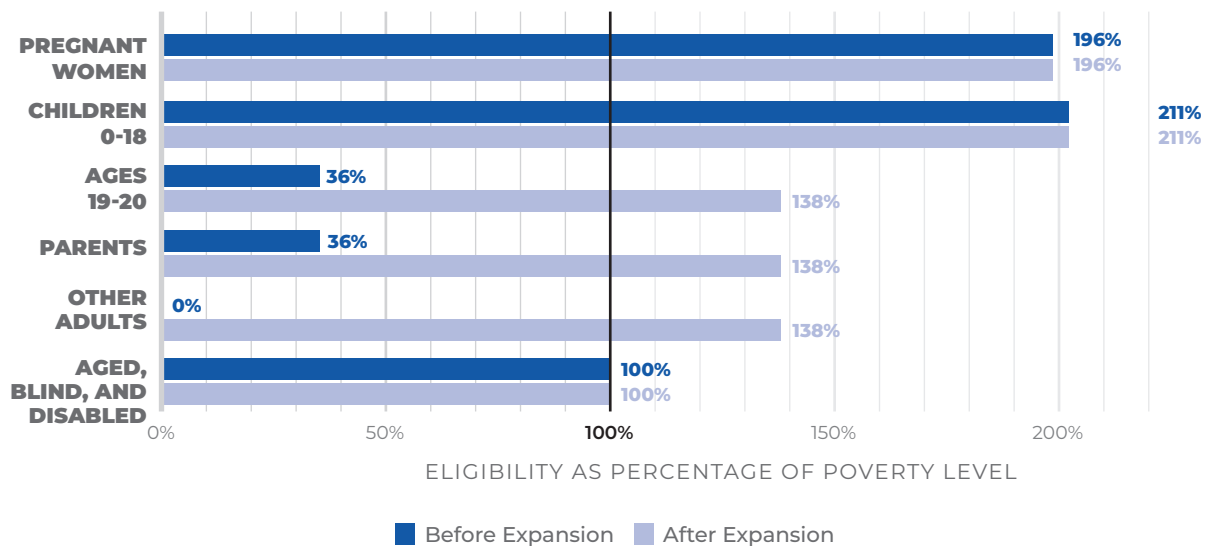
MEDICAID EXPANSION

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, more than 3.2 million people, or one-third of the state's population, live in a designated primary care health professional 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 (the latest data readily available), 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 2023, 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

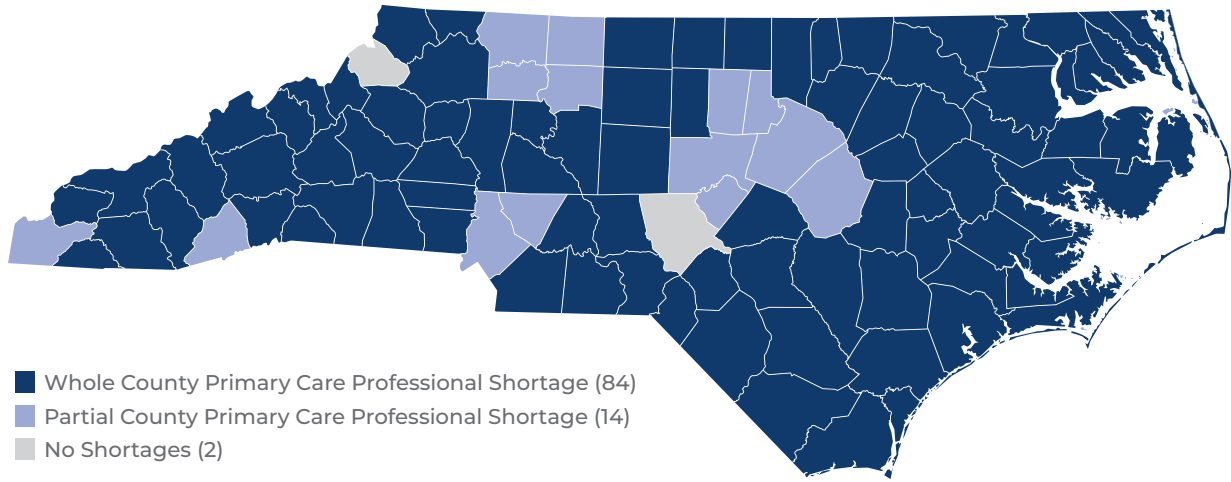
- » Twenty-seven states and Washington, D.C., have granted full practice authority to nurse practitioners (as of 2023).
- » Nurse practitioners are valuable assets to the health care workforce. According to the Kauffman Family Foundation, there were 4,582 professionally active nurse practitioners in North Carolina in 2023, 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 2017 the number of NPs in non-metro areas grew by 187%, compared to less than 10% growth for physicians in rural areas.
- » 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 percent increase in the number of nurse practitioners serving rural counties.
- » In 2023, legislators introduced the SAVE ACT (HB 218, SB 175) which would grant full-practice authority for Advanced Practice Registered Nurses. Both bills stalled in committee.

RECOMMENDATIONS

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 in order to free them from their current constraints. Passing the SAVE Act would accomplish that.

Primary Care Professional Shortage Areas In North Carolina



SOURCE: NORTH CAROLINA OFFICE OF RURAL HEALTH

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. In the age of the internet, these consults involve face-to-face conversations and evaluation via computer screens.

Despite the convenience that telemedicine provides, some medical providers still resist adopting the practice because certain services do not always come with insurance reimbursement. Such pushback is one of the reasons why 43 state legislatures have passed laws governing private-payer telemedicine reimbursement policies, 24 of which require telemedicine payment parity. 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. Furthermore, 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 in order to treat 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 2022 study published by health-and-wellness provider Everlywell found that telehealth visits cost on average about \$40 to \$50, whereas an office visit could cost as much as \$176.
- » 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 even when it is 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.

Licensure 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 ANALYSTS: **DR. ANDY JACKSON**

INTRODUCTION

Despite the ballot security concerns it raises, absentee-by-mail voting is an integral part of North Carolina's election system.

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.

After receiving the ballot, the voter must mark the ballot in the presence of two witnesses (who do not see how the voter voted), 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, courier, or in person at the county board of elections office or an early voting site. The county board of elections must receive it by the close of polls on 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 the close of polls.

The witness requirement is an essential 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 it. The witness requirement also helps investigators identify suspects in potential absentee-ballot fraud cases since those engaged in such fraud usually sign as witnesses, providing evidence of a chain of custody of those ballots. Finding the same names on numerous absentee ballot container envelopes was a signal that ballot-trafficking operations were taking place in Bladen County in 2018, which forced the State Board of Elections to call for a new election for the Ninth Congressional District. Ballot trafficking 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 trafficker to fill in uncompleted parts of the ballot or discard ballots from people they believe support the “wrong” candidate.

Other states use signature matching to verify absentee voters. 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 General Assembly authorized a pilot program for the 2024 election to test the efficacy of signature matching.

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

- » Typically, between 3% and 5% of all ballots in North Carolina general elections are absentee. That proportion rose to 18% in 2020 but dropped back down to 5% in 2022.
- » 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 if the name of the signature is the same as that of the voter.
- » The deadline for county election boards to receive absentee ballots is the close of polls on election day (7:30 p.m.). The North Carolina General Assembly changed the deadline to three days after election day in 2009 but changed it back to election day in 2023.
- » To help voters in assisted living facilities to vote absentee by mail, county boards of elections appoint Multipartisan Assistance Teams, which are groups of volunteers from both major political parties.
- » A 2022 court ruling allows any person designated by a disabled voter, not just a near relative, to take possession of that voter’s absentee ballot.

RECOMMENDATIONS

1. 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 possess those 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.

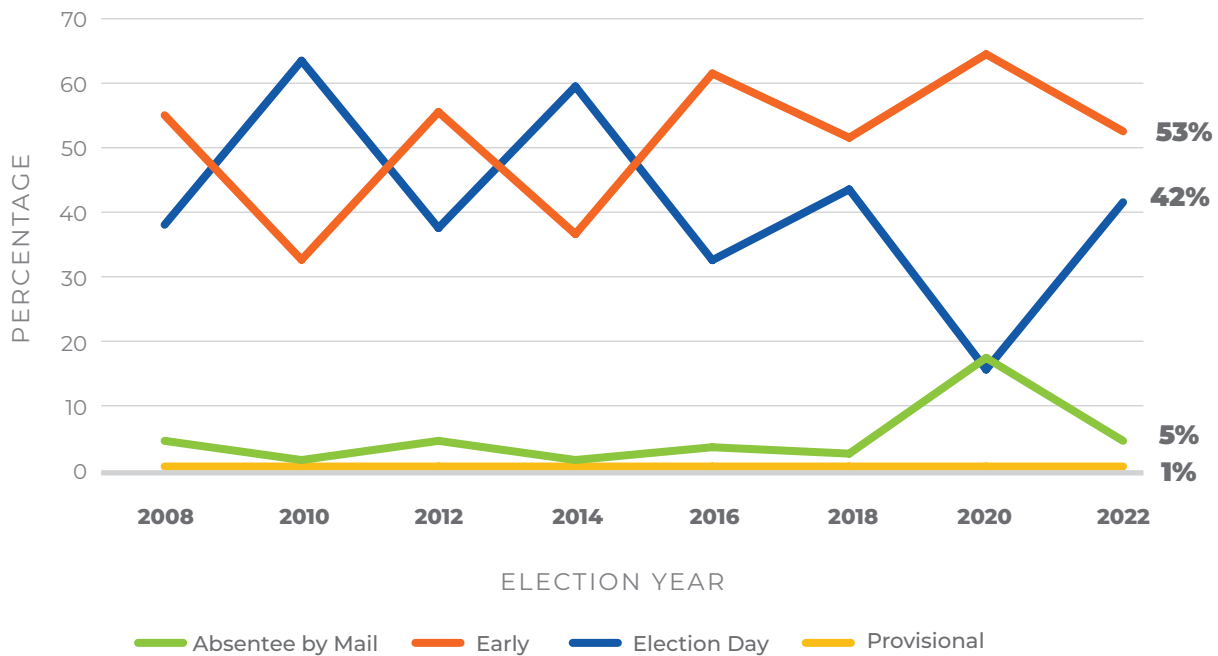
2. Allow Multipartisan Assistance Teams to deliver completed and sealed ballots.

The North Carolina State Board of Elections should issue new guidance to Multipartisan Assistance Teams, creating procedures for those teams to take possession of completed ballots from disabled voters. A 2022 court ruling allows any person to take control of a disabled voter’s ballot if the voter provides consent. Having those teams deliver ballots will help protect the votes of disabled people from ballot traffickers.

3. Move up the deadline to request absentee ballots.

The General Assembly should move the statutory deadline for requesting a mail ballot from the current “not later than 5:00 p.m. on the Tuesday before the election” to “not later than 5:00 p.m. on the second Thursday before the election.” It would be a three-day shift in the number of weekdays before election day to match the three-weekday change in the due date for returning ballots (from three days after election day to election day) the legislature approved in 2023. This change would give voters adequate time to request, receive, and return their mail ballots by election day.

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. They also secure locations for election day polling places and early 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. The SBE also conducts post-election audits and oversees partial hand-to-eye recounts by county election boards.

SBE policies do not always conform to sound public policy or election law, however. 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. The SBE then attempted illegally to suppress how many election observers could serve at voting locations in 2021 but gave up in the face of public outcry and the threat of lawsuits.

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

Brinson Bell entered a lawsuit settlement with Democratic attorney Marc Elias that altered several election laws for the 2020 general election at the last minute. Legislative leaders intervened as defendants because the lawsuit involved North Carolina law, but Elias and the SBE cut them out of the settlement by getting Judge Bryan Collins to agree that the law did not require that attorneys for the legislative leaders be consulted.

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 voter error rates. Touchscreen voting systems in North Carolina have experienced problems ranging from lost votes to votes being recorded 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 after an extensive two-year testing process. They included Election Systems & Software's (ES&S) touchscreen ballot-marking device, which was approved by a 3-2 vote. The SBE approved an updated ExpressVote 4.2.1.0 ballot marking device in 2023.
- » 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. That law should prevent 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 diligently oversee 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 disabled people).

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

3. Broaden the scope of post-election audits.

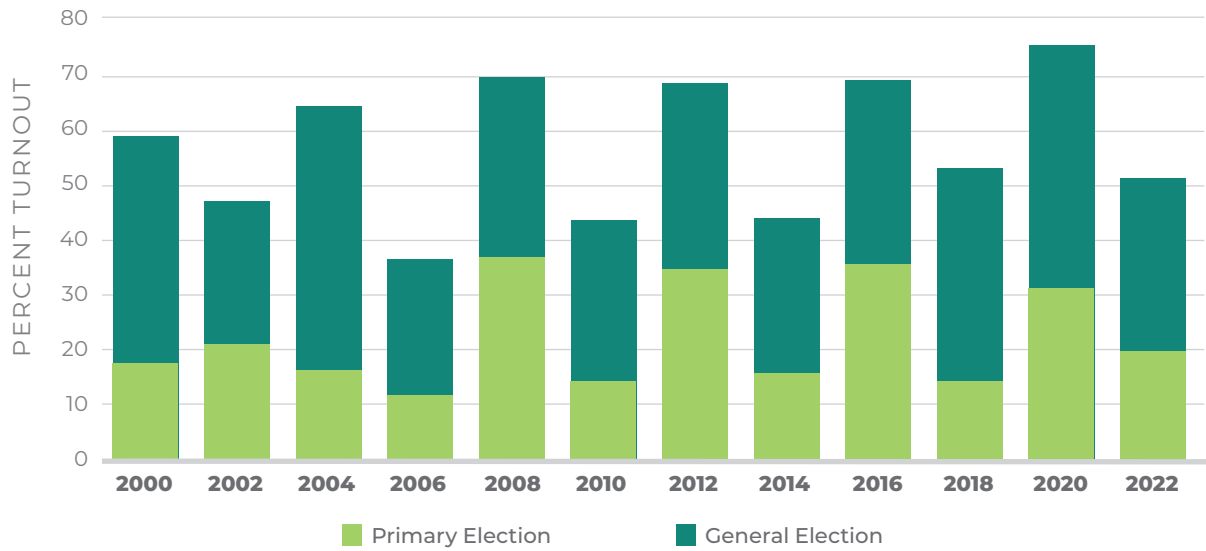
The legally mandated audit the State Board of Elections submits to the General Assembly should be expanded to include a procedural audit of voter registration, election operations, and verifiable paper trail along the lines of what some call a "forensic audit."

4. Conduct legislative or independent audits of election systems.

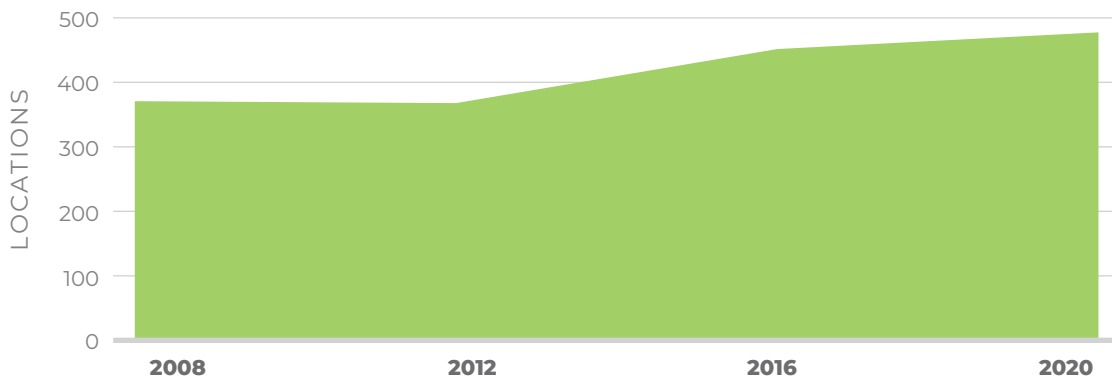
SBE concerns about voting system security can be addressed by having election officials open the systems under the observation of legislators or by hiring independent labs accredited by the Election Assistance Commission.

ELECTION ADMINISTRATION

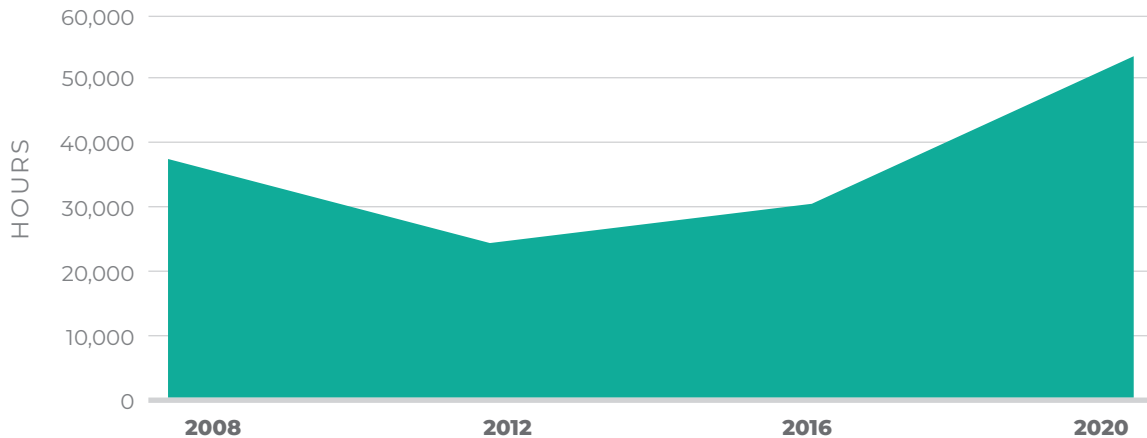
Primary and General Election Voter Turnout 2000-2022



Early Voting Locations In North Carolina General Elections



Early Voting Hours In North Carolina General Elections



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

ELECTION FINANCE AND CAMPAIGN SPEECH

POLICY ANALYSTS: **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 the extra expenses election boards faced in conducting elections in 2020, owing to COVID-19, and grants from the federal government, 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. They included the notorious Center for Tech and Civic Life (CTCL), a progressive advocacy organization funded primarily by a donation from Facebook co-founder Mark Zuckerberg and his wife, Priscilla Chan. CTCL spent hundreds of millions of “Zuck bucks” on the 2020 election, including giving millions of dollars in grants to the SBE and 33 county boards in North Carolina. Those grants bypassed the normal legal channels for election administration funding. In 2023, the General Assembly banned private funding for “conducting elections or employing individuals on a temporary basis” in 2023.

The CTCL recently spun off another organization, the U.S. Alliance for Election Excellence, to influence local election boards toward progressive election policies through training programs and services paid by public and private funds. In response, the Georgia legislature passed a bill in early 2023 to ensure that “all costs and expenses relating to election administration are paid for with lawfully appropriate [sic] public funds.”

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 required 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 would be so burdened. Ads on radio, TV, and newspaper are one-way channels: one side produces ads, and the other receives them. Political content on the internet is different, however; people are often simultaneously receivers and producers of content. On social media platforms like X (formerly Twitter),

political content quickly attracts negative comments from opponents. Despite the existence of internet sites that do not offer direct opportunities for opposing viewpoints, the internet is full of countervailing views.

Judges and judicial candidates face more restrictions than other political candidates on what they can say. The Judicial Standards Commission (JSC) strictly enforces the North Carolina Code of Judicial Conduct's prohibition of conduct that may undermine "public confidence in the integrity and impartiality of the judiciary." Nevertheless, by extending this prohibition to speech outside the courtroom, the JSC effectively denies voters information about the courts and candidates that could help them make a more informed decision. For example, the JSC has twice investigated North Carolina Supreme Court Justice Anita Earls for statements she has made regarding what she sees as a lack of racial diversity among court employees and an "implicit bias" in how the Supreme Court treats female advocates. One of those investigations is ongoing at the time of this report's publication.

KEY FACTS

- » While the Center for Tech and Civic Life (CTCL) provided private funding to election boards in both Democratic-leaning and Republican-leaning counties in 2020, it gave only to 33 of the 100 counties in North Carolina. Voters in the 33 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%.
- » In 2022, two North Carolina election boards, in Brunswick and Forsyth counties, were part of the initial cohort of counties nationwide participating in the CTCL spin-off, the U.S. Alliance for Election Excellence. The alliance's model is to have election boards pay for membership using taxpayer funds and for the alliance to provide funds to those boards in the form of "scholarships" for participating in alliance programs. Both county election boards backed off from using the scholarships due to public pressure, but both are still otherwise participating.
- » North Carolina Supreme Court Justice Anita Earls filed a federal lawsuit against the Judicial Standards Commission in late 2023, claiming that the restrictions on what she could say about the court system "violate the freedom of speech clause of the First Amendment."
- » 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 relative freedom allows political speech from a variety of sources to flourish.

RECOMMENDATIONS

1. Study the practicality of banning all private funding of election administration.

All direct and indirect private funding of election administration should be banned, with a few exceptions, such as providing the use of a voting site. The General Assembly could create a program allowing civic groups to donate to a fund that would be equitably distributed among all county election boards.

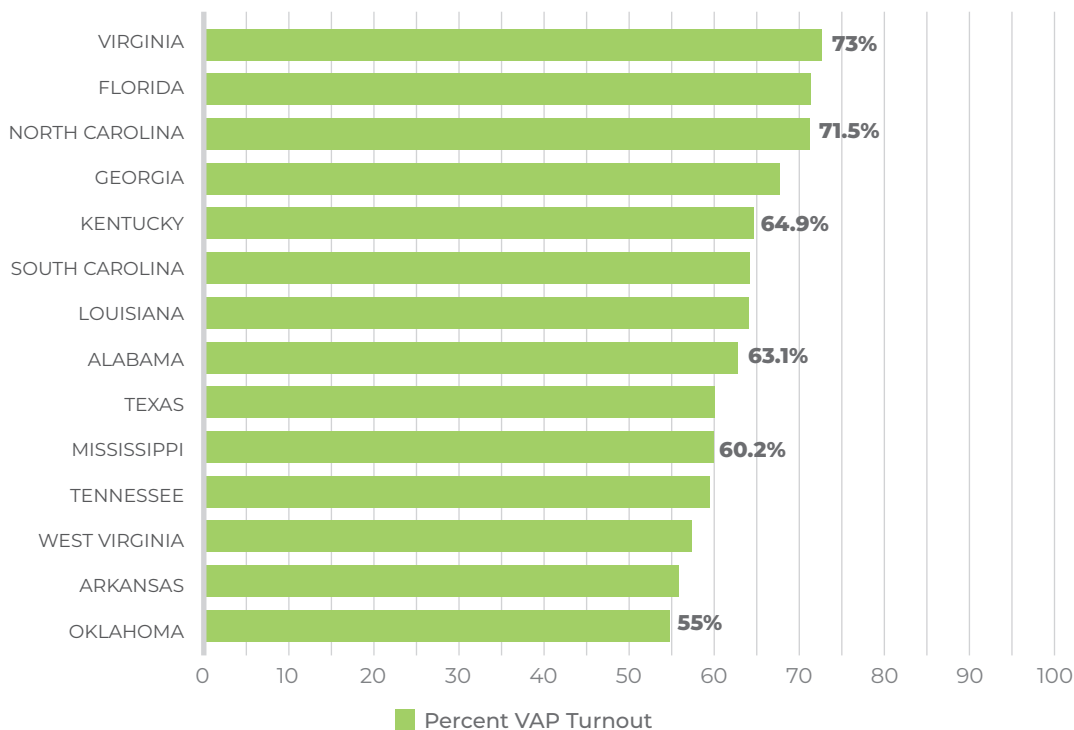
2. Oppose restricting online political speech.

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

3. Provide more free speech for judges and judicial candidates.

Judges should not speak publicly in a way that may affect the outcome of cases before them. They should be able to talk publicly about matters of public concern, however. In addition to enhancing the free speech rights of judges, that change would give the public more information about judicial candidates and the judicial system.

Voting Age Population Turnout In Southern States - 2020



SOURCE: UNITED STATES CENSUS BUREAU

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 has survived unaltered by lawsuits. It is a function of the highly competitive nature of North Carolina politics and the multiple rules affecting redistricting that can be used as the basis for lawsuits.

Article 2 of the North Carolina State Constitution (Section 3 for the House and Section 5 for the Senate) makes the General Assembly responsible for redistricting. It 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 ten years

The United States Constitution and federal law also affect redistricting. The U.S. Supreme Court has interpreted Article 2, Section 1 of the U.S. 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 substantial state interest. It also created the “Stephenson process,” 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. The U.S. Supreme Court and the North Carolina Supreme Court have both ruled that partisan gerrymandering claims are nonjusticiable political questions.

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 ten years “until the return of another decennial census of population.” 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 U.S. Constitution, and federal law have imposed limits on how creative legislators can be when they draw districts. Those restrictions 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 into other clusters. For example, Mecklenburg and Iredell counties were combined in 2021 into a two-county cluster containing six North Carolina Senate districts, and those six 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. Party and political organizations seed those meetings with activists, meaning those meetings do not reflect the public’s will.

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 essential to finely gerrymandering districts. Also, map drawers should prohibit using voters’ demographic data, except to measure compliance with the U.S. Voting Rights Act, and not consider 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.

3. Draw districts in the open.

As was done under court order in 2019 and voluntarily in 2021, the actual drawing of districts should be done in open legislative meetings on computers that members of the public can see in-person and online. The General Assembly reverted to a closed process for drawing maps during court-ordered redistricting in 2023.

4. Enshrine the Stephenson process in the North Carolina State Constitution.

The rules established by *Stephenson v. Bartlett* limit how much legislators can gerrymander state legislative districts, especially in rural areas. They also minimized splitting counties to favor one party in the redistricting process. Making that process a permanent part of redistricting will protect that gain from shifting judicial politics.

VOTER REGISTRATION

POLICY ANALYSTS: **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 repeat voting and voting by noncitizens 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, filling it out, and mailing it to their county board of elections. They can also register at a Department of Motor Vehicles (DMV) office while getting a driver's license or ID. People who already have 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 update 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 registrations under two criteria: the registrant has not voted in any election in the county over four federal election cycles (eight years) and has 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 no longer eligible to vote. The Electronic Registration Information Center (ERIC) shares death and new voter registration data between member states. It also allows member states to share purchased data, such as the U.S. Social Security Administration's death index. However, there are concerns that the ERIC data-sharing process would

VOTER REGISTRATION

violate the privacy of those who choose not to register to vote. Voter registrations are already public records. Because of those concerns, the FY 2023-24 state budget included a provision barring the state from joining ERIC.

An emerging threat to the integrity of our elections is the return of noncitizen voting. The District of Columbia voted to allow noncitizens to vote in 2022. It joined California, Maryland, and Vermont, all of which allow noncitizens to vote in at least some elections. Major news outlets such as CNN, the *New York Times*, and the *Boston Globe* have all recently argued for granting noncitizens the right to vote.

KEY FACTS

- » County boards of elections maintain 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 State 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 removes only those registrants who have not voted in at least four federal election cycles (eight years), its effect on voting is minimal.
- » Most states allowed noncitizens to vote at some point in their histories, with North Carolina having allowed it until 1856.

RECOMMENDATIONS

1. Continue biennial voter registration list maintenance.

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

2. Amend the North Carolina State Constitution so that only citizens can vote in any election.

North Carolina currently limits voting rights to citizens by statute. That law can be reversed by temporary majorities in the General Assembly or the state Supreme Court. Whether noncitizens can

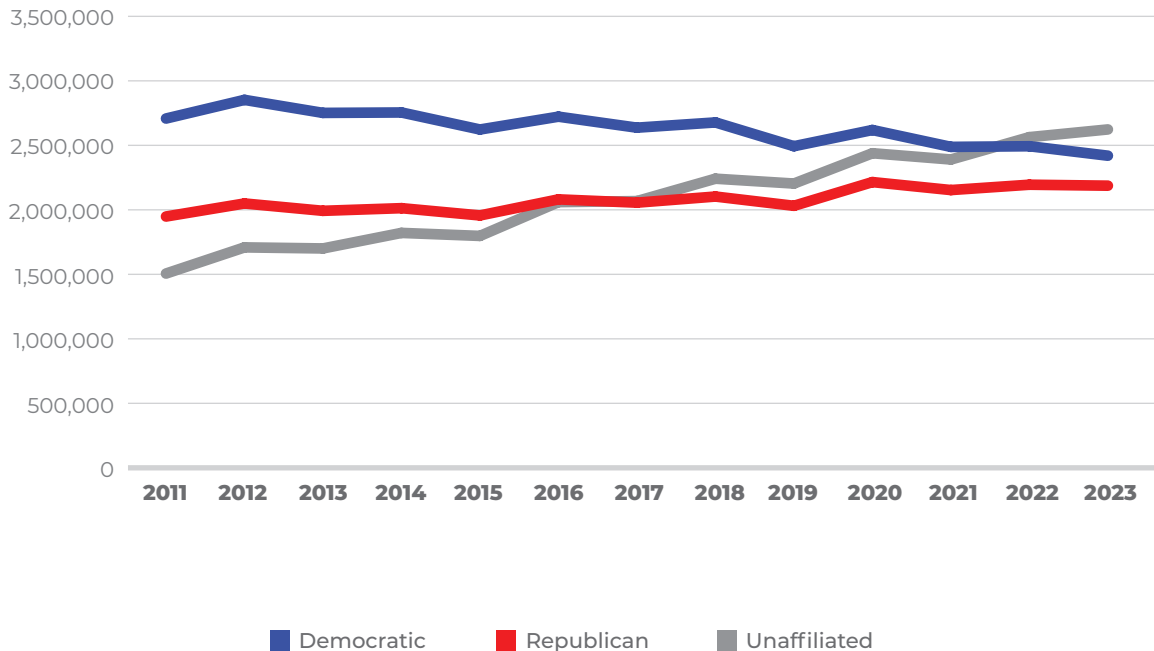
VOTER REGISTRATION

vote in our elections is fundamental to how our republic works. Its importance rises to the point where it should be a part of our state government's foundational document.

3. Join an interstate data-sharing program if it does not jeopardize privacy.

Joining such a data-sharing program would improve list maintenance in North Carolina. ERIC is currently the only data-sharing program in operation. Another program, Crosscheck, had to end operations under a court order after it suffered a data breach. North Carolina should re-consider joining ERIC if that organization reforms its data-sharing and North Carolina passes a law protecting the privacy of those not registered to vote.

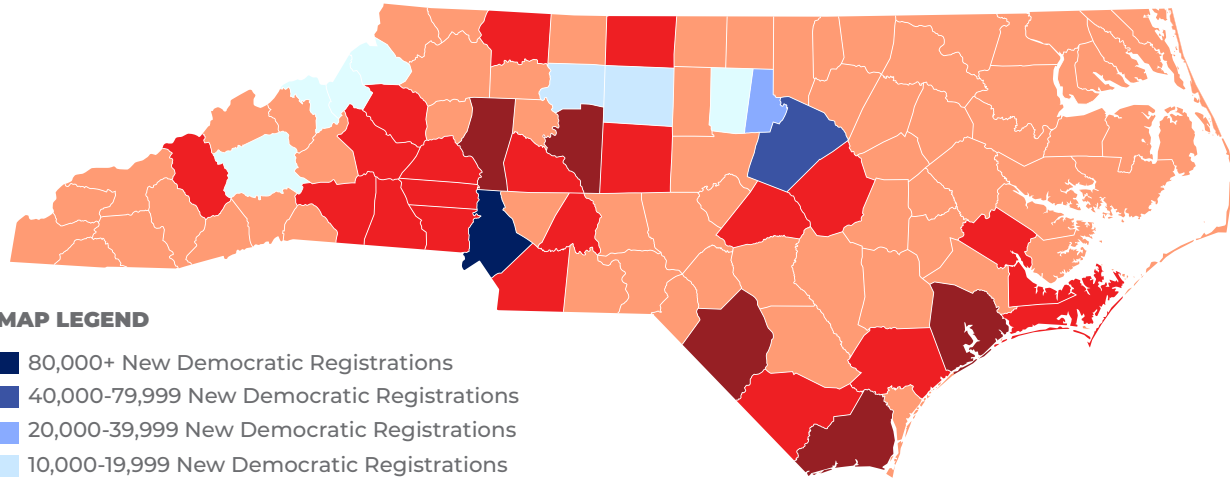
Voter Registration By Party, 2011-2023



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

VOTER REGISTRATION

Two-Party Voter Registration Change From 2008 To 2023

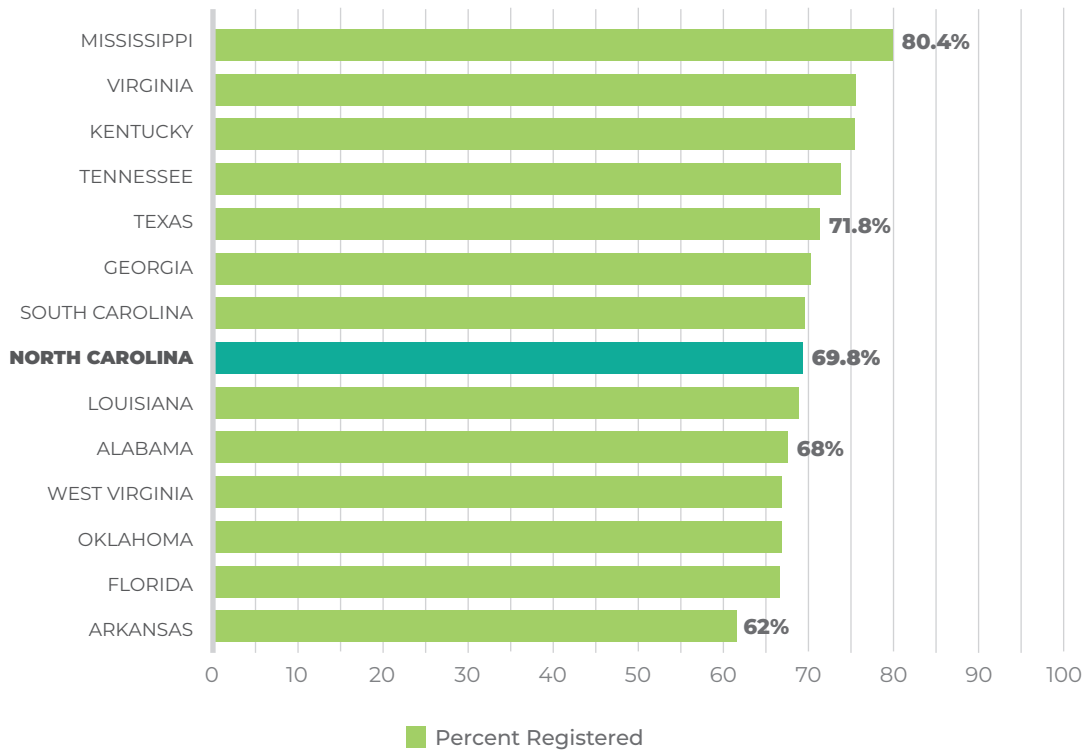


MAP LEGEND

- 80,000+ New Democratic Registrations
- 40,000-79,999 New Democratic Registrations
- 20,000-39,999 New Democratic Registrations
- 10,000-19,999 New Democratic Registrations
- 1-9,999 New Democratic Registrations
- 1-9,999 New Republican Registrations
- 10,000-19,999 New Republican Registrations
- 20,000-39,999 New Republican Registrations

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

Citizens In Southern States Who Are Registered To Vote - 2020



SOURCE: UNITED STATES CENSUS BUREAU

**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 subject to forfeiture only after the property’s owner has been convicted of that crime. And under the North Carolina State 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

ASSET FORFEITURE

to the state agency that made the seizure. Adoptions serve only one purpose: to facilitate the circumvention of state asset forfeiture laws.

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.
- » Eight states and the District of Columbia have imposed restrictions on equitable sharing. They include prohibiting federal adoptions and requiring that a monetary threshold be met before asset sharing is permitted in joint investigations.

RECOMMENDATIONS

1. Ban federal adoptions completely.

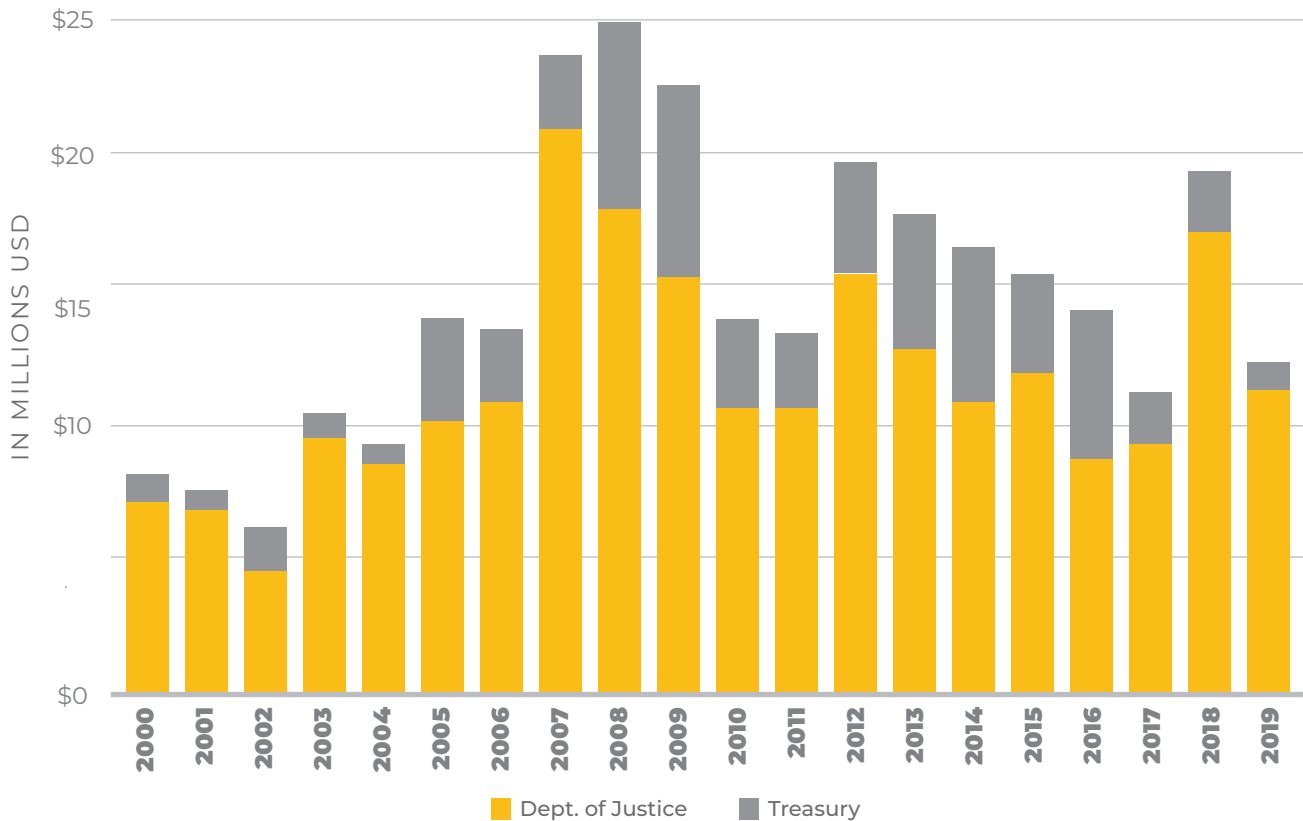
This form of equitable sharing exists only to circumvent North Carolina's well-considered civil asset forfeiture law.

2. Limit asset takings.

Forbid 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. While joint investigations serve a legitimate law enforcement purpose, taking assets through civil asset forfeiture should be limited.

ASSET FORFEITURE

Total Equitable Sharing Proceeds In North Carolina



Year	North Carolina Forfeiture Revenues	DOJ 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

CONSTITUTIONAL CARRY

POLICY ANALYSTS: RAY NOTHSTINE AND ANDRE BELIVEAU

INTRODUCTION

The North Carolina General Assembly made considerable gains for Second Amendment rights in 2023. Most notably, the passage and subsequent veto override of Senate Bill 41 saw the repeal of the pistol purchase permit (a relic of the Jim Crow era) and the adoption of a law protecting the gun rights of North Carolinians in religious meeting places – two major policy victories for gun rights in North Carolina. While good work has been done, there is more to do to protect the fundamental rights of all North Carolinians to exercise their constitutional rights freely and safely.

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 U.S. Constitution are paramount 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 amendment to bolster its original intent.

Given the recent victories on gun rights here in North Carolina, the time is now to adopt a clean constitutional carry law.

Constitutional carry, under which a person is not required to obtain a state permit to carry a firearm, is a reform that has made much headway in state legislatures across the country in recent years and has grown tremendously in just the past three years. Montana, Tennessee, Iowa, Texas, and Utah all passed constitutional carry in 2021. In 2022, Alabama, Ohio, Indiana, and Georgia joined the growing coalition of Second Amendment freedom states. Florida and Nebraska passed constitutional carry in 2023.

Now a total of 27 states (over 50% of the nation) 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's original intent.

While having success in the General Assembly, Republicans in North Carolina have yet to pass constitutional carry, even when they had a supermajority in the General Assembly and a Republican governor. 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.

CONSTITUTIONAL CARRY

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 or something similar, depending on how lawmakers craft the legislation. State-issued concealed-carry permits still hold tremendous value for reciprocity in other states that still require permits. Additionally, the safety class required to obtain the state-issued permit to carry concealed under current law is an important class for anybody new to firearms and 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 27 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

- » Twenty-seven states currently have constitutional carry or permitless carry.
- » 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 also that the training gives important information on safety and gun laws to those new to firearms.
- » It also doesn't negate federal firearm laws or help people who can't legally own a firearm to get one.
- » Constitutional carry simply means the U.S. Constitution is your permit to carry.
- » Even in constitutional carry states, individuals and private businesses can still decide to exercise their property rights and prohibit firearms on their premises.

RECOMMENDATIONS

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 warned,

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 has become more relevant than ever in North Carolina. The list of activities that can result in a criminal conviction has been growing rapidly for decades in our state, 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 contain 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 laws they did not even know existed.

This state of affairs, 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. It 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 books.
- » Various “catch-all” statutes have made it a crime to violate ordinances promulgated by counties, municipalities, and metropolitan sewerage districts and to violate rules and regulations promulgated by administrative agencies and occupational licensing boards. Those criminalized ordinances and regulations do not currently appear in the statute books 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 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 addressed some of the problems listed above. S.L. 2021-84 repealed statutory provisions criminalizing the violation of rules promulgated by licensing boards. S.L. 2021-138 repealed statutory provisions automatically criminalizing the violation of local ordinances and provided for criminal penalties only when such penalties are explicitly specified in the ordinance itself. The law also identified types of ordinances for which no criminal penalty may be imposed and created new statutory defenses for ordinance crimes.
- » S.L. 2021-138 also created 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.”
- » Unfortunately, the legislative working group created by that law has not been meeting and has not made any recommendations.

RECOMMENDATIONS

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

- » 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.
- » 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.
- » Consolidating 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 by:

- » Creating a formal oversight body to review proposed crimes and periodically audit existing crimes.
- » Specifying that to be enforceable, any regulation that carries a criminal penalty must be reviewed and approved by the General Assembly.
- » Providing a default “criminal intent” standard for all crimes created subsequent to recodification and requiring that strict-liability crimes can be created only by explicit statutory enactment.
- » Making “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.

DONOR PRIVACY

POLICY ANALYST: **JON GUZE**

INTRODUCTION

The free and unfettered flow of competing ideas is essential to the operation of our republican system of government and to the survival of our free and open society. That is why the First Amendment to the U.S. Constitution protects multiple forms of free expression: not just freedom of speech and freedom of the press, but also the right to assemble and the right to petition the government.

For most of us, the most effective and efficient way to exercise our expressive rights is to join with others in support of nonprofit organizations that speak and publish and advocate on our behalf. Laws and administrative orders that impose donor disclosure requirements on nonprofit organizations can make people afraid to exercise their expressive rights in that way — which is precisely why entrenched political interests, regardless of party, often favor such requirements.

State governments have a disturbing record of using donor disclosure to intimidate and silence those with heterodox views. In the 1950s, the political establishment in many southern states used donor disclosure to intimidate and silence those who opposed racial segregation. More recently, the political establishments in New York and California used donor disclosure to intimidate and silence their opponents. Fortunately, the U.S. Supreme Court shut down both of those donor disclosure regimes as impermissible infringements on First Amendment rights.

Given the almost irresistible appeal of donor disclosure, it is inevitable that politicians will continue to try to find ways around those decisions. To prevent that from happening, many states have enacted donor privacy statutes. North Carolina would do well to follow their example.

KEY FACTS

- » In the mid-1950s, the Democratic political establishment across the South launched a coordinated effort to put the NAACP out of business by forcing it to disclose the names of its supporters. The risk of reprisals from segregationists scared many supporters away, and between 1955 and 1957, the civil rights organization's southern membership declined by more than 50%.
- » The NAACP's Alabama affiliate challenged the disclosure requirement in federal court, and in a unanimous decision handed down in 1958, the U.S. Supreme Court declared that the requirement violated the First Amendment.
- » In 2013, New York State's Democratic Attorney General Eric Schneiderman revived the seemingly discredited approach and began

DONOR PRIVACY

demanding the names of donors to all nonprofits operating within his state. California's Democratic Attorney General Kamala Harris followed suit the following year.

- » In 2021, in *Americans for Prosperity v. Bonta*, the U.S. Supreme Court struck down this new attack on donor privacy. While this decision was good news, it would be a mistake to assume that it put a permanent end to the pernicious practice of using donor disclosure to suppress expressive rights.
- » The Democrats in the U. S. House of Representatives knew full well what the Supreme Court was likely to decide in *AFP v. Bonta*. Nevertheless, shortly before the decision was handed down, they approved a bill that would have made donor disclosure a national requirement under federal law.
- » In August 2023, Republicans on the House Ways and Means Committee issued a request for information in which it complained about the fact that tax-exempt organizations “have not been required to publicly disclose the identities of their donors” and solicited suggestions about what to do about it.
- » These ominous developments, together with the recent revelations regarding government involvement in suppressing unwanted speech about everything from Hunter Biden's laptop and the origins and political response to Covid, show that politicians' appetite for speech suppression is as strong as ever.
- » Since 2018, seventeen states have enacted statutes to protect donor privacy, which shows that state-level donor privacy protection is politically feasible.
- » Donor privacy protection legislation was introduced in the North Carolina Senate in 2021, but unfortunately it died in committee.

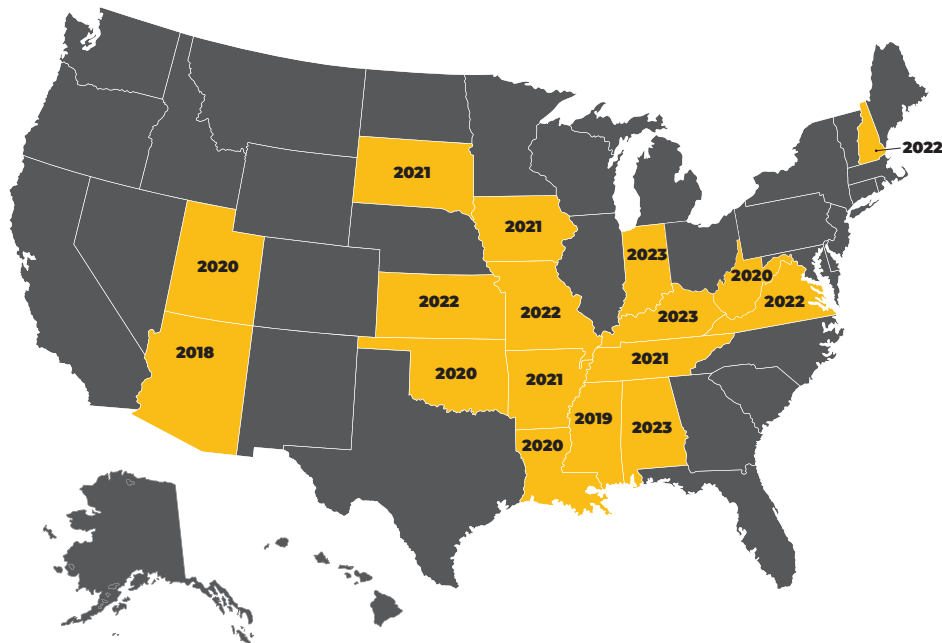
RECOMMENDATION

1. The North Carolina General Assembly should enact a donor privacy protection statute similar to the statutes that have been enacted in other states. Ideally, such a statute would:

- » Forbid the state from requiring nonprofit organizations to disclose information that could reveal the identity of their donors, volunteers, supporters, members, or otherwise affiliated persons.
- » Forbid the state from requiring individuals to provide information that could reveal their own or anyone else's status as a donor, volunteer, supporter, member, or person otherwise affiliated with a nonprofit organization.

DONOR PRIVACY

- » Forbid the state from requesting or requiring current or prospective contractors or grantees to provide the names of non-profit organizations to which they have directed financial or other non-financial support.
- » Forbid the state from releasing, publicizing, or otherwise publicly disclosing any confidential information pertaining to non-profit donors and supporters that comes into its possession.
- » Provide that a person alleging a violation of the statute may bring a civil action for appropriate injunctive relief and damages, including treble damages if the violation is found to be intentional and, at the discretion of the court, the costs of litigation, including reasonable attorney's fees.
- » Stipulate that the statute does not apply to disclosures required by court order or criminal investigation or to political campaign contributions that are required to be reported under existing campaign finance laws.



- STATES THAT HAVE ENACTED DONOR PRIVACY PROTECTION LAWS
- STATES THAT HAVE **NOT** ENACTED DONOR PRIVACY PROTECTION LAWS

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, until recently the EMA failed to constrain the use of emergency powers in any of those ways.

During Covid, Gov. Roy Cooper exploited that lack of constraint by declaring a state of emergency and then keeping it in place for more than two years. During that time he imposed and enforced an extreme lockdown regime without the concurrence of the Council of State. And he did so without any oversight by the General Assembly, despite the fact that the latter convened regularly during the period 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, the 2021 budget bill amended the EMA in ways that provide meaningful checks and balances on the governor’s unilateral emergency powers. The law now includes language requiring Council of State approval to extend a state of emergency beyond 30 days and General Assembly approval to extend a declared emergency beyond 60 days. The law also ensures that the governor must obtain Council of State approval before imposing extreme restrictions on businesses and individuals.

These are all clear improvements over the previous version of the EMA. However, there are reasons to think they are not enough. In May 2023, Gov. Cooper issued an ersatz emergency declaration in response to a plan to expand school choice in North Carolina. In September 2023, New Mexico Gov. Michelle Lujan Grisham used her emergency power to suspend people’s right to carry firearms in her state, an act perpetrated un-

EMERGENCY POWERS

der the guise of an “emergency public health order.” And it’s surely only a matter of time before we see governors declaring that climate change is an emergency justifying multiple restrictions on citizens’ liberties and property rights.

The EMA should be further amended to prevent these kinds of abuses.

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.
- » Currently, the EMA defines “Emergency” as simply, “An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property.”
- » In North Carolina and across the country, much of the controversy and litigation over governors’ use of emergency powers in response to Covid arose when emergency orders infringed fundamental constitutional rights.
- » Currently, the EMA does nothing to clarify how conflicts between emergency powers and constitutional rights are to be resolved.

RECOMMENDATIONS

1. Revise the definition of “emergency” in the EMA.

It should state 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 on-going problem requiring a long-term response does not constitute an emergency.

2. Add a new section to the EMA to prioritize individual rights.

This new section should state that emergency orders that infringe upon constitutionally protected rights must be narrowly tailored to serve a compelling public health or safety purpose and limited in duration, applicability, and scope.

3. Add a new section to the EMA preserving equal protection.

It should be made clear 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.

EMINENT DOMAIN

POLICY ANALYST: **JON GUZE**

INTRODUCTION

Eminent domain refers to the government's power to take land from property owners with or without the owner's consent.

The Takings Clause, which appears in the Fifth Amendment to the United States Constitution, states, "Nor shall private property be taken for public use without just compensation." That phrase was traditionally thought to restrict the use of eminent domain to cases in which the government itself required 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 mill ponds, 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*, which upheld New London, Connecticut'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 may 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.

EMINENT DOMAIN

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

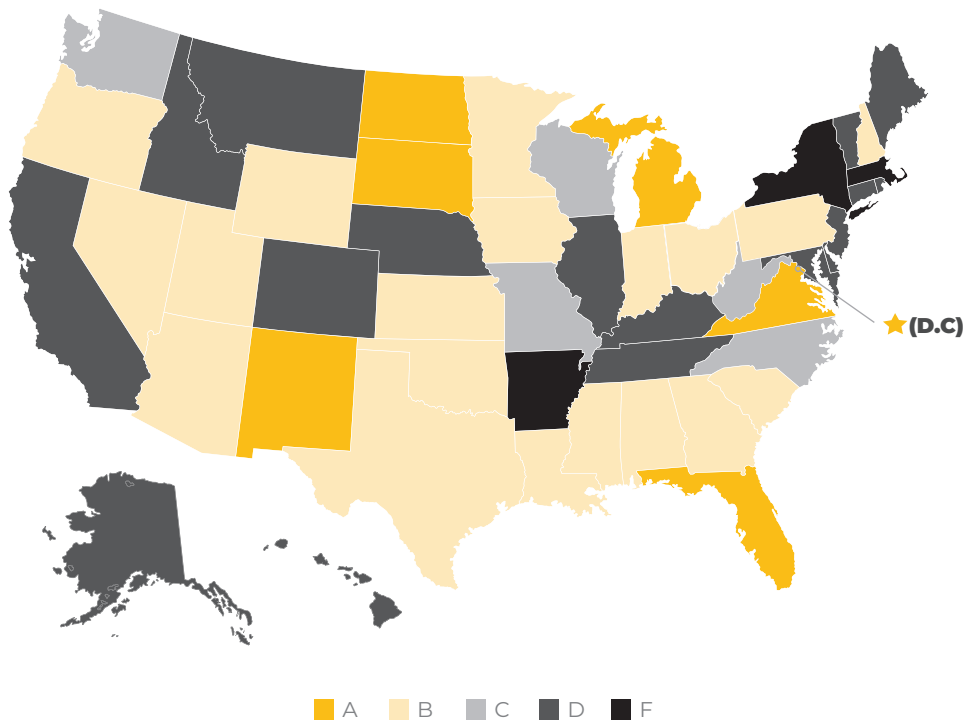
EMINENT DOMAIN

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 that property 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 Card: Grades for State Eminent Domain Laws



SOURCE: INSTITUTE FOR JUSTICE

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-paid, 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, lingering anti-police sentiment inspired by the 2020 death of George Floyd 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 burdens. 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.

INTENSIVE COMMUNITY POLICING

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. Sadly, but predictably, this new wave of crime has continued, and just as with previous crime waves, the consequences for African Americans and the poor have been 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-paid, well-trained, and 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 preserving lives and property, improving the quality of life, and encouraging investment and job creation.
- » Those who would otherwise have engaged in criminal conduct will also benefit from a reduced likelihood of being arrested, charged, and convicted.
- » Intensive community policing will even 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, which will improve the overall level of professionalism in policing and also reduce the incentive to keep or rehire bad actors. 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 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.

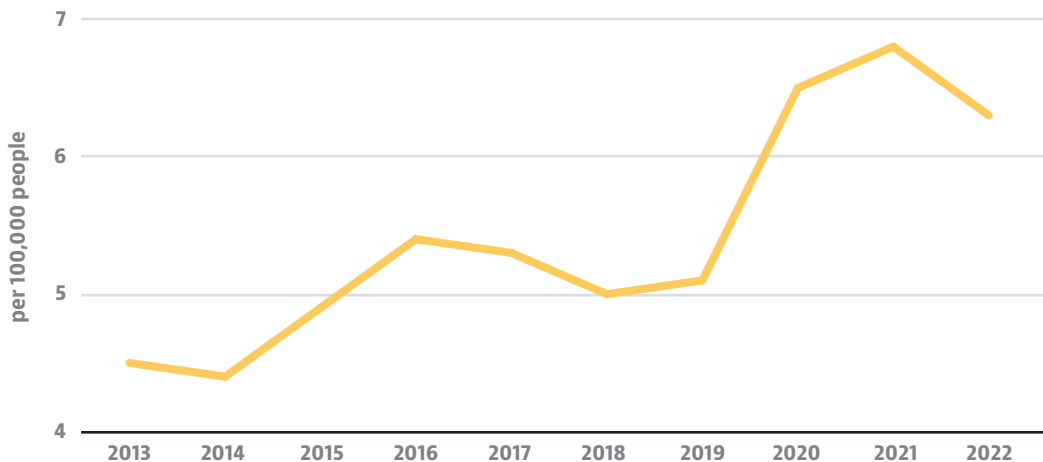
2. Provide officers with state-of-the-art training and support.

Higher investments in training and support will help avoid the kinds of unprofessional conduct that sow distrust in high-crime communities.

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

Targeting officers to high-crime hotspots will ensure efficient use of economic and human resources.

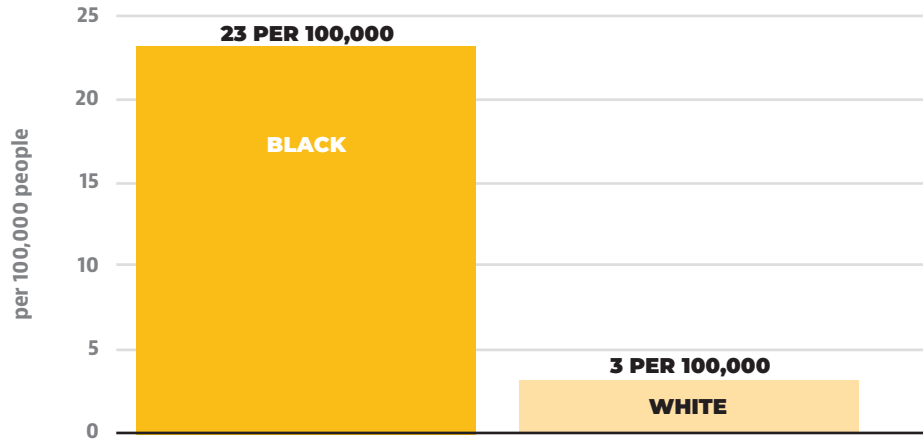
U.S. Homicide Victimization Rates, 2013-2022



SOURCE: FBI, UNIFORM CRIME REPORTS AND UNITED STATES CENSUS BUREAU

Black Victimization Rate Compared To White Victimization Rate In 2022

BLACKS WERE MORE THAN SEVEN TIMES MORE LIKELY TO BE VICTIMIZED

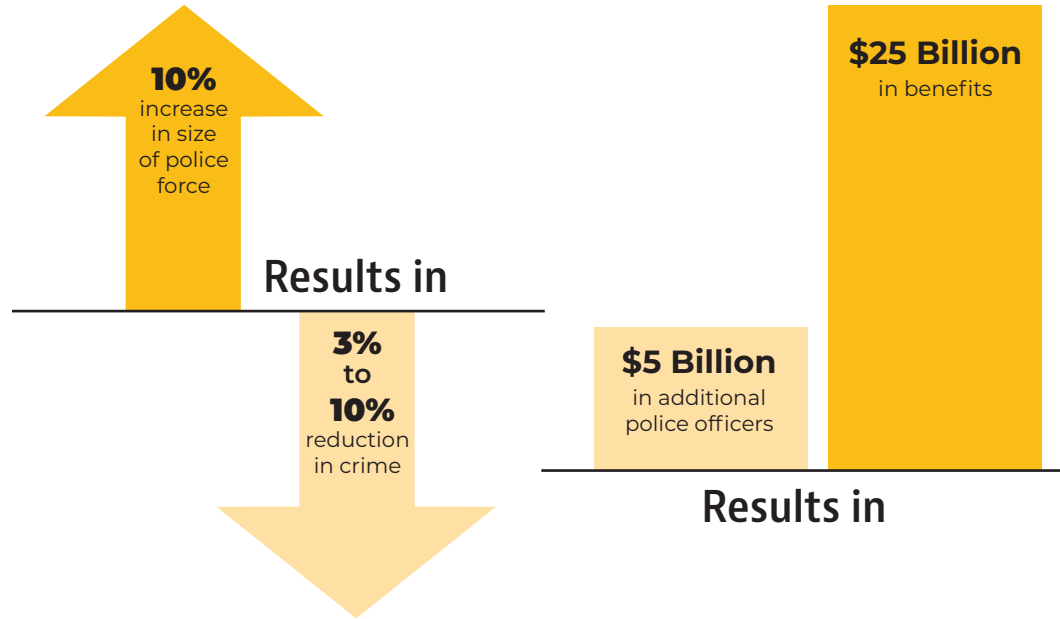


SOURCE: FBI, UNIFORM CRIME REPORTS AND UNITED STATES CENSUS BUREAU

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)



REGULATION AND AGRICULTURE

AGRICULTURE

POLICY ANALYST: **KELLY LESTER**

INTRODUCTION

Agriculture is a cornerstone of North Carolina's economy. It is one of the state's largest industries and generates billions of dollars in revenue each year. Key agricultural products, including poultry, tobacco, soybeans, corn, and sweet potatoes, underpin the state's economic stability and growth.

North Carolina's diverse climate and geography allow for a wide variety of crops and livestock to thrive. This diversity ensures the state's agricultural sector remains robust and adaptable to changing market demands and climatic conditions.

From farm labor to food processing and distribution, agriculture is a significant source of employment for North Carolinians. In fact, around one-sixth of the state's employment and income comes from the agricultural sector, and many small towns and communities in North Carolina depend on farming and related businesses. North Carolina's agricultural industry promotes rural development and preserves their unique way of life.

Agriculture is essential in ensuring a stable and accessible food supply for North Carolinians and the nation. The state produces a substantial amount of the food consumed locally, contributes significantly to the overall food production in the United States, and provides exports to international markets.

However, the industry does not come without controversy. From the debate over what is environmentally sustainable farming to fears over hog waste polluting water in rural communities, the state has had no easy time allowing the industry to grow.

In light of such controversies, it may seem reasonable to continue to implement and enforce multiple layers of regulations in order to appease the loudest voices. However, well-meaning policy often is accompanied by severe consequences that can be detrimental to both farmers and consumers. It is vital that legislators instead allow agriculture and the food supply chain to be guided by what Adam Smith deemed the Invisible Hand, with minimal government interference.

Agriculture is vital to the well-being of both the state and the nation. Legislators should always be asking what can be deregulated to make things more efficient in this important sector, instead of thinking of ways to regulate and subsequently disincentivize sector growth.

KEY FACTS

- » North Carolina's rapidly growing population has made land values increase. The state has seen a sharp decline in total farmland as developers and foreign entities buy up highly desired farmland for other uses. In addition, on average 80% of farm subsidies go to the top 10% of farms, which makes it very difficult for small farms to survive and makes big farms get bigger. Over time, the total *average acreage* of farms in North Carolina has increased while the *number* of farms has decreased.
- » The number of sawmills has been decreasing in North Carolina for over a decade due to regulatory burdens and foreign competition. In addition, it is expensive and difficult for local sawmills to get lumber graded to be sold. This has led to large amounts of ungraded lumber being thrown out.
- » Despite having to meet the same inspection requirements, state-inspected meat processing facilities can sell only within the state, whereas federal facilities can sell across state lines. This restriction makes an already fragile supply chain even more so and harms North Carolina's small farmers while driving up meat prices for consumers. Currently, North Carolina does not participate in the Cooperative Interstate Shipping Program, which allows meat products from state-inspected facilities to be sold across state lines.
- » There is growing demand for the right to repair technology, especially expensive farm equipment, without being compelled to use the manufacturer's licensed professionals. Consumers want to be able to repair their own property, whereas companies want to protect their intellectual property. Policymakers should be cautious about resorting to legislation because the market is already responding to consumer demands for the right to repair, and legislation could create unintended harms.
- » North Carolina's 1997 moratorium on hog farms became permanent in 2007, severely halting the growth of an industry that our state should be proud to be a part of. For the third-largest pork producer in the country, the industry generates billions and thus greatly benefits the rural areas that dislike the moratorium the most. This is just one example of many questionable regulations on the agricultural sector in North Carolina.
- » A regulatory sandbox is a law that allows businesses that opt into the program to use new innovations and technology to conduct business without regulatory burdens. Currently, the state already has a sandbox for finance and insurance. However, agriculture is also an industry much in need of innovation. An agriculture sandbox would open more options for farmers and let them explore new innovations without reactive regulation preemptively closing them off.

RECOMMENDATIONS

1. Expand North Carolina’s regulatory sandbox to include an agriculture sandbox.

This will allow farmers to engage with more innovative technologies.

2. Allow the selling of ungraded lumber.

This will benefit local sawmills, lead to less waste, and make building homes more affordable.

3. Repeal the hog farm moratorium.

Livestock farming is imperative to the North Carolina agricultural sector and should be allowed to grow.

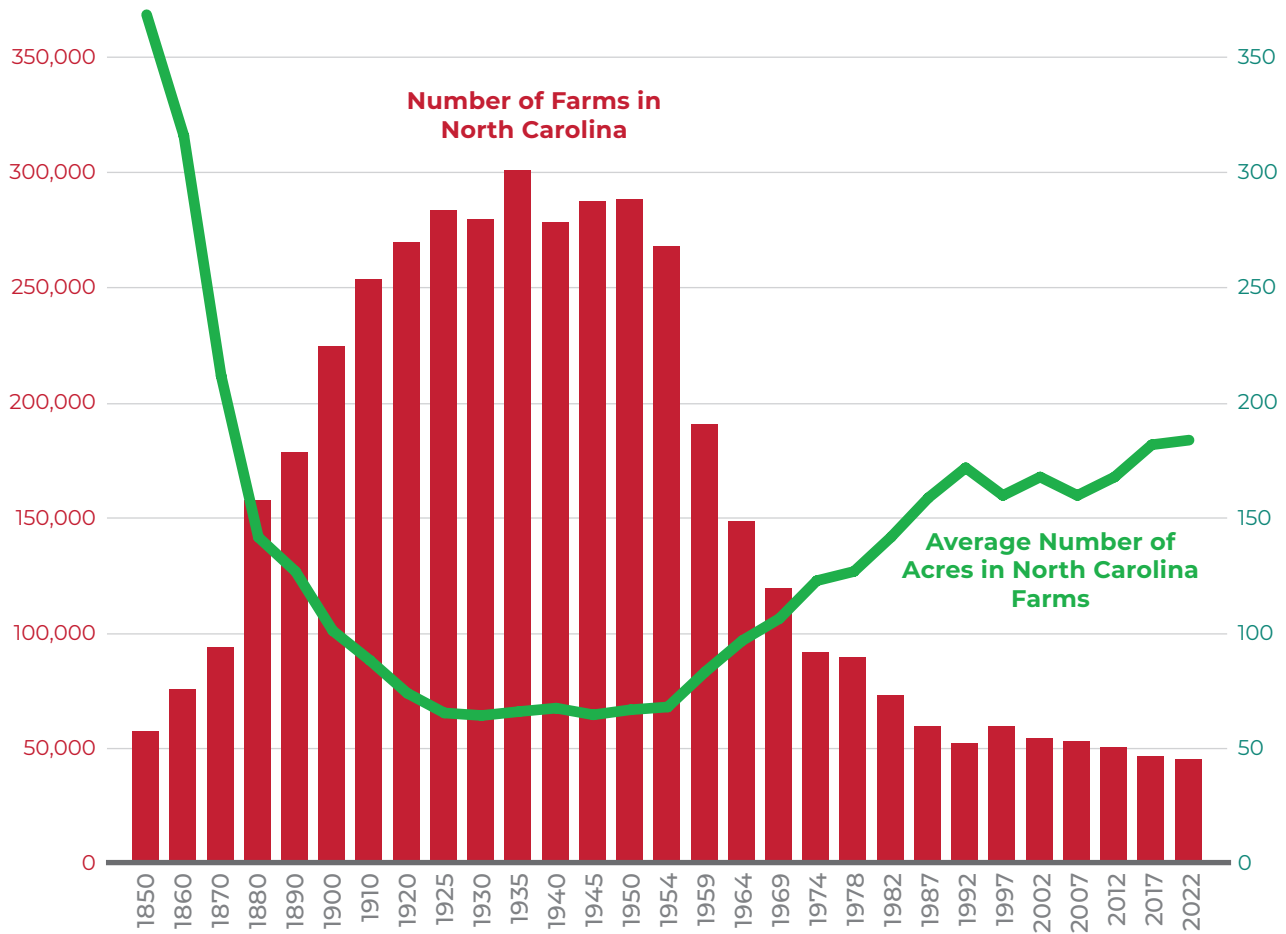
4. Be wary of right-to-repair legislation.

Legislators should further evaluate the issue instead of rushing to pass questionable legislation on the right to repair tractors.

5. Let North Carolina join the Cooperative Interstate Shipping Program.

Doing so will enable state-inspected meat and poultry products to be shipped across state lines, which will benefit North Carolina farmers via an expanded market for their product.

Number of Farms and Average Number of Acres per Farm in North Carolina, 1850 - 2022



SOURCE: UNITED STATES DEPARTMENT OF AGRICULTURE, CENSUS OF AGRICULTURE HISTORICAL ARCHIVE

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 171 different ABC boards operating 440 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 be stored 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 over \$1.7 billion in sales and talk up its government revenue transfers. But most of the sales revenue covers *business* expenses, of course. In 2022 only 39% 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 state's Alcohol Law Enforcement and local law enforcement. Research and further consideration suggest those fears, though understandable, are overblown.

Research finds no significant differences between control and license states with respect to those negative outcomes. It makes sense. Sales at ABC stores (which are sales for *consumption off the premises*, and only of liquor) make up only a small subset of alcohol consumption in North

Carolina. That subset is dwarfed by sales of beer and wine for consumption on or off the premises and also by liquor-by-the-drink sales at restaurants, bars, clubs, and so forth.

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, and similar establishments cannot offer “happy hours” or “ladies’ nights” promotions or provide 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, and taprooms can.
- » Under the lighter regulatory regime for beer and wine, North Carolina sees thriving industries bringing pride to their communities, with over 410 breweries and brewpubs and 200 wineries in 2023. 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.
- » There are at least 25 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.

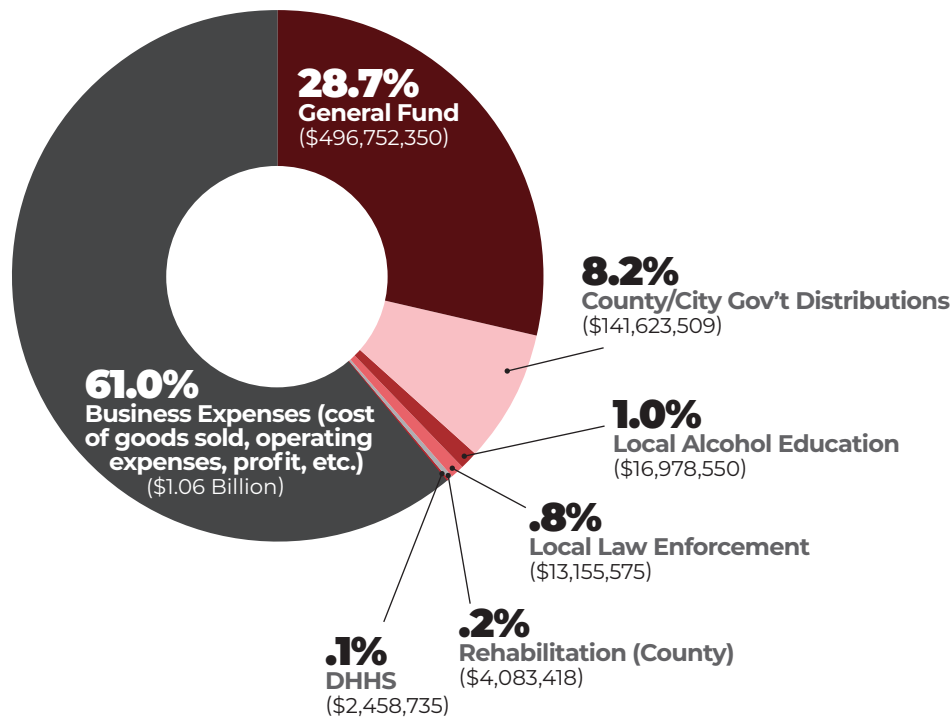
Dissolve the ABC boards, sell the ABC stores, divest the state of the ABC Warehouse, and free distillers from the ABC Commission dictating an approved products list and statewide prices.

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. For example, distilleries ought to be able to self-distribute, sell bottles at farmers markets or state fairs, and open on Sundays. 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.

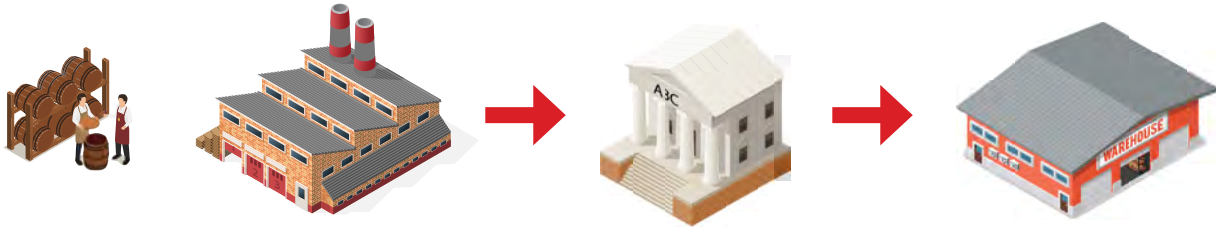
Revenue Transfers to Government From Total ABC Sales Revenue

Only 39% of ABC's \$1.73 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

ELECTRICITY AND ENERGY

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

Because electricity is a basic human need, North Carolina law has long required *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. Special interests and their allied politicians, however, see an unbelievably easy target for exploitation — like shooting fish in a barrel.

In 2019, Gov. Roy Cooper announced a “Clean Energy Plan” based on input from 164 environmentalist and other groups. Despite state law, only 7% of those “stakeholders” chose “Affordability” and “Reliability” as priorities for electricity provision. The plan heavily promoted unreliable renewable energy sources, opposed building new natural gas pipelines, and rejected nuclear power, thereby threatening to make California-style rolling blackouts a Carolina reality. Research estimated Cooper's plan would also increase annual household electric bills by more than \$400.

In 2021, the General Assembly passed House Bill 951 (HB 951), a new law putting the plan's goals into law with the very crucial addition: It upheld longstanding state protections of least-cost and reliable electricity. The new law called for two phases of reducing carbon-dioxide (CO₂) emissions from electricity generation: a 70% reduction by around 2030 (from 2005 levels) and “carbon neutrality” by 2050.

A major consequence of HB 951 is that it will result in the eventual closing of all of North Carolina's coal-fired electricity generation, over 9,000 megawatts (MW) of baseload power. Coal generates more CO₂ emissions than most other sources, but the levelized cost of existing coal plants is cheaper than that of new power plants regardless of source. The law made it plain, however, that any plan approved by the North Carolina Utilities Commission must set forth the “least cost path” to compliance and also “maintain or improve upon the adequacy and reliability of the existing grid.”

Sources of electricity generation vary in many ways. Different sources differ in emissions, but they also differ in cost, land use, longevity, and reliability. Also, electricity has to be consumed when it is produced. So a baseload source must be a reliable source, one that can be counted on 24/7 to meet customer demand as it fluctuates. Replacing a baseload source is not simply a matter of “unplugging” one power plant and plugging in another. The replacement must also be capable of performing as a baseload resource.

One aspect missing from the law enacted by HB 951: It does not require replacing baseload power generation with an equal or greater amount of baseload power, commensurate with increased electricity demand as the state continues to grow. Such a requirement would buttress the least-cost and reliable provisions by at least maintaining the proportion of reliable, 24/7 power generation available to North Carolinians and preventing the (expensive) overbuilding of intermittent sources that need redundancy to compensate for their intermittency.

In 2021, in line with Pres. Joe Biden's demand for "rapid offshore wind deployment ... up and down the Atlantic Coast," Gov. Cooper issued an executive order calling for 8 gigawatts (GW) of offshore wind capacity to be built off North Carolina beaches by 2040. Offshore wind is the most expensive form of electricity generation and is inherently unreliable. Nevertheless, by mid-2023, East Coast offshore wind projects were already reporting costs averaging 57% higher than 2021 projections. Offshore wind development companies warned of ending projects if states wouldn't allow them to charge consumers even higher rates than previously agreed upon, and in October 2023, wind power developer Orsted announced it had ceased developing its wind projects off the coast of New Jersey. Preventing electricity customers from being saddled with such expenses for untrustworthy, intermittent power is precisely why the law's least-cost and reliable guardrails were installed.

KEY FACTS

- » Recognized in state law as a "clean energy resource," nuclear is a zero-emissions source of electricity, and its 95.6% annual capacity (a measure of reliability; how much a source actually produces "full power") was far greater than any other source in North Carolina. Natural gas was second-most efficient and reliable, with an annual capacity of 73.2%.
- » Weather-dependent wind (27.7%) and solar (21.2%) were the worst. Wind power can produce only when it's windy enough. Solar power can produce only during certain hours during the day when (and if) the sun is out. They are so unreliable that they require backup generation from more reliable sources (usually natural gas), which actually *increases* emissions.
- » Greenhouse gas emissions in North Carolina have been plummeting all century. From 2005, CO2 emissions from electricity generation have fallen by 46.1%.
- » Nevertheless, North Carolina's cuts were obliterated by China's increase in CO2 emissions from electricity during that same time. In fact, the most North Carolina could cut (76.7 million metric tons of CO2) would offset only 1.7% of China's increase (4,471 million metric tons as of 2022). As North Carolina's emissions fall, China's emissions

will keep increasing. As of mid-2023, China announced plans to build 42 times more coal power than North Carolina can retire. In most of the rest of the world, CO2 emissions from electricity are increasing. State policies forcing CO2 emissions reductions are therefore all cost to North Carolinians without any actual reduction in global emissions.

- » In 2021, natural gas supplanted nuclear as North Carolina's top source of electricity, producing 36.5% of the state's electricity to nuclear's 33.2%. Coal (15.7%) continued to fall. Solar provided only 7.8% but edged out hydropower (4.5%), wind (0.4%), and all other sources (1.9%).
- » Building new power plants is more expensive than maintaining existing ones, and sources range in cost as well as longevity. The levelized cost of energy from new natural gas plants is \$50 per megawatt-hour (MWhr), and those plants can last 32–40 years. New solar (\$90/MWhr; 25–30 years) and new wind (\$89/MWhr; 30 years) cost more accounting for their required backup generation. New nuclear costs more (\$75/MWhr) than new natural gas plants but can be licensed for 80 years. The levelized cost of energy from existing nuclear power plants is only about a *third* of the cost of new wind and solar.
- » One matter of interest is how much federal incentives different energy sources receive. An August 2023 report from the U.S. Energy Information Administration showed that wind and solar received far, far more in incentives than other sources from 2016 to 2022. Whereas natural gas was given \$0.12 and nuclear \$0.17 per MWh generated, wind received \$3.31 (about 20 times more per MWh than nuclear). Then there's solar, which got \$16.37 per MWh.
- » Nuclear and natural gas plants have much, much smaller environmental footprints than wind and solar. To produce 1,000 MW over a year, nuclear requires only one square mile of land; natural gas, 1.8 square miles; solar, 54.2; and wind, 425.9 (onshore).
- » Gov. Cooper's order for 8 GW of offshore wind, if realized, would increase electricity rates by an estimated \$400–\$500 per year, cost an estimated 45,000 to 67,000 permanent jobs outside of fishing and tourism, wreck coastal fishing, and cripple local tourism by bespoiling coastal views with visible, flashing turbine arrays. It would cause irreversible damage to critically endangered and threatened avian species and marine animals, including North Atlantic right whales and loggerhead turtles. The turbines being discussed are massive; they would instantly be the tallest man-made structures in North Carolina. Not only would they be extremely disruptive to U.S. military operations, facilities, and training off the coast, but also they would be placed in the most hurricane-prone waters in the East Coast.

RECOMMENDATIONS

- 1. Require that any retiring source of baseload power generation be replaced with an equal or greater amount of new baseload generation, commensurate with increased electricity demand.**

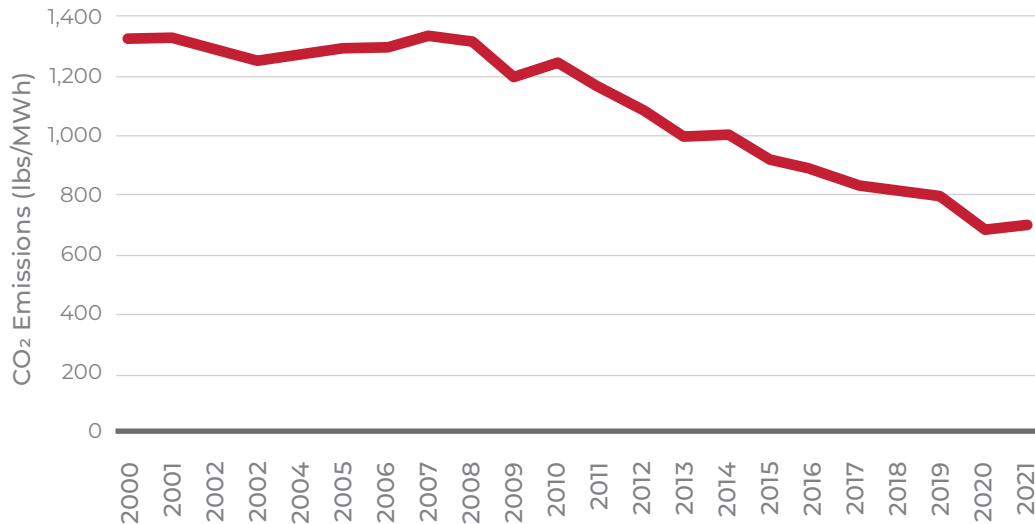
The state will continue to grow even as the effects of HB 951 call for the retirement of North Carolina’s coal-fired power plants. This reform would buttress the law’s least-cost and reliable provisions and ensure that North Carolinians continue to access dependable electricity without expensive overbuilding of intermittent sources.

- 2. Place a moratorium on offshore wind energy facilities.**

Offshore wind would hike costs on electricity consumers, threaten irreversible damage to endangered whales and other marine animals, endanger coastal fishing and tourism, disrupt military operations and training, and create many other issues that are too great to risk for an unreliable energy source.

NC Carbon Dioxide Emissions (lbs/MWh), 2000-2021

North Carolina’s CO₂ Emissions Had Fallen Nearly by Half Before the Carbon Plan



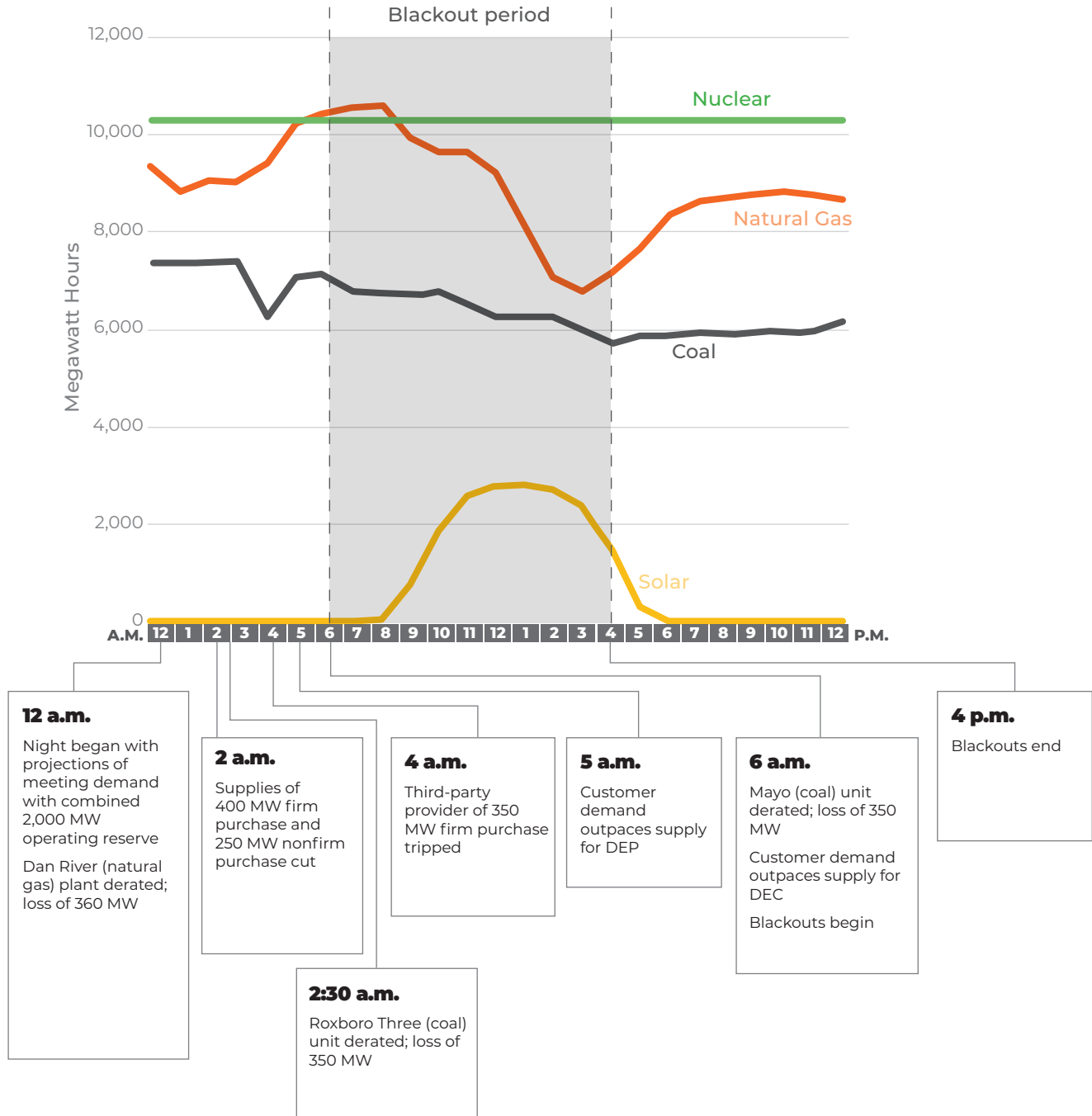
SOURCE: U.S. ENERGY INFORMATION ADMINISTRATION

Comparing Different Electricity Sources Used in NC Generation, Reliability, Cost, and Environmental Measures

Source	Genera- tion in NC	Reliability Measures			Cost Measures				Environmental Measures		
	Percentage of NC's power generation, 2021	Dependability and dispatchability — ability to provide always-on baseload power or backup generation or always-ready peaking power as opposed to uncertain, intermittent power when circumstances are right	Productivity factor, 2022–23 — output factor (OF) or effective load carrying capacity for intermittent sources (ELCC) compared with full (nameplate) capacity	Capacity factor with usage in NC, 2021 — power generated and used compared with full (nameplate) capacity	Federal subsidies per MWh, 2016–22	Levelized cost of new power plants per MWh	Levelized cost of existing power plants per MWh	Expected lifespan of power plants	Land needed for 1,000 MWs nameplate capacity	Land needed for actual 1,000 MWs output (based on productivity factors and NC facilities)	CO2 emissions per MWh in NC
Coal	15.7%	100%, baseload (also peaking)	51.17%(OF)	32.8%	\$0.55	\$70.90	\$40.90	No mandatory retirement age — average retirement is 45–50 years	0.5 mi. ²	1.0 mi. ²	1.0 metric ton
Natural Gas	36.5%	100%, baseload (also backup/peaking)	80.44% (OF)	73.2%	\$0.12	\$50.00	\$35.90	32–40 years	1.7 mi. ²	1.8 mi. ²	0.4 metric ton
Nuclear	33.2%	100%, baseload	100.34% (OF)	95.6%	\$0.17	\$75.20	\$33.30	Licensed up to 80 years	1.0 mi. ²	1.0 mi. ²	0
Hydroelectric	4.5%	100%, peaking	86.36% (OF)	33.1%	\$0.06	\$73.10	\$38.20	No mandatory retirement age — several in NC are over 100 years old	156.0 mi. ²	169.2 mi. ²	0
Solar	7.8%	0%, intermittent	3.5% winter average; 45.4% summer average (ELCC)	21.5%	\$16.37	\$90.00	n/a	25–30 years	13.2 mi. ²	54.2 mi. ²	0 plus amount of CO2 emissions from required backup generation*
Wind	0.4%	0%, intermittent	38.8% (ELCC)	27.7%	\$3.31	\$88.70	n/a	30 years	165.3 mi. ²	425.9 mi. ²	0 plus amount of CO2 emissions from required backup generation*

SOURCES: US ENERGY INFORMATION ADMINISTRATION (NC POWER GENERATION, CAPACITY FACTORS, NC CAPACITY AND USAGE, FEDERAL SUBSIDIES BY SOURCE, EXPECTED LIFESPAN OF COAL PLANTS, AND EMISSIONS), DUKE ENERGY CORPORATION (BASELOAD AND DISPATCHABLE RESOURCES, OUTPUT FACTORS AND EFFECTIVE LOAD CARRYING CAPACITY OF INTERMITTENT SOURCES, LIFESPAN OF NATURAL GAS AND HYDROELECTRIC FACILITIES, EMISSIONS FROM REQUIRED BACKUP GENERATION), INSTITUTE FOR ENERGY RESEARCH (LEVELIZED COST OF ENERGY BY SOURCE, NEW AND EXISTING), NUCLEAR REGULATORY COMMISSION (LIFESPAN OF NUCLEAR PLANTS), NATIONAL RENEWABLE ENERGY LABORATORY (LIFESPAN OF SOLAR FACILITIES), AND WIND ENERGY TECHNOLOGIES OFFICE (LIFESPAN OF WIND FACILITIES), BELEWS CREEK STEAM STATION (LAND USE, COAL GENERATION), ASHEVILLE COMBINED CYCLE STATION (LAND USE, NATURAL GAS GENERATION), BRUNSWICK NUCLEAR PLANT (LAND USE, NUCLEAR GENERATION), COWANS FORD HYDROELECTRIC STATION (LAND USE, HYDROPOWER GENERATION), WARSAW FARM (LAND USE, SOLAR GENERATION), DESERT WIND FARM (LAND USE, ONSHORE WIND GENERATION), AND AUTHOR'S CALCULATIONS.

Timeline of the Christmas Eve 2022 blackouts, with hourly electricity generation by select sources



Nuclear

No fluctuation in power. A steady producer of power throughout the cold snap.

Natural gas

Reported freezing of instrumentation lines at three plants caused a falling-off of expected power generation. Combined with losses of expected power purchases, it meant supply could not keep up with customer needs.

Solar

Contributed zero power during the first few hours of blackouts, as expected for early morning hours. Little production in mid-morning was mirrored by production falling off in the late afternoon as the blackouts were ending. Was able to produce well during mid-day because it was sunny that day, but what if it hadn't been?

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. Whereas 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, and we don’t know if it will make things better, so let’s block it before it upsets the way things are done around here.*

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 ridesharing, homesharing, and many, many other things. The emergence of app-based marketplaces is given several names: the gig economy, the sharing economy, or in the words of Duke University professor Michael Munger, author of *Tomorrow 3.0: Transaction Costs and the Sharing Economy*, the “platform revolution.”

Platforms work by significantly reducing transaction costs, which are the economic costs of conducting a trade — not just monetary costs like sales taxes, but also time spent searching, uncertainty, hassle, distrust, etc. Platforms reduce transaction costs so much so that we see transactions happening now that otherwise would never have occurred or even been imagined. They’re not only connecting potential riders with drivers and potential guests with hosts, they’re even connecting dog owners with potential dog walkers, residents with home delivery services from local restaurants and stores, and even families with welcoming swimming pool owners.

Fast-emerging new forms of competition may please consumers, but they upset existing businesses and worry local and state officials about unregulated providers. Policymakers’ answer is often, unfortunately, to saddle the new marketplaces with all the red tape that’s afflicting the older marketplaces — and sometimes add new restrictions. Ill-conceived regulations can persist and have ongoing negative effects on local economies, consumers, and entrepreneurs.

Instead, policymakers should be on the lookout for persistent regulatory obstacles already blocking the way to the hustlers and go-getters, old and new, in their communities. 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.

Local swimming pool owners saw an example of the knee-jerk regulatory impulse over the summer of 2023. On July 24, WRAL reported on the swimming pool sharing app Swimply, telling viewers they could “Use app to rent a pool for the day.” On August 31, WRAL was reporting “People renting backyard pools told to stop operating ‘public pools.’” The state Department of Health and Human Services had issued guidance that renting out a private pool made it “public.” Not all jurisdictions WRAL spoke with were treating the DHHS guidance as binding, however. (For a discussion of the difference between regulatory guidance and actual, duly created regulation, see the “Red Tape and Regulation” section.)

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, prescribing it “only when there is evidence regulation is needed” and advising that it be “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 created a regulatory sandbox for finance and insurance products and services. The law waives some regulations for newly emerging products and services for 24 months to give them a test run while keeping other consumer protections in place. Several states and many nations around the world have started regulatory sandboxes for certain industries. Meanwhile, South Korea and the state of Utah have highly successful, open-ended regulatory sandboxes.
- » 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 homesharing 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.
- » In 2019, the California legislature sought to quell the gig economy with a highly restrictive bill (Assembly Bill 5) that defined most independent contractors, freelancers, and platform entrepreneurs (“gig workers”) who contract with companies as those company’s employees and therefore subject to the full scope-of-employment regulations. The new annual payroll expenses imposed by California’s law were enormous: an estimated \$6.5 billion. The new law was so disruptive, however, that it prompted a 2020 law exempting a long list of job categories, followed by a referendum that same year to grant independent contractor status to app-based ridesharing drivers (such as for Uber and Lyft) and delivery services (such as for DoorDash).

RECOMMENDATIONS

1. Expand North Carolina’s regulatory sandbox to all industries, not just finance and insurance.

The regulatory sandbox helps foster innovation without smothering it with unnecessary regulation.

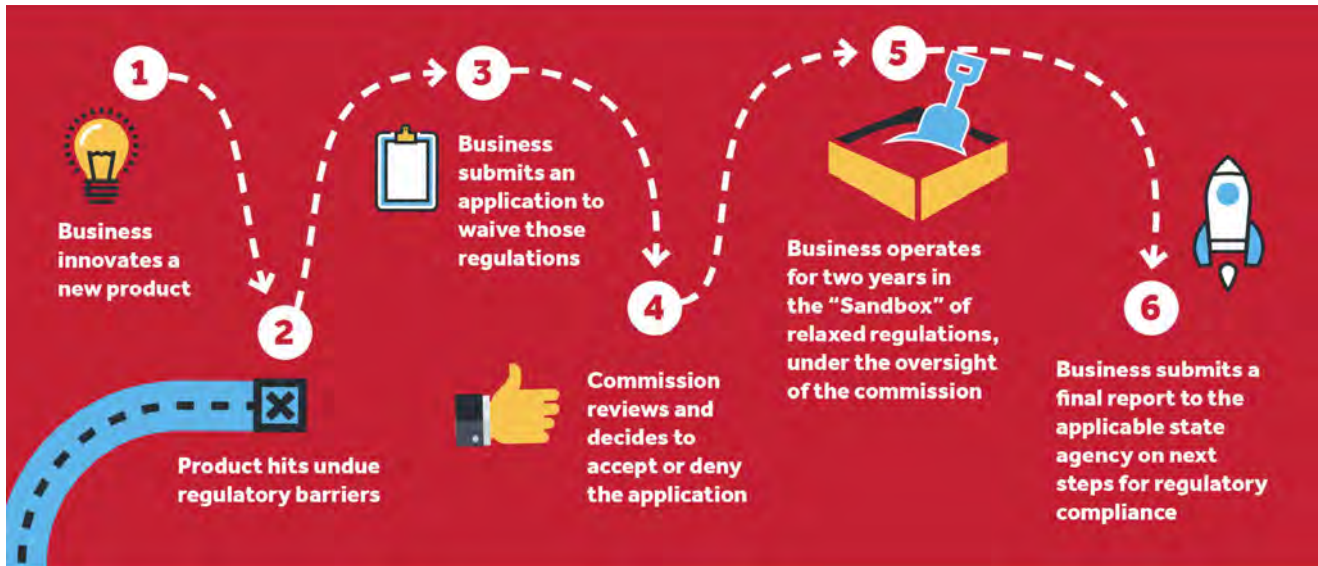
2. Correct regulatory imbalances not by piling burdens on emerging marketplaces, but by lessening burdens on existing ones.

Established providers have a point when they object to new competitors figuring ways around regulations that have road-blocked them. The answer is to remove the roadblocks, not install new ones.

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

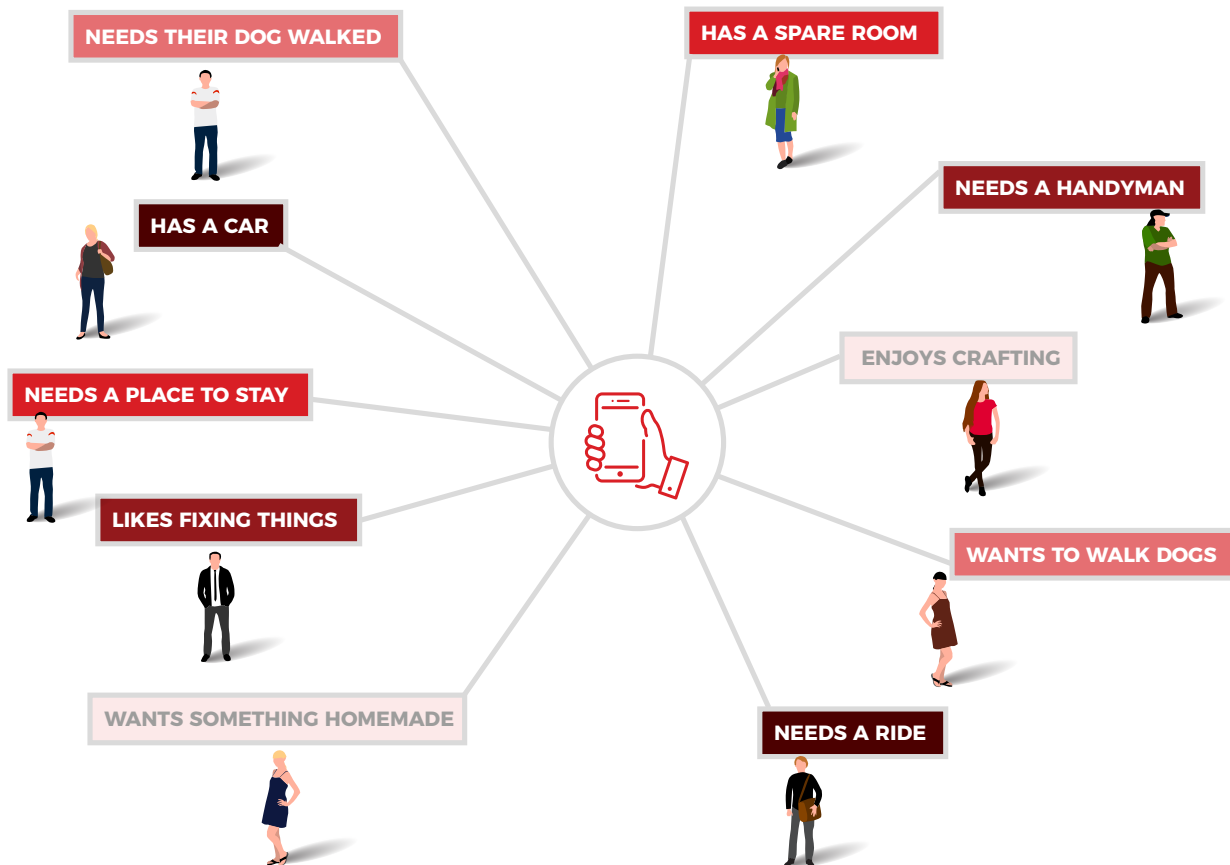
Regulation for regulation’s sake can stifle improvements for no good reason.

How Does the Regulatory Sandbox Work?



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) have been 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, policymakers 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 despite years of providing appropriations, no staff members were ever hired, and no reports were produced. Legislators ended up eliminating the office in the 2021 budget bill.

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 when 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 systems, social services, and water infrastructure. They could have positive impacts here in North Carolina.

OCCUPATIONAL LICENSING

POLICY ANALYST: **JON SANDERS**

INTRODUCTION

All people in North Carolina have 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 that body’s Program Evaluation Division rightly characterized occupational licensing as the state’s “Most Restrictive” occupational regulation, to be used only 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 more than 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 reformed their licensing regimes in the wake of the North Carolina Board of Dental Examiners case. 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, thereby 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 – to be used 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, enforcing the Unfair and Deceptive Trade Practices Act, redress of grievances through courts, and recognizing certification. They can even create specialty licensing allowing medical insurance reimbursement for emerging health care practices that fall outside the scopes of practice of current North Carolina medical licenses, such as those of naturopaths, behavioral analysts, music therapists, etc. (the specialty licenses wouldn't forbid practice to those who choose not to get one).
- » The keys to how much state intervention there should be in a service field are these: Use the policy option that matches the concern, then stop right there and don't regulate any further.

RECOMMENDATIONS

1. **Adopt the approach taken by the Right to Earn a Living Act 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. **Implement sunset with periodic review for all licensing boards and their licenses.**

Eliminate questionable ones.

4. **Strive to become the least burdensome state.**

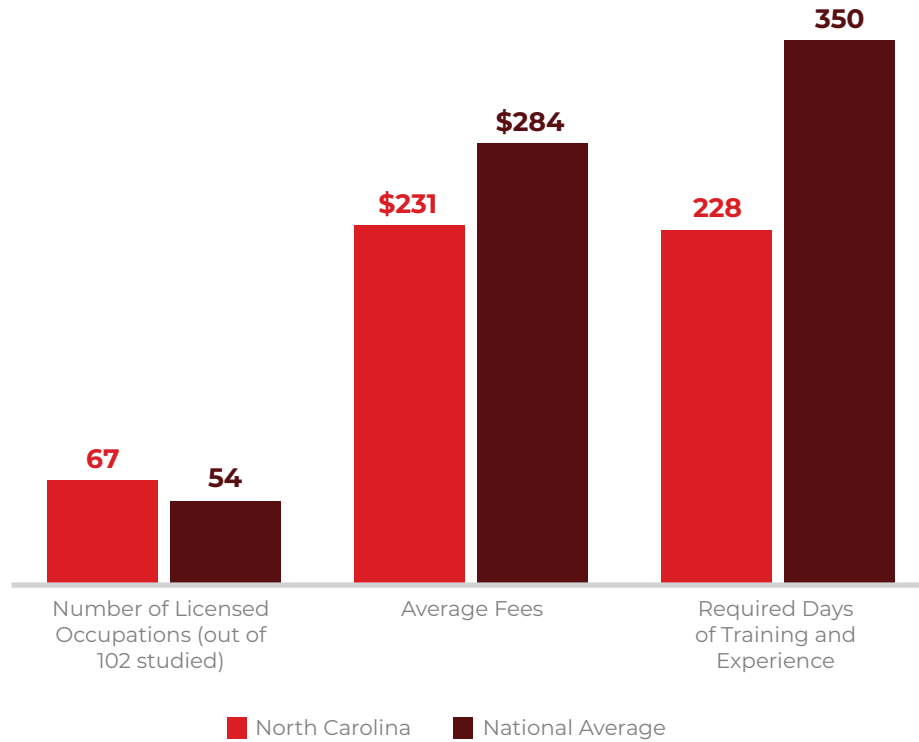
Licensing is the most extreme form of occupational regulation. Why should North Carolinians need licenses for work that other states simply allow? For licensed work, why should North Carolinians be made to fulfill more education credit hours, log more experience, take more exams, and pay more in licensing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

5. **Adopt universal license recognition for remaining licenses.**

6. **Enact specialty licenses for medical insurance reimbursement for emerging health care practices that won’t restrict practitioners who don’t pursue the specialty license.**

How North Carolina Compares with the Nation in Licensing Low-Income Professions

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



SOURCE: LISA KNEPPER ET AL., LICENSE TO WORK: A NATIONAL STUDY OF BURDENS FROM OCCUPATIONAL LICENSING, 3RD EDITION, INSTITUTE FOR JUSTICE, NOVEMBER 29, 2022.

Layers of Policy Alternatives Before Arriving at the Extreme of Occupational Licensing

1

Voluntary, Hands-Off Options NO GOVERNMENT INTERVENTION

Market freedom with cooperation between consumers and service professionals

- ▶ Marketing, advertising, word-of-mouth
- ▶ Independent review services, social media, curated customer experiences
- ▶ Self-disclosure, guarantees, and quality assurance
- ▶ Voluntary third-party certification
- ▶ Voluntary bonding and insurance

2

Policy Alternatives SOME GOVERNMENT INTERVENTION

Government aiding in consumer protection without barring service professionals from work

- ▶ Lawsuits and private causes of action
 - ▶ Enforcement of laws against unfair and deceptive trade practices, negligence, and fraud
 - ▶ State-mandated inspections (to ensure cleanliness)
 - ▶ Mandated bonding and insurance (to prevent externalities and address any damages to third parties)
 - ▶ Registration with the Secretary of State (to prevent fly-by-night businesses, such as those who show up trying to take advantage of people following natural disasters)
 - ▶ Certification, credentialing, or specialty licensing granting exclusive privilege to use a protected occupational title without restricting the scope of work to other practitioners
- (to allay the problem of asymmetrical information, whereby a consumer cannot judge whether a professional is competent or not — and specialty licensing could be used for medical insurance reimbursement for emerging health care practices)

3

Occupational Licensing Extreme GOVERNMENT BARRIER TO ENTRY

Government forbids professional from work until all requirements for receiving a license are cleared and all fees are paid

- ▶ Occupational licensing granting exclusive privilege to work and zealous policing of activities within the license's scope of work

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, when they passed several reforms, including a no-more-stringent law keeping state environmental agencies from unilaterally imposing stricter regulations on North Carolinians than those imposed by the federal government.

Still, plenty of work remains. Red tape and fussy bureaucratic rules prevent the state's economy from growing as fast as it could, holding back small businesses, domestic industries, and local entrepreneurs. 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.
- » In 2013, the General Assembly enacted a significant reform for administrative rules: sunset provisions with periodic review. It has removed more than 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 are they overreach? Legislative rule ratification is a proven, effective way 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.

RED TAPE AND REGULATORY REFORM

- » Alongside overt regulations, state agencies also promulgate 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. In 2021, Gov. Roy Cooper vetoed a bill that would have had agencies repeal or codify regulatory dark matter.
- » To try to get around the no-more-stringent law, in 2022 Cooper ordered the Department of Transportation — which is not listed among the agencies bound by that law — to implement environmental rulemaking affecting trucks and buses beyond the requirements of federal rules as part of his “Memorandum of Understanding” with California Gov. Gavin Newsom.
- » In 2021 the General Assembly created a regulatory sandbox for the finance and insurance industries. Because regulation tends to protect the “old ways” and prevent new ideas, a regulatory sandbox provides a less-restrictive regulatory environment for testing innovative new products and services for a limited period of time. The state of Utah has seen great success with a general (not industry-specific) regulatory sandbox open to all innovators regardless of field.
- » 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 — government depriving people of the 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.
- » 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.
- » 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. Allowing the Codifier of Rules to remove “orphan rules” would be a simple fix to a quirk in the system that keeps rules in the administrative code even after the laws that authorized their creation have been repealed — there are over 1,000 of such rules.

RECOMMENDATIONS

1. Pass legislative rule 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 should not take effect until the legislature has scrutinized it and passed a bill ratifying it.

2. Shorten periodic review of rules to every five years 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. Apply the no-more-stringent law to all state agencies, departments, divisions, etc.

If North Carolina must have a stricter regulatory environment for something, then let it be passed by normal lawmaking, rather than imposed on the populace by unelected, unaccountable bureaucrats.

4. 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.

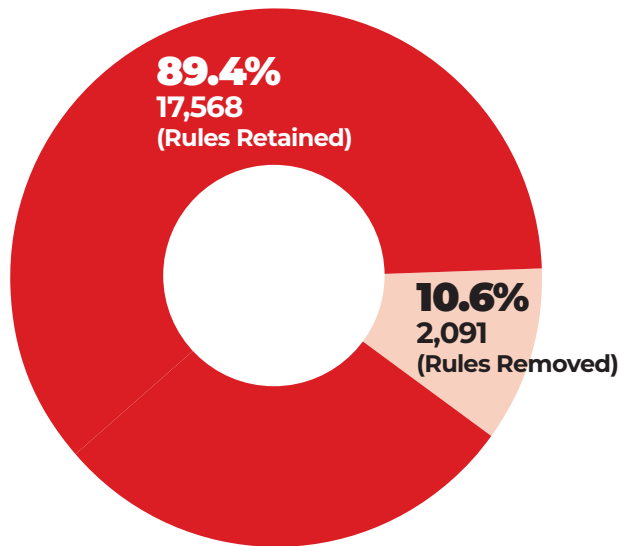
5. Create clear and fair guidelines for compensating business and property owners victimized by regulatory takings.

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.

6. Enact regulatory budgeting, a Red-Tape Reduction Committee, small-business flexibility analysis, strong cost/benefit analysis, and removal of “orphan rules.”

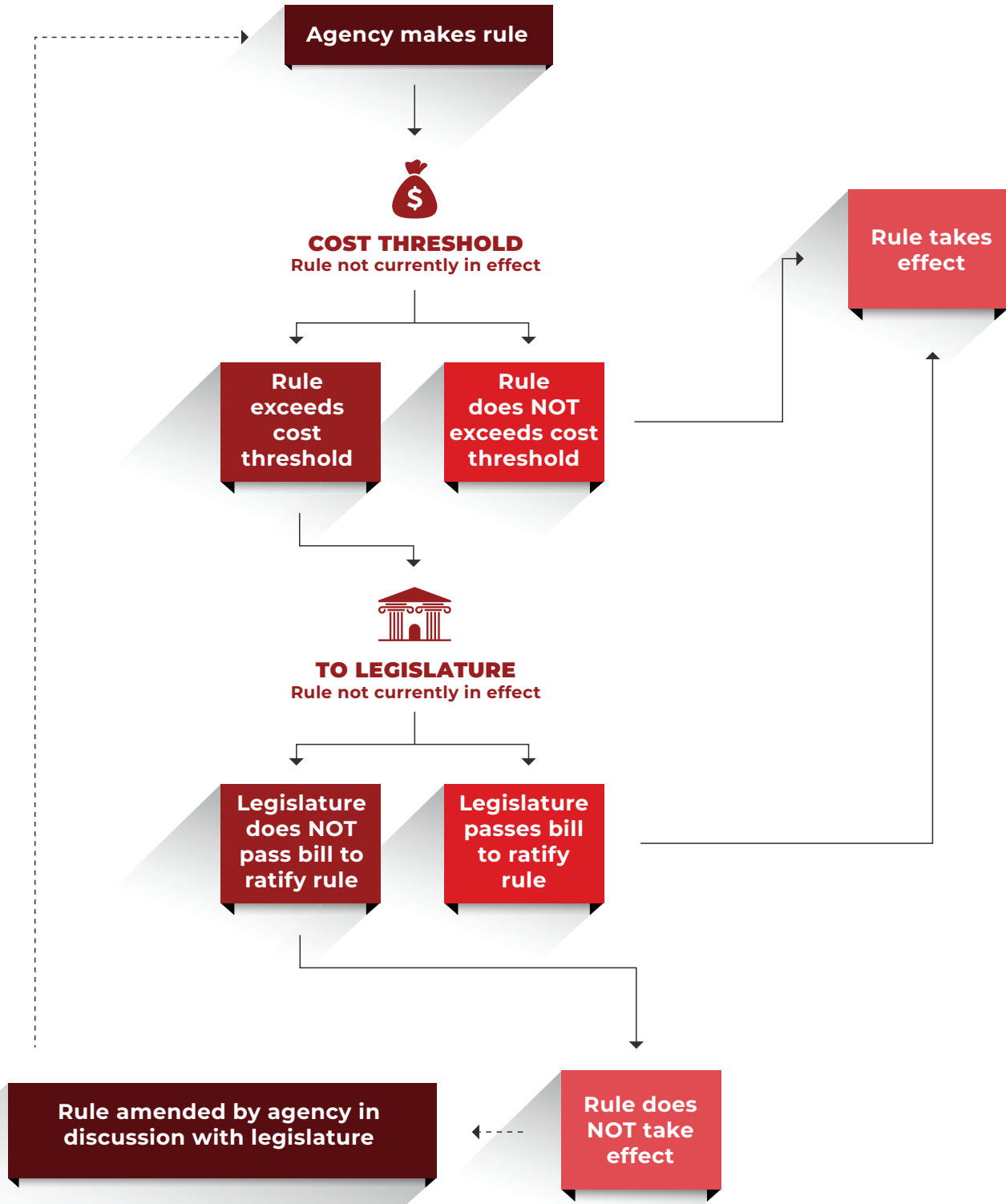
These reforms would all further the goal of having good, common-sense rules only when needed and without unnecessarily hamstringing the economy.

Spring Cleaning: Results of NC’s Sunset and Periodic Review of State Rules (as of May 2022)



SOURCE: RULES REVIEW COMMISSION

How Legislative Rule Ratification Works





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THE JOHN LOCKE FOUNDATION


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