

# NORTH CAROLINA POLICY SOLUTIONS

**2026-27**

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THE JOHN LOCKE FOUNDATION





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CAROLINA  
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# STRENGTH IN PRINCIPLE. SOLUTIONS BUILT FOR TOMORROW.



North Carolina continues to experience profound transformation, building upon the tremendous progress we have witnessed since the John Locke Foundation first opened its doors in 1990. Our commitment to advancing effective, practical, and principled public policy has helped strengthen an environment where innovation is rewarded, families flourish, and economic opportunity expands year after year.

**Donald Bryson**  
CEO

In 2025, North Carolina was once again named CNBC's Top State for Business, reaffirming our place as America's premier destination for innovation and economic opportunity. Our ranking as fourth in the nation for economic outlook in the 2026 ALEC-Laffer State Economic Competitiveness Index, along with a 13th-place ranking in the Tax Foundation's 2026 State Tax Competitiveness Index, reflects a state that has embraced principled fiscal policy and reaped its rewards. These accomplishments are remarkable, and they stand as proof that North Carolina's commitment to freedom-centered governance is working.

But we must be clear-eyed: success is not a signal to slow down—it is a reminder to press forward. North Carolina's rapid growth is putting real pressure on housing, workforce needs, energy infrastructure, and school finance. Other states are aggressively competing for talent and investment, eager to claim the advantages we've built. If we want to remain the nation's leader, we must redouble our efforts, refine our policies, and strengthen the very foundations that earned us these accolades. Our achievements should fuel our urgency, not our complacency.

The year 2026 marks the 250th anniversary of both the United States and the State of North Carolina. This historic milestone invites us to reflect not only on how far we have come but on the enduring strengths that shaped our identity — freedom, resilience, and a belief in human potential. As we celebrate a quarter-millennium of American independence, we are reminded that our responsibility is not merely to preserve past achievements but to build a future worthy of this legacy. The decisions we make today will define North Carolina's next 250 years.

North Carolina now stands at a pivotal moment. Rapid growth presents extraordinary opportunities, but also complex challenges across housing affordability, infrastructure demands, healthcare delivery, energy reliability, and education. At the same time, national uncertainty—from economic instability to federal overreach—demands that states with a

strong record step forward with clarity and conviction. North Carolina can and should continue to serve as a model for the nation, demonstrating what is possible when public policy respects freedom, encourages enterprise, and upholds personal responsibility.

Our 2026 Policy Solutions guide reflects this mission. Built on rigorous research, thorough analysis, and meaningful dialogue, this updated blueprint charts a course for strengthening North Carolina's long-term competitiveness and quality of life. Whether addressing agricultural innovation, expanding healthcare access, modernizing energy policy, reforming public school finance, or safeguarding taxpayer resources, these solutions offer lawmakers clear, actionable recommendations grounded in data and guided by principle.

As a think tank, the John Locke Foundation plays a vital role in shaping the legislative landscape by providing independent, expert analysis that bridges the space between academic research and practical policymaking. We serve as a trusted resource for lawmakers seeking clarity, insight, and innovative approaches to complex issues. Our responsibility is to elevate the debate, enrich the legislative process, and champion evidence-based policies that help all North Carolinians thrive.

But we cannot do it alone. The road ahead requires the shared commitment of engaged citizens, leaders, and partners who believe, as we do, that North Carolina's best days are not behind us—they are ahead. Together, we can continue to advance a vision of freedom that empowers individuals, promotes economic opportunity, and creates an environment where excellence is not only encouraged but expected.

Let us move forward with boldness, challenge old assumptions, and embrace transformative ideas. By remaining unwavering in our dedication to sound policy and free-market principles, we will ensure that North Carolina not only meets the challenges of tomorrow but rises above them with strength and clarity of purpose.

Thank you for your support, your engagement, and your belief in our mission. Together, we will continue shaping North Carolina's destiny and building an even more prosperous future.

Freedom is our mission. Join us.

A handwritten signature in black ink, reading "Dale Brysa". The signature is written in a cursive, flowing style with a large initial "D".



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# **BUDGET, TAXATION, AND THE ECONOMY**

# CAPITAL AND INFRASTRUCTURE

JOSEPH HARRIS AND BRIAN BALFOUR

## INTRODUCTION

The state government owns more than 132 million square feet of space across 11,700 buildings worth \$40.9 billion. The state budget includes approximately \$350 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 percent 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 2021 biennial budget, however, changed the General Fund statutory contribution to the SCIF from 4 percent of General Fund revenue to a set amount ranging from \$1.4 billion in fiscal year 2021–22 to \$1.1 billion in fiscal year 2025–26. The contribution will grow by 3.5 percent 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

- » As of 2025, the state government has \$40.9 billion in facilities, and in fiscal year 2024–25, it allocated \$450 million for the renovation and repair of state-owned facilities. A general rule of thumb suggests setting aside 2.5 percent of a property's value for maintenance and renovation, which would total \$1.02 billion per year in North Carolina's case.
- » Principal and interest payments on state debt supported by the General Fund amounted to \$466.1 million in the 2024–25 budget, down from roughly \$650 million two years prior.
- » Liberal leadership ballooned tax-supported General Fund state debt from \$2.83 billion in 2001 to \$6.49 billion in 2012, a whopping 129 percent increase. Conservative leadership elected in 2010 began to

reverse that trend, dropping the debt to \$2.48 billion by 2024, a decrease of 62 percent.

- » 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 14 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 percent 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.

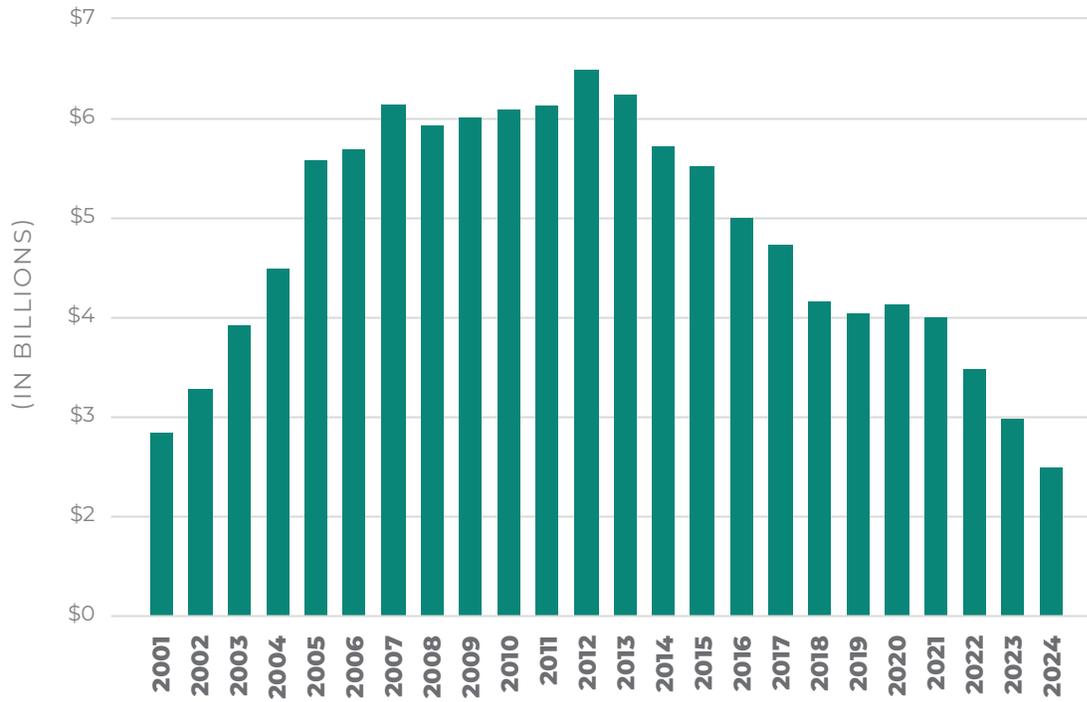
### **2. Consolidate state-owned facilities.**

Sell what is not needed, improve what is left, and consider ways to use space more effectively in prime locations for retail. This is especially crucial in the modern era that features more and more work from home arrangements.

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

According to the State of North Carolina Annual Comprehensive Financial Report for the fiscal year ending June 30, 2024, 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 \$34 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 2025, 2022, 2017, 2012 AND 2007

# ECONOMIC GROWTH

DR. ROY CORDATO AND BRIAN BALFOUR

## 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 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.

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. For instance, former governor Cooper's office 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. VinFast, for example, suffered net losses of nearly \$3.2 billion for the year 2024, beating its previous year's loss by 28 percent. And despite initial groundbreaking ceremonies in summer of 2023, as of the end of 2025 construction plans remain stalled.

Moreover, several economic incentive deals were terminated in 2025, including some with major companies like Pfizer, Microsoft, Equitable Financial Life Insurance Company, and Novartis.

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. For instance, the capital gains tax taxes investment gains earned through investments using money that had already been taxed by the income tax.
- » Business subsidies that end up hampering economic growth might be most egregious at the local level, where city and county govern-

ments are in fierce competition with one another to attract particular investments. Their activity is authorized by the Local Development Act of 1925.

## 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.

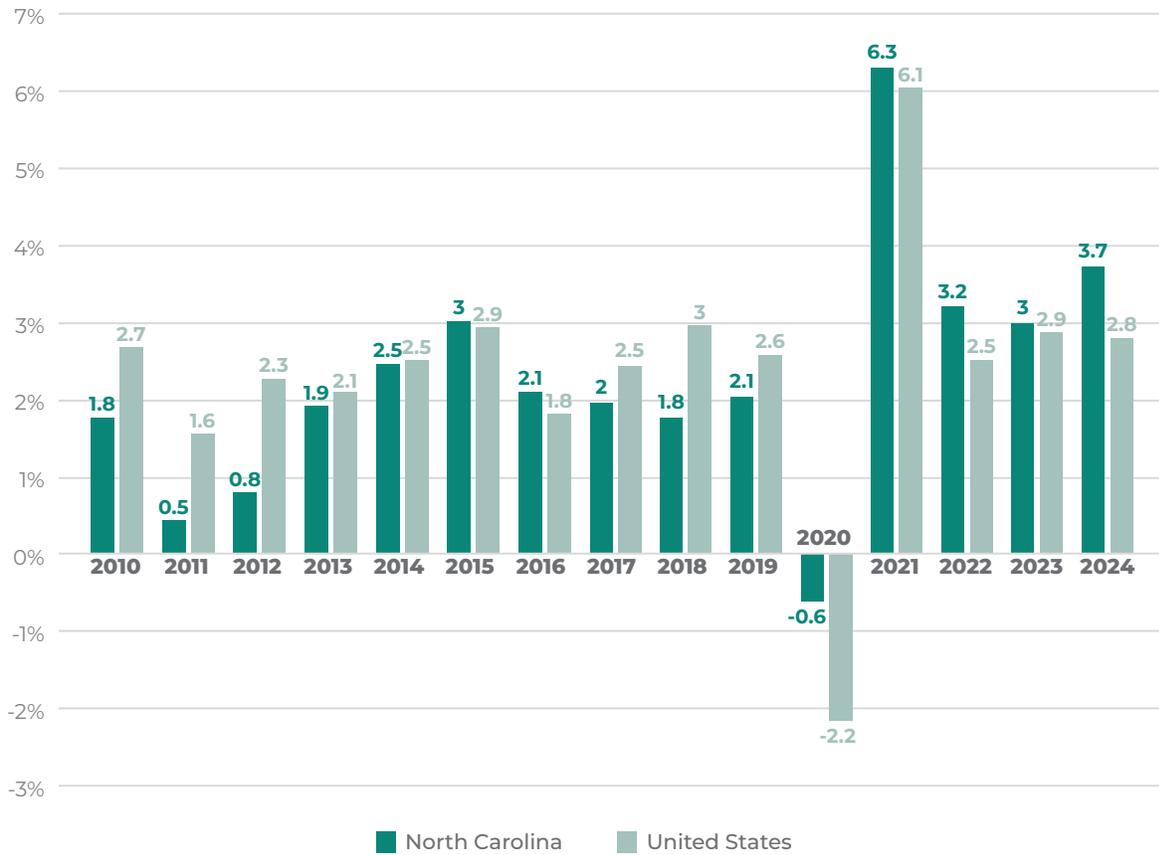
### **4. Eliminate or make changes to occupational licensing laws that tend to block entrepreneurship.**

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, FRED DATA

# FILM GRANTS

JON SANDERS AND JOSEPH HARRIS

## 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 2025, the third time in the last four years.

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 want only certain kinds of businesses to enjoy a lower cost of doing business. Established, in-state enterprises are left to deal with a comparably higher cost of doing business.

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

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

## KEY FACTS

- » North Carolina started offering film production tax credits in 2005 as an open-ended subsidy offering up to \$7.5 million per production.

## FILM GRANTS

Lawmakers greatly expanded the subsidy in 2010 to offer up to \$20 million per production. The tax credit was repealed in 2014. It was replaced the following year by a modest grant program of \$10 million that lawmakers have since tripled.

- » In 2019, the General Assembly overrode Gov. Roy 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-fourth 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

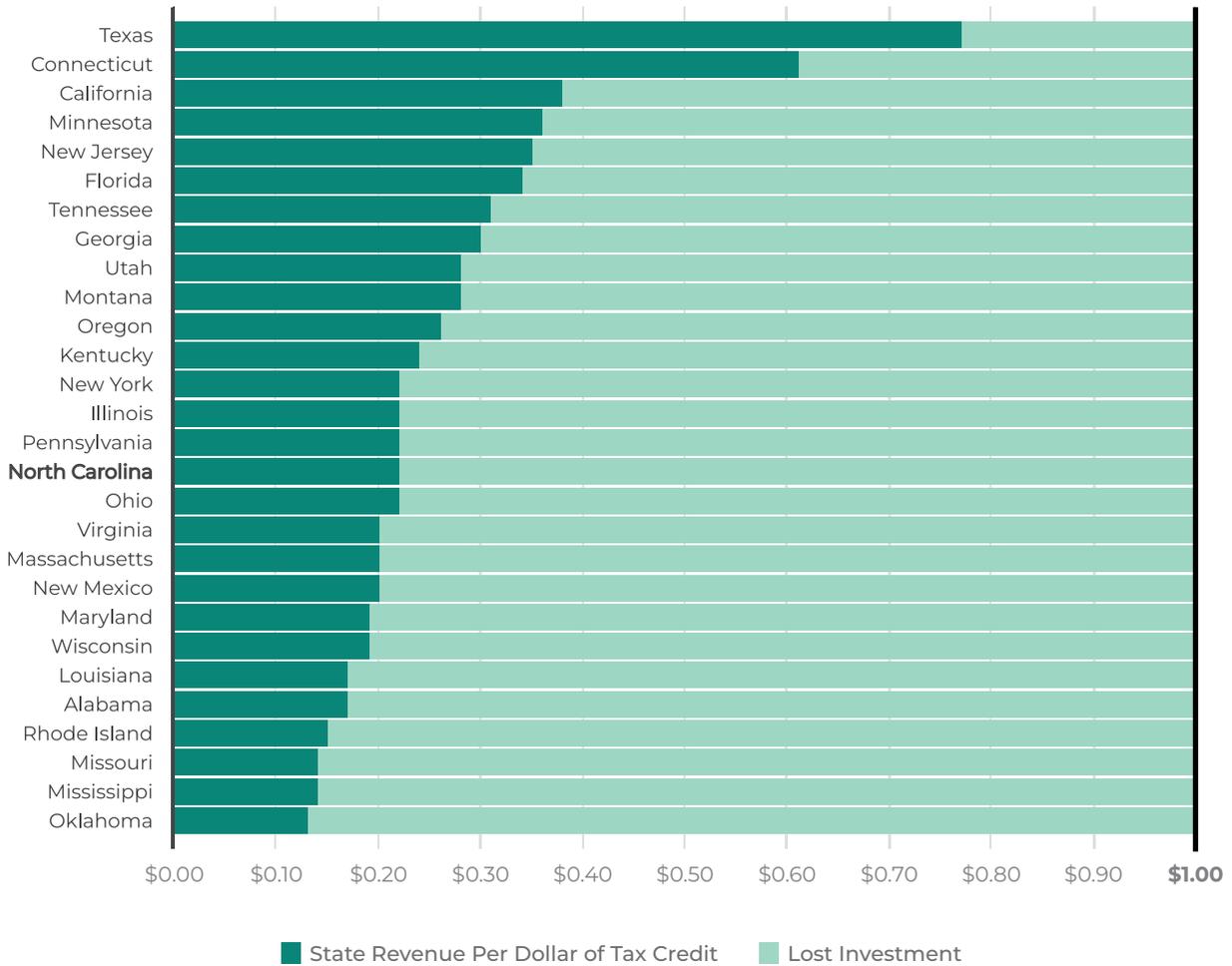
### 1. End the film production grant program.

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.

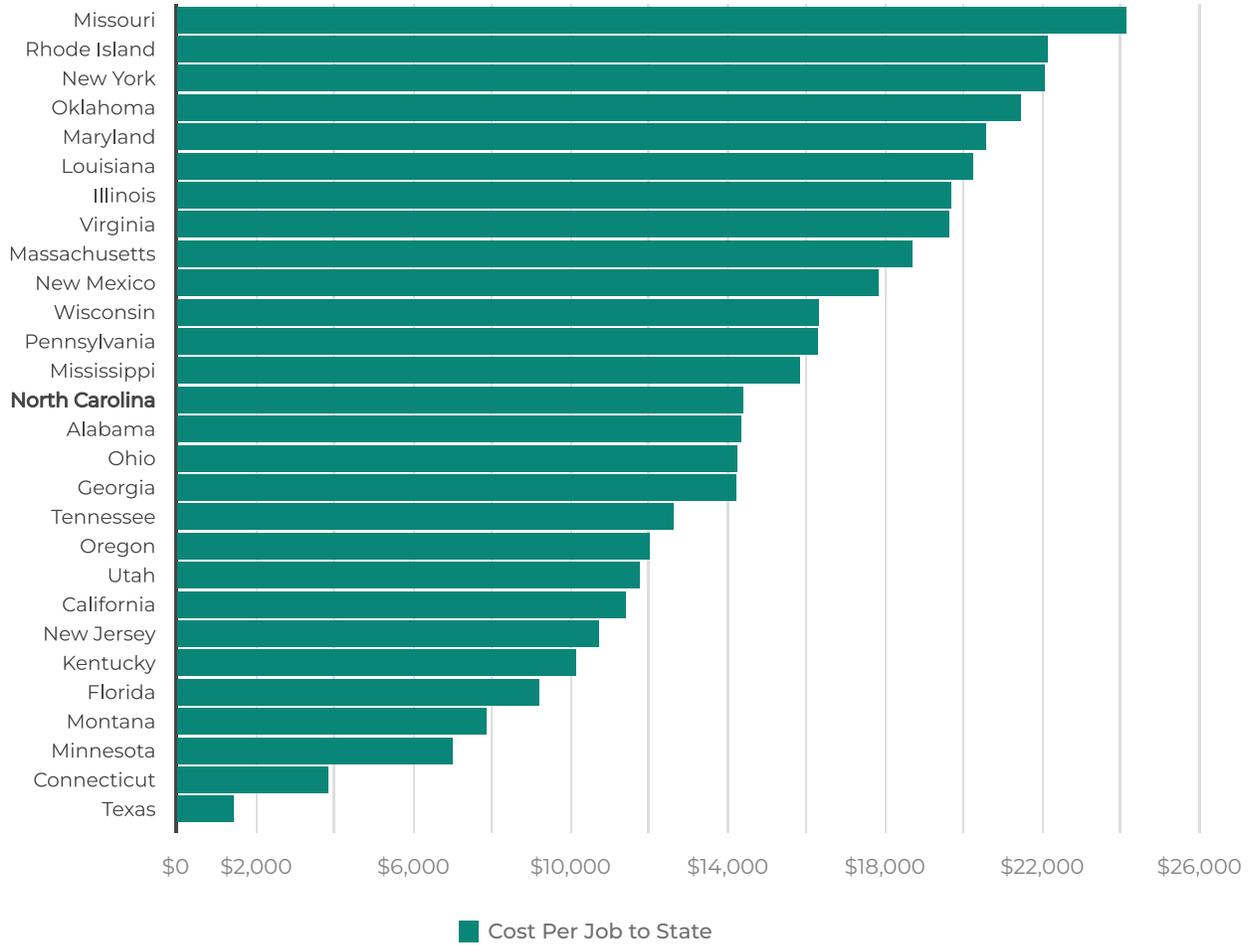
**States Get Negative Returns On Investment Trying To Incentivize Film Productions**



**SOURCE:** MARK F. OWENS AND ADAM D. RENNHOFF, "MOTION PICTURE PRODUCTION INCENTIVES AND FILMING LOCATION DECISIONS: A DISCRETE CHOICE APPROACH," JOURNAL OF ECONOMIC GEOGRAPHY 0 (2018)

FILM GRANTS

### How Much States Spend In Incentives Per Temporary Film Job



SOURCE: MARK F. OWENS AND ADAM D. RENNHOFF, "MOTION PICTURE PRODUCTION INCENTIVES AND FILMING LOCATION DECISIONS: A DISCRETE CHOICE APPROACH," JOURNAL OF ECONOMIC GEOGRAPHY 0 (2018)

# STATE EMPLOYEE BENEFITS

JOSEPH COLETTI AND BRIAN BALFOUR

## INTRODUCTION

State government is the largest employer in North Carolina, with more than 327,000 full-time-equivalent positions. The average age of a North Carolina state government employee is 47. Attracting and keeping employees is a constant challenge, however. Benefits beyond salary have traditionally been a factor in the desirability of government jobs. In 2023, state employees received benefits averaging \$39,754 in addition to their average salary of \$62,997. In other words, taxpayers spend more than \$102,000 per year for each state government employee.

The 2023 total compensation figure marked a 74 percent increase over 2008 and a 23 percent increase in just the past three 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 219 percent from 2008 to 2023, more than tripling from \$7,318 to \$23,319.

Retired state employees currently 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 2024, the unfunded liability for retiree health-plan benefits totaled \$34 billion. North Carolina state employees who started work after Dec. 31, 2020, however, are not eligible to participate in the State Health Plan after retirement, a move that remedies 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 more than \$86 billion yet owes current and future retired teachers and state employees \$101 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.

Former State Treasurer Dale Folwell pared back the assumed rate of return for pension assets from 7.20 percent in 2018 to 6.5 percent in 2021, bringing expectations closer to reality.

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 \$23,000 per employee in 2023, an increase of 219 percent from 2008. A higher cost for required benefits means less money for salaries.
- » Unfunded liabilities for state pensions and retiree health benefits total nearly \$50 billion.
- » The state eliminated free health benefits upon retirement for employees who began 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 percent.

## 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 percent funded (the pension fund is currently 85 percent funded — albeit with a 6.5 percent assumed rate of return that is likely still too high — and retiree health benefits are funded at only 10 percent).

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

Setting a lower bar for investment returns will allow pension managers to stop chasing riskier investments in the hope of meeting overly

ambitious targets. It will also produce more realistic liability figures, prompting higher annual required contributions.

### **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. Asking retirees to contribute a small monthly premium for basic coverage, and slightly higher premiums for current employees, would provide some minimal relief for the overwhelmed state health plan.

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

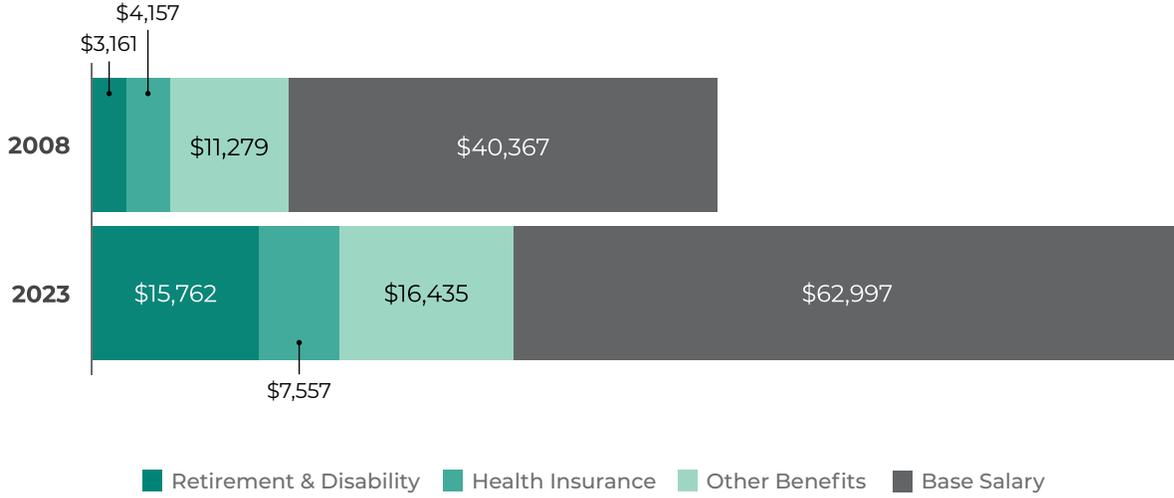
New teachers, corrections officers, and other state employees often do not reach the five years of service needed to vest in the pension system. They should have better choices, and those choices should be open to longer-service employees as well. Employees enrolled in 401(k)-style defined-contribution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

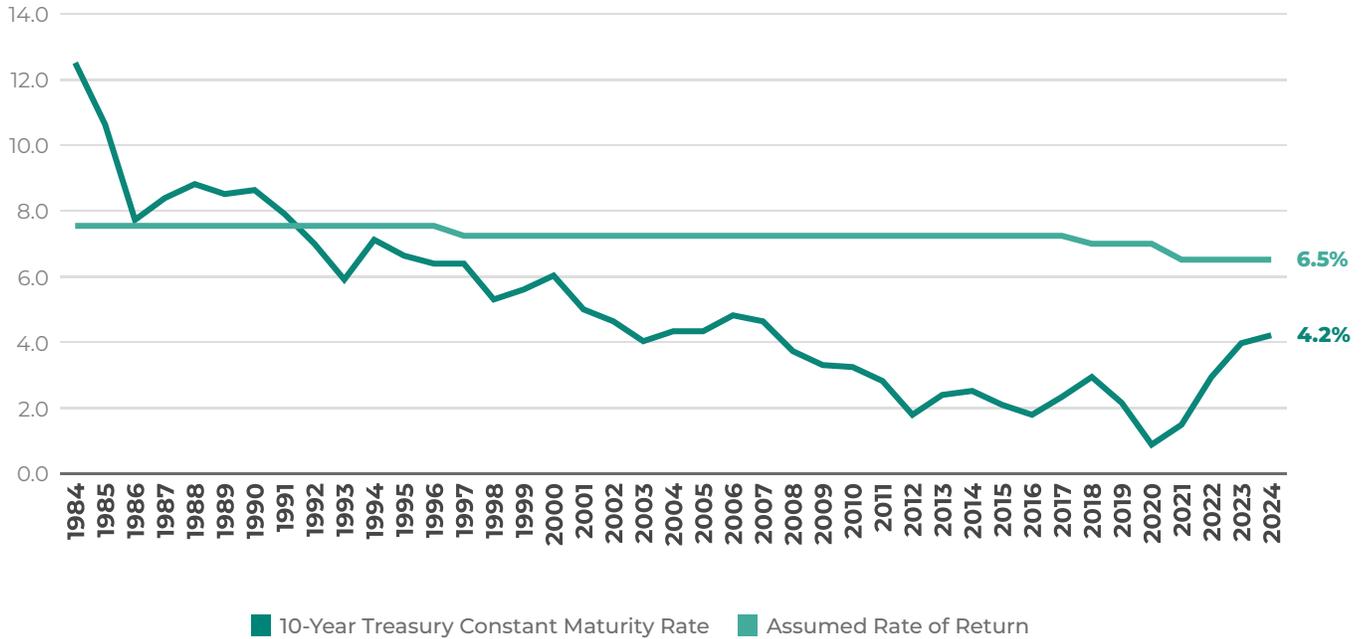
STATE EMPLOYEE BENEFITS

Growth In State Employee Benefits



SOURCE: OFFICE OF STATE HUMAN RESOURCES

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

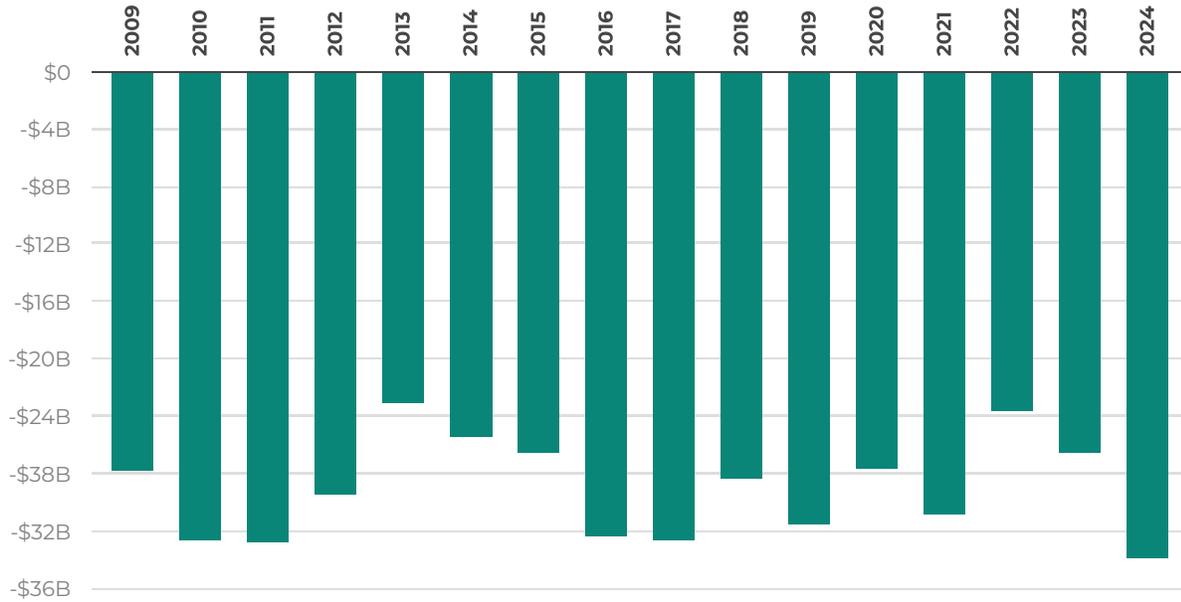


SOURCE: BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM (US), 10-YEAR TREASURY CONSTANT MATURITY RATE [DGS10], RETRIEVED FROM FRED, FEDERAL RESERVE BANK OF ST. LOUIS; FRED.STLOUISFED.ORG/SERIES/DGS10, AUG 7, 2022. NORTH CAROLINA OFFICE OF STATE TREASURER, DEBT AFFORDABILITY REPORTS

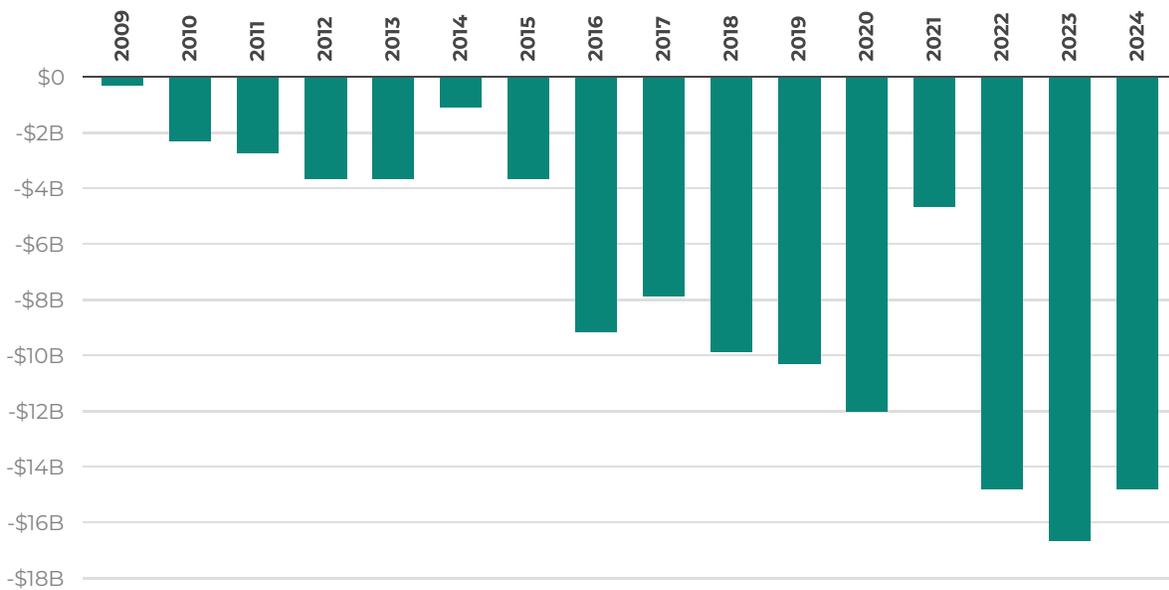
STATE EMPLOYEE BENEFITS

**Unfunded Liabilities of North Carolina State Government**

RETIREE HEALTH PLAN BENEFITS



TEACHER AND STATE EMPLOYEE PENSIONS



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

# STATE SPENDING

JOSEPH HARRIS 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. Since 2011, Republican leadership in the General Assembly has helped by keeping inflation-adjusted General Fund appropriations per person relatively in check. This spending restraint reversed more than three decades of fiscal irresponsibility, a period when increasing taxes to spend more was standard policy. Restrained spending has also made room to increase savings and cut taxes, leaving state finances better able to weather the next economic downturn.

Yet despite those gains, growth in the state budget has accelerated since the pandemic, increasing from \$24.4 billion in fiscal year (FY) 2019–20 to a proposed \$32.6 billion in FY 2025–26, an increase of approximately 34 percent (Note: no budget bill has been passed as of this writing).

A close look at recent numbers shows that education, Medicaid, and public safety received 87 percent of the \$31.3 billion in FY 2024–25 General Fund appropriations. Taxes on personal income and sales provided 81 percent of the \$34.6 billion in FY 2024–25 General Fund revenues.

More specifically, however, the majority of General Fund expenditures are dedicated to paying the salaries and benefits of employees and retirees. A 2022 analysis from the John Locke Foundation found that roughly 73 cents of every General Fund dollar spent goes toward employee salaries, employee health insurance benefits, pension contributions, and retiree health care benefits.

The state government collects revenue to pay for the goods and services it provides, and the state raises that revenue by imposing personal income, sales, and other forms of taxes on its residents. While the General Fund covers a large share of state spending and revenues, it does not account for everything. Transportation is supported primarily by the motor fuels tax and is funded separately through the Highway Fund and Highway Trust Fund, amounting to \$3.2 billion and \$2.4 billion in FY 2024–25, respectively. Federal funds add about \$31 billion. Lottery sales, tuition payments, unemployment insurance, and other sources contribute another \$5 billion, bringing total state spending to more than \$70 billion.

Each source of funds has 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 cover only 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 2024–25 totaled \$31.3 billion. Actual revenue collected during the year was \$34.6 billion, roughly \$1.2 billion above projections.
- » In FY 1989–90, when the John Locke Foundation was launched, General Fund appropriations per person, adjusted for inflation, were \$1,890. After peaking in FY 2008–09 at an inflation-adjusted \$2,590, appropriations in FY 2021–22 had dropped back to \$2,079, before increasing to \$2,186 in FY 2023–24.
- » As of this report’s publication, the General Assembly had yet to ratify a 2025 biennial budget. Before 2016, when a budget was not in place by July 1, the General Assembly needed to pass continuing resolutions to maintain prior-year spending levels and prevent a government shutdown. That changed, however, with the adoption of the Budget Stability and Continuity provision in the 2016 budget adjustment. If no budget is enacted by July 1, state agencies are automatically authorized to continue operating at the previous year’s recurring spending levels; no continuing resolutions required. However, this stability has come at the cost of decreasing the incentive for policy-makers to finish the budget on time.
- » Government savings in the Rainy Day fund, also known as the Savings Reserve, climbed to \$4.8 billion before Hurricane Helene in 2024. As of September 2025, it stood at \$3.6 billion.

## RECOMMENDATIONS

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

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

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

State government should 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.

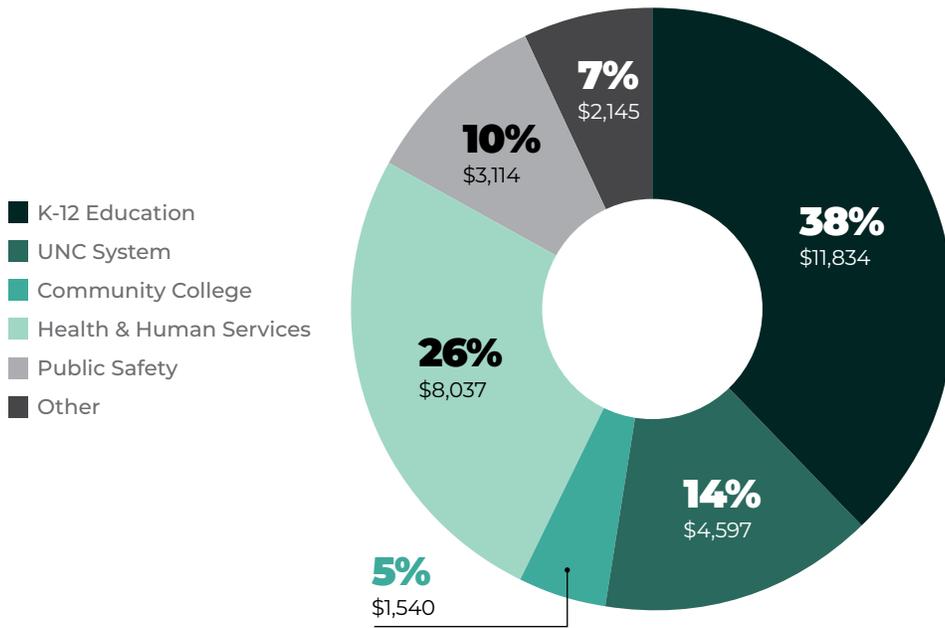
### **4. Stop creating new “reserves” to divert money off budget.**

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 2024–25 General Fund Expenditures (in Millions)



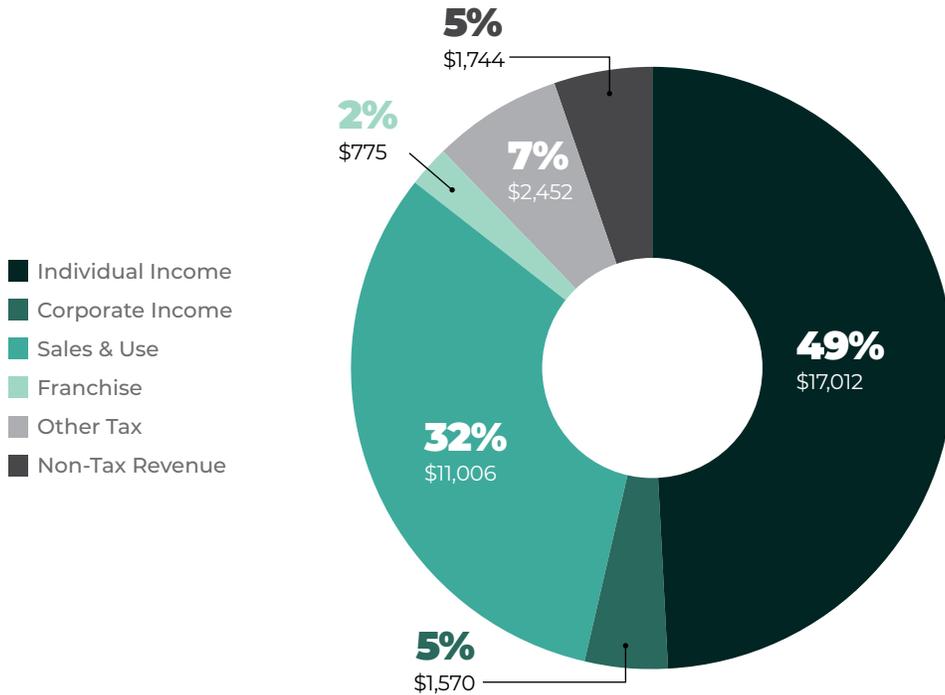
**NOTE:** "OTHER" INCLUDES: GEN. GOV., ECON. DEVELOPMENT, ENVIRONMENT & NAT RES. AND AGRICULTURE

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

**SOURCES:** NORTH CAROLINA OFFICE OF STATE CONTROLLER, JUNE 2025 GENERAL FUND MONTHLY REPORT

**Where Does the Money Come From?**

FY 2024–25 General Fund Revenues (in Millions)

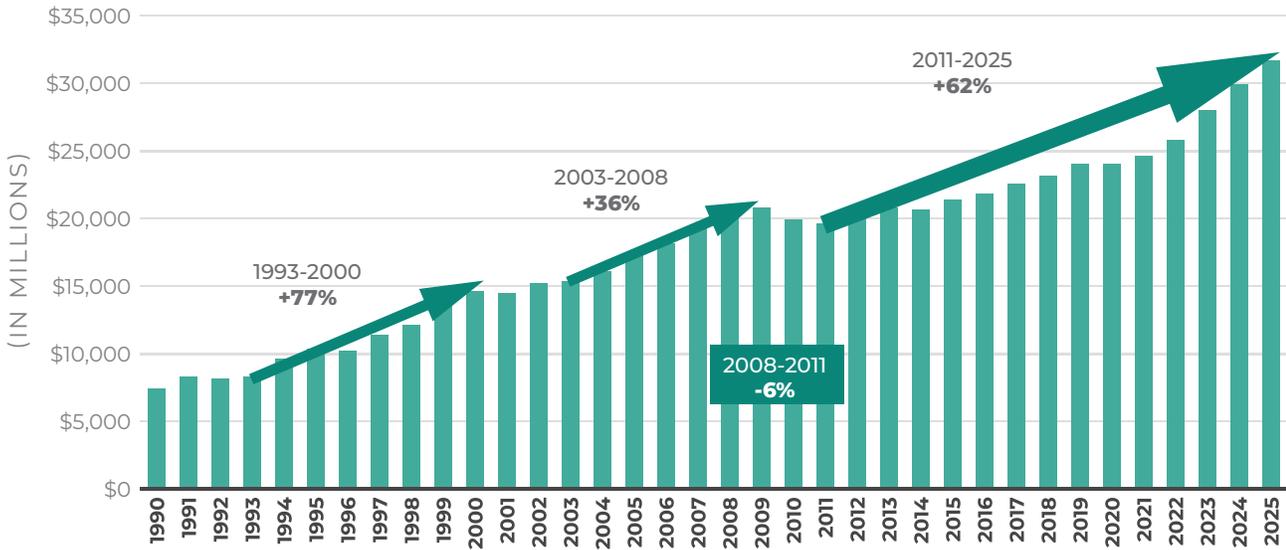


**NOTE:** TOTALS MAY NOT SUM TO 100% DUE TO ROUNDING

**SOURCES:** NORTH CAROLINA OFFICE OF STATE CONTROLLER, JUNE 2025 GENERAL FUND MONTHLY REPORT

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: OSBM.NC.GOV/BUDGET/GOVERNORS-BUDGET-RECOMMENDATIONS/PAST-RECOMMENDED-BUDGETS/2019-21-GOVERNORS-RECOMMENDED-BUDGET FYE 2020, 2022, 2023, 2024, & 2025 FROM BUDGET BILLS IN EACH OF THOSE YEARS FYE 2021 FROM OFFICE OF STATE CONTROLLER, GENERAL FUND MONTHLY REPORTS. ACCESSED JUNE 21, 2021 ONLINE AT: OSC.NC.GOV/PUBLIC-INFORMATION/REPORTS/GENERAL-FUND-MONTHLY-REPORTS

General Fund Appropriations Per Person  
Adjusted for Inflation



**SOURCES:** U.S. CENSUS BUREAU - POPULATION ESTIMATES. GDP DEFLATOR LEVELS TAKEN FROM THE FEDERAL RESERVE BANK OF ST. LOUIS, INDEXED TO 2017 DOLLARS. POPULATION ESTIMATES FROM: FEDERAL RESERVE BANK OF ST. LOUIS. POPULATION ESTIMATES FROM JULY 1 (E.G. JULY 1 2023 FOR FYE 2024)

# TAX REFORM

BRIAN BALFOUR AND JOSEPH HARRIS

## 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 percent 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's business tax climate as 12th best in the nation in 2025. In 2012, just prior to the major 2013 reforms, North Carolina ranked seventh 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 income tax after 2029, and a simplification of the franchise tax that effectively lowered tax bills. The 2023 budget increased the rate of the personal income tax cuts, reducing the rate to 3.99 percent in 2026, with a path to reach 2.49 percent through 0.5-percentage-point 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 limits saving and investment, which hinders economic growth. This needs to be remedied. The corporate income 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 personal income tax that ranged from 6 percent to 7.75 percent, the highest in the region, with a flat-rate tax of 5.8 percent. This rate was subsequently lowered eight times, arriving at 3.99 percent as of 2026. The rate now has a path to 2.49 percent through 0.5-percentage-point increments, contingent on revenue targets being met.
- » In their 2025 biennial budget proposals, the Senate and the House both sought to alter current law on personal income tax rate reductions, but they did so in starkly different manners. The Senate’s proposal recommended removing the revenue targets needed for the rate to fall to 2.99 percent, keeping the target for the reduction to 2.49 percent, then adding two additional target-based cuts, each of 0.25 percentage points, to bring the rate to 1.99 percent. In contrast, the House’s proposal recommended substantially increasing the revenue targets, making future revenue-based personal income tax rate cuts unlikely. As of this report’s publication, lawmakers have yet to reach a compromise on the 2025 biennial budget, largely due to disagreements over personal income tax reform.
- » 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 income tax rate has been reduced from 6.9 percent in 2012, the highest in the Southeast, to 2 percent as of 2026, the lowest of any state that taxes corporate income. The 2021 budget included a phaseout of the tax after 2029.
- » Business-to-business sales continue to be taxed. Charging sales tax on business-to-business purchases leads to double taxation. The business pays sales tax on the inputs, and the customer pays sales tax again on the final product that includes those taxed inputs.
- » North Carolina continues to restrict investment by taxing capital gains. Repealing the capital gains tax would unlock investment, promote entrepreneurship, and foster long-term economic growth.

## RECOMMENDATIONS

### 1. Future tax reform should take into account the personal income tax rate reduction revenue targets.

Because future reductions in the personal income tax rate below 3.99 percent are contingent on meeting specific revenue targets, any additional tax reforms must be evaluated in light of their potential to reduce revenue and jeopardize rate reductions.

## 2. Eliminate the franchise tax.

This tax is particularly harmful to wages, investment, and economic growth. The 2023 budget placed a cap on the franchise tax for C-corporations (a cap was passed for S-corporations in the 2017 budget), and legislators should take the next step by eliminating it.

## 3. 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.

## 4. Future reform efforts should focus on excluding savings and investments 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 partially offset by eliminating economic development programs that subsidize certain businesses. (See *Economic Growth*)

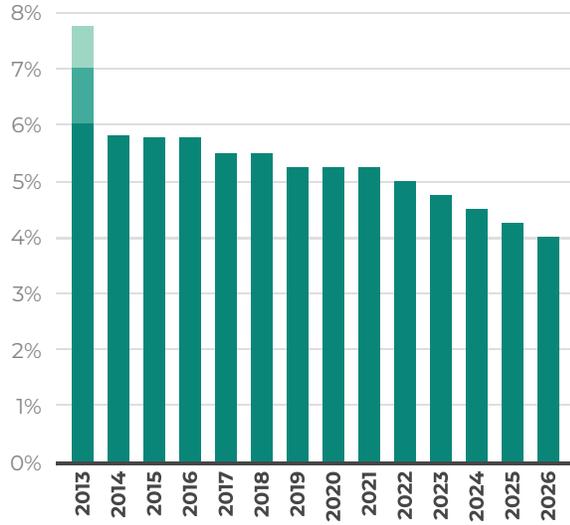
## 5. Businesses should be allowed to deduct all purchases of capital equipment and land in the year they are incurred, a practice known as expensing.

This approach has been adopted at the federal level and should be applied to North Carolina. North Carolina should make immediate expensing a permanent feature of the state’s tax code to ensure state expensing even if it ends at the federal level.

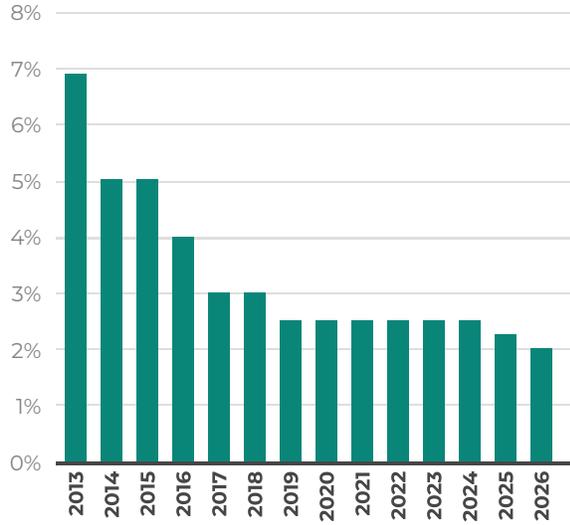
## 6. There should be a moratorium on any new expansion of the sales tax base until business-to-business sales are exempted from the tax.

This is a hidden double tax embedded in the system. Businesses are taxed on the materials they purchase, and consumers are taxed on the final products made from the already taxed materials.

**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:** NORTH CAROLINA DEPARTMENT OF REVENUE

# TRANSPORTATION FUNDING

JOSEPH COLETTI AND BRIAN BALFOUR

## INTRODUCTION

North Carolina has more than 80,500 miles of state-owned highways, more than any other state besides Texas. Unlike Texas, which owns one-fourth of the 322,000 miles of roads in the state, North Carolina owns three-fourths of its 108,000 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 federal and state gas taxes, license fees, and vehicle sales taxes 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. For example, 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 Vehicles (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 a 10-year period 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. The most recent plan is the 2026–2035 plan, which was adopted by the North Carolina Board of Transportation at its July 2025 meeting.

NCDOT's latest initiatives to prepare for the future include the 2020 report entitled "NC Moves," which attempts to outline transportation 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 describes the NC Moves report as "less of a plan than a part of a media campaign," while criticizing the NC FIRST report as a document that outlines 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 percent of the \$7.8 billion in current annual transportation spending – which includes \$1.8 billion in federal funds – to building and maintaining more than 80,500 miles of roads and more than 13,800 bridges. Municipalities add about \$1 billion 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 gas tax rate set for 2025 of 40.3 cents comes in shy of the inflation-adjusted 45.1-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 (the latest comprehensive opinion poll on this topic) found that 57 percent of respondents opposed toll roads, 68 percent opposed increasing the gas tax, and 84 percent 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 or EVs or both, 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.**

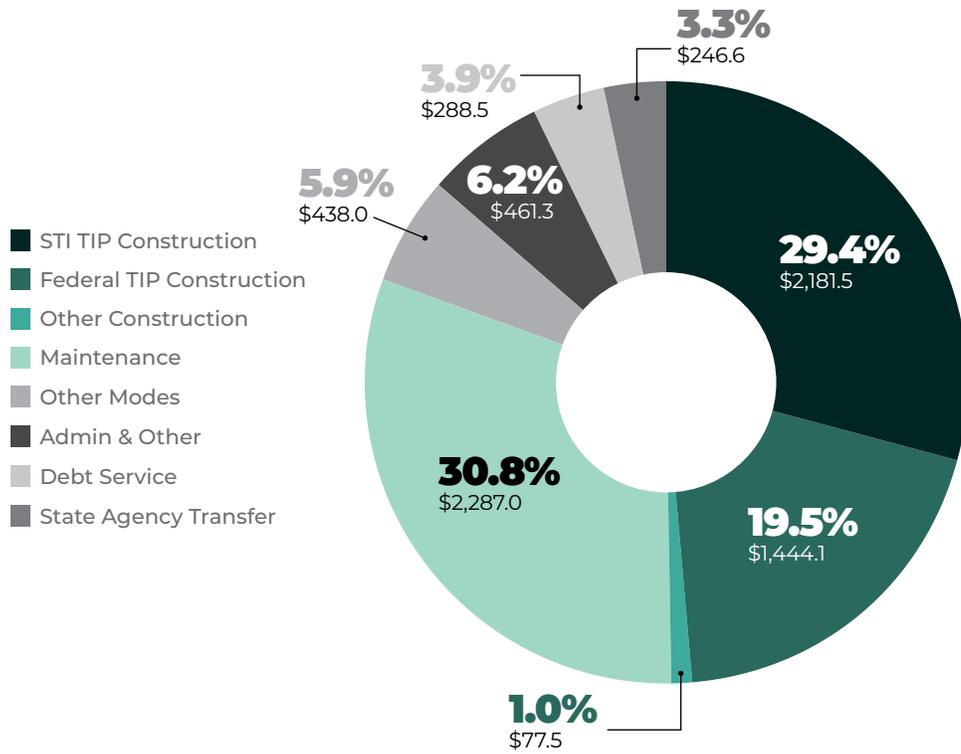
Municipalities are responsible for few roads in North Carolina, and counties are responsible for none. As a result, property tax, which could capture the value created by proximity to the transportation network, is not available to pay for most roads. Public/private partnerships could also open new ways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

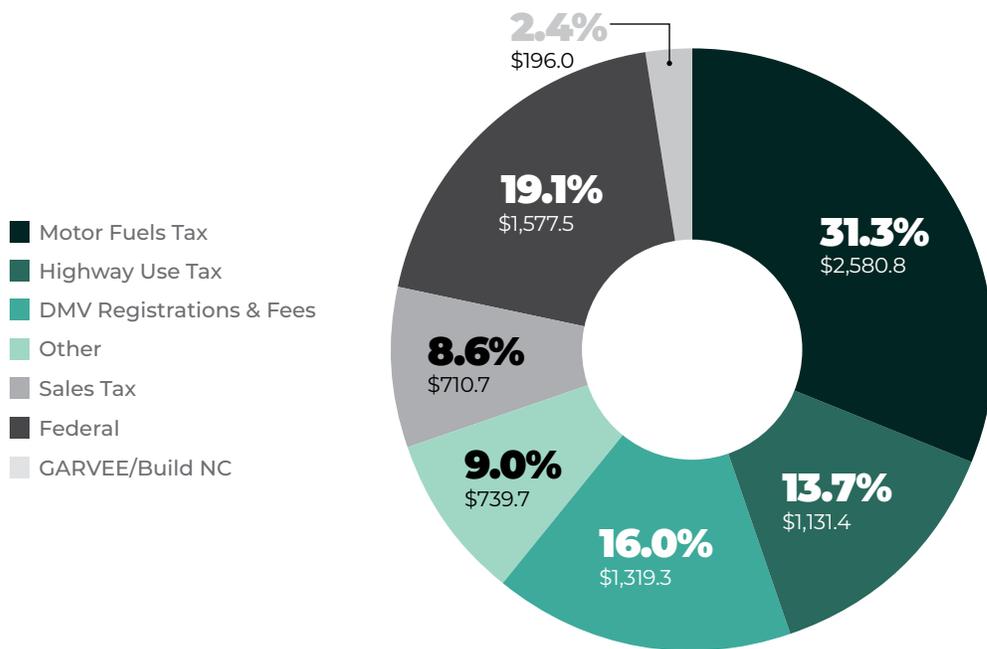
**Transportation Spending, FY 2024-25 (in millions)**



**TOTAL: \$7.4 BILLION**

SOURCE: NC DEPARTMENT OF TRANSPORTATION

**Sources of Transportation Funding, FY 2024-25 (in millions)**



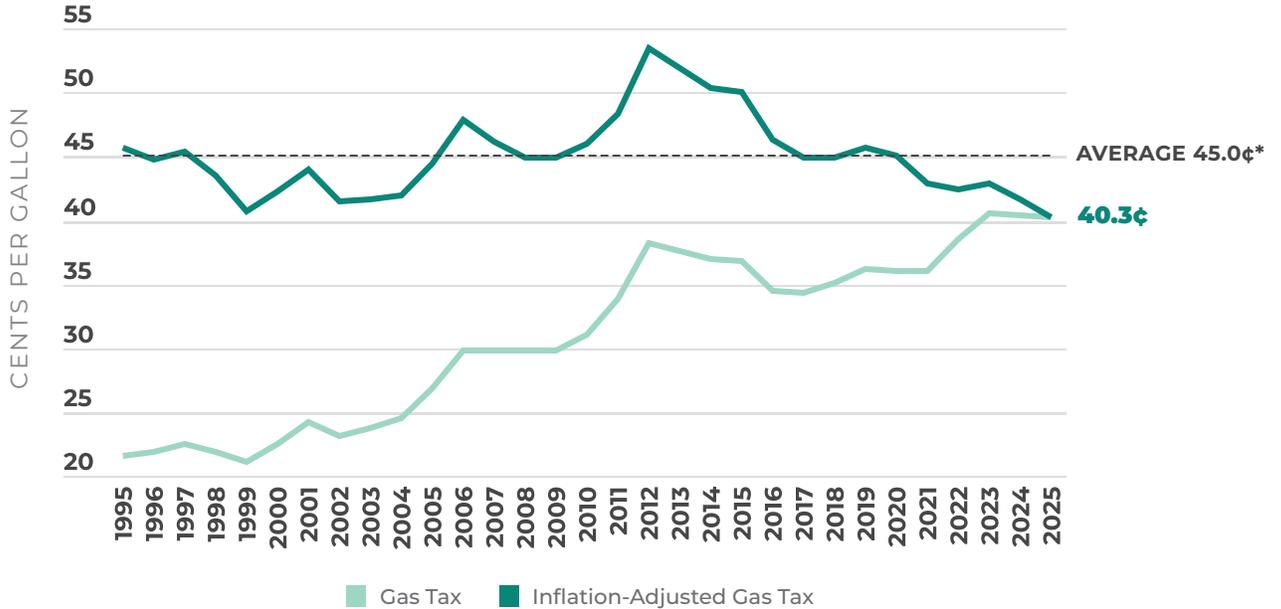
**TOTAL: \$8.3 BILLION**

\*OTHER\* INCLUDES "OTHER FEDERAL AGENCIES & GRANTS" PLUS "OTHER"

SOURCE: NC DEPARTMENT OF TRANSPORTATION

TRANSPORTATION FUNDING

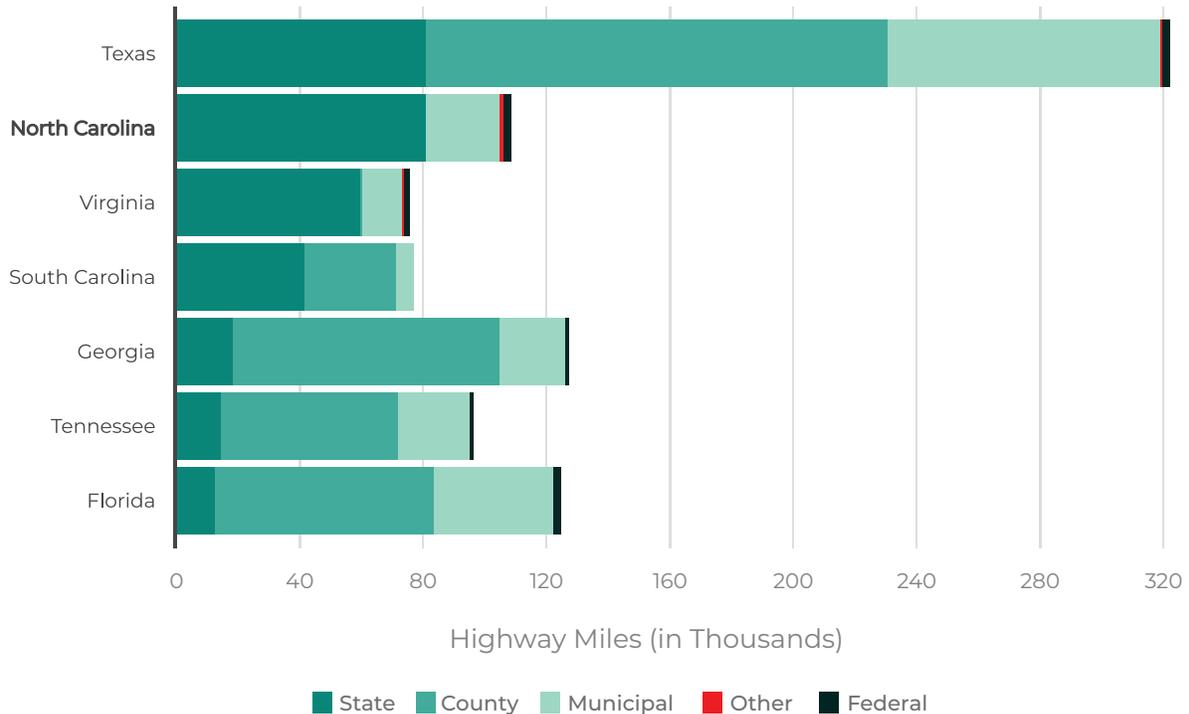
North Carolina Gas Tax Over Three Decades



\*ADJUSTED FOR INFLATION

SOURCE: NC DEPARTMENT OF TRANSPORTATION

North Carolina State-Funded Roads Comprise 74% of Public Roads



SOURCE: US DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, PUBLIC ROAD LENGTH - MILES BY OWNERSHIP



**EDUCATION**

# ARTIFICIAL INTELLIGENCE

KAITLYN SHEPHERD

## INTRODUCTION

Just a few years ago, the idea that students could receive personalized tutoring and homework help via artificial intelligence would have seemed like something out of a science fiction movie. In just a short time, however, science fiction has become reality for many students across the country. AI-powered programs and services like Khan Academy's Khanmigo are becoming increasingly popular and aim to redefine how education is delivered.

Artificial intelligence (AI) is “a branch of computer science that focuses on creating software capable of mimicking behaviors and processes we would consider ‘intelligent’ if exhibited by humans, including reasoning, learning, problem-solving, and exercising creativity.” Although the concept is not new, it grew rapidly in popularity following the release of ChatGPT in November 2022.

AI can be used for many different things, from summarizing complex information and translating documents to developing code or generating pictures and even songs. In the K-12 space, AI can be used to deliver personalized learning and tutoring, write lesson plans, create assessments, organize bus schedules, generate school newsletters, and much more.

Despite its potential to make the delivery of education more effective and efficient, the use of AI in schools raises several important questions. For example, how can political bias in AI outputs be addressed? How can school officials prevent cheating and other forms of academic misconduct? What can schools do to keep students from becoming too reliant on AI? How can school administrators ensure that students' records and data are protected?

Recognizing the importance of the issue, the North Carolina Department of Public Instruction released a guidebook in January 2024 to provide direction on the use of AI in schools, making North Carolina just the fourth state to do so. Among other things, the guidebook advised districts to create “AI academic guidelines (or adapt current academic integrity/acceptable use policies to include generative AI).”

More and more states are following North Carolina's example. As of August 2025, more than half of state education departments have published AI guidance for K-12 education. So far, however, only Ohio has passed a law to require – rather than recommend – that all school districts adopt a policy on the use of AI in schools.

AI continues to change rapidly. Rather than jumping straight to regulation, state policymakers would be wise to proceed with caution, regulating only when necessary and being sure to give school districts maximum flexibility to decide for themselves whether and how to use AI in their schools.

### KEY FACTS

- » A presentation to the North Carolina State Board of Education in March 2024 covered the DPI guidebook’s recommendations and the need for districts to adopt their own policies on AI at the local level.
- » In 2024, the North Carolina General Assembly allocated \$3.2 million to two school districts for a pilot program that is meant to “integrate AI technology into existing cameras, video management systems, and alerting protocols” to promote school safety.
- » In March 2025, North Carolina lawmakers introduced a bill that would have required the North Carolina State Board of Education to “adopt standards for age-appropriate instruction on artificial intelligence (AI) for kindergarten through grade 12.” The standards would have included the basics of how AI systems work, applications of AI, issues and concerns around AI-generated content, and instruction on how AI can be used responsibly. The bill stalled in committee.
- » In April 2025, President Donald Trump issued an executive order with the goal of fostering “AI literacy and proficiency among Americans by promoting the appropriate integration of AI into education.”
- » Other federal efforts to address the issue of AI in education include an extensive report and recommendations from the Office of Educational Technology and a Dear Colleague letter addressing the use of federal funding to improve student outcomes through AI.
- » According to data from the U.S. Department of Education, as of December 2024, only about one-third of public schools (31 percent) reported having a written policy covering how students may use AI. Another 18 percent reported plans to create such a policy, while 30 percent reported having no policy and no plan to develop one, and 20 percent were unsure.
- » Some school districts in North Carolina, including Hoke County Schools and Onslow County Schools, have published guidelines on AI, which cover guiding principles and can be easily updated as needed. Durham Public Schools has revised academic integrity policies specifically to cover the use of AI, while the Johnston County school board has incorporated a section on generative AI into the district’s existing technology policy.
- » School officials appear to be split on students’ use of AI. According to the U.S. Department of Education, 42 percent of public school leaders reported having a favorable opinion of student use of AI for education, while 31 percent viewed it unfavorably, and 28 percent said they were neutral.

- » Parents, meanwhile, appear to be generally supportive of incorporating AI into the classroom. According to EdChoice, 66 percent of current school parents said that schools should teach students how to use AI responsibly, and 52 percent of school parents said that they supported the use of AI in their child's classes.

## RECOMMENDATIONS

### 1. Use caution when seeking to regulate educational products and services that use AI.

AI is a new and developing technology. Instead of jumping straight to regulation, state policymakers should exercise caution and proceed in such a way as to give school districts maximum flexibility to decide how to use AI at the local level. Providing guidelines rather than mandates provides direction while preserving flexibility and local autonomy.

### 2. Adopt flexible guidelines on the use of AI at the district level.

As AI usage becomes more widespread, it will have an even greater impact on education. Adopting AI guidelines at the district level will provide direction for administrators, teachers, and students that can be revised to address changing needs and emerging issues. School boards may consider revising existing academic integrity, technology, or other relevant policies to encompass AI, but they should exercise caution as these can be more difficult to change.

### 3. Protect student privacy as required by state and federal law.

Schools seeking to incorporate AI into their educational approach should carefully research and select products and services that protect the privacy of students' educational records and limit access to other kinds of sensitive or personally identifiable information, as required by state and federal law.

### 4. Train students and teachers in how to use AI.

Districts should train teachers in using AI to streamline repetitive aspects of their work and to recognize when students are using AI inappropriately on homework or assignments. Schools should teach students about the benefits and drawbacks of using AI. At a minimum, instruction should specify when using AI for assignments is and is not acceptable, how to recognize false or misleading information generated by AI, and how to protect online privacy.

# CHARTER SCHOOLS

DR. ROBERT LUEBKE

## INTRODUCTION

Charter schools came to North Carolina in 1995 with passage of House Bill 955. Charter schools are public schools that operate independently of existing schools and are given additional flexibility in the areas of curriculum programming and staffing. Unlike traditional public schools, charter schools are governed by an independent board of directors.

The law set charter schools up to be alternative public schools in order to, among other things, boost student learning, offer students more learning opportunities, promote and use new teaching methods, and also provide more accountability for schools over student achievement. All students who are eligible to attend a North Carolina public school are eligible to apply for admission to a public charter school.

Today charter schools are 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 210 schools with an enrollment of over 157,000 students. Today, about 10 percent of all public school students attend charter schools. When enrollment declined in many traditional public schools during the Covid-19 pandemic, charter school enrollment in North Carolina increased 18.7 percent from 2019–20 to 2021–22. In 2023–24, charter schools had a combined wait list of over 85,000 students. If a charter school has more applicants than spaces, a lottery is held to determine which students will be admitted.

Even though charter schools have been around for almost 30 years, media and public debate sometimes seem to ignore important facts about them. Charter schools 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.

Originally, all applications for new charter schools had to be approved by the State Board of Education, but now charters are awarded by the Charter School Review Board. Charter schools are operated by nonprofit boards. Each board is responsible for ensuring that the charter school follows relevant laws and meets the provisions of its charter. If it doesn't, the school can be put on probation or permanently closed. Since 1996–97, 61 active charter schools have been closed for failure to maintain sufficient academic progress or financial sustainability.

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

## CHARTER SCHOOLS

According to state law, local boards of education cannot compel a child to attend a charter school. Charter schools are not allowed to limit their admissions based on intellectual ability, achievement, aptitude, disability, or athletic ability. Nor shall admissions to charter schools be limited because of race, creed, national origin, religion, or ancestry. One year after opening, a charter school is 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 the cap on charter schools was lifted in 2011, charter school enrollment has increased 282 percent. Some of this demand is a function of natural population growth. Some policies have kept charter schools from fully meeting demand, primarily caps placed on enrollment expansion. In recent years, however, changes in law allowed for exceptions to such caps – such as allowing students to transfer into a school if their original school doesn’t offer the next higher grade. Modification of teacher certification requirements have also helped charter schools respond to the demands of growth.

In 2025, the General Assembly passed Senate Bill 254 over Gov. Josh Stein’s veto. Among other things, the new law requires all policies and rules adopted by the State Board of Education first to be approved by the Charter School Review Board. It also requires the executive director of the Office of Charter Schools to report to the Charter School Review Board instead of the Superintendent of Public Instruction.

### KEY FACTS

- » According to the North Carolina Department of Public Instruction, the statewide average per-pupil expenditure for charter schools for the 2023–24 school year was \$12,079. At the same time, the statewide average per-pupil expenditure for traditional public schools was \$13,222, plus another \$989 per student for capital expenses. To date, charter schools receive no state funding to help with debt, and capital costs can often be significant. Counties are allowed to contribute to charter school capital costs if they so choose.
- » Only 63 of North Carolina’s 100 counties contain charter schools. The schools allow families to cross county boundaries to attend, so 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.
- » As of the 2023–24 school year, charter school students represented 10.2 percent of the public school population in North Carolina, up from 6.1 percent in 2019.
- » Since 1998, there has been a total of 94 charter closures. This figure includes the 61 charter schools closed for failing to maintain suffi-

cient academic progress or financial sustainability, but also other schools already in operation as well as some that may have been in the planning year program prior to opening to students.

- » North Carolina charter schools enroll a higher percentage of black students (25.7 percent) than do traditional public schools (24.2 percent).
- » 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 shut down, but if a traditional public school fails to meet its goals or perform well academically, it is not shut down or made to face any consequences. The standards for public and charter schools are not the same.

### **2. Lawmakers should eliminate rules that allow for funding disparities between district and 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 disparate system in which, for every local dollar per student provided to a district school, a public charter school receives only between 55 to 75 cents per student.

### **3. Allow all schools — public, private, and charter — to build in all zones.**

In a 2024 North Carolina Supreme Court case, *School Deveast, LLC v. Town of Wake Forest*, the court upheld “the free and unrestricted use and enjoyment of land” and affirmed the state’s commitment to property rights. Still, zoning laws persist for charter and private schools that frequently put them at a disadvantage 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.

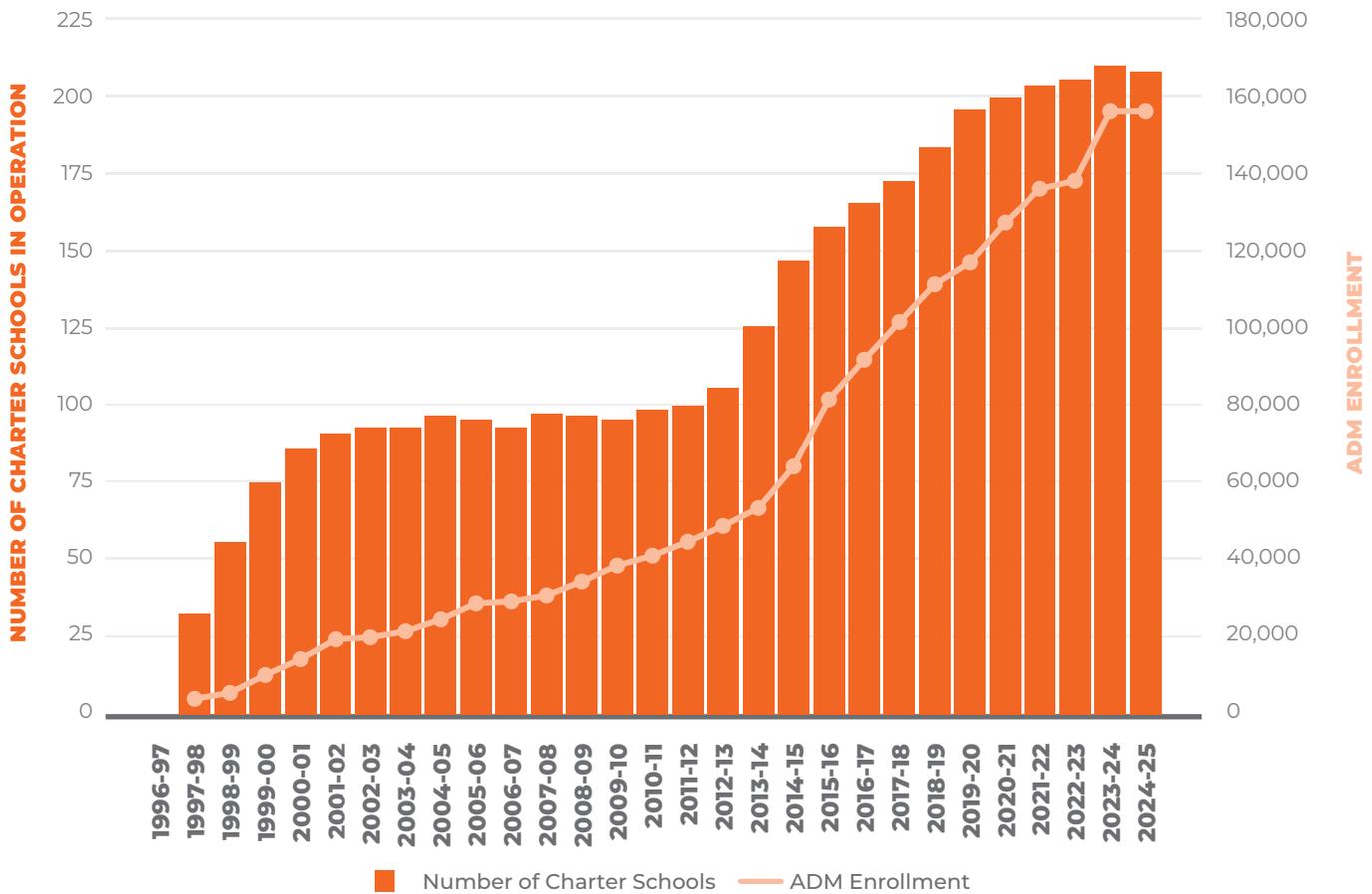
CHARTER SCHOOLS

Charter Schools Ethnic and Racial Data 2024-25

	All Charters %	All LEAs %
American Indian or Alaskan Native Asian	0.9%	1.0%
Asian	5.1%	4.5%
Black or African American	25.7%	24.2%
Hispanic	14.8%	22.8%
Native Hawaiian or Other Pacific Islander	0.1%	0.1%
Two or More Races	7.1%	5.8%
White	46.0%	41.6%

SOURCE: CHARTER SCHOOL ANNUAL REPORT

North Carolina Charter Schools in Operation and ADM Enrollment



SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET, 2025

# EDUCATION AND THE WORKFORCE

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 2034. The BLS lists hundreds of occupations that don't require a four-year degree. Of the jobs requiring only a high school diploma, home health care and personal care aides are projected to have the most openings each year on average. The health care and social assistance field is "projected to have the largest job growth and be the fastest growing industry sector" (8.4 percent growth). The professional, scientific, and technical services sector (7.5 percent growth) and the information sector (6.5 percent growth) are also expected to see significant growth, largely due to demand for artificial intelligence.

The North Carolina Department of Commerce projects that nearly 60 percent of occupations will require "no formal education or only a high school diploma" by 2032. The department notes, however, that "[t]hrough 2032, jobs requiring higher education are projected to experience faster annual growth than those needing less education." According to projections, the fastest-growing occupational sectors in North Carolina from 2022 to 2032 will include computer and mathematical occupations, health care services, and professional, scientific, and technical services.

In North Carolina, state policymakers have been placing an increased emphasis on workforce readiness. 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 emphasized the importance of workforce development training in preparing students for college, a career, or military service. Truitt set

four goals 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 post-secondary 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. Aligned with those goals, the North Carolina Department of Public Instruction identified seven core competencies that all students should have when they graduate from high school so that they can “thrive in the 21st century,” including adaptability, collaboration, communication, critical thinking, empathy, a learner’s mindset, and personal responsibility.

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. In 2023–24, more than 43,000 North Carolina students took the WorkKeys assessment, and only 32 percent of them failed to earn above WorkKeys Bronze scores, the lowest of the four levels of 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 2023–24 school year, students throughout the state earned 358,069 credentials, the highest number in 14 years.
- » In 2023–24, career and technical education students throughout the state earned 53 percent of the credentials available to them.
- » According to the Department of Public Instruction, more than 845,000 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 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 seventh 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.
- » Policymakers continue to work towards helping students be prepared for college or a career. Multiple bills have been filed in recent sessions of the General Assembly, but they have not had much traction. One of these would have established a workforce diploma program to help students 21 or older “obtain a high school diploma and develop employability and career and technical skills.” Another would have established a pilot program to study reviewing students’ career development plans annually so as to better prepare them for their future goals. A third would have required the community college board to work with the State Board of Education to align coursework with high school graduation requirements.
- » Business leaders have also shown an interest in helping prepare students for the workforce. A 2024 toolkit from DPI and the NC Chamber Foundation aims to help business leaders connect with schools and students through field trips, internships, and other opportunities.

## 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 be made available starting 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.**

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

# EDUCATION FACILITIES

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 local units of government may add to or supplement any public school or postsecondary school program. The North Carolina Supreme Court has interpreted it to mean that the state must provide citizens with “access to a sound basic education” but that the legislature may delegate some funding responsibility for schools to local governments, which 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 makes it state policy “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 make sure “that the facilities requirements of a public education system will be met by county governments.”

While putting forth which education expenses are to be met by the state and which by the counties, the law does not assign any specific funding responsibilities. Rather, it lays out the goals or desires of the legislature, but 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, but in recent years, the state has provided more funding to local districts for capital costs via a variety of programs.

Funding for capital projects is administered through the North Carolina Department of Public Instruction (NC DPI). The goal of these efforts is to assist county governments in meeting their public-school building needs. Currently three types of capital funding are available through the NC DPI, and all three are funded by the North Carolina Education Lottery: the Public School Building Capital Fund, the Public School Building Repair and Renovation Fund, and the Needs-Based Public School Capital Fund.

According to state law, county commissions have the primary responsibility to fund school district facilities at the local level.

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

## EDUCATION FACILITIES

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.

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 and efficient learning environment.

### KEY FACTS

- » Since 2000, North Carolina local governments have spent over \$22.5 billion on school facilities, averaging nearly \$1.1 billion a year. Locally funded capital expenditures represent almost 97 percent of all public-school capital spending in the state. In 2023–24, state, local, and federal government sources spent more than \$1.9 billion on capital facilities in North Carolina, and local taxpayers were responsible for all but \$25 million of that.
- » The state legislature infrequently provides state funds for school facilities. Since 1949, the General Assembly has passed only one appropriation bill for facilities and five state school bonds. The legislature approved the last statewide facilities bond in 1996. Since 2004, the state has provided local schools with over \$493 million in funds for school facilities.
- » State funding for local school districts is usually distributed via the Public-School Building Capital Fund, which has two funding sources: local option sales taxes and state lottery revenues. All counties levy two half-cent additions to the state sales tax, and 30 percent and 60 percent of the revenue, respectively, goes to schools. Counties may also levy either an additional quarter-cent sales tax or a land transfer tax for funding school facilities.
- » Currently about \$100 million in lottery revenue is distributed to the Public-School Building Capital Fund each year.
- » In 2017, the North Carolina General Assembly established the Needs-Based Public School Capital Fund, which allocates North Carolina

## EDUCATION FACILITIES

Education Lottery funds for new school construction in low-wealth counties (Tier 1 and Tier 2 counties in the North Carolina Department of Commerce’s ranking of counties by economic distress). The fund has awarded nearly \$1.6 billion to local school districts for new and replacement schools.

- » In 2025 the General Assembly passed disaster recovery legislation allocating \$56.3 million in interest earned from the Needs-Based Public School Capital Fund for rebuilding public schools in areas damaged by Hurricane Helene. The bill allocated another \$8 million to DPI for competitive grants for repairing school infrastructure damaged by Helene, setting the maximum grant award at \$500,000.
- » 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 – if they so choose – to contribute local tax revenue to help charter schools fund building needs.

## RECOMMENDATIONS

### **1. Have local governments minimize the amount of debt incurred for school capital expenses.**

Weigh a short-term need for additional classroom space or building repair against the fiscal implications of assuming long-term capital debt. Make sure when planning for these obligations to include a thorough examination of current and projected revenue streams, student enrollment, population, and the county’s financial obligations. Use this information to determine whether the county’s tax base will support years of debt service payments, and if need be, consider deferring the project under consideration or building up a reserve fund.

### **2. Have local governments encourage school districts to use proven, cost-efficient building solutions that would not burden county taxpayers and free up more money for educating students.**

Every year, county commissions dedicate millions of local taxpayer dollars for debt service to maintain unnecessarily costly school construction programs. Public/private partnerships, adaptive reuse buildings, ninth-grade centers, satellite campuses, and virtual schools allow school districts to increase school capacity faster and more cheaply than conventional school construction and renovation methods. When districts spend too much on capital costs, it takes away funding that could be used more directly on educating students.

### 3. Revamp how school construction needs are assessed.

By law, local school boards must submit long-range plans to the State Board of Education every five years. Currently North Carolina public schools have \$12.7 billion in planned new construction, additions, and renovations. Given the increased interest and growth in charter, private, and home schools, as well as demographic changes and an increasingly competitive environment for public investment, North Carolina should reevaluate its Five-Year K-12 Facility Needs Report. More frequent assessments of facility needs would ensure timely, reliable recommendations and estimates that are cost-effective and responsive to public needs.

### 4. Bring more equality in financing charter schools and other educational options.

Even though North Carolina law speaks to how state appropriations for local public and charter schools are meant to be equal, disparities exist. Schools need greater clarity on what funds can and cannot be used and what funds must be shared between public and charter schools.

### 5. Find a more dependable source of revenue for local capital costs.

Today, lottery funds comprise a major source of capital funding for schools for buildings, repairs, and renovations. Money available from the lottery is subject to great variability, however, from the number of players to especially the percentage lawmakers choose to allocate to various school needs. Policymakers should seek to tie capital funding to a more reliable source of funding.

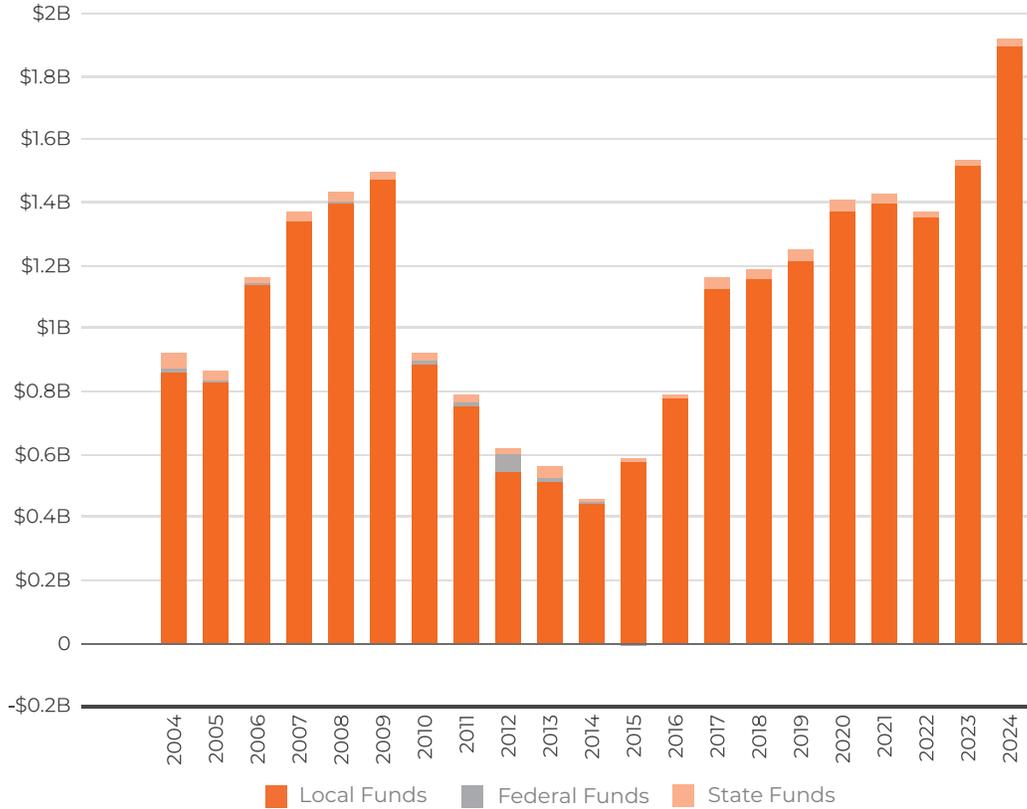
**Public School Building Capital Fund:  
Lottery Revenue**



SOURCE: LOTTERY CAPITAL FUND ANNUAL REPORT

EDUCATION FACILITIES

Sources of Funding for Education Facilities



Year	State Funds	Federal Funds	Local Funds	Total
2004	\$54,959,502	\$9,546,866	\$858,099,299	\$922,605,667
2005	\$31,823,478	\$3,712,599	\$825,346,613	\$860,882,690
2006	\$23,504,604	\$1,819,617	\$1,138,158,032	\$1,163,482,603
2007	\$36,076,763	\$772,199	\$1,334,426,295	\$1,371,275,257
2008	\$31,308,224	\$1,919,065	\$1,395,948,309	\$1,429,175,598
2009	\$26,172,881	\$139,332	\$1,469,392,497	\$1,495,705,310
2010	\$29,310,617	\$8,200,338	\$884,686,687	\$922,197,642
2011	\$29,823,259	\$12,541,325	\$747,257,424	\$789,622,008
2012	\$16,268,678	\$56,120,330	\$543,772,240	\$616,161,248
2013	\$32,283,347	\$15,357,260	\$510,087,425	\$557,728,032
2014	\$9,615,095	\$1,301,724	\$443,771,509	\$454,688,328
2015	\$12,217,507	-\$1,848	\$572,171,256	\$584,386,915
2016	\$15,996,474	\$4,744	\$772,115,944	\$788,116,892
2017	\$40,566,730	-	\$1,122,317,545	\$1,162,884,275
2018	\$28,989,850	\$2,905,316	\$1,154,079,151	\$1,185,974,317
2019	\$38,905,114	\$1,808,604	\$1,210,702,188	\$1,252,415,907
2020	\$36,144,930	\$4,087,849	\$1,367,550,026	\$1,407,782,804
2021	\$28,630,981	\$2,811,891	\$1,394,164,141	\$1,425,607,013
2022	\$15,795,777	\$1,079,403	\$1,348,903,868	\$1,365,779,047
2023	\$18,608,879	\$1,921,579	\$1,514,216,798	\$1,534,747,256
2024	\$22,843,200	\$1,940,043	\$1,893,666,952	\$1,918,090,195
<b>Totals</b>	<b>\$493,062,910</b>	<b>\$127,988,236</b>	<b>\$22,500,834,199</b>	<b>\$23,209,309,004</b>

SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

# FEDERAL EDUCATION POLICY

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 50 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 mid-1960s, the federal government had committed to aiding local and 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.

The federal government's role became especially large and controversial under Congress's 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.

The Every Student Succeeds Act (ESSA) of 2015 was the latest reauthorization of the ESEA and followed 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 federal 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 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 racial and demographic subgroups of students. 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 percent 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 grew to almost 20 percent of all funds, state support declined to about 60 percent, and local funds made up the remaining 20 percent.

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 were 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.

No doubt these trends had influence on the change in administrations in Washington. The Trump administration has preached about the virtues of giving more power back to parents and the states. There has been a reversal in the direction of federal funding and many federal policies and even the downsizing of the U.S. Department of Education. Through Executive Order, the administration has taken steps to significantly reduce the budget and influence of the Department of Education. Yet other actions by the administration remain confusing. These include last minute

decisions to cancel federal grants, weighing in on local legal disputes over school mascots, and proposing the largest federal tax credit school choice program in history.

Many school choice advocates celebrate a tax credit provision included in the Trump Administration's One Big Beautiful Bill Act. The federal government will provide a dollar-for-dollar tax credit up to \$1,700 for individuals who make contributions to state-approved scholarship granting organizations. Those funds will then be distributed to eligible students in the form of scholarships. It is not yet fully clear as of this writing how the funds would be distributed to the states.

Nevertheless, the tax credit raises several issues. It's tax policy, not education policy. It represents more federal involvement in education, not less. It raises concerns about the protection of the religious freedom and autonomy of religious schools enrolling Opportunity Scholarship students. The limited amount of the tax credit raises concerns that the schools would need to develop a larger pool of scholarship donors to raise funds sufficient to meet the growing demand.

These are all important issues to work through. Parents want more educational options, but they also want less meddling by the federal government in public education. It's important to resist the lure of federal dollars and focus on getting the policy right.

## KEY FACTS

- » In 2023–24, most federal education dollars were earmarked for low-income students, special-needs children, child nutrition programs, and vocational education. Congress will occasionally authorize discretionary, multiyear initiatives. They have included the American Recovery and Reinvestment Act 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 nearly \$3.1 billion and accounted for 17 percent of North Carolina's \$18 billion public school operating budget for the 2023–24 school year. They contributed about \$2,269 in funding per student — less than the local per-student funding (\$3,058) and considerably less than state-provided funding per student (\$7,895).
- » Federal Covid relief funding inflated the federal share of public schools' budgets and increased total public-school expenditures for at least until the end of 2024 — and in some cases even later.
- » During the 2023–24 school year, North Carolina public schools used federal funds to support 15,641 public school personnel. That was up from 15,236 in 2022–23 and represented about 8.9 percent of all school district employees in the state in 2023–24.

- » Since 2020, North Carolina public schools received \$6.2 billion in Covid relief funding through various programs. As of June 2025, here is how those funds were spent: 42 percent on salaries, 9 percent on employee benefits, 11 percent on purchased services, 21 percent on supplies and materials, 11 percent on capital outlay, and 5 percent 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. North Carolina law should only allow acceptance of federal grants that 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. Policymakers should be provided this assessment to know the full administrative, financial, and economic costs of taking federal dollars.

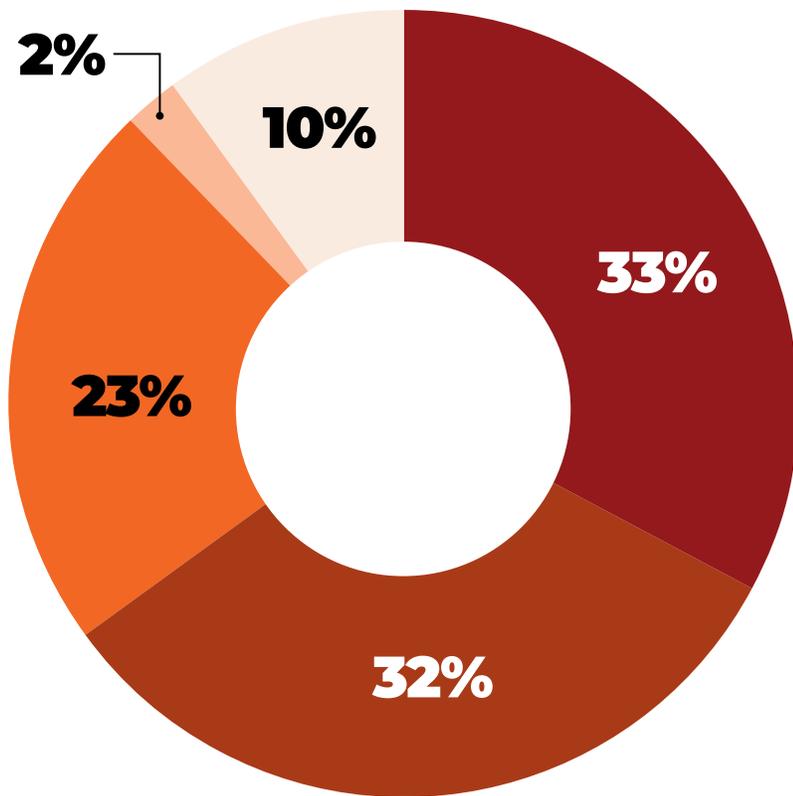
### **5. Also lobby the federal administration to restructure federal grants.**

North Carolina should approve legislation that requires all federal grants accepted by state agencies must be structured so that not only can dollars be tracked, but so can their impact. Currently all that states are required to show is how much federal funding was spent and on what. There is no requirement to demonstrate that the fund-

ing was used for the intended purpose or that goals were met. Federal grants should also encourage transparency and be required to collect data and information that details the impact or lack of impact of funding, and could include a clawback provision for misspent funds.

### Federal Funds Received FY 2024-25

Includes Charter Schools but does not include Covid Funds

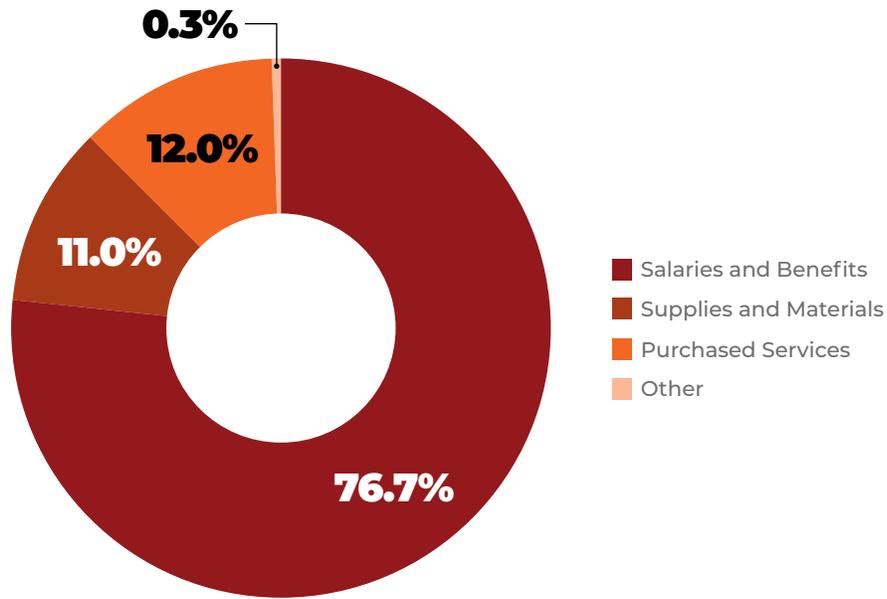


■ Title I ■ Child Nutrition ■ IDEA Handicapped ■ Vocational Education ■ Other

SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET, 2025

### Federal Funds Expenditures 2023-24

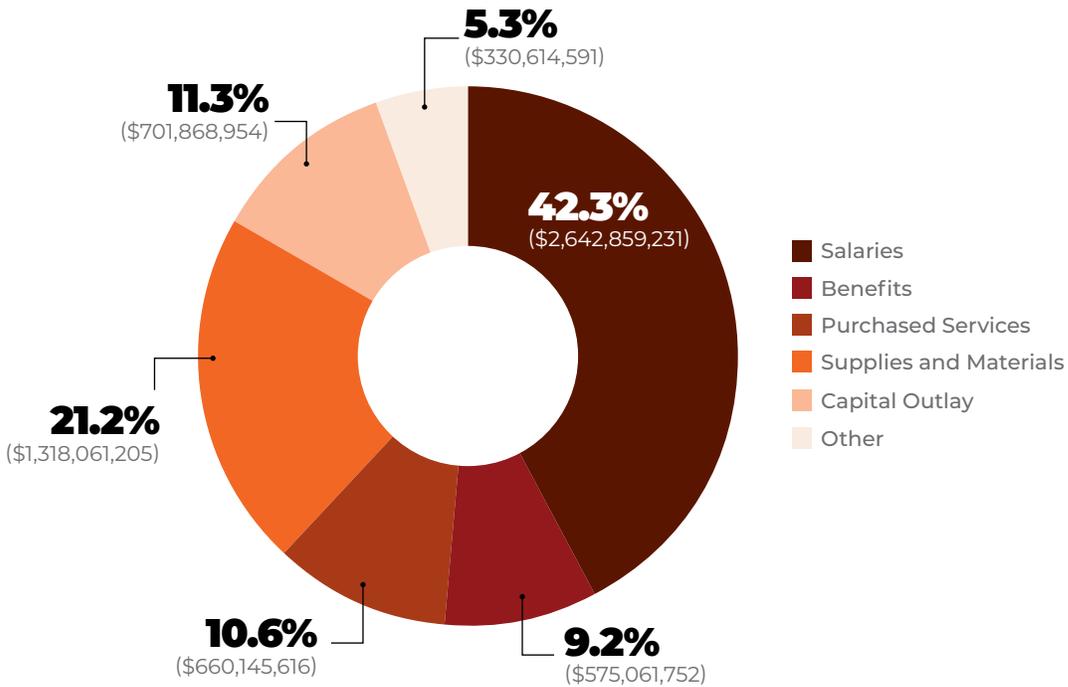
Does not include Covid Funding



SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET, 2024

### Total Covid Expenditures

Federal Money received FY 2020-2025



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

# NORTH CAROLINA EDUCATION LOTTERY

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 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. According to the NC Education Lottery, the lottery has contributed \$11.3 billion in education funding to the public schools since its inception. In fiscal year (FY) 2024, the NC Education Lottery contributed nearly \$1.1 billion to public schools and college scholarships in North Carolina. 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. Year after year, 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 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, a growing percentage of lottery funds is 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. Just before the final vote to approve legislation for the NC Education Lottery, language saying lottery

money would supplement, not supplant existing funding was removed. 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 2024, the lottery enjoyed a record \$5.4 billion in lottery sales, which was an increase of 24 percent over the previous year. How was that revenue divided? About \$3.8 billion (70.6 percent) was distributed as prizes to players. Another \$290 million (about 5.3 percent) was distributed as commissions to retailers, about \$200 million (3.8 percent) went toward administrative costs, while almost \$1.1 billion (20.3 percent) was distributed to education programs. Quick math reveals that only about 20 cents of every dollar spent on the lottery goes to education.

How was that small proportion of lottery dollars for education divided in 2023–24? About 88 percent went to either school construction (\$566.5 million, or 52 percent) or noninstructional support staff (\$385.9 million, or 36 percent). The other expenditures — NC Pre-K, college scholarships, and local school transportation — totaled only about 12 percent of all expenditures.

Are lottery funds getting into the classroom? That’s a perpetual question. It’s not difficult to see how school construction and personnel costs absorbed most lottery expenditures the last few years. Those are educational expenditures, but tracking expenditures over the last few years shows that lottery dollars are increasingly being used for nonclassroom expenditures.

These numbers reflect a troubling trend. When the lottery was approved, budget discussions had suggested 35 percent of all funds be devoted to education. That number was never put in the final legislation. Even so, it has often been considered a benchmark. Since 2007, however, the actual percentage of lottery revenue devoted to education has declined. Today that percentage is only about 20 percent of all funds.

Is the lottery aiding education? Or is it merely supplanting dollars that North Carolina would have spent on education anyway? That’s a question that has not been fully answered but requires close and continual monitoring.

## 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 county-by-county 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) and well over twice the average of the 20 most well-off counties in the state.
- » Schools continue to spend large amounts of lottery money on non-classroom expenses. Does that mean the lottery is paying for expenses that would have been financed in other ways?
- » Each year the General Assembly decides how lottery money is to be apportioned by category. Doing so allows lawmakers to be able to respond to urgent funding needs. 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.**

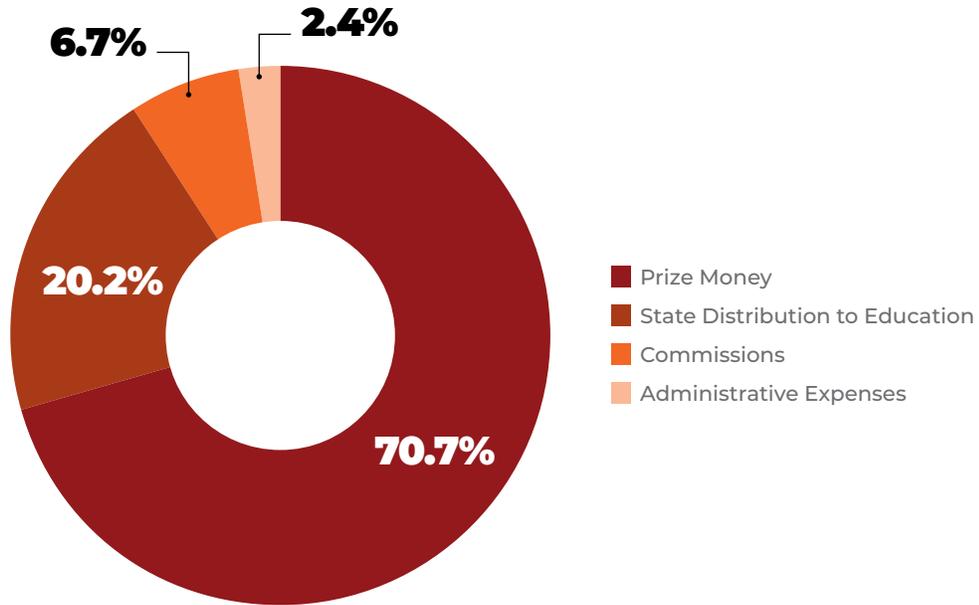
Education should be treated like all other budget priorities, with spending priorities subject to open debate and discussion. Moreover, with the legalization of sports betting, and the potential for more legalized gaming, ending the lottery wouldn't mean an end to revenue raised from gambling.

### **2. 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. This includes putting the percentage distribution for classroom instruction in statute to ensure that money stays in the classroom and isn't siphoned away on other expenses, such as college scholarships, pre-K programs, and school construction.

### Lottery Revenue Distributions 2023-24

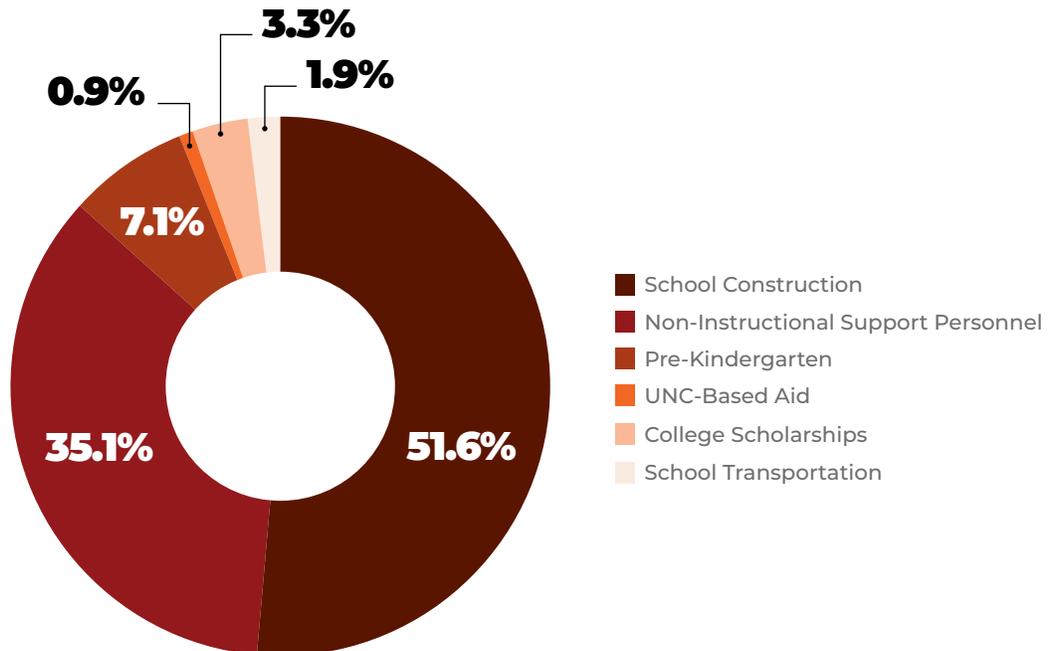
Total Operating Revenue for NC Education Lottery in FY23-24 was \$4.3 billion



SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET, 2025.

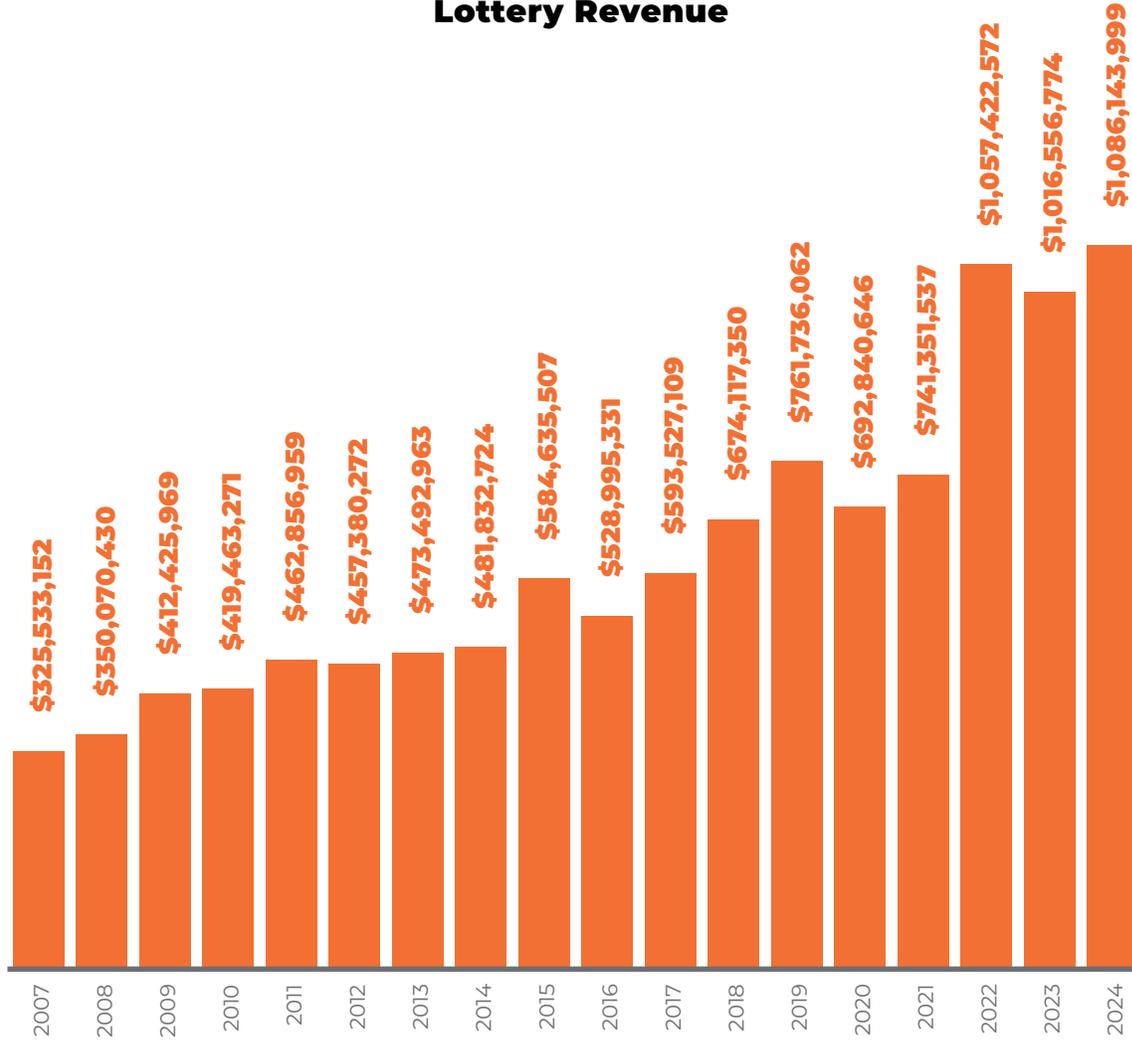
### Lottery Revenue Distributions 2023-24

Lottery Revenue Distributions to Public Schools, 2023-24



SOURCE: HIGHLIGHTS OF THE NORTH CAROLINA PUBLIC SCHOOL BUDGET, 2025.

**Public School Building Capital Fund:  
Lottery Revenue**



SOURCE: NC EDUCATION LOTTERY

# PARENTAL RIGHTS

DR. ROBERT LUEBKE

## INTRODUCTION

One hundred years ago, in *Pierce vs. Society of Sisters* (1925), the United States Supreme Court issued a landmark decision affirming parents' rights to send their child to a private school.

Today few parents know the significance of that decision. In brief, the Court held in *Pierce* that parents have the right to direct the education of their child. They also have the constitutional right to send their child to a school other than the state-directed public school. This affirmation helped shape the three-part system of school choice — charter, private, and home school — that defines today's education landscape.

Simply stated, *Pierce* intensified the debate over the question of who — parents or the government — should shape the values and beliefs of children. One of the decision's lasting legacies was a compelling phrase: "The child is not the mere creature of the state." Conservatives champion this assertion and reason that, since children are born to parents, not the state, parents have a natural right to oversee the education of their children. Progressives continue to advocate for a more active role by the state in educating and instilling their social values in children — even if they contradict parental values.

Amid those tensions, school boards and parents are battling over many divisive issues, such as teaching controversial curricula, giving parents access to instructional materials, allowing biological males to be in girls' bathrooms and locker rooms and to compete on girls' sports teams, changing children's pronouns, and instructing young children in sexual orientation and gender identity. These issues have split classrooms and communities, filled school board meetings, energized activists, and galvanized parents.

In 2023, the General Assembly passed the Parents' Bill of Rights over Gov. Roy Cooper's veto. The law buttresses parents' rights to direct their child's upbringing, education, and health care. Specifically, it gives parents a central role in determining access to student data, allows them to secure for their child a medical or religious exemption from immunization requirements, requires schools to provide a guide for parents to understand and aid their child's academic progress, and requires school officials to respond more quickly to parental requests for information. Under the law, parents also have the right to withhold consent for their child's participation in reproductive health or safety programs.

The Parents' Bill of Rights (PBR) is credited with going farther than most other parental rights legislation. It requires schools to notify parents if a child requests to be called by a different name or pronoun. The law also

prohibits instruction related to sexual orientation or gender identity prior to the fifth grade and requires parental consent for medical treatment of children.

Even so, the PBR has by no means fully secured parents' rights. Enforcement has been uneven, and a number of districts have shown resistance to enforcing some of the law's more controversial provisions. It also fails to address the longstanding problem of academic transparency, leaving parents still frustrated with the lack of effective access to instructional and supplemental materials used in the classroom.

Also, even though the North Carolina Department of Public Instruction (DPI) collects data on the impact of teachers on students and their learning environment in the Education Value-Added Assessment System (EVAAS), no data on the individual quality of teachers are made available for parents to review. Only school-level performance data are currently available to parents.

Nevertheless, the Parents' Bill of Rights has led to stronger protection of parental rights in other areas. In 2025, the General Assembly passed the Parents Protection Act, which protects parents from petitions of child abuse or neglect based on "[r]aising ... or referring to a juvenile consistent with the juvenile's biological sex" (in other words, parents' refusal to support a child's gender transition could not be investigated as abuse or neglect). In addition, the legislature also passed House Bill 612, which expanded this protection to foster parents and caretakers. Among other things the bill also required cities and counties to require criminal history record checks for any position that requires an employee to work with children in any capacity.

The Court's thunderous declaration in *Pierce* that "the child is not a mere creature of the state" has encouraged parents, led to expanded educational opportunities, and helped make society better and more just. Such efforts enrich all individuals, families, and society. They also underscore why the fight for parents' rights will continue.

## KEY FACTS

- » Parental rights have been well established in our history, law, and civilization. As the United States Supreme Court recognized in *Wisconsin v. Yoder* in 1972, "The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. The primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition."
- » Parental rights are not absolute, however. They can be lost if it's determined parental actions are not in the best interests of the child, such as by child abuse or neglect, failure to pay child support, abandonment, or incarceration.

## PARENTAL RIGHTS

- » According to the “Parent Rights to Know Toolkit” from DPI, parents have the right to inspect all instructional materials, though it does not include academic tests or assessments. To review instructional materials, parents must make a request in writing to the school principal, who will schedule a mutually agreed upon time to review the materials. School officials should make every effort to schedule all meetings no later than 10 business days from the date of the request, according to the toolkit.
- » Also included in the toolkit are the rights to be informed about the qualifications and licensing criteria of teachers and to know about the child’s level of academic achievement and growth on state assessments.
- » Parents also have the right to know about student participation in any assessments mandated by the state, about the subject matter involved, the purpose of the assessment, and how results will be disseminated.
- » North Carolina statutes speak to the state’s legal obligations to respect parental rights. One of the best ways to do so is with the Parent Advisory Commission (PAC). Originally conceived by former State Superintendent Catherine Truitt, PAC can be an effective way to institutionalize two-way communication between school officials and parents and ensure parents have a mechanism for being heard.

## RECOMMENDATIONS

### 1. Strengthen access to classroom and instructional materials.

Although under the PBR, parents are allowed to inspect instructional materials, the law lacks specificity. Too often school administrators make the process of reviewing textbooks or classroom materials time-consuming and arduous. To ensure parents’ rights are better respected, teachers should be required to post to their school’s website all syllabi, instructional materials, and supplemental resource used in classes, preferably prior to their use but no later than 10 days afterwards.

### 2. Establish parental right to choose a child’s education.

Parental Rights in North Carolina include the right to direct the education and moral or religious upbringing of his or her child. While laudable, such statements ignore the reality of a system that traps too many children in schools and systems that fail children academically, socially and morally. Legislation — or a state constitutional amendment — should recognize that not only does a parent have a right to direct how and where a child is educated but a parent also has a right

to choose the educational option they believe best suits the child's needs and abilities.

### **3. Give parents the right to review data on the quality of individual teachers.**

Teacher quality is an important component to boosting student achievement. Give parents the ability to review EVAAS data to help assess teacher quality.

### **4. Resurrect Parent Advisory Commission.**

Efforts by the Department of Public Instruction to help parents understand testing, academic progress and encourage parental involvement in education — often prompted by legislation — have been both welcome and helpful. Reinvigorating former State Superintendent Catherine Truitt's plan for a Parent Advisory Commission would be another step to institutionalize these efforts. The new commission can help ensure parents have a voice in how their children are educated. It can also ensure that school leaders receive input not only from traditional public school parents, but also from those parents whose children are enrolled in charter, private, and home schools, which are growing education sectors that have ever-greater impact on public schools.

# PUBLIC SCHOOL FINANCE

DR. ROBERT LUEBKE AND KAITLYN SHEPHERD

## INTRODUCTION

Article IX, Section 2 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 ... wherein equal opportunities shall be provided for all students.”

By law, North Carolina is charged with funding general school operations. North Carolina General Statutes § 115C-408 stipulates that 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. Counties may supplement state school operating funds if they so choose.

Some state dollars are distributed in the form of supplemental funds to educate specific populations, such as special needs students, at-risk students, and gifted and talented students, or as special financial support to small or low-wealth districts.

In 2023–24, North Carolina spent \$18 billion on K–12 public education. Of that amount, \$10.8 billion (59.7 percent) came from state government, \$3.1 billion (17.2 percent) came from the federal government, and \$4.2 billion (23.1 percent) came from local governments.

How the state best finances the costs of schooling while addressing concerns about effectiveness, accountability, 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 was designed to serve. Unfortunately, most people today equate the quality of a school finance system with the number of inputs associated with it – teacher pay, per-pupil funding, class size, and more. Such thinking exposes a flawed assumption that drives much of the 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. 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 just as important as how much money is spent.

The complexity of the issue should cause us to rethink how state government approaches public school finance. Thinking in terms of educational productivity instead would be 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 2023–24, North Carolina spent an average of \$13,222 per K–12 student in federal, state, and local operating funds.
- » During the 2023–24 school year, state, federal, and local operating expenditures exceeded \$18 billion.
- » North Carolina distributes funds to local districts using a complicated system of more than 50 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.
- » Most states around the country distribute funds to districts based on the needs of the students they serve. North Carolina’s school finance system is an outlier that bases funding primarily on the cost of providing certain educational programs and resources.

## RECOMMENDATIONS

### 1. End how North Carolina currently funds education via complicated allotments.

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 needs of students. Doing so would ensure money gets to where it is 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.

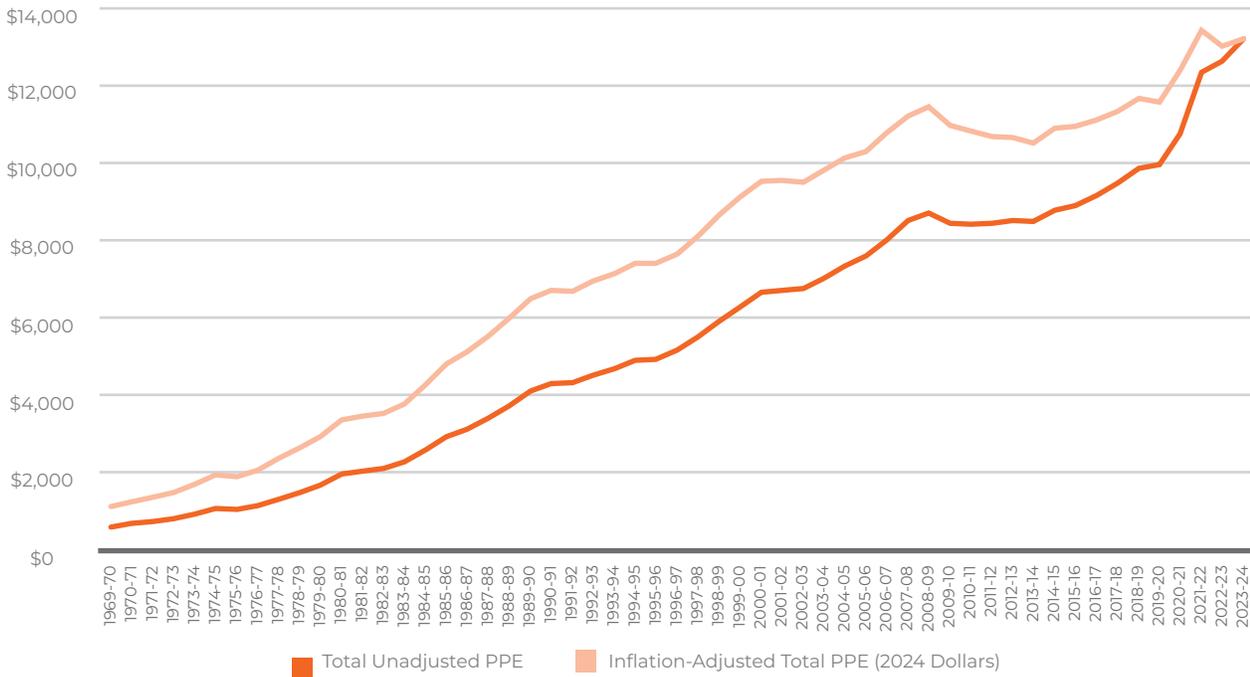
**3. Publicize research on education spending and outcomes.**

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.**

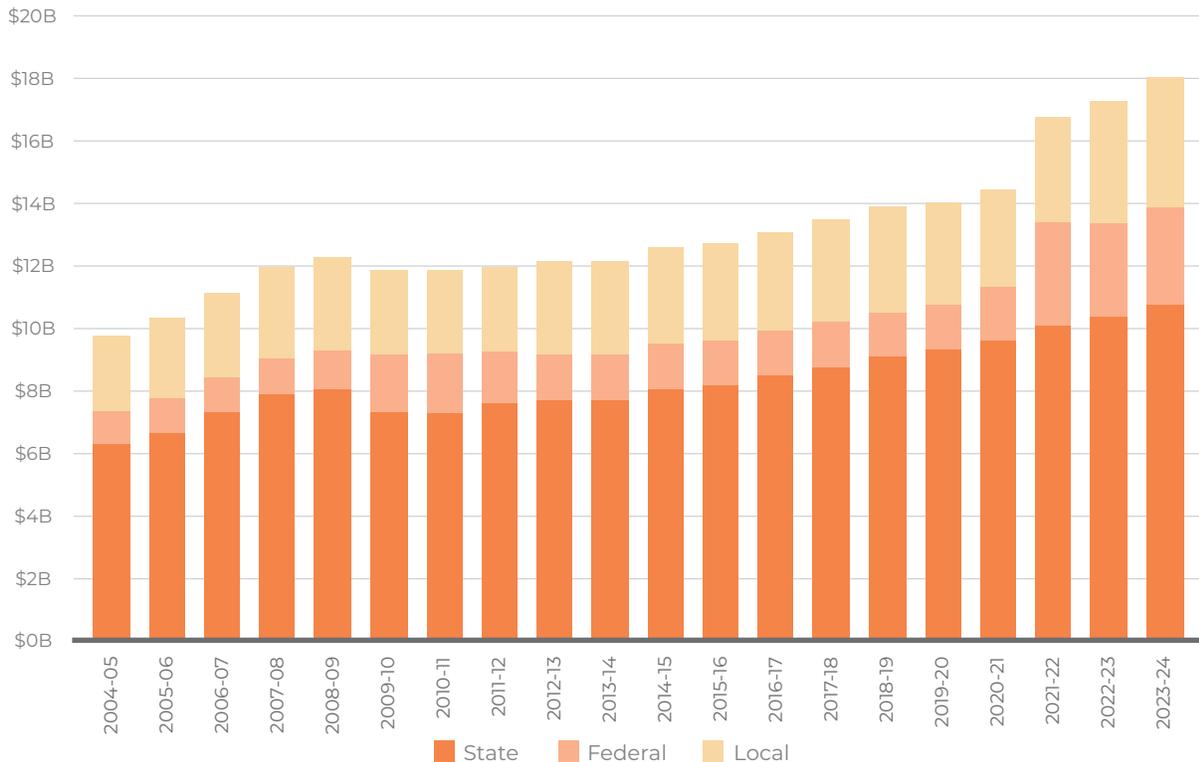
Parents and policymakers lack information about school and district spending. As such, it is difficult to know if schools are making wise decisions about spending. Requiring public schools to post spending records would improve financial transparency and aid decision-making.

### North Carolina Per Pupil K-12 Expenditures, Inflation-Adjusted and Unadjusted Expenditures, 1969-2024



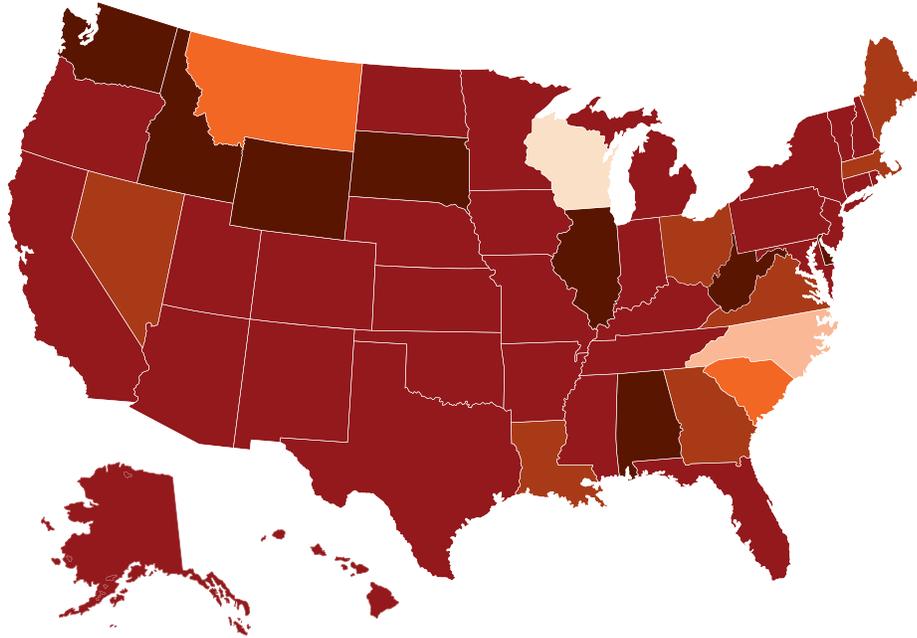
SOURCE: NORTH CAROLINA STATISTICAL PROFILE ONLINE, TABLE 22 (AUTHORS' CALCULATIONS)

### North Carolina K-12 Per-Pupil Unadjusted Expenditures, By Source of Funds, 2005-2024



SOURCE: NORTH CAROLINA STATISTICAL PROFILE ONLINE, TABLE 22

## State K-12 Education Funding Formulas by Type



- Resource-based
- Student-based
- Student-based and resource-based
- Student-based and program-based
- Resource-based and program-based
- Program-based

SOURCE: EDBUILD, LAST ACCESSED AUGUST 8, 2025

# SCHOOL CHOICE

KAITLYN SHEPHERD

## INTRODUCTION

The North Carolina State Constitution requires the General Assembly to provide “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 fulfill 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 compulsory public education.

School choice helps remedy this injustice first by restoring to parents the right to choose how and where a child is educated and second by providing resources and the opportunity to access better educational options through school choice programs.

In *Hart v. State* (2015), the North Carolina Supreme Court upheld the state’s ability 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.”

Controversial policy decisions made during the Covid-19 pandemic, the content of lessons and instructional materials, and the inability of many public schools to pivot successfully to online educational delivery prompted a greater interest in educational options and propelled the popularity of school choice.

Parents demanded more choices, and lawmakers answered. In 2023, lawmakers removed income-eligibility restrictions from the Opportunity

Scholarship voucher program to allow all families to apply. Lawmakers also streamlined the process for charter school applications and renewals by vesting authority over these matters in the newly created 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 gave counties the option to use property tax revenues for charter school capital costs.

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

## KEY FACTS

- » In 2013, North Carolina lawmakers approved the state's first school choice program, otherwise known as the Opportunity Scholarship program. Today, this program helps eligible students attend private schools by providing state vouchers worth (depending on household income) between 45 and 100 percent of the average amount the state spent per public-school student during the prior fiscal year.
- » School-choice advocates won a major victory in 2020 when former Gov. Roy Cooper, an opponent of school choice, signed a budget bill that secured federal Coronavirus Aid, Relief, and Economic Security (CARES) Act money for the Opportunity Scholarship program. The legislation also expanded the program's original income-related eligibility restrictions to allow more families to apply and lifted its participation caps for kindergarten and first-grade students. Furthermore, it allowed the state's two virtual charter schools to enroll an additional 3,800 students in total.
- » 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 what the state spends per public-school student.
- » 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 prioritizes families with the greatest financial need by awarding them larger scholarships. North Carolina became the first state in which the legislative and executive branches were controlled by different parties to pass a school choice program with universal eligibility. In 2024, lawmakers overrode the governor's veto to approve funding for nearly 55,000 students who were waiting for scholarships.
- » In 2025, state policymakers in the House and the Senate overrode Gov. Josh Stein's veto to expand the powers and duties of the Charter School Review Board. The legislation requires the board to recommend and approve all state policies relating to charter schools, review decisions relating to federal funding for charter schools, and approve the terms of each charter school's written contract, among other things.

## SCHOOL CHOICE

- » Also in 2025, the General Assembly passed a bill that would have opted North Carolina in to the Trump administration’s federal tax credit scholarship program, which is meant to expand school choice. The program will allow people to make donations to designated scholarship-granting organizations in exchange for a dollar-for-dollar credit of up to \$1,700 on their federal taxes. K–12 students who receive the scholarships will be able use them for expenses like tuition and fees at a private school, tutoring, educational therapies, and more. Gov. Josh Stein vetoed the bill.
- » Over the past decade, the home school population in North Carolina has grown by 40 percent, increasing from 118,268 students in 2015–16 to 165,243 students in 2024–25. During the 2024–25 school year, there were 101,880 home schools across North Carolina.
- » Private school enrollment in North Carolina has increased 39 percent over the past 10 years, growing from 97,721 to 135,738. During that same time, the number of private schools in North Carolina has increased from 742 to 930.
- » North Carolina also has a thriving charter school sector. In fact, charter schools were the fastest-growing sector of K–12 enrollment in 2023–24 and 2024–25. During the 2024–25 school year, 153,480 students attended 208 charter schools throughout the state. Demand, however, outpaces supply. Charter schools reported waitlists totaling 74,287 students in 2024–25, a testament to their popularity.
- » During the 2024–25 school year, the Opportunity Scholarship program had 80,472 recipients and awarded \$432.2 million in scholarships.
- » North Carolina also implements the Education Student Accounts (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, educational therapies, tutoring costs, certain educational technologies, and more. Students with certain disabilities could receive up to \$17,000 per year. During the 2024–25 school year, the state distributed 4,911 ESA+ awards and disbursed \$29.4 million to schools.

## RECOMMENDATIONS

### **1. Increase funding for existing school choice programs and make it more stable and predictable by tying it to a formula.**

State law sets out how much money the General Assembly intends to allocate for the Opportunity Scholarship program every year for several years into the future. Since each new General Assembly can change this law, however, those amounts are not guaranteed. Tying funding for the Opportunity Scholarship and ESA+ programs to a set formula that determines funding based on the number of applicants

would make funding more stable and predictable. It would also avoid waiting lists, ensuring that all eligible Opportunity Scholarship or ESA+ applicants can receive scholarship awards.

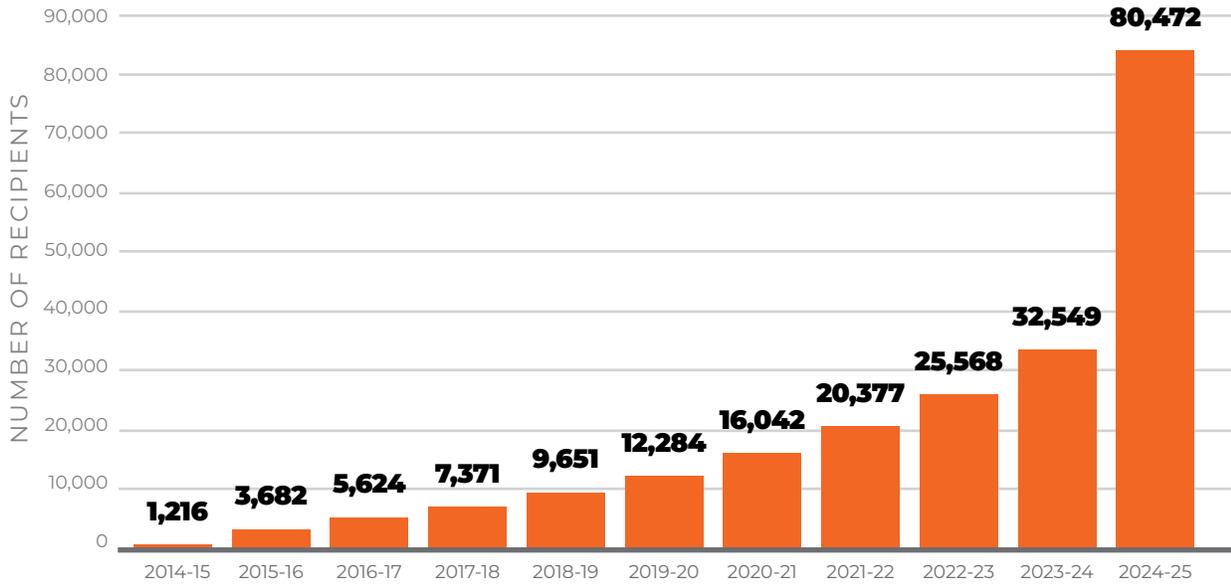
**2. Protect private schools' autonomy and ensure successful implementation of the Opportunity Scholarship program by allowing broad testing freedom for participating schools.**

State law requires the Office of Learning Research at the University of North Carolina to make “recommendations for nationally standardized tests for use in third grade and eighth grade” to allow for comparisons of the academic performance of students attending public schools and those using Opportunity Scholarships. The law strongly encourages the office to choose only one test per grade. Restricting the autonomy of private schools to administer their preferred tests could dissuade them from participating in the Opportunity Scholarship program, thereby limiting educational options for students. Policymakers should protect participating schools' autonomy by allowing schools to select from a broad array of tests.

**3. Give students more educational options within the public school system by passing a statewide open enrollment law.**

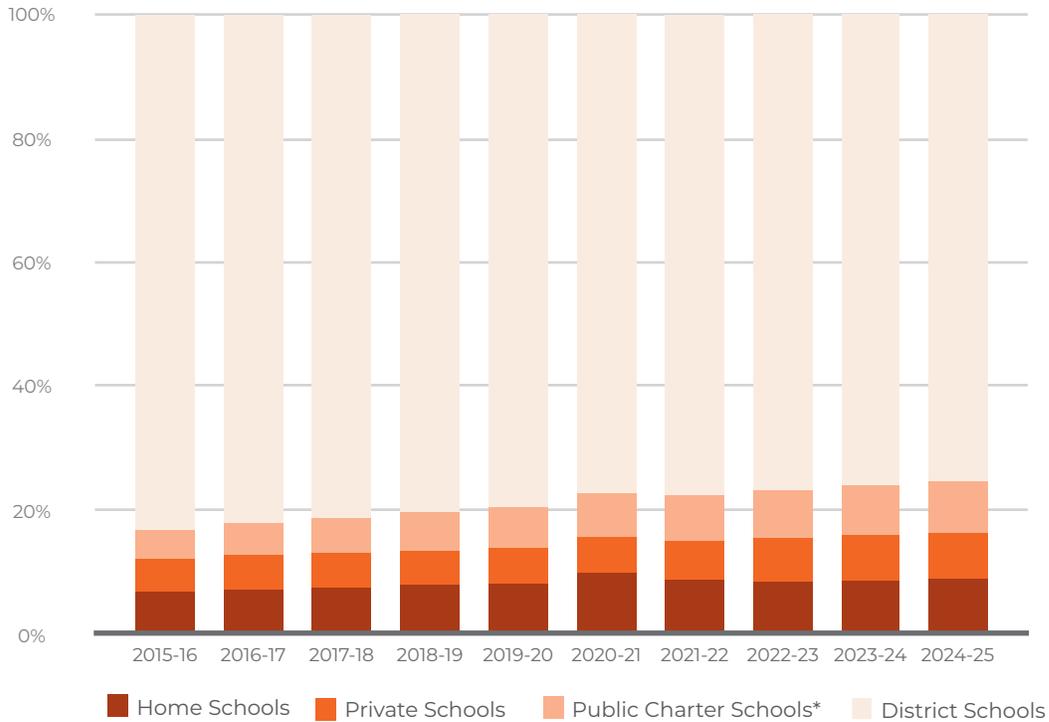
Open enrollment allows students to attend a public school other than the one to which they are residentially assigned. Cross-district policies (also called “interdistrict” policies) allow students to choose a public school in a different district, while within-district policies (also called “intradistrict”) allow them to select a different public school within their residentially assigned district. Some school districts have adopted policies at the local level, but North Carolina does not have any laws on open enrollment at the state level, which limits choices for students.

### Opportunity Scholarship Program Recipients, 2014-2023



SOURCE: NORTH CAROLINA STATE EDUCATION ASSISTANCE AUTHORITY

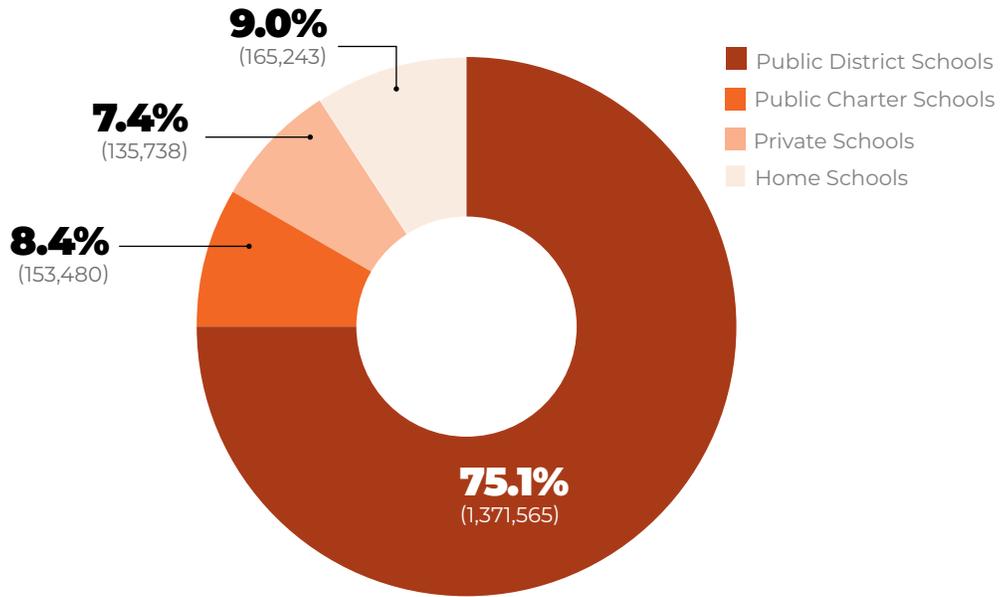
### Market Shares of Public and Non-Public Schools, 2015-16 to 2024-25



SOURCES: NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION AND NORTH CAROLINA DEPARTMENT OF ADMINISTRATION, DIVISION OF NON-PUBLIC EDUCATION

NOTE: FINAL ADM COUNTS FOR PUBLIC DISTRICT AND CHARTER SCHOOLS ARE NOT YET REPORTED ON THE ONLINE STATISTICAL PROFILE. DATA MAY FLUCTUATE SLIGHTLY.

### K-12 Student Enrollment Market Shares, 2024-25



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

**NOTE:** FINAL ADM COUNTS FOR PUBLIC DISTRICT AND CHARTER SCHOOLS ARE NOT YET REPORTED ON THE ONLINE STATISTICAL PROFILE. DATA MAY FLUCTUATE SLIGHTLY.

# STANDARDS AND CURRICULA

KAITLYN SHEPHERD

## INTRODUCTION

Although 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 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, some 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 for each content area are reviewed and updated periodically.
- » Standards that are due to be updated undergo a multistage process. During this time, the Department of Public Instruction solicits feedback from stakeholders, researches standards in the content area, and convenes a data review committee to recommend changes. A standards writing team incorporates the feedback and recommendations into multiple drafts before the new standards are finalized. Then, the state trains teachers, distributes the new standards to districts, revises state tests, and collects data on how implementation is going.
- » State-authored standards in the Standard Course of Study include Arts Education; CTE and Career Pathways; Computer Science, IT, and Technology Education; English Language Arts; English Language Development; NC Student Success (formerly 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 requires the teaching of certain content in particular grades and course areas. For example, it prescribes a civic literacy class during high school. Health education, character education, and financial literacy are other content requirements outlined in the statute. Two other notable mandates in state 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 was optional starting in 2024–25 but will be 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.

Districts began implementing the new science standards during the 2024–25 school year.

- » In 2024, North Carolina adopted new Healthful Living standards. The final version raised concerns as to whether the new standards truly promote parental involvement in health education and uphold premarital abstinence as the expected standard for student behavior, both of which are required under state law. Also, certain vague provisions could leave the door open for the adoption of curricula that include controversial instruction about gender identity in grades 5 and up.
- » In 2023, 2024, and 2025, lawmakers unsuccessfully introduced legislation that attempted to increase academic transparency by requiring school districts to post lesson plans and information about other instructional materials online.
- » In recent years, lawmakers have also attempted to change who oversees the Standard Course of Study by creating an independent commission tasked with developing and recommending it to the State Board of Education. In both 2023 and 2025, however, the idea died in committee.
- » In 2025, the General Assembly enacted legislation that, among other things, revises the Standard Course of Study to include instruction on the risks and potential harms of social media for students beginning with the 2026–27 school year.

## RECOMMENDATIONS

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

The commissions' goals should be to: 1) modify substantially outdated or inferior standards, 2) specify high-quality content that aligns with the standards, 3) recommend a valid, reliable, and cost-effective independent 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 recommend a research-based program package, such as the Core Knowledge Sequence.**

Having 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 knowl-

edge 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, ideally prior to use but no later than seven days afterwards. 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

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 public school 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 degree or doctorate or National Board Certification), not student learning. If teachers are paid to teach, shouldn't teacher pay, in part, be tied to how well students learn?

Unfortunately, tying pay to time on the job and academic credentials has created disincentives for excellence. For example, great teachers are limited in how much they can be paid. Often great teachers are paid the same as teachers who are not so great. This has implications. Placing limits on what teachers can earn, especially early in their careers, causes the best teachers to rethink a career in education. What sort of message does that send?

Likewise, knowing 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 2023 the commission developed a new plan to replace the traditional pay scale based on years of experience with a multi-tiered licensure system that ties compensation to a teacher's demonstrated effectiveness and qualifications. The proposed model would award teachers significantly higher compensation than under the

current plan and would also provide a range of licensure options from apprentice to advance leadership roles. A pilot program to test this model in several school districts has been proposed but not yet approved.

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 as high as 32nd nationally and boost North Carolina's teacher compensation to third best in the Southeast behind Virginia and Georgia in 2023. However in 2024 North Carolina's ranking on average teacher compensation in the Southeast fell from third to sixth best in the Southeast, with Georgia having the highest average teacher compensation of \$67,641 .

Teacher pay remains one of the largest, and often most contentious, items in the state budget. As of this writing, North Carolina still has not enacted a state budget for Fiscal Year 2025-26, and one of the sticking points is teacher pay. The House's budget plan called for higher salary increases than the Senate, but the Senate plan made up much of the difference with a one-time bonus.

North Carolina's high quality of life and low cost of living also influence recruitment and retention. North Carolina's cost of living — generally regarded to be lower than that of most states — helps to draw people to the state. A high quality of life deriving from the state's diverse geography, strong economy, temperate climate, and access to jobs is another plus. Such qualities can help to 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. In 2025, the General Assembly debated (but did not pass) several bills that would have impacted various aspects of the teacher profession, including licensure reform, salary supplements, teacher recruitment, elimination of standardized tests as a requirement for licensure, and making it easier to hire retired teachers for high-need areas.

### KEY FACTS

- » In the 2024–25 school year, North Carolina public schools employed 90,481 full-time teachers. That's down from 92,428 from the year before. Charter schools employed 9,591 full-time teachers in 2024–25.
- » As of the 2023–24 school year, North Carolina has over 24,243 National Board Certified Teachers, according to EdNC. It is the highest number of board-certified teachers of any state. North Carolina teachers who achieve certification receive a 12 percent supplement to their pay.

## TEACHING PROFESSION

- » Over the past decade, North Carolina’s unadjusted teacher pay increased from \$47,792 (2014–15) to \$61,449 (2024–25), an increase of 28.5 percent. From 2001–02 to 2024–25, annual pay for state employees increased by 52.1 percent, while teacher pay grew by 95.3 percent. Over the same period, the Consumer Price Index rose by 83.4 percent.
- » According to the state salary schedule, a beginning teacher with a bachelor’s degree on a typical 10-month contract has a base salary range of \$41,000. Likewise, a teacher with a doctorate with over 25 years of teaching experience and National Board Professional Teaching Standards Certification (NBPTS) will earn \$70,790. These figures do not include local supplements.
- » Most teachers also receive an annual salary supplement from their local school districts. In 2024–25, the average local salary supplement for teachers was \$7,028. Three districts — Caswell County Schools, Graham County Schools, and Weldon City Schools — provided no local salary supplement. Wake County Public Schools provided the largest salary supplement (\$11,289), while Yancey County Schools provided the smallest supplement (\$300).
- » For academic year 2024–25, North Carolina’s estimated average teacher pay was \$61,449, up from \$59,431 the year prior, which was slightly below the Southeast average of \$59,712. This figure did 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 \$89,016.
- » The cost of benefits continues to climb, with health insurance coverage and retirement costs rising faster than all other costs. Over the past decade, the total cost of benefits for the average teacher increased from \$16,303 in 2014–15 to \$27,567 in 2024–25, an increase of 69 percent.
- » According to the 2023–24 “State of the Teaching Profession in North Carolina” report from the Department of Public Instruction, the teacher attrition rate for the state’s 115 school districts was nearly 9.9 percent, a decrease from the nearly 11.5 percent in the 2022–23 report. The rate includes teachers who retired or resigned due to personal circumstances.

## RECOMMENDATIONS

### 1. **Ease or eliminate certification and 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.

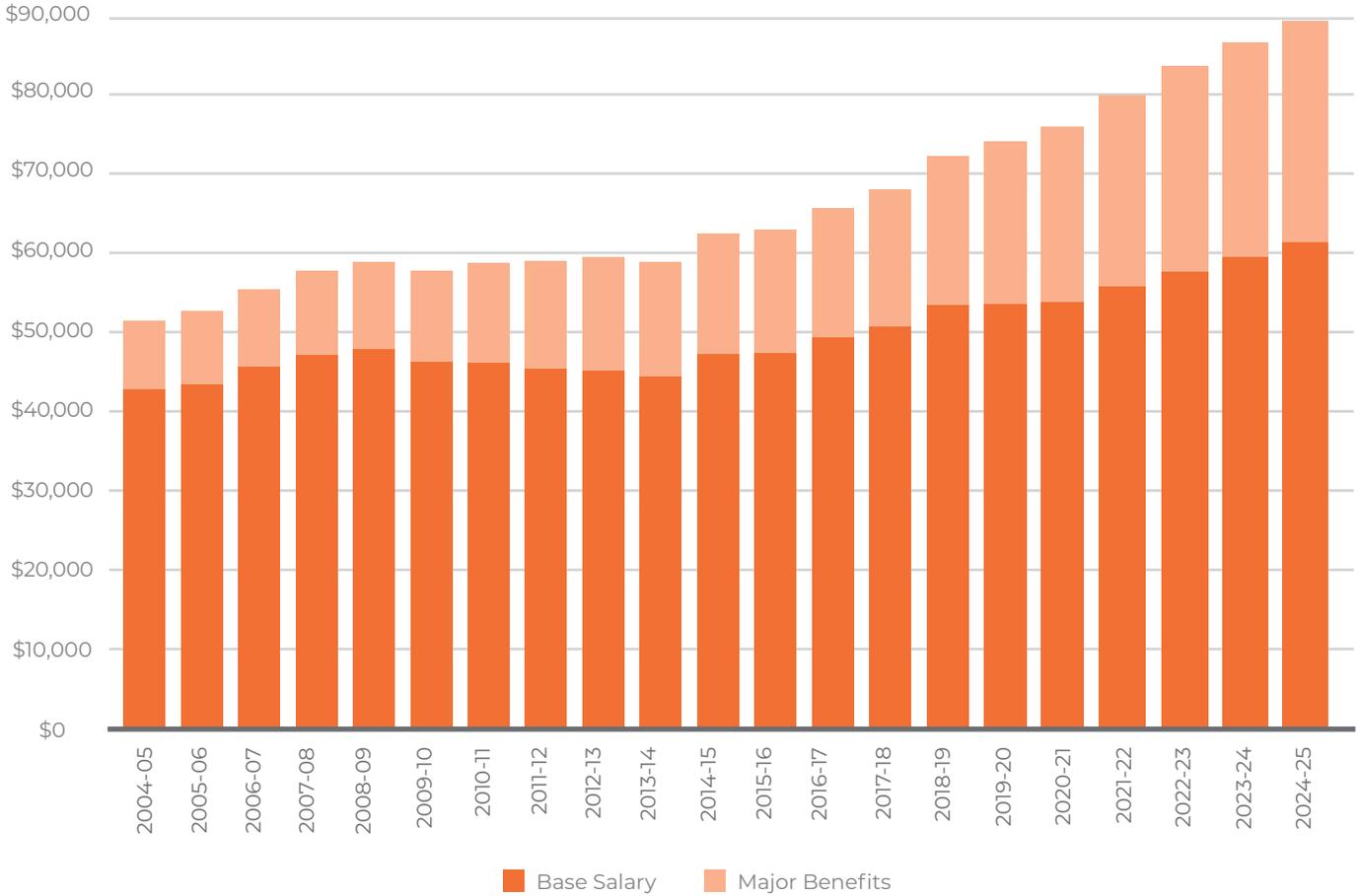
## **2. Eliminate the teacher pay schedule.**

The current salary schedule has significant flaws. It limits what a teacher can earn and links salary to time on the job and educational credentials rather than student learning. To remedy these flaws, replace the salary schedule with grants to school districts that give districts and principals the flexibility they need over local pay schedules and the ability to respond to personnel needs in differing 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.**

Some studies show graduates of teacher education programs had among the lowest standardized test scores of any college graduates regardless of academic discipline. Raising admission standards for colleges of education and calling for more rigorous subject-area course requirements would help to improve the quality of the graduates. In addition, providing greater academic value for students with rigorous instructional, research, and subject-specific backgrounds can help boost the quality of the graduates and help schools develop teachers who have subject mastery and can effectively teach children of different backgrounds.

### Average North Carolina Public School Teacher Compensation, 2004-05 to 2024-25



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

### Average North Carolina Public School Compensation, 2024-25

Compensation	Amount
Salary	\$61,449
Social Security	\$4,701
Retirement	\$14,772
Health Insurance	\$8,095
<b>Total Benefits Package</b>	<b>\$27,568</b>
<b>Total Average Compensation</b>	<b>\$89,017</b>

SOURCE: HIGHLIGHTS OF NORTH CAROLINA PUBLIC SCHOOL BUDGET, 2025

# TESTING AND ACCOUNTABILITY

KAITLYN SHEPHERD

## INTRODUCTION

North Carolina spends billions each year on K–12 public education. Is the money being spent 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.

North Carolina’s accountability framework provides data to help answer those questions. It consists of: (1) a standard course of study focused on the 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.

To evaluate schools’ progress, the North Carolina State Board of Education annually assigns A–F grades to schools based on calculations that combine school achievement (80 percent of grade) and school academic growth (20 percent of grade). Student college and career readiness is reported using four different achievement levels, with Levels 3–5 showing grade-level proficiency and Levels 4–5 indicating readiness for college or a career.

The state’s accountability framework has been dogged by persistent criticism. The formula for calculating school grades and the proper weighting of school achievement and school academic 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.

Indeed, traditional measures of accountability — designing and administering tests and reporting results — have clearly fallen short. For example, barely half of eighth graders in North Carolina can read at grade level. Who has been held accountable for such dismal results? Instead, spending

on the public school system continues to increase year after year with little discernable improvement. There can be no accountability without consequences; without them, what is left is simply transparency.

True accountability starts with parents, who can hold private schools accountable for achieving results by choosing to remove their child from a certain school and taking their tuition dollars elsewhere. Schools are incentivized to be responsive to the needs of students and families so as not to lose money.

## KEY FACTS

- » State and federal laws require North Carolina to 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 1, Math 3, and Biology.
- » State assessments gauge career and college readiness using a four-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 2024–25, just 54.0 percent of eighth graders demonstrated grade-level proficiency in reading on the end-of-grade test. The percentage of eighth graders meeting this standard was higher than in 2023–24 (51.3 percent) and 2022–23 (50.9 percent) but less than before the pandemic (55.6 percent 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 students in the fourth, eighth, and 12th grades and provides state-level results in subjects like 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. The law also requires the State Board of Education to include career- and college-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. Furthermore, it required school district boards of education to review local standardized testing requirements every two years.

- » In the spring of 2020, due to educational disruption 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 or 2020–21.
- » In September 2021, Catherine Truitt, then state superintendent of public instruction, 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, was redesigning testing and accountability.
- » One key component of North Carolina’s accountability framework is school performance grades. Currently, 80 percent of the grade is based on academic achievement as shown by standardized test scores (plus other indicators for high schools), while the other 20 percent 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 other 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

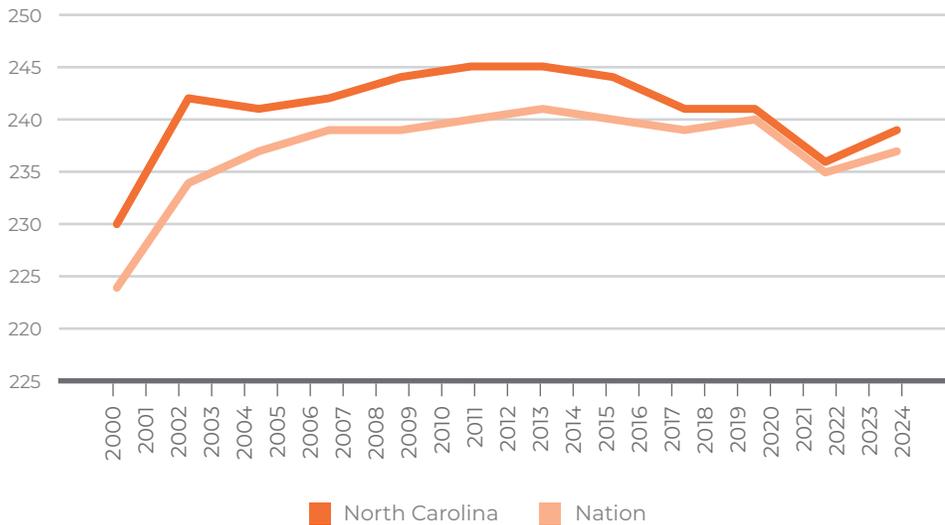
academic progress and needs. Parents should have access to a variety of options to address their child’s academic shortcomings, including traditional tutoring, online coaching, or summer or evening classes.

### 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.

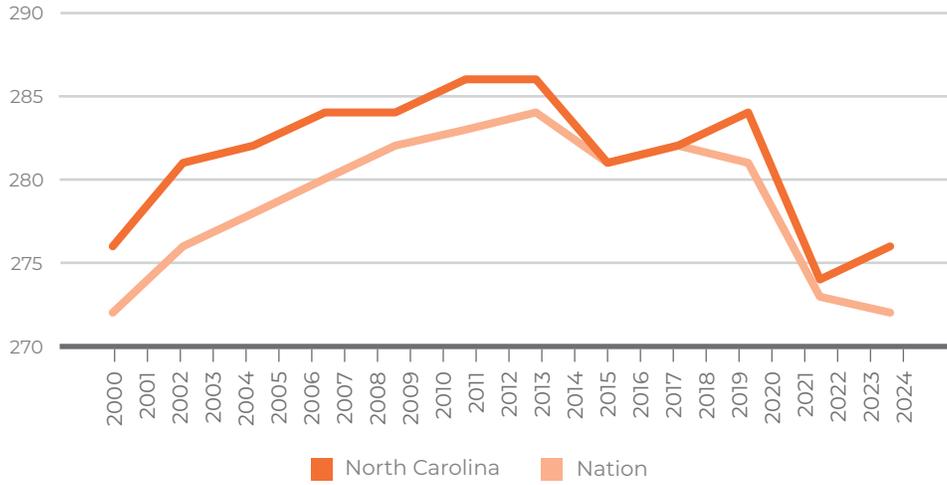
**NAEP Scores: Fourth-Grade Mathematics**



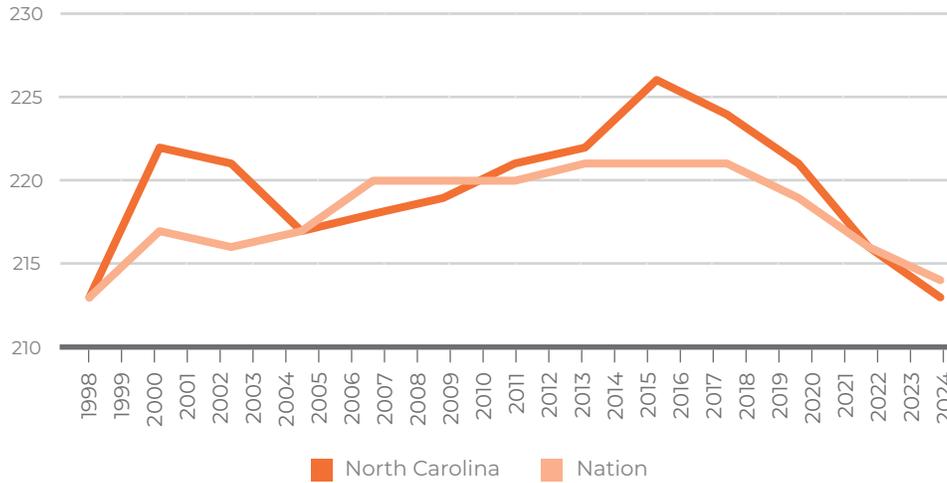
SOURCE: THE NATION'S REPORT CARD

TESTING AND ACCOUNTABILITY

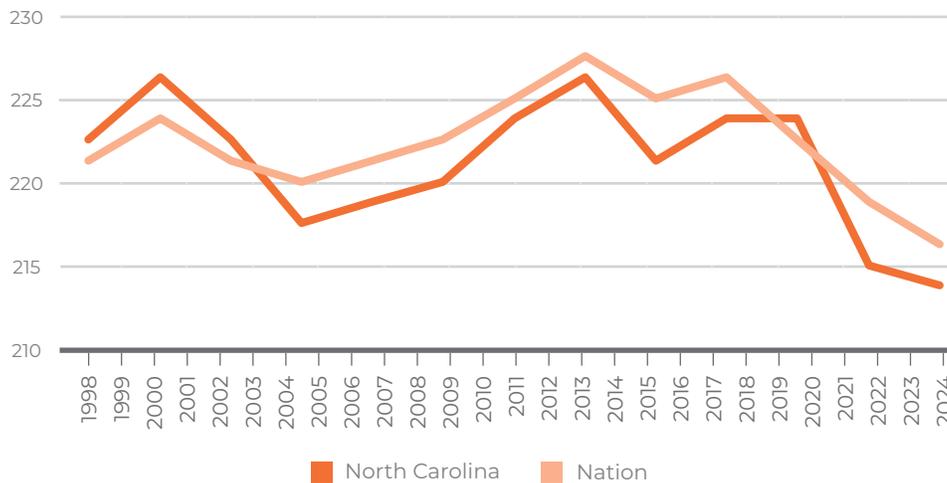
**NAEP Scores: Eighth-Grade Mathematics**



**NAEP Scores: Fourth-Grade Reading**



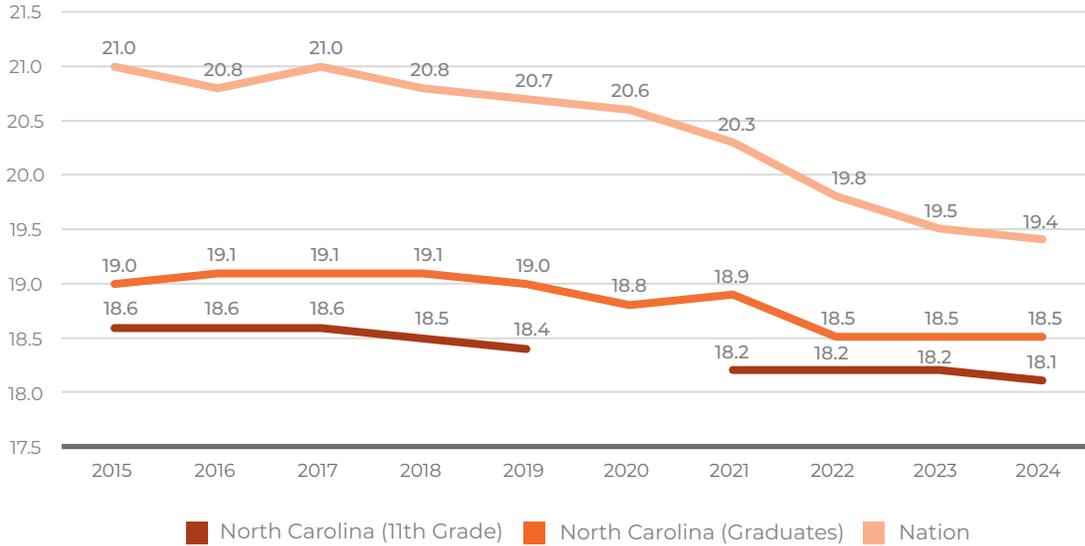
**NAEP Scores: Eighth-Grade Reading**



SOURCE: THE NATION'S REPORT CARD

TESTING AND ACCOUNTABILITY

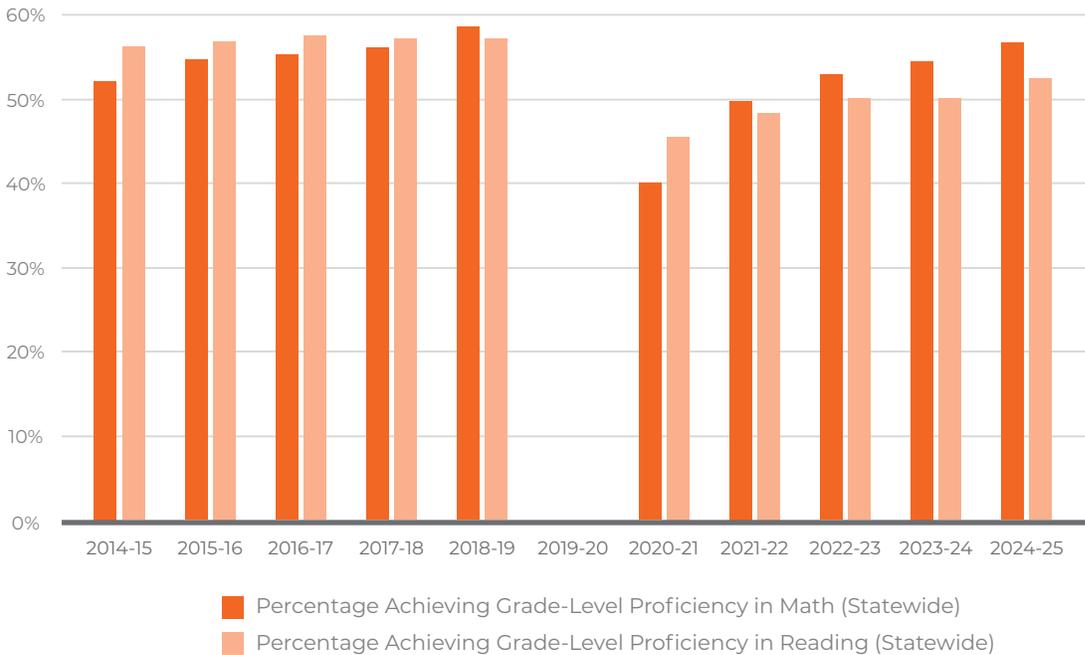
Average ACT Composite Scores



SOURCE: ACT, INC. AND NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

NOTE: STARTING IN MARCH 2012, THE ACT HAS BEEN ADMINISTERED TO ALL 11TH GRADE PUBLIC-SCHOOL STUDENTS IN NORTH CAROLINA. NORTH CAROLINA DID NOT ADMINISTER THE TEST TO 11TH-GRADE STUDENTS FOR 2019-20 DUE TO COVID-RELATED DISRUPTIONS.

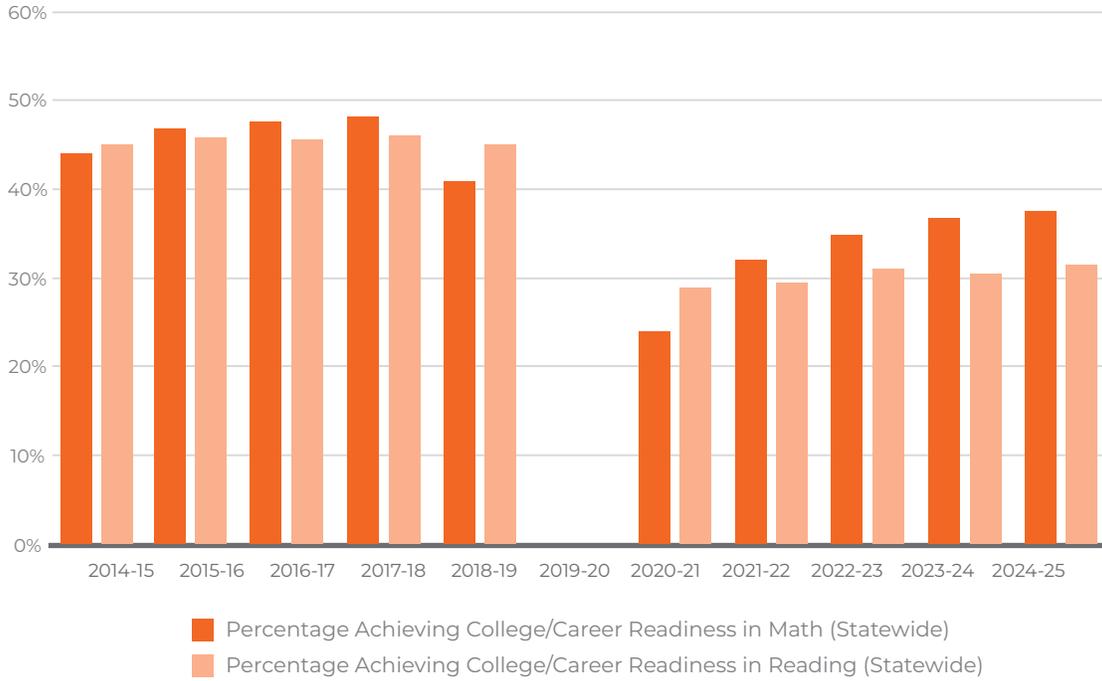
Grade-Level Proficiency in Reading and Math on North Carolina End-of-Grade Assessments



SOURCE: NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

NOTE: DATA FOR 2019-20 ARE NOT AVAILABLE DUE TO DISRUPTION DURING THE COVID-19 PANDEMIC.

### Grade-Level Proficiency in Reading and Math on North Carolina End-of-Grade Assessments



**SOURCE:** NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

**NOTE:** DATA FOR 2019-20 ARE NOT AVAILABLE DUE TO DISRUPTION DURING THE COVID-19 PANDEMIC.



**HEALTH CARE**

# CERTIFICATE OF NEED

JON GUZE

## INTRODUCTION

Under North Carolina law, medical services providers must obtain a certificate of need (CON) from the state before they can open new facilities, expand existing facilities, install new or additional equipment, or even, in some instances, treat more patients. By design, the certification process favors existing providers and locks out potential competitors.

The CON law harms patients, insurers, and taxpayers by making medical services more expensive and less accessible and by reducing the quality of care. It also violates the North Carolina State Constitution. It should be repealed.

CON laws became popular in the 1960s. Policy experts supported them because they believed that Soviet-style central planning was the best way to organize critical industries, including health care. The big hospital chains supported them because they wanted to be protected from competitors that could offer better services at lower prices. By 1972, thanks in large part to effective lobbying by the American Hospital Association (AHA), CON laws had been enacted by 20 states.

North Carolina enacted its first CON law in 1971, but the North Carolina Supreme Court promptly struck it down. The court found that the law violated three provisions of Article I of the state constitution: Section 19, which forbids the state from depriving citizens of life, liberty, or property without due process; Section 32, which forbids the state from granting exclusive privileges and emoluments; and Section 34, which forbids the state from creating monopolies. That should have been the end of the matter, but it wasn't.

With the active support of the AHA, in 1974, Congress approved a law under which only states with CON laws in place would be eligible for federal health care subsidies. The North Carolina General Assembly complied by enacting a second CON law in 1978.

It soon became clear that – contrary to what the planners and the lobbyists had claimed – central planning did not reduce the cost of medical care. Congress repealed the CON mandate in 1987, and since then 15 states have scrapped their CON programs. Unfortunately, North Carolina still has not done so.

Some minor CON rollbacks have been implemented over the years. A 2005 law allowed gastroenterologists to perform colonoscopies in their own endoscopy units. 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

## CERTIFICATE OF NEED

CON restrictions were rolled back: 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 (EPSDT) to children up to 21 years of age.

Nevertheless, North Carolina continues to impose one of the most stringent CON programs in the country, regulating 25 services that range from kidney dialysis units to hospital beds and rural ambulatory surgical centers. This flies in the face of almost four decades of research showing consistently that CON laws make medical services not only more expensive and less accessible, but also of lower quality.

North Carolina's CON law, moreover, has nothing to do with protecting public health and safety. There are other regulations designed to do that, and all medical service providers must conform to those regulations. The law serves only one purpose: to give large hospital chains a protected monopoly on a wide range of medical services. It should be repealed in its entirety.

### KEY FACTS

- » A survey of CON law research compiled by the John Locke Foundation showed that CON laws raise costs. The study found that, compared with states without them, states with CON laws experienced 13 percent higher health care spending by patients in poor health, 14 percent higher health care spending overall, and 60 percent more Medicaid spending per nursing home enrollee.
- » The same survey showed that CON laws reduce accessibility. It found that CON law states have 30 percent fewer hospitals per capita, 26 percent fewer hospitals offering MRI scans and CT scans, 49 percent fewer neonatal intensive care beds, 14 percent fewer ambulatory surgery centers, 42 percent fewer substance abuse treatment centers, and 14 percent longer emergency department wait times.
- » The study also found that CON law states experienced significantly higher death rates during Covid-19.
- » According to the study, scrapping North Carolina's CON law would result in the construction of more psychiatric hospitals and substance-abuse facilities.
- » While supporters of CON laws claim they are necessary to ensure hospitals can provide "charity care" and accommodate those without insurance, multiple studies have found no difference in the amount of charity care between states that impose CON laws and states that do not.

- » Supporters of CON laws also claim they are necessary to ensure access to health care for those who live in small towns and rural areas. Research shows, however, that states with CON laws actually have 30 percent fewer rural hospitals and 13 percent fewer rural ambulatory surgical centers than states without them.

## RECOMMENDATIONS

### 1. Fully repeal North Carolina’s pernicious and unconstitutional Certificate of Need law.

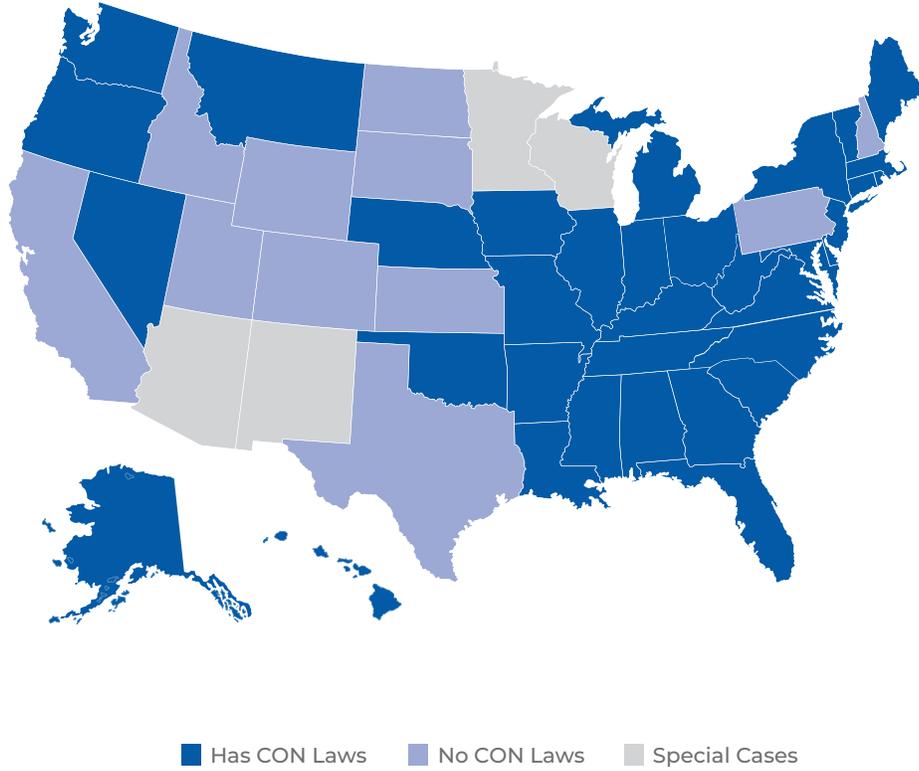
North Carolina families deserve access to quality care and lower costs, unencumbered by government control.

#### Services That Require a Certificate of Need In North Carolina

- Ambulatory Surgery Centers (ASCs) in rural counties
- Assisted Living & Residential Care Facilities
- Gastrointestinal edoscopy rooms
- Cardiac Catheterization Services or Equipment
- Dialysis stations
- Gamma Knives
- Home Health Agencies
- Hospice Home Care Agencies
- Hospital Beds and operating rooms
- Intermediate Care Facilities (ICFs) for Individuals with Intellectual Disabilities
- Linear Accelerator Radiology
- Hospice residential facilities
- Hospice inpatient facilities
- Lithotriptors
- Magnetic Resonance Imaging (MRI) Scanners in rural counties
- Heart-lung bypass machines
- Neonatal Intensive Care
- New Hospitals or Hospital-Sized Investments
- Nursing Home Beds/Long-Term Care Beds
- Open-Heart Surgery
- Organ and bone marrow Transplants
- Positron Emmission Tomorgraphy (PET) Scanners
- Kidney Disease treatment centers
- Inpatient Rehabilitation Facilities
- Diagnostic centers

**SOURCE:** NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

### States With Certificate of Need Laws



SOURCE: MERCATUS CENTER

# DENTAL CARE ACCESS

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 2024, 12 states allow dental therapists to practice statewide, but North Carolina is not one of them (two other states allow dental therapists to practice on their tribal reservations). 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. As of 2025, 93 counties in North Carolina have been partially or fully designated as areas that are affected by shortages of dental professionals.

## DENTAL CARE ACCESS

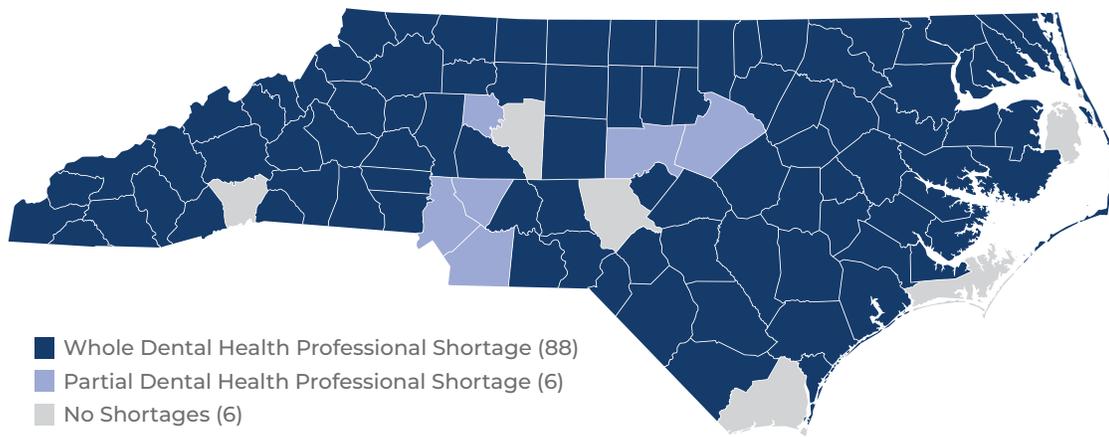
- » North Carolina could lead the southeastern United States in the dental field by allowing dental therapists to practice. As of late 2024, 14 states allow dental therapists to practice in some capacity. Arizona, Maine, Michigan, Minnesota, New Mexico, Connecticut, Nevada, Oregon, Colorado, Wisconsin, Washington, and Vermont have authorized dental therapists to practice statewide. In Alaska and Idaho, 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 therapist, and the state continues to be a leader in fostering this profession. Over 40 percent 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 more than 6,000 patients, 84 percent of whom had public insurance.

## RECOMMENDATIONS

### 1. 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.

### N.C. Dental Health Professional Shortage Areas



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

# DIRECT PRIMARY CARE

JORDAN ROBERTS AND BRIAN BALFOUR

## INTRODUCTION

Overregulation of the health care profession deteriorates the physician/patient relationship and is pushing some doctors to opt out of insurance contracts so they can spend more time with their patients.

One model many are turning to 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 with 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 percent 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. By contrast, in traditional practices, primary care physicians generally must 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 practices, there are DPC companies that specialize in contracting with large self-insured employers. In North Carolina, Union County saved more than \$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 physicians as did patients in 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 percent of DPC county participants reported both high satisfaction with provider access and a positive overall experience.

While there's no readily available evidence of other North Carolina county governments adopting a DPC option for employees, local leaders would be wise to look into it.

## KEY FACTS

- » Although DPC is a niche market, it is experiencing considerable growth. As of 2025, there were more than 2,500 DPC offices in the country — up from 125 in 2014 — as well as more than 100 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 researchers at the University of North Carolina and North Carolina State University found that patients seeking treatment from Access Healthcare, a direct care practice located in Apex, North Carolina, spent 85 percent less and enjoyed an average visit time of 35 minutes compared with just eight minutes in a traditional setting.

## RECOMMENDATIONS

### 1. **Protect and enhance the law that says direct care providers do not act as risk-bearing entities and should not be regulated like insurance companies.**

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.

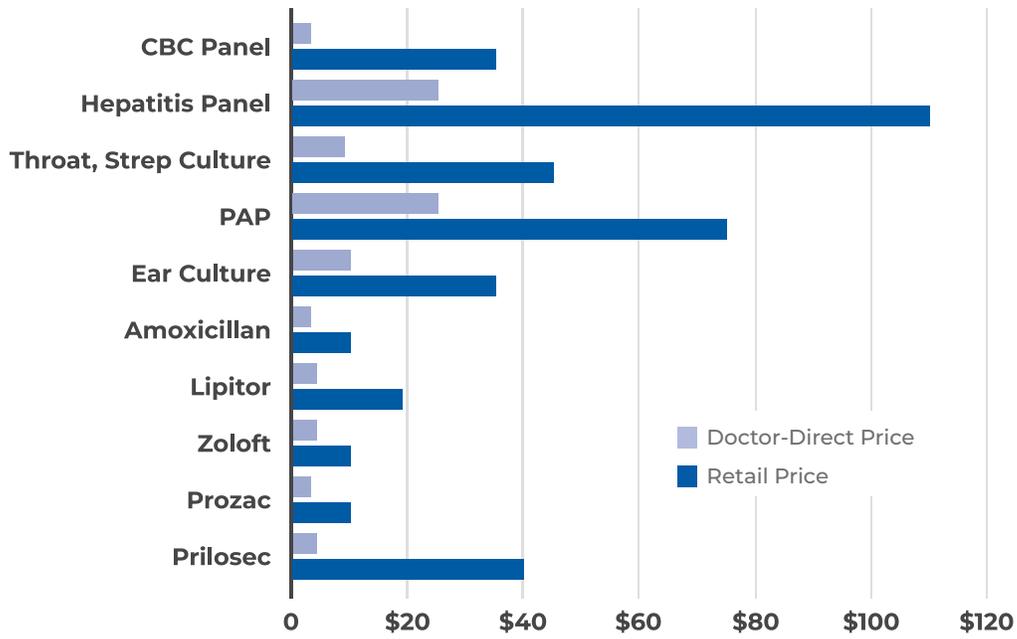
### 2. **Find ways to utilize the DPC model for Medicaid patients.**

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.

### Discounted Lab and Medicine Pricing



Lab/Medicine	Doctor-Direct Price	Retail Price
CBC Panel	\$3	\$35
Hepatitis Panel	\$25	\$110
Throat, Strep Culture	\$9	\$45
PAP	\$25	\$75
Ear Culture	\$10	\$35
Amoxicillan	\$3	\$10
Lipitor	\$4	\$19
Zoloft	\$4	\$10
Prozac	\$3	\$10
Prilosec	\$4	\$40

SOURCE: WWW.DOCTORDIRECTMD.COM

# HEALTH BENEFIT MANDATES

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 58 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 to require employers to offer comparable substance abuse services if they chose 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).

Despite 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 percent and 23 percent 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 1 in 3 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 percent 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.
- » A Senate bill introduced early in the General Assembly's 2025 legislative session would have required state legislators to repeal an existing insurance mandate for every new mandate that is added. Moreover, the bill would have required that any newly added mandate be accompanied by an appropriation to the State Health Plan to cover the added cost of the mandate to the coverage provided to state employees. The bill passed the Senate but stalled in the House.

## 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. For example, insurance plans with less coverage can provide affordable and sensible options, especially for younger, healthier customers who need only basic catastrophic coverage. At a minimum, legislators should pass the legislation requiring that an existing mandate be repealed if they decide to add a new mandate.

### 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, joint disfunction
- 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
- Guaranteed renewability of individual health insurance plans
- Equity in benefits for mental health in employer group plans
- Reconstructive breast surgery following a masectomy
- Minimum inpatient stay following delivery of a baby
- Extension of eligibility for dependent child who takes a medical leave of absence from college
- Equity in benefits for chemical addiction for employer group plans

# MEDICAID EXPANSION

JOSEPH HARRIS

## INTRODUCTION

Medicaid is a program funded jointly by the state and federal governments. Its core functions include paying medical providers for health care services rendered to society's most vulnerable: the disabled, the blind, the elderly, disadvantaged children, and low-income parents.

After resisting for more than a decade, however, North Carolina expanded its Medicaid program in 2023. North Carolina's Medicaid expansion extended coverage to childless, able-bodied adults aged 19 to 64 with incomes up to 138 percent of the federal poverty level. Initial state projections anticipated that enrollment would peak at approximately 600,000 individuals. However, as of September 2025, enrollment has exceeded expectations, reaching 680,000 participants.

This surge in enrollment has strained the Medicaid program's capacity. The rapid addition of nearly 700,000 new enrollees has led to a reallocation of resources that, in practice, disadvantages traditional Medicaid populations, such as individuals with disabilities, the elderly, and disadvantaged children.

As funds and provider availability are increasingly directed toward expansion enrollees, these traditional groups experience longer wait times and reduced provider access. According to fiscal year (FY) 2023–24 data from the Centers for Medicare and Medicaid Services, North Carolina has the slowest emergency rooms in the Southeast and the seventh-slowest in the nation, with a median visit time of 3 hours and 15 minutes.

The resulting crowding out raises concerns about whether the Medicaid system can effectively serve newly eligible able-bodied adults and those with longstanding, greater medical needs. Post expansion, total Medicaid expenditures in North Carolina have skyrocketed from \$21.5 billion in FY 2022–23 to \$27.8 billion in FY 2023–24, a staggering 29 percent increase. Of the FY 2023–24 expenditures, \$18.9 billion, or 68 percent, was provided by the fiscally unstable federal government, which is more than \$37 trillion in debt.

Federal dollars cover 90 percent of the costs of the expansion population, while the state share is covered by a provider tax levied on the state's health care providers. As part of the 2021 American Rescue Plan Act, North Carolina received a \$1.8 billion "signing bonus" from the federal government in exchange for the expansion, funds that were paid out over two years.

While advocates, such as former Gov. Roy Cooper, emphasized how the expansion would not cost state taxpayers any money, the 2025 passage

of the federal One Big Beautiful Bill Act (OBBBA) threatens to upend this claim. Thankfully, the 2023 legislation that authorized Medicaid expansion included a safeguard: If the approved revenue sources cannot fully fund the nonfederal share of the cost, the state will discontinue expansion coverage.

The OBBBA lowers the maximum provider tax rate the state can charge, which will reduce the provider tax revenue available to fund the state's share of the cost. When revenue from this source falls low enough that it no longer covers the state's 10 percent share of the cost, the 2023 safeguard will kick in. North Carolina legislators will be left with a difficult political decision: break their promise and raise other taxes, reduce eligibility and coverage, or terminate Medicaid expansion.

### KEY FACTS

- » Since 2000, the share of North Carolinians on Medicaid has increased from approximately 15 percent to a concerning 30 percent, effectively crowding out the vulnerable groups that Medicaid was traditionally designed to protect. In fact, the number of disabled, blind, and elderly Medicaid enrollees increased by 38 percent from FY 1999–2000 to FY 2023–24, yet their share of the total Medicaid recipients in North Carolina decreased from 30 percent to 15 percent during the same period. This trend has been exacerbated by North Carolina's recent Medicaid expansion, which added hundreds of thousands of able-bodied adults to the program, further diluting the focus and resources intended for the most vulnerable populations.
- » From FY 2018–19 to FY 2023–24, the median emergency room visit time in North Carolina increased from 2 hours and 36 minutes to 3 hours and 15 minutes, a 25 percent jump that downgraded the state's wait times from eleventh longest to seventh longest. North Carolina's Medicaid expansion, which took effect in December 2023, exacerbated this trend by adding hundreds of thousands of new enrollees and causing already strained emergency rooms to experience greater crowding and longer wait times.
- » Given the current trajectory, Medicaid expenditures are not sustainable for the state and federal governments. From FY 2009–10 to FY 2023–24, total Medicaid expenditures in the state increased from \$12.8 billion to \$27.8 billion, a staggering 116 percent leap. More than 40 percent of that growth occurred from FY 2022–23 to FY 2023–24 alone. This surge was even more pronounced at the state level: Over those 14 years, state appropriations for Medicaid increased from \$2.3 billion to \$5.5 billion (136 percent). In recent years, the upward trend has accelerated: the FY 2025–26 Senate and House budget proposals would allocate \$6.4 billion in net General Fund state appropriations to Medicaid, an increase of 60 percent since \$4 billion was allotted just four years prior in FY 2021–22 (no budget for FY 2025–26 has been approved as of this writing).

- » North Carolina imposes taxes on health care providers to cover its share of Medicaid expansion costs. From 2028 to 2032, the OBBBA will incrementally reduce the cap on these “provider taxes” from 6 percent to 3.5 percent, a change that could dismantle North Carolina’s Medicaid expansion financing model, which depends on these taxes to fund the state’s 10 percent share. The OBBBA also implements a requirement that Medicaid recipients must work or volunteer at least 80 hours per month to maintain eligibility starting in 2027. The North Carolina Department of Health and Human Services estimates that the work requirement could result in as many as 213,000 Medicaid expansion enrollees losing coverage.

## RECOMMENDATIONS

### 1. North Carolina should repeal Medicaid expansion.

As soon as the federal enactment of the OBBBA or any other rule triggers the conditions set out in the 2023 safeguard, policymakers should introduce a bill to end coverage for the Medicaid expansion population. Attempting to continue the expansion program would be fiscally irresponsible and risk continued coverage for the traditional Medicaid population.

### 2. North Carolina must prioritize the most vulnerable.

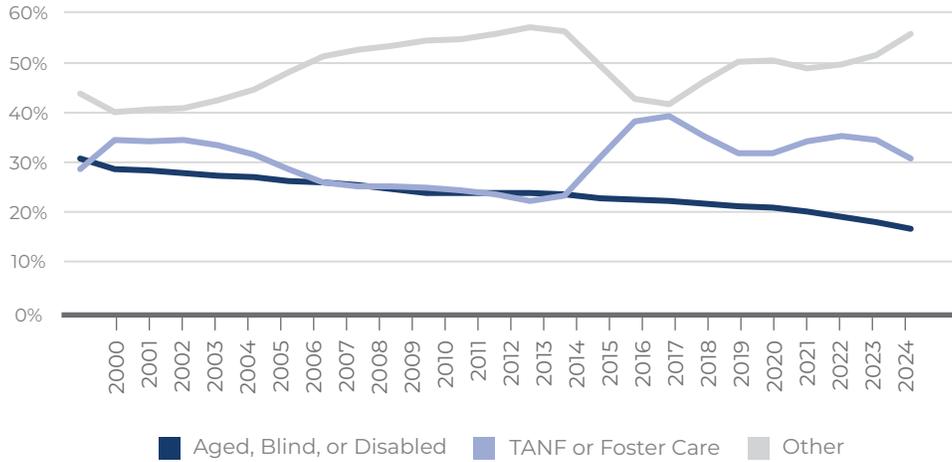
Lawmakers must ensure that traditional Medicaid populations, like the elderly and disabled, remain a top priority and are not displaced by the expansion of coverage to able-bodied adults. Due to their complex and long-term needs, these groups already represent a significant yet justified commitment of state resources.

### 3. North Carolina should advance market-based alternatives to Medicaid expansion.

Medicaid expansion extended coverage to able-bodied, childless adults, many of whom are not working full time — often by choice. This encourages dependency on public programs at a time when many employers offer entry-level jobs with health benefits. Moreover, before Medicaid expansion, many North Carolinians accessed care through a network of community clinics, direct-pay providers, and charitable organizations. Policymakers should build on these foundations by expanding access to market-based solutions that encourage competition, lower costs, and empower individuals to choose care that fits their needs.

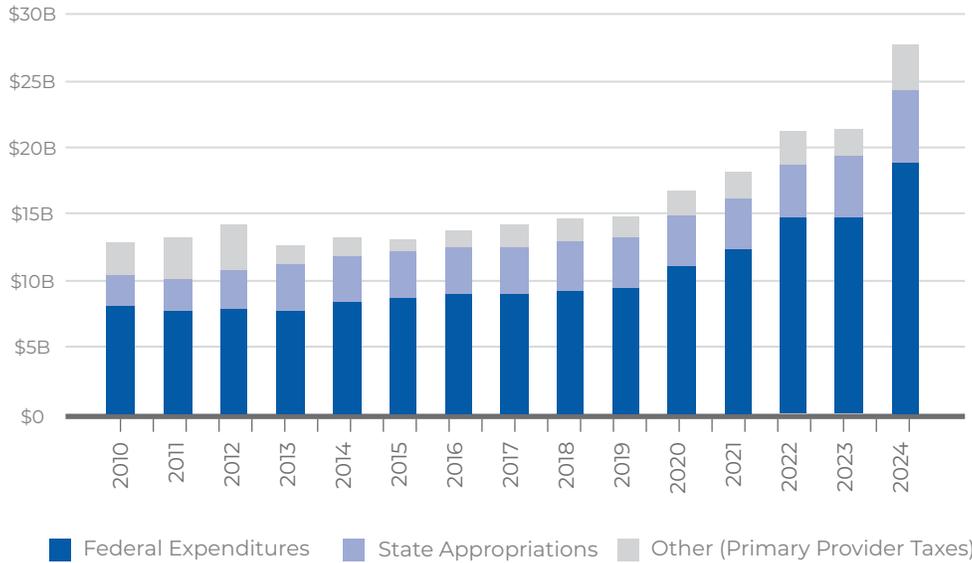
**MEDICAID EXPANSION**

**Share of North Carolina Medicaid Enrollees by Category per Fiscal Year**



**SOURCE:** DATA RETRIEVED FROM THE STATE FISCAL YEAR 2024 ANNUAL REPORT TABLES FOR MEDICAID - [MEDICAID.NCDHHS.GOV/REPORTS/ANNUAL-REPORTS-AND-TABLES](https://medicaid.ncdhhs.gov/reports/annual-reports-and-tables)

**Total Medicaid Expenditures in North Carolina per Fiscal Year**



**SOURCE:** DATA RETRIEVED FROM THE STATE FISCAL YEAR 2024 ANNUAL REPORT TABLES FOR MEDICAID - [HTTPS://MEDICAID.NCDHHS.GOV/REPORTS/ANNUAL-REPORTS-AND-TABLES](https://medicaid.ncdhhs.gov/reports/annual-reports-and-tables)

**Medicaid Share of North Carolina Population**

Fiscal Year	Unduplicated Total	Year	NC Population	Medicaid Share of NC Population
2000	1,221,266	2000	8,081,614	15%
2024	3,362,482	2024	11,046,024	30%

**SOURCE:** DATA RETRIEVED FROM THE STATE FISCAL YEAR 2024 ANNUAL REPORT TABLES FOR MEDICAID - [HTTPS://MEDICAID.NCDHHS.GOV/REPORTS/ANNUAL-REPORTS-AND-TABLES](https://medicaid.ncdhhs.gov/reports/annual-reports-and-tables)  
 DATA RETRIEVED FROM THE U.S. CENSUS BUREAU VIA THE FRED - [HTTPS://FRED.STLOUISFED.ORG/SERIES/NCPOP](https://fred.stlouisfed.org/series/NCPOP)

## Emergency Room Visit Length

State	Median Visit Time 7/1/18 to 6/30/19 (minutes)	State	Median Visit Time 7/1/23 to 6/30/24 (minutes)
MD	213	MD	250
DE	189	MA	221
RI	187	RI	221
WA	178	DE	218
NY	176	CT	197
MA	172	NY	196
AZ	170	NC	195
NJ	166	NJ	185
CA	160	CA	184
CT	158	VT	183
NC	156	PA	182
NM	152	AZ	180
NH	148	IL	171
KY	147	ME	168
OR	147	VA	165
IL	146	MI	162
FL	144	GA	161
SC	144	SC	161
NV	143	FL	158
PA	143	NM	158
MI	142	OH	156
TN	141	TN	156
GA	140	MO	155
ME	140	KY	152
VT	138	NH	152
MO	135	WA	151
TX	135	OR	147
CO	132	WV	146
OH	132	AL	144
VA	132	TX	144
WV	130	NV	143
AL	127	ID	141
AK	125	AK	140
WI	125	WI	137
IN	124	AR	134
UT	124	WY	133
AR	122	CO	132
HI	120	LA	132
ID	120	UT	132
LA	120	IN	129
WY	117	MS	128
MT	115	MT	127
IA	114	MN	125
MN	113	IA	122
KS	112	KS	121
MS	112	OK	118
SD	110	HI	113
OK	109	NE	113
NE	106	SD	113
ND	96	ND	110

**SOURCE:** DATA ON TIMELY AND EFFECTIVE CARE WERE RETRIEVED FROM THE CENTERS FOR MEDICARE AND MEDICAID SERVICES - [HTTPS://DATA.CMS.GOV/PROVIDER-DATA/DATASET/YV7E-XC69](https://data.cms.gov/provider-data/dataset/yv7e-xc69)

# SCOPE-OF-PRACTICE REFORM

JORDAN ROBERTS

## INTRODUCTION

For patients living in rural North Carolina, quality health care can be hard to find. Currently, more than 2.3 million people — one-fifth 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 percent 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 2025, 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 NPs in North Carolina aren't geographically tied to their collaborating physicians' practice location, one might think that the state's existing practice arrangements wouldn't necessarily hold them back from providing care in underserved areas. These contracts can add uncertainty to the NPs' practice, however. For example, if an NP wanted to operate independently but the collaborating physician moved to another state, the NP would have to 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. An NP who desires to add a clinic

partner may find it cost-prohibitive because the collaborating provider would request a specific percentage of the clinic's revenue.

## KEY FACTS

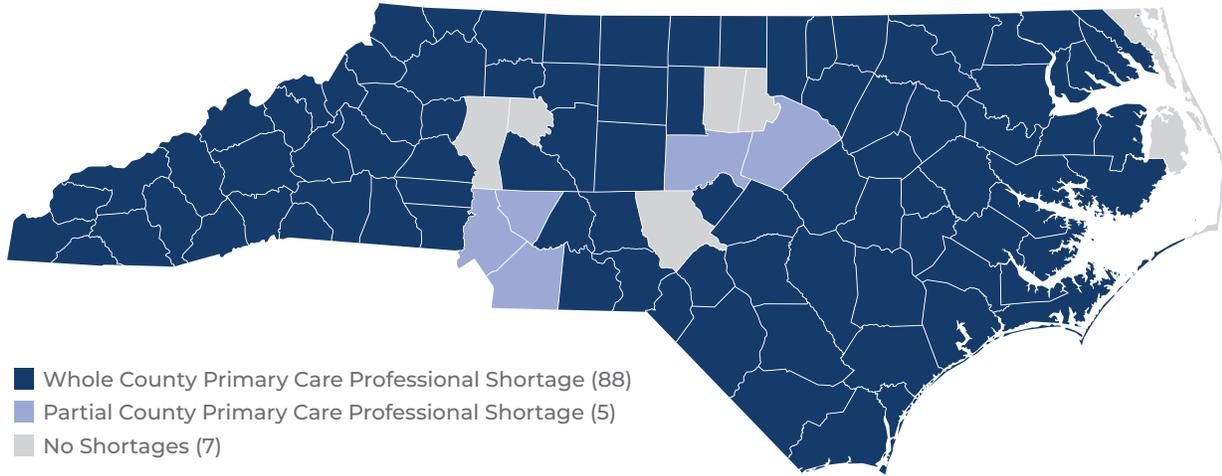
- » As of 2025, 27 states and Washington, D.C., have granted full practice authority to nurse practitioners.
- » NPs are valuable assets to the health care workforce. According to KFF, there were 5,410 professionally active NPs in North Carolina in 2025, many of whom work in primary-care settings and focus on managing chronic disease.
- » Nurse practitioners will likely play a huge role in the future of the health care workforce in North Carolina. Although there are still significantly more physicians than NPs, the share of NPs as a percentage of the clinical workforce in nonmetropolitan counties grew from just under 10 percent in 2000 to nearly 30 percent in 2022.
- » A 2015 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 create opportunities for nurse practitioners to deliver patient care in more rural and underserved areas. Arizona, for example, granted NPs full practice authority in 2002. Five years later, the state reported a 73 percent increase in the number of NPs serving rural counties.
- » Over the past several legislative sessions, bills have been regularly introduced that would have granted full practice authority to advanced practice registered nurses in North Carolina. Despite garnering significant sponsorship, these bills – often referred to as “SAVE Acts” – have failed to secure the necessary votes to pass.

## RECOMMENDATIONS

### 1. Grant full practice authority to highly trained nursing professionals.

North Carolina lawmakers should change how nurse practitioners and other advanced practice nursing professionals, 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

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, 41 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 evaluate the impact of licensure laws. Since January 2020, state law has forced physicians in other states to obtain a North Carolina license in order to treat patients located within this state. The genius of telemedicine is that care can be provided at a distance. There is no reason to limit that care to within the boundaries of North Carolina.

## KEY FACTS

- » In some cases, telemedicine parity laws may incentivize physicians to adopt telemedicine platforms. Enforcing such a law undermines telemedicine's cost-effectiveness, however. 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.

## TELEMEDICINE

- » As people become more familiar with the concept of telehealth and its use becomes more widespread, more providers have begun incorporating the technology into their practices. During the Covid-19 pandemic, for example, 95 percent of health centers reported using telehealth to accommodate patients.
- » As early as the mid-1990s, Blue Cross and Blue Shield of North Carolina provided telemedicine benefits for psychiatric care, psychotherapy, health behavior assessments, and diabetic counseling. By contrast, 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 \$70 fee per visit. Patients can seek medical consultation or treatment from 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 calls, secure messaging platforms, and specialty consults — the most common uses of telemedicine — are all included at no additional cost to the patient.

## RECOMMENDATIONS

### 1. Avoid telemedicine parity laws.

Parity laws set a precedent for state governments to meddle further 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 telemedicine care the same as in-person care.

### 2. Recognize the professional licenses of out-of-state medical professionals who are in good standing.

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.



# **ELECTIONS AND PUBLIC INTEGRITY**

# ABSENTEE VOTING

DR. ANDY JACKSON

## INTRODUCTION

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

Voting absentee is a three-step process. First, a voter must request an absentee ballot by completing an absentee ballot request form and submitting it to the 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 to 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.

A commission led by former President Jimmy Carter and former U.S. Secretary of State James A. Baker III found mail voting to be 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.

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 to whom it was issued.

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 collection of ballots from registered voters by political operatives. Such a process is susceptible to fraud for several reasons, including the potential for the trafficker to fill in uncompleted parts of the ballots 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, but the State Board of Elections failed to find a suitable vendor.

## KEY FACTS

- » Typically, between 3 percent and 5 percent of all ballots in North Carolina general elections are absentee. That proportion rose to 18 percent in 2020 but dropped back down to 5 percent in 2022 and 2024.
- » 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 had changed the deadline in 2009 to three days after election day, but in 2023 legislators changed it back to election day.
- » To help voters in assisted living facilities to vote absentee by mail, county boards of elections appoint Multipartisan Assistance Teams (MATs), which are groups of volunteers from both major political parties. After Hurricane Helene in 2024, the General Assembly authorized MATs in affected counties to take possession of and deliver completed and sealed ballots.
- » 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. At a minimum, the state board should 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.

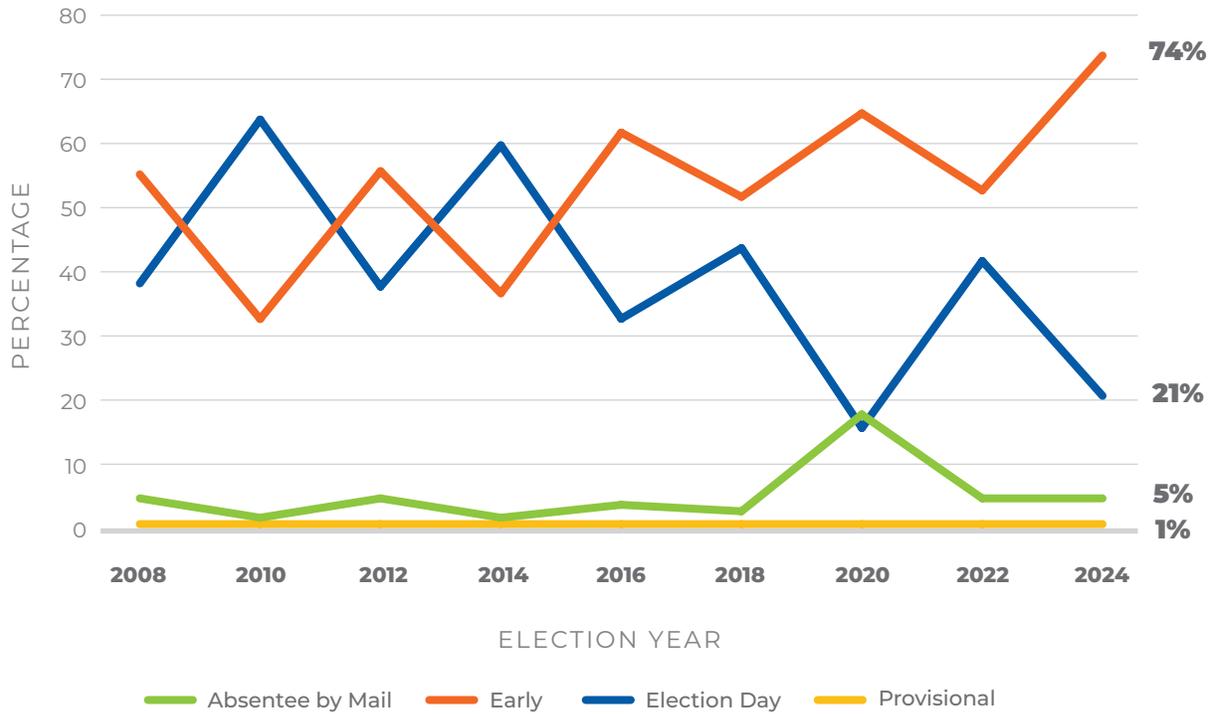
### 2. Allow Multipartisan Assistance Teams to deliver completed and sealed ballots.

The General Assembly should change absentee ballot law to create procedures allowing Multipartisan Assistance Teams to take possession of completed ballots from disabled voters. A 2022 court ruling al-

## ABSENTEE VOTING

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.

### Proportion of Votes By Voting Method



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

# ELECTION FINANCE AND CAMPAIGN SPEECH

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 to regulate electioneering communications, among other things.

In recent years, some groups have claimed that the additional taxpayer funding of elections is still insufficient and sought to fund election boards privately. They include 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.” Meanwhile, the CTCL spun off another organization, the U.S. Alliance for Election Excellence, to influence local election boards toward progressive election policies through offering training programs and services paid for by public and private 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 people or organizations putting a political ad on the internet to 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 newspapers are one-way channels. Content flows from producers to receivers. 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 alongside supportive comments. 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 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. Regardless of the veracity of her claims, the JSC overstepped its bounds by trying to censure her for making them.

## 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 those 33 counties backed the Democratic candidate for U.S. Senate, Cal Cunningham, 52.7 percent to 47.3 percent, while voters in the other 67 counties went for the Republican, Thom Tillis, 53.6 percent to 46.4 percent.
- » 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 (JSC) 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.” She later dropped the suit after the JSC dropped a probe over remarks she had made about the court system.
- » 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. Continue opposing attempts to buy influence over election administration.

Officials should be on guard against attempts by organizations like the CTCL and U.S. Alliance for Election Excellence to circumvent North Carolina’s ban on the private funding of election administration. The General Assembly may need to adjust that ban in response to those attempts.

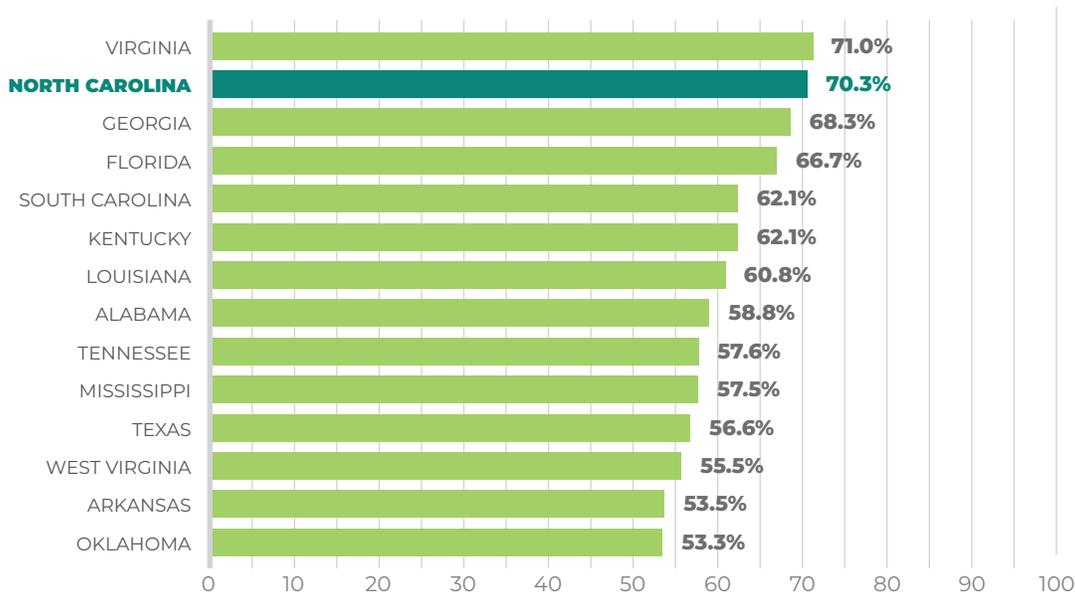
### 2. Oppose restricting online political speech.

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. At the same time, 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 discuss matters of public concern, however. The Judicial Standards Commission should stop attempting to regulate judges’ speech on matters of public concern, and the General Assembly should intervene legislatively if they do so again. That would enhance judges’ free speech rights and give the public more information about judicial candidates and the judicial system.

## Eligible Voter Turnout in Southern States, 2024



SOURCE: UNITED STATES CENSUS BUREAU

# GENERAL ASSEMBLY REFORM

DR. ANDY JACKSON

## INTRODUCTION

The General Assembly is the most powerful branch of the North Carolina government and the closest to the people, so it should also be accountable and responsive to North Carolina citizens.

There are two basic models for what makes a legislature effective. The first is a citizen legislature, where legislators meet part-time and spend most of their time in their home districts. The second is a professional legislature, where legislators work as full-time employees who can devote most of their time to legislative work. Both models have their strengths and weaknesses. An ideal legislature would operate under the best features of both models, counteracting the negative aspects of both.

North Carolina traditionally follows the citizen-legislature model. Nevertheless, the growing demands on legislators and the longer sessions in which they meet have led the National Conference of State Legislatures to characterize the General Assembly as a “hybrid” state, where legislators typically “spend more than two-thirds of a full-time job being legislators.”

Despite that, North Carolina has one of the lowest-paid legislatures in the country. Legislators in North Carolina make roughly a third of the median salary of states that provide legislators an annual salary. Only five states pay their legislators less. North Carolina also has relatively low per diem and mileage reimbursement rates. Low legislative pay makes it difficult for those neither retired nor wealthy to serve. In a survey of state legislators, 72 percent said that the current salary level made recruiting candidates more difficult.

While legislators’ salaries have stagnated, their workload has grown. From the 1973–74 to the 2011–12 biennial sessions, the legislature usually met for fewer than 175 legislative days (the days each chamber meets) spread over fewer than 300 calendar days. Since then, sessions have grown to be over 200 legislative days across 350 calendar days regularly. Longer session lengths are associated with higher costs, shifts in power away from legislators who are not in leadership, and more missed days of voting.

Something else that has stagnated is legislative leadership. Legislative leaders, particularly the Speaker of the House and the President Pro Tempore of the Senate, traditionally served four or fewer years in that position. That has lengthened to the point where the same people serve in those positions for a decade or more. Observers blamed at least some of the General Assembly’s failure to deliver on its policy priorities in 2024, despite Republican supermajorities in both chambers and longer ses-

sions, on a “diminished relationship” between Senate President Pro Tempore Phil Berger and House Speaker Tim Moore, a problem exacerbated by less turnover in those positions.

## KEY FACTS

- » Research from the Goldwater Institute found that “legislative careerism” (based on a measure of legislative salaries, session lengths, and staff size) “reduces economic freedom ... and increases the tax burden.” Other research has shown that “less-professionalized chambers” often find themselves at a disadvantage when negotiating with governors, leading to unnecessary budget increases and sustained vetoes.
- » North Carolina has one of the lowest state legislative salaries in the United States at \$13,951. That salary has not changed since 1995. The average salary for all state legislatures in the United States in 2024 was \$44,320. The median salary for hybrid (between part-time and full-time) legislatures, like North Carolina’s, was \$41,110.
- » The second-longest legislative biennium in modern North Carolina history was 245 legislative days in the House and 246 legislative days in the Senate over 475 calendar days in 2021–22. (The longest session was in 2001–02 and was a result of the legislature having to stay in session an additional six months to deal with redistricting cases.)
- » The 2021 long session was the first time in state history that a regular session was adjourned in a different year than it was convened.
- » Nineteen legislative chambers across 14 states have legislative leadership term limits.
- » The longest-serving President Pro Tempore of the Senate, Marc Basnight (1993–2010), and the longest-serving speaker of the North Carolina House, Tim Moore (2015–25), both served in the last quarter-century. Before them, most legislative leaders served four or fewer years.

## RECOMMENDATIONS

### 1. Set a June 30 deadline for regular legislative sessions in the state constitution.

A June 30 deadline would limit the regular session for the legislative biennium to roughly 235 calendar days, of which approximately 125 would be legislative days. The General Assembly should be able to go into special sessions to handle specific issues, such as veto override votes, court decisions requiring an immediate legislative response, and declared state emergencies.

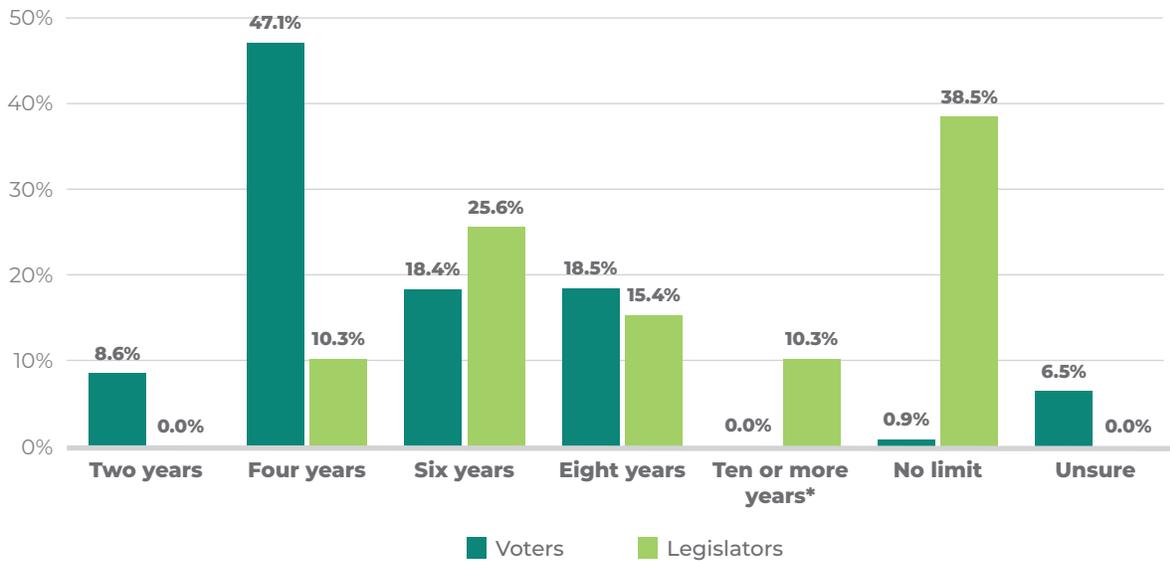
## 2. Increase legislators' pay.

If combined with session limits, legislators could raise their salary to \$20,533.70 at zero net cost to taxpayers. They could also raise it to \$34,400.50, the median salary for similar legislators, or somewhere between those two numbers.

## 3. Impose legislative leadership term limits.

Impose a lifetime statutory limit of eight years for speakers of the House and Presidents Pro Tempore of the Senate.

### Survey Results: Ideal Term Limits for Speaker of the NC House and President Pro Tempore of the NC Senate



SOURCE: 2023 CYGNAL POLL OF NORTH CAROLINA REGISTERED VOTERS AND 2024 JOHN LOCKE FOUNDATION SURVEY OF GENERAL ASSEMBLY MEMBERS

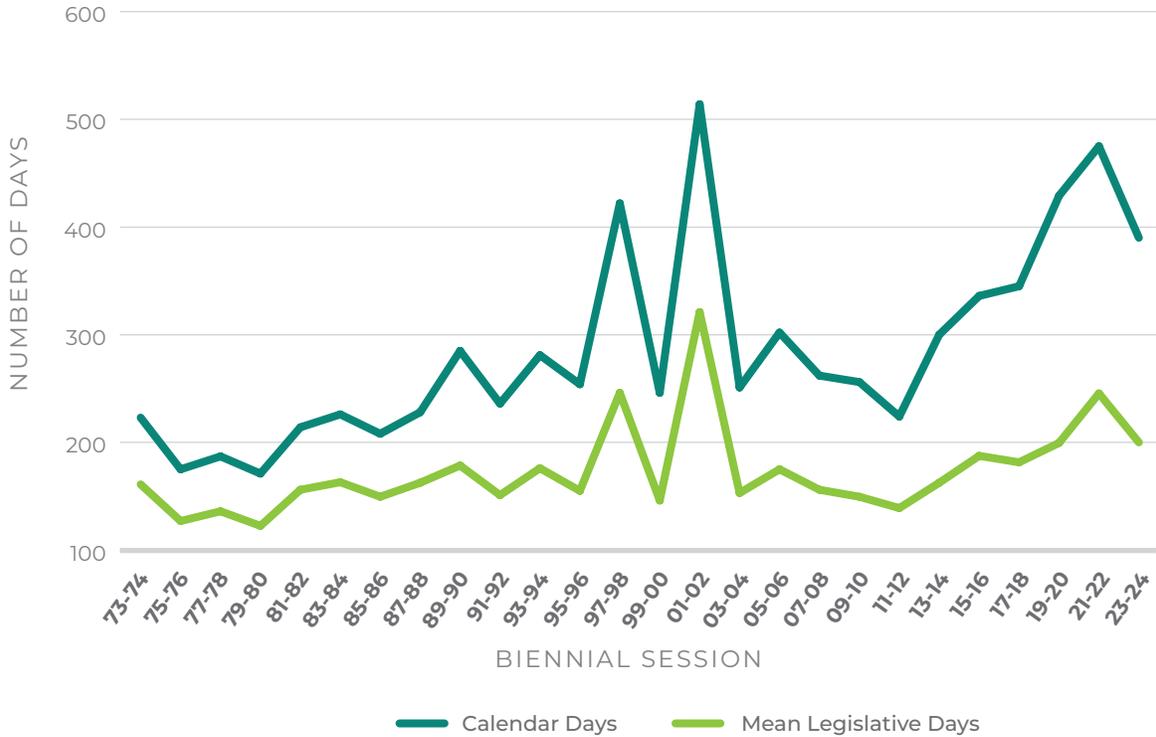
\*TEN OR MORE YEARS WAS NOT AN OPTION IN THE SURVEY OF VOTERS.

**Summary of States' Biennial Session Length Limits and the Different Methods Used for Limiting Session Lengths**

Length Limit Per Biennium (Legislative or Calendar Days)	Set by Constitution	Set by Statute	Set by Chamber Rules	Set Indirect
50 or fewer legislative days	7	1	–	1
50 to 180 legislative days	4	–	–	1
100 or fewer calendar days	12	2	–	–
100 to 530 calendar days	5	2	2	1

SOURCE: NATIONAL CONFERENCE OF STATE LEGISLATURES

**Biennium Session Lengths: 1973-2024**



SOURCE: NORTH CAROLINA GENERAL ASSEMBLY LIBRARY

# GOVERNMENT TRANSPARENCY

DR. ANDY JACKSON

## INTRODUCTION

American patriot Patrick Henry noted, “The liberties of a people never were, nor ever will be, secure, when the transactions of their rulers may be concealed from them.” Government touches almost every aspect of our lives, from the food we eat to our children’s education, and the information government officials possess influences their decisions about laws and regulations. So, we have a right to the information that the government possesses.

Greater transparency is also correlated with more efficient and accountable governance, as both members of the public make more meaningful decisions at the ballot box and government officials avoid malfeasance for fear of being discovered. Roumeen Islam at the World Bank summarized his research on the relationship between government transparency and economic development as “more transparent governments govern better.”

So, transparency is essential for protecting our freedoms and making government more accountable.

Complete transparency is impractical, however. Some information, such as medical records or some employee personnel files, must remain confidential. In addition, there is a tradition and belief that some government communications should remain confidential, such as judicial deliberations, discussions between chief executives and their advisors (known as “executive privilege”), or government bodies going into closed session to discuss legal matters or prepare negotiations for purchases.

North Carolina attempts to strike a balance between transparency and privacy through two sets of laws. North Carolina’s public records law defines which records are public and which are not and describes the handling of those records. Similarly, the state’s open meetings law requires that most government bodies’ meetings be open to the public and defines exceptions to that requirement.

Local governments exploit loopholes in the open meetings law to circumvent it. They have declared meetings “informal gatherings,” restricted meeting recordings, and abused the allowance to hold closed sessions under limited circumstances. A common tactic is to exploit a supposed loophole that meetings are only official if a majority of members are present by dividing a government body into two or more groups to discuss upcoming business. They amount to what the North Carolina Open Government Coalition calls a “fragmented, asynchronous meeting of the full body” and

allow officials to come to decisions about how they will vote in upcoming meetings without public knowledge of the decision-making process.

As North Carolina's lawmaking body, the General Assembly does not have to circumvent transparency laws; it can simply change them. Page 531 of the 2023 budget included a provision stating that "the custodian of any General Assembly record shall determine, in the custodian's discretion." Another provision made legislators the custodians of "all documents, supporting documents, drafting requests, and information requests made or received by that legislator while a legislator." The effect of those two provisions gave legislators the power to shield any document in their possession from public records requests.

## KEY FACTS

- » North Carolina General Statutes § 143 318.10 states that, with some exceptions, "each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting."
- » Chapter 132 of North Carolina's General Statutes defines public records as "all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions."
- » Members of the public or media can request records at state and local government agencies by submitting public records requests (PRR). Many state government agencies have PRR forms on their websites.
- » Many local governments, including Charlotte and Asheville, have evaded the open meetings law by conducting nonmajority meetings to determine policy decisions and then voting based on those discussions at an official meeting later. The meetings go by various names, such as "3-on-3s," "small group meetings," or "check-in sessions."
- » A 2021 report by the Brechner Center for Freedom of Information found that a constitutional "clearly outweighing" standard that favors public disclosure unless the interest served by nondisclosure outweighs that of disclosing a record can enhance the public's access to government information.

## RECOMMENDATIONS

### 1. Close the nonmajority meeting loophole in the open meetings law.

Amend the exceptions section of the open meetings law to state that “a meeting by less than a majority of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article.” That change would make it plain to judges and local government attorneys that nonmajority meetings held to circumvent the public meetings law (clearly the intent of nonmajority meetings) are illegal.

### 2. Repeal the 2023 legislative records law.

Repeal or modify the provision in the 2023 budget that made legislators the sole judges of which documents they produce are public records.

### 3. Pass a transparency constitutional amendment.

Put a transparency constitutional amendment on the ballot. The amendment should cover all three branches of state government. It should also require a supermajority for the legislature to exempt itself from transparency laws and include a “clearly outweighing” standard that would favor public disclosure unless the interest served by nondisclosure outweighs that of disclosing a record. Both elements would foster a presumption of transparency.

# REDISTRICTING

DR. ANDY JACKSON

## INTRODUCTION

Few policy areas in North Carolina have been as contentious, let alone litigious, as redistricting. Since 1971, no set of North Carolina redistricting plans passed by the General Assembly (Senate, House, and congressional districts) 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 districts (*Wesberry v. Sanders*, 1964) and state legislative districts (*Reynolds v. Sims*, 1964). In addition, Section 2 of the Voting Rights Act prohibits states from drawing districts that weaken the voting power of voters based on their 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 its 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 were required to 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 law 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 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.

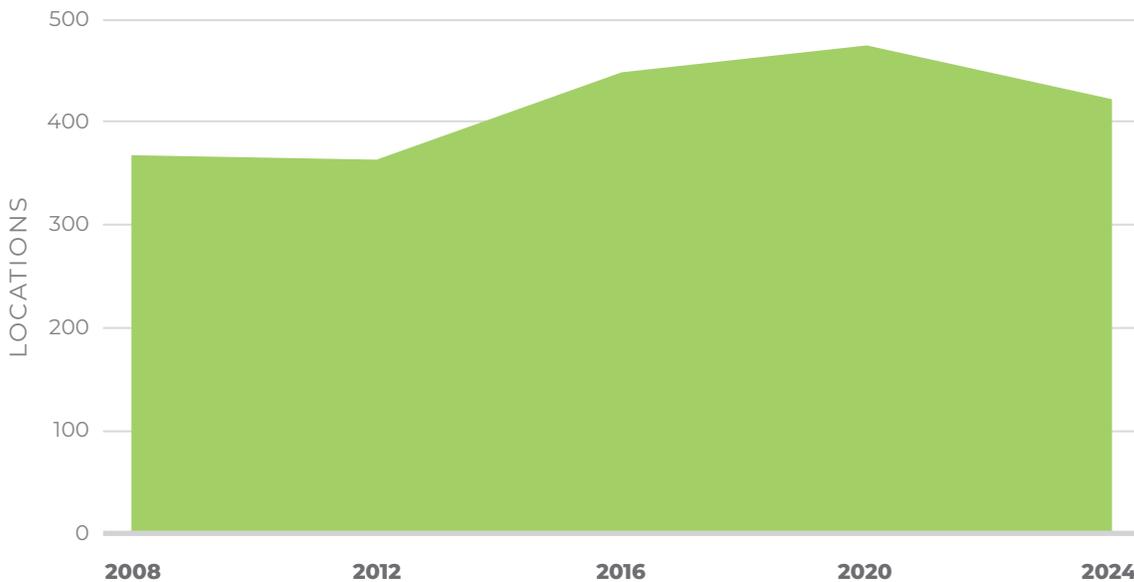
**3. Draw districts in the open.**

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.**

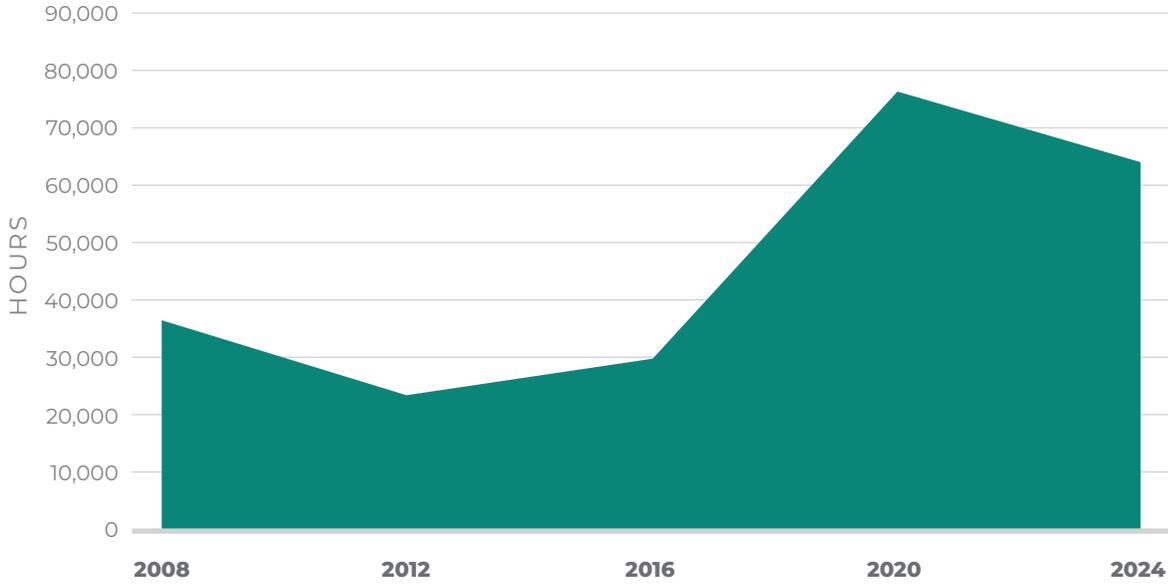
The rules established by *Stephenson v. Bartlett* limit how much legislators can gerrymander state legislative districts, especially in rural areas. They also minimized splitting counties to favor one party in the redistricting process. Making that process a permanent part of redistricting will protect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

**Number of Early Voting Locations in North Carolina General Elections**



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

### Early Voting Hours in North Carolina General Election



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

### General Election Voter Turnout 2000-2024



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

# VOTER REGISTRATION AND ELECTION ADMINISTRATION

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.

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, been convicted of a felony, or moved out of the county. The SBE provides data, such as death records, to county boards to help update registration lists.

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.

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 violate the privacy of those who choose not to register to vote. Because of those concerns, the fiscal year (FY) 2023–24 state budget included a provision barring the state from joining ERIC.

The SBE also conducts post-election audits and oversees sample hand-to-eye recounts by county election boards. A growing number of states have adopted procedural, or performance, audits. More than simply

recounting ballots, performance election audits assess the trustworthiness of the paper trail as a record of legal voter intent, such as voter registration records and ballot chain-of-custody. Independent or outside bodies can conduct performance audits to remove the inherent conflict of interest involved with election bodies auditing themselves.

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. A new generation of touchscreen systems approved for use in North Carolina are ballot-marking devices (BMDs) that produce a receipt-style paper ballot fed into a tabulator.

### **KEY FACTS**

- » County boards of elections maintain voter registration rolls. As part of that mission, they perform biennial list maintenance, removing hundreds of thousands of inactive registrations every two years. 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.
- » North Carolina's voter rolls have grown steadily, increasing from 6.2 million during the 2008 election to 7.8 million in 2024.
- » Legislation passed in 2024 moved appointment power for the SBE from the governor to the state auditor.
- » The SBE's post-election sample hand-to-eye count (audit) recounts two sample units (which can either be precincts, early voting sites, or all the county's absentee ballots) from each county. Requiring the same limited number of sample units from each county, regardless of the size of the county, makes it less likely that larger counties will include absentee ballots in their samples for recounting.
- » After the latest round of election equipment purchases ahead of the 2020 elections, the number of county boards of elections using BMDs for nondisabled voters decreased from 22 to 11. All other counties are using hand-marked paper ballots.
- » An experiment on ballot-marking devices in 2020 found that very few voters noticed when the machines made errors in marking their ballots. Researchers at the University of Michigan programmed the machines intentionally to mark ballots differently from the choices voters made on the touchscreen. They found that only 6.6 percent of voters in the experiment noticed and reported the errors.

## RECOMMENDATIONS

### 1. Join a multistate 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 multistate data-sharing program in operation. North Carolina should reconsider joining ERIC if that organization reforms its data-sharing practices and North Carolina passes a law protecting the privacy of those not registered to vote.

### 2. Broaden the scope of post-election audits and have them conducted by an independent body

Have the Office of the State Auditor conduct performance audits of voter registration, election operations, and the paper trail of voter intent for the entire two-year election period (what some call a “forensic audit”).

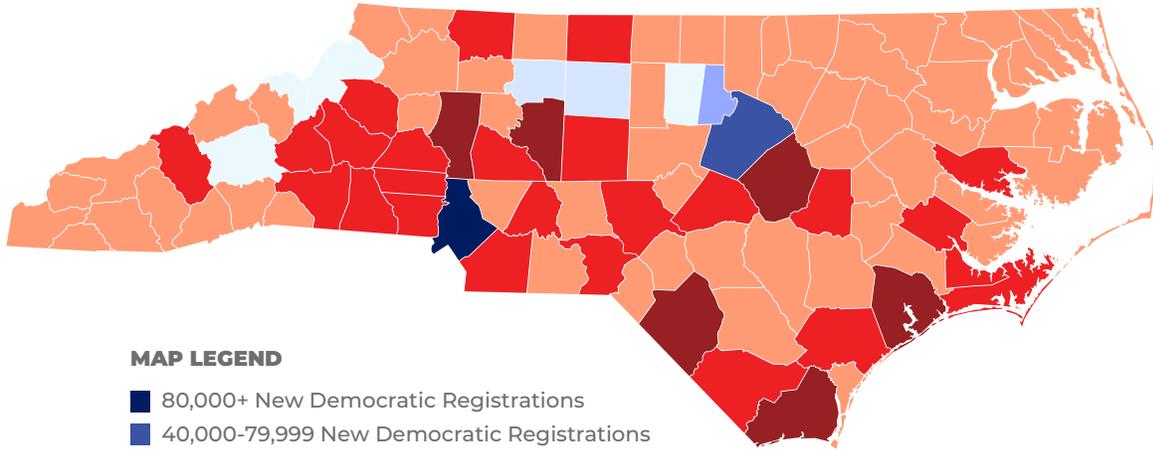
### 3. Allocate units in post-election sample hand-to-eye recounts by county size

More fairly apportion the number of units in the post-election sample hand-to-eye recount according to the number of units in each county (with every county having at least one, per law). Consider using risk-limiting audits, recounts of a randomly selected sample of ballots (rather than a sample of units), once all counties shift to hand-marked paper ballots.

### 4. 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.

## Two-party Voter Registration Change from Jan 2008 to Sep 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

# **REGULATION AND AGRICULTURE**

# AGRICULTURE

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 that 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, the total impact of the state's agricultural sector — including related industries like processing, manufacturing, retail, and forestry — make up around one-sixth of the state's economy and jobs, 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 to 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 overall food production in the United States, and provides exports to international markets.

The industry, however, is beset with controversies, such as the debate over what qualifies as environmentally sustainable farming to fears over water pollution from hog waste in rural communities. State officials have struggled to find the right balance between regulation and industry growth.

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. Even if well-intentioned, however, overregulation can be extremely detrimental not only to farmers but also to 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 desirable farmland for other uses. In addition, on average the top 10 percent of farms in terms of size and output receive nearly 80 percent of farm subsidies, which makes it very difficult for small farms to survive and enables big farms to get bigger. Over time, the total average acreage of farms in North Carolina has increased while the number of farms has decreased (see graphic below).
- » 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-producing state 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 the 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. Agriculture, however, 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.

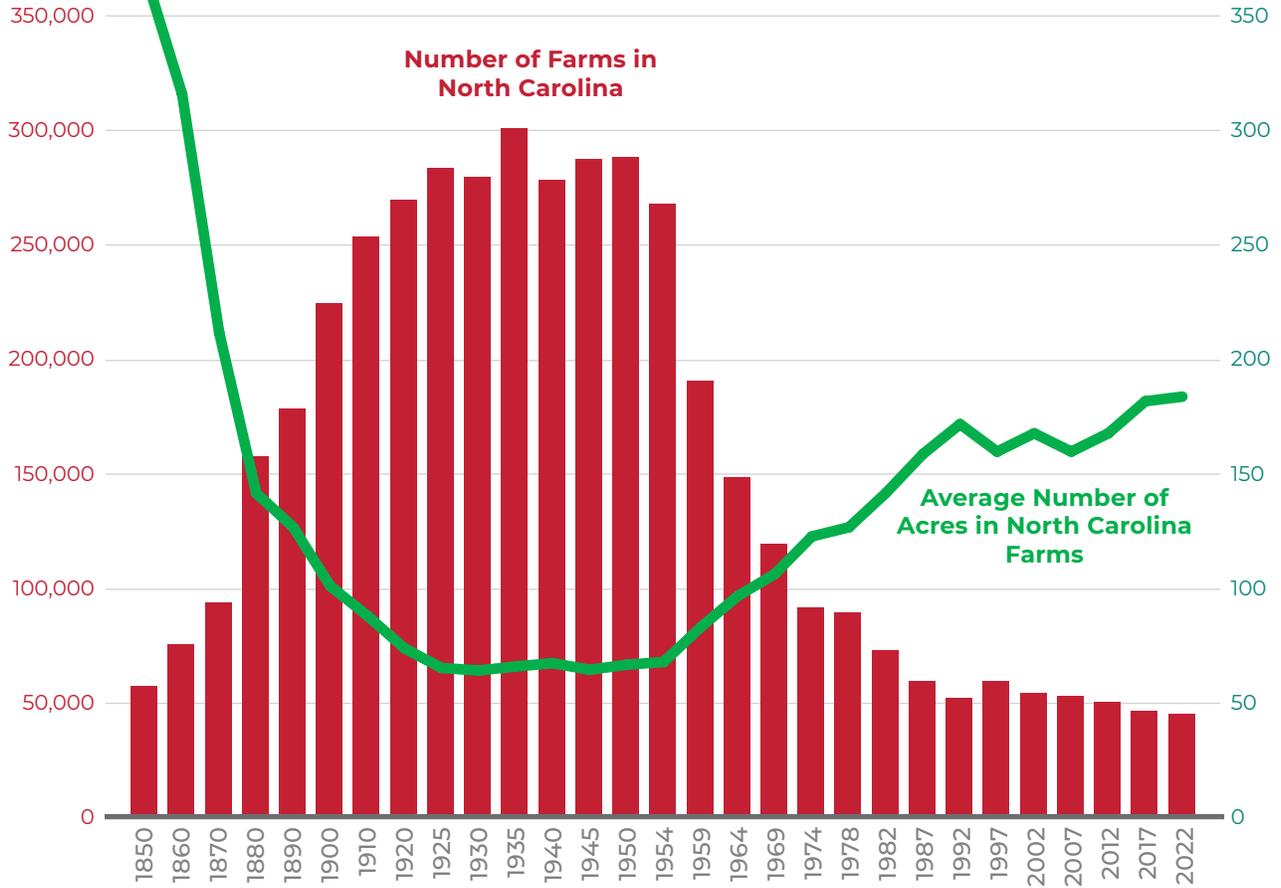
### **4. Be wary of right-to-repair legislation.**

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

JON SANDERS

## INTRODUCTION

North Carolina was once the nation's leader in wine production and distilleries, but those legal industries were 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, exerting 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 172 different ABC boards operating 449 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 \$1.9 billion in sales and talk up its government revenue transfers. But most of the sales revenue covers business expenses, of course. In fiscal year 2024, only 37 percent 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. This revenue is already built into state law by taxes and surcharges.

Advocates for the ABC system also speculate that without the ABC system, North Carolina would see a spike in teenage drinking, teenage binge drinking, DUIs, and alcohol-related deaths, which they say would create havoc for the state's Alcohol Law Enforcement and local law enforcement. As understandable as those fears are, research and further consideration suggest that they are overblown.

Research finds no significant differences between control and license states with respect to those negative outcomes. After all, 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 receive ABC permits to sell beer, wine, and mixed drinks on premises; hold tastings at ABC stores; 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, and 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 250 wineries. Given North Carolina’s strict control over liquor in general and tighter regulations against distilleries in particular, however, there are only 87 active distilleries.
- » There are at least 30 cideries in the state, mostly in western North Carolina, and most supported by apples from Henderson County, which ranks seventh in apple production among all U.S. counties. The state’s definition of cider, however, is stricter than the federal government’s, and the state still taxes cider like unfortified wine instead of beer. Taxing cider like beer would result in a 38 percent 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.**

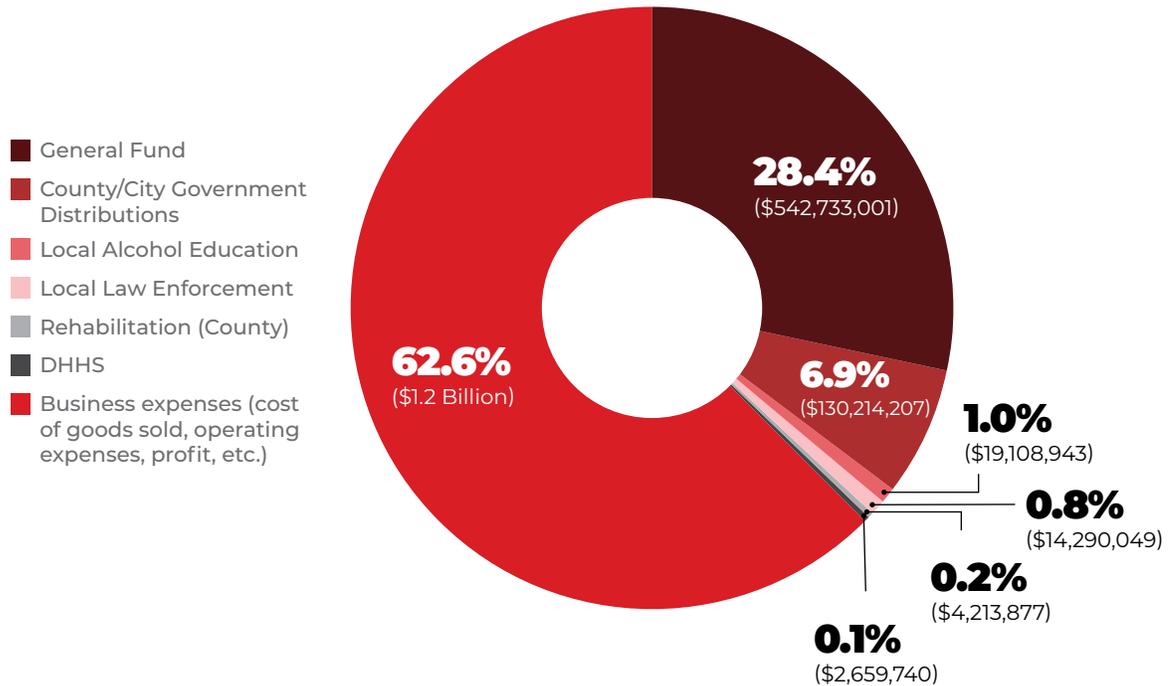
Dissolve the ABC boards, sell the ABC stores, divest the state of the ABC Warehouse, and free distillers from the ABC Commission dictating an approved products list and statewide prices.

## 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.

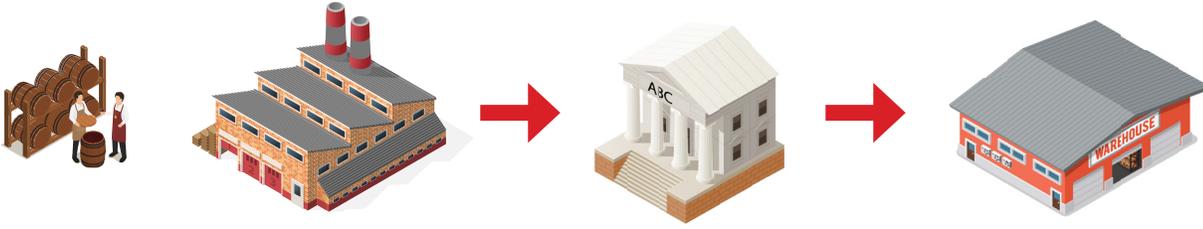
### Revenue Transfers to Government From Total ABC Sales Revenue

Only 37% of ABC's \$1.9 Billion in Total Revenue Went to Government Purposes



SOURCE: 2024 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

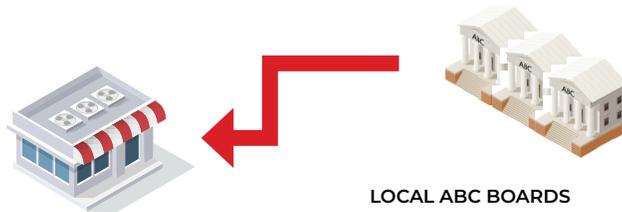
- Receives and stores products approved by the ABC Commission
- Delivers product orders placed by ABC stores
- One state-owned, 200,000-sq.ft. facility in Raleigh
- Another 200,000-sq.ft. facility in Clayton under lease since 2011
- ABC Commission contracts warehousing to a private vendor

### 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

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 expect, and true public servants see a clear duty to uphold those expectations.

Special interests and their allied politicians, however, see things differently. They see easy pickings. Every person, family, business, and school in this state needs electricity, and they all have to buy from a monopoly provider at whatever price they're given.

In 2019, with the input from 166 environmentalist and other “stakeholder” groups, Gov. Roy Cooper announced a “Clean Energy Plan” that heavily promoted unreliable renewable energy sources, opposed natural gas, and rejected nuclear power. If implemented, it would have increased average household electric bills by more than \$400 annually.

In 2021, the General Assembly put those goals into House Bill (HB) 951, the Carbon Plan law, but added key guardrails requiring the “least-cost path” to carbon neutrality by 2050 that would “maintain or improve” the reliability of the electrical grid. The new law called for two phases of reducing carbon dioxide (CO<sub>2</sub>) emissions from electricity generation: a 70 percent reduction by around 2030 (from 2005 levels) and “carbon neutrality” by 2050.

A major consequence of the Carbon Plan law 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. That's one-fourth of the installed capacity in the state and one of its least expensive sources of electricity – cheaper than any new power plant regardless of source.

Replacing a baseload source like coal 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. That means it must be capable of reliable, 24/7 power generation to meet the constant underlying demand for power in society (i.e., the baseload). Other than coal, only nuclear – which is recognized in state law as a “clean energy resource” – and natural gas are capable of baseload generation.

Fluctuations above the baseload can be met by dispatchable power sources, whose generation can be adjusted quickly to keep the grid balanced. A critical feature of the electrical grid is that power must be

consumed when it is produced. Natural gas and hydroelectric power are capable of dispatchable generation (as is coal).

Because they are entirely dependent upon the weather and even the time of day, wind and solar resources are considered intermittent and not dispatchable – certainly not capable of baseload generation.

A key failure of the Carbon Plan law is that it lacks a requirement to replace 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 is needed to buttress the least-cost and reliable provisions by at least maintaining the proportion of reliable, 24/7 power generation available to North Carolinians. It would also prevent expensive overbuilding of intermittent sources that need redundancy to compensate for their unreliability.

Furthermore, prior to its repeal, the Carbon Plan's interim goal was unduly influencing the resource modeling by the North Carolina Utilities Commission (NCUC). A report prepared by the NCUC's Public Staff for legislators in 2025 showed that modeling without the interim goal would save electricity consumers \$13 billion. In July 2025, the General Assembly overrode Gov. Josh Stein's veto of Senate Bill 266, thereby repealing the interim goal.

In August 2025, Duke Energy presented the NCUC with an independent, third-party evaluation showing that offshore wind energy could not be cost-effective relative to other power sources. As a result, Duke said it would not be developing any of the three wind energy areas off the shores of North Carolina.

## KEY FACTS

- » Greenhouse gas emissions in North Carolina have been plummeting all century. From 2005, CO2 emissions from electricity generation have fallen by more than half. By 2023, they were down 52 percent.
- » Natural gas has become North Carolina's top source of electricity. In 2023, natural gas produced 40.9 percent of the state's electricity to nuclear's 33.5 percent. Coal (11.2 percent) continued to fall. Solar provided only 9.1 percent but edged out hydropower (3.3 percent), wind (0.4 percent), and all other sources (1.5 percent).
- » Different sources of electricity generation have greatly differing levels of reliability. This reliability, expressed as capacity value (the portion of a power plant proven to be reliable), ranges dramatically. As measured by Duke Energy, the capacity value for nuclear power is 98 percent, while for coal and natural gas it is 90 percent. Solar (30 percent), onshore wind (15 percent), and offshore wind (30 percent) are at the bottom.

- » Maintaining grid reliability and affordable rates regardless of the generation mix is the idea behind a reform called the “Only Pay for What You Get” Act. This legislation, which was introduced in West Virginia in 2025 as the “Ensuring Reliable and Affordable Electricity Act,” would better align utility incentives towards least-cost and reliable electricity provision by linking electricity rates to the proven reliability of power plants. It would base the utility’s recoverable costs of any new generating source it places into service upon its capacity value. Doing so would keep electricity customers from being charged for the proportion of power plants that cannot reliably generate electricity.
- » In June 2025, an extreme heat wave threatened the power grid in North Carolina. Duke Energy Carolinas obtained an emergency order from the U.S. Department of Energy to exceed environmental emissions levels if needed to keep the power on. With this order, Duke was able to avoid a blackout. During this emergency, coal power generation increased by about 30 percent and natural gas power by 6 percent. Baseload nuclear was unchanged, while solar production was cut by nearly 20 percent.
- » Different electricity generation sources vary widely in cost as well as longevity. Building new power plants is more expensive than maintaining existing ones. The levelized cost of energy from new natural gas plants is \$50 per megawatt-hour (MWh), and those plants can last 32 to 40 years. New solar (\$90/MWh; 25 to 30 years) and new wind (\$89/MWh; 30 years) cost more than other sources of electricity, accounting for their required backup generation. New nuclear (\$75/MWh) costs more than new natural gas plants but can be licensed for 80 years. The levelized cost of energy from existing nuclear power plants is a fraction of the cost of new wind and solar.
- » Different sources of electricity generation receive dramatically different levels of federal incentives. 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. Nuclear received only 17 cents per MWh generated, while wind received \$3.31 (about 20 times more per MWh than nuclear). Then there’s solar, which got \$16.37 per MWh.
- » Finally, 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).

## 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.**

Electricity demand will continue to rise in North Carolina not just from population growth, but also from power-hungry data centers. Serving the state's requirement for least-cost and reliable electricity provision calls for continued access to dependable electricity sources without expensive overbuilding of intermittent sources.

- 2. Repeal the Carbon Plan or make its carbon neutrality goal aspirational, not mandatory.**

North Carolina's emissions have already fallen by more than half without expensive, disruptive interventions by the state. The most important thing for state electricity provision in North Carolina is ensuring affordable, reliable service at the flip of a switch.

- 3. Pass an "Only Pay for What You Get" Act.**

This reform would incentivize least-cost and reliable generation by allowing utilities to recover only a proportion of the costs of new power plants, coinciding with their capacity value (reliability).

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

	Genera- tion in NC	Reliability measures			Cost measures				Environmental measures		
Source	Percentage of NC's power generation, 2023	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, 2023 — 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	11.2%	100%, baseload (also peaking)	51.2% (OF)	23.1%	\$0.55	\$70.90	\$40.90	No mandatory retirement age — average retirement is 45–50 years	0.5 mi. <sup>2</sup>	1.0 mi. <sup>2</sup>	1.0 metric ton
Natural gas	40.9%	100%, baseload (also backup/peaking)	80.4% (OF)	74.5%	\$0.12	\$50.00	\$35.90	32–40 years	1.7 mi. <sup>2</sup>	1.8 mi. <sup>2</sup>	0.4 metric ton
Nuclear	33.5%	100%, baseload	100.3% (OF)	93.9%	\$0.17	\$75.20	\$33.30	Licensed up to 80 years	1.0 mi. <sup>2</sup>	1.0 mi. <sup>2</sup>	0
Hydroelectric	3.3%	100%, peaking	86.4% (OF)	24.0%	\$0.06	\$73.10	\$38.20	No mandatory retirement age — several in NC are over <sup>100</sup> years old	156.0 mi. <sup>2</sup>	169.2 mi. <sup>2</sup>	0
Solar	9.1%	0%, intermittent	3.5% winter average; 45.4% summer average (ELCC)	20.9%	\$16.37	\$90.00	n/a	25–30 years	13.2 mi. <sup>2</sup>	54.2 mi. <sup>2</sup>	0 plus amount of CO2 emissions from required backup generation*
Wind	0.4%	0%, intermittent	38.8% (ELCC)	28.5%	\$3.31	\$88.70	n/a	30 years	165.3 mi. <sup>2</sup>	425.9 mi. <sup>2</sup>	0 plus amount of CO2 emissions from required backup generation*

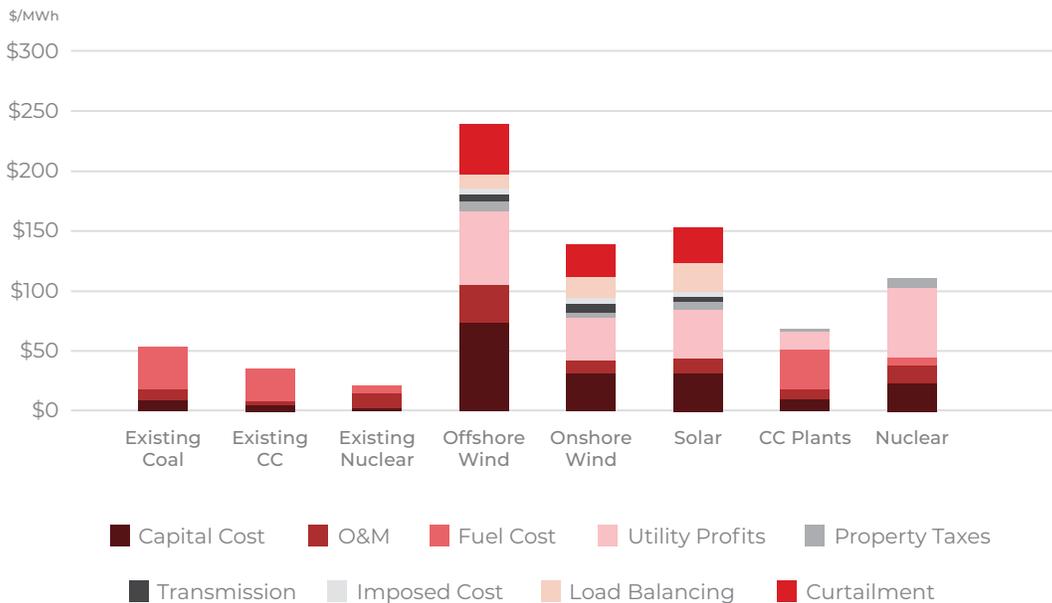
**SOURCES:** US ENERGY INFORMATION ADMINISTRATION (NC POWER GENERATION, CAPACITY FACTORS, NC CAPACITY AND USAGE, FEDERAL SUBSIDIES BY SOURCE, EXPECTED LIFESPAN OF COAL PLANTS, AND EMISSIONS), DUKE ENERGY CORPORATION (BASELOAD AND DISPATCHABLE RESOURCES, OUTPUT FACTORS AND EFFECTIVE LOAD CARRYING CAPACITY 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.

**NOTE:** SUBSIDIES PER BILLION BTUS FOR NATURAL GAS ALSO INCLUDES SUBSIDIES FOR PETROLEUM LIQUIDS  
\* BACKUP GENERATION NOTE

### Reduction in electricity-based CO2 emissions, 2005 to 2023 (million metric tons)



### More than Fuel Costs: The Different Costs Facing Electricity Generating Resources



**SOURCE:** ANALYSIS OF DUKE ENERGY'S CAROLINA'S CARBON PLAN AND A LEAST COST DECARBONIZATION PLAN," CONSUMER STATEMENT FROM THE JOHN LOCKE FOUNDATION, SUBMITTED TO THE NORTH CAROLINA UTILITIES COMMISSION ON JULY 11, 2022.

**Duke Energy Carolinas Daily Electricity Generation Before and During the June 24–25, 2025 Heat Wave, by Source (MWh)**

Source	June 23 (Before the Emergency Order)	June 25 (with the Emergency Order)	Percentage Change
Solar	8,940 MWh	7,192 MWh	-19.6%
Hydropower	5,835 MWh	5,146 MWh	-11.8%
Nuclear	174,898 MWh	174,581 MWh	-0.2%
Natural gas	106,015 MWh	112,543 MWh	6.2%
Coal	77,821 MWh	101,117 MWh	29.9%

SOURCE: U.S. ENERGY INFORMATION ADMINISTRATION, HOURLY ELECTRIC GRID MONITOR

# EMERGING IDEAS AND THE SHARING ECONOMY

JON SANDERS

## INTRODUCTION

Emerging innovation in a free society springs out of the restless yearning for newer, better, and faster ways. While fast-emerging new forms of competition may please consumers, they tend to upset existing businesses and worry local and state officials about unregulated providers and services. So, technological change often leads to a rush to regulate.

Artificial intelligence (AI) is truly transformative technology, but like any other disruptive innovation, it presents new challenges to society and policymakers. AI offers extraordinary benefits in complex tasks – from managing traffic systems, balancing electrical grids, to diagnosing diseases, and even to such things as writing songs, planning a vacation, or choosing the best route to drive. It also offers multiple ways for governments to become more efficient. At the same time, AI is seen as a serious threat to jobs, personal privacy, and academic integrity.

The temptation for policymakers is to react to emerging technology with hasty laws and overregulation, which invariably blunt the good that such technologies could bring about for society and the economy. Abusing AI to harm others would still run afoul of laws against libel, fraud, and other criminal acts, but jumping the gun on AI regulation risks violating people's right to free speech. AI mandates are problematic for many reasons, not the least of which is that AI systems often transcend state borders. Even so, in 2025, state legislatures considered over 1,000 different bills concerning AI.

In June 2015, the Federal Trade Commission (FTC) held a workshop on the “sharing economy” to address the sudden proliferation of new business models built around online and smartphone-based applications. The workshop examined the regulatory, competitive, consumer protection, and other economic issues of these emerging marketplaces, and it received over 2,000 public comments in response. The FTC ultimately recommended a cautionary approach to regulation, prescribing it “only when there is evidence that regulation is needed” and advising that it be “narrowly tailored” and “no more restrictive than necessary.” That same approach should apply to AI technologies as well.

Ill-conceived regulations can persist and have ongoing negative effects on local economies, consumers, and entrepreneurs. With AI and other emerging ideas and innovations, policymakers should still adhere to the wisdom of the Hippocratic Oath: “First, do no harm.”

Instead of rushing to regulate, policymakers should be on the lookout for ways to undo past harms – to remove or lessen persistent regulatory obstacles already blocking the way to existing businesses as well as new ones. For example, local entry regulations and public service restrictions can stifle business opportunities in cities and counties and vary wildly from one jurisdiction to the next. Outdated zoning, rent controls, and other regulations can prevent people in high-demand urban settings from providing all kinds of affordable housing arrangements.

## KEY FACTS

- » In 2021, the General Assembly created a regulatory sandbox for finance and insurance technologies. 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.
- » In September 2025, Gov. Josh Stein issued an executive order creating an AI Leadership Council to advise the governor and state agencies on AI strategy, policy, training, and deployment. The order also established an “AI Accelerator” within the North Carolina Department of Information Technology to be the state government’s “hub for AI governance, research, partnership, development, implementation, and training.” Finally, it instituted an AI Oversight Team for each state agency.
- » Stein also announced that the State of North Carolina was using AI “to identify unnecessary or overly burdensome regulations and to provide user-friendly AI agents to help North Carolinians navigate state services.”
- » Similarly, in 2025, Virginia Gov. Glenn Youngkin (R) issued an executive order directing each executive branch agency to use AI technology to examine their regulations and help policymakers identify and repeal contradictory, redundant, or unclear regulations.
- » In May 2024, the Colorado legislature passed the first major state regulation of AI, but the law’s mandates were vague and created serious compliance challenges, prompting a special session of the legislature in August 2025 to deal with the problems. Ultimately, Colorado legislators changed the law’s effective date to June 30, 2026, to give them more time to fix it. Enforcement of AI laws in California and New York have also had to be delayed over compliance problems.
- » In 2024, Utah established an AI advisory board within the state Department of Commerce. Called the Office of Artificial Intelligence Policy, the board exists to study AI and also to foster innovation while protecting consumers. Utah’s AI advisory board is also able to take advantage of the state’s open-ended regulatory sandbox in order to cultivate AI innovation through targeted regulatory relief.
- » In 2024, to address the problem of AI “deepfake” images, the General Assembly passed a bill enhancing existing state law against know-

ingly disclosing – with the intent to “[c]oerce, harass, intimidate, demean, humiliate, or cause financial loss to” a person – an image exposing that person’s intimate parts or depicting that person engaged in sexual activity. Such an image now includes “a realistic visual depiction created, adapted, or modified by technological means, including algorithms or artificial intelligence.” The legislature similarly enhanced the law against sexual exploitation of a minor to include AI-generated images.

- » In 2025, the General Assembly debated but did not pass legislation that would have outlawed deepfake images and audio of a person or political candidate and provided for collection of damages by the unlawfully depicted individual. Legislators also debated but did not pass a bill that would have banned AI deepfakes of political candidates in campaign and political messages and outlawed AI-generated child pornography.

## RECOMMENDATIONS

### **1. Expand North Carolina’s regulatory sandbox to include AI and other technologies.**

The regulatory sandbox is designed for fostering innovation without smothering it with unnecessary regulation.

### **2. Resist the rush to regulate.**

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

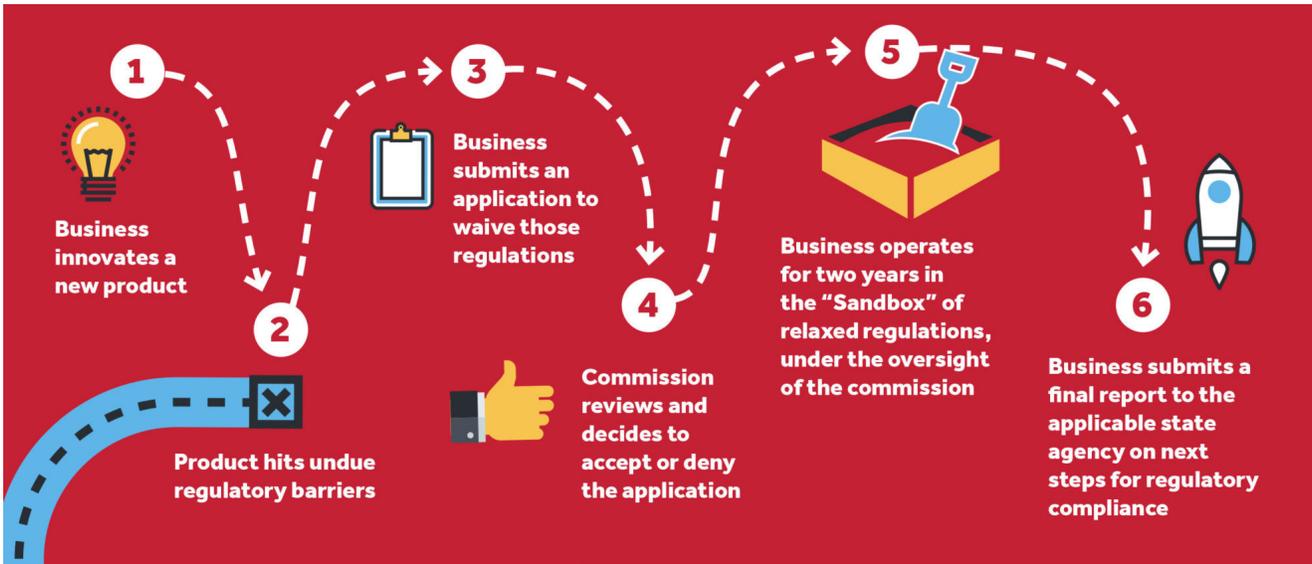
### **3. Study ways to use AI in state government to reduce regulation and improve constituent services.**

Gov. Stein’s direction to use AI “to identify unnecessary or overly burdensome regulations and to provide user-friendly AI agents to help North Carolinians navigate state services” is a laudable idea, but it can last only as long as his governorship. The General Assembly can study how to enhance Stein’s idea, use it to streamline state government in many more ways, and make it a permanent feature going forward.

### **4. Correct regulatory imbalances not by piling burdens on emerging markets and innovations, but by lessening burdens on existing ones.**

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

## How Does the Regulatory Sandbox Work?



# GOVERNMENT PERFORMANCE AND EFFICIENCY

ANDY JACKSON

## INTRODUCTION

Government agencies need to be open and accountable to citizens. North Carolina government has several entities that support accountability, including the Rules Review Commission, the Joint Legislative Commission on Governmental Operations, and the Office of the State Auditor.

State agencies create rules to guide how they enforce North Carolina law and conduct their work. The Rules Review Commission (RRC) is the final step in that rulemaking process. Created by the General Assembly in 1986, the RRC reviews and approves rules before state agencies can adopt them. RRC meetings also give the general public a final opportunity to speak on proposed regulations before they go into effect. While the RRC has altered or outright rejected some proposed rules, most of the time it serves as a rubber stamp, approving a high percentage of those put before it.

State law also assigns the RRC the responsibility of the periodic review process, in which state agencies, boards, and commissions submit reports every ten years indicating whether previously established rules are still necessary or should be removed. Periodic review helps remove unnecessary or burdensome rules.

The Joint Legislative Commission on Government Operations (the commission) focuses on oversight and seeks more efficient use of taxpayer dollars. The commission's purview includes state government agencies and programs, local governments, public authorities (such as water and sewer authorities, regional economic-development commissions, and regional libraries), and nongovernmental entities that receive government funds to conduct programs or provide a service to state or local government. The General Assembly established the commission in 1975.

The Office of the State Auditor (OSA) is an executive branch agency that annually audits over \$100 billion in state government assets and expenditures. In addition to state and local government financial audits, the OSA undertakes performance audits of agency management practices and evaluates risks to government information systems. The OSA also investigates tips on suspected fraud, waste, and abuse of taxpayer money in state agencies or private organizations that use taxpayer money. In 2025, Dave Boliek became state auditor and implemented extensive modernization of OSA technology and practices.

One area of government notorious for lacking accountability is disaster recovery and relief. Gov. Roy Cooper established the North Carolina Office of Recovery and Resiliency (NCORR) in 2018 to manage disaster recovery and mitigation grants in the areas affected by hurricanes Matthew (2016) and Florence (2018). NCORR was plagued by waste and mismanagement. By late 2024, with some victims' homes still not having been repaired or replaced, Cooper fired the head of NCORR. The immediate aftermath of a natural disaster clearly requires government spending to speed recovery, but frugal management of disaster relief funds is critical to ensure that those funds are not wasted.

One area ripe for improvement is government funding of work by private contractors or nonprofit organizations. Pay for Success (PFS) contracts, also known as Social Impact Bonds, are a different way to structure public/private partnerships. Government payments are made for concrete, measurable outcomes. 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. PFS models can improve efficiency when nonprofits can measure the impact of the programs they administer and trace them to government-provided funding.

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 to develop better ways to spend scarce tax dollars. Gov. Josh Stein's proposed 2025 budget included \$20 million to create an Innovation and Modernization for Performance, Accountability, and Cost-Effective Transformation Center to "substantially improve government operations through applied research and private sector best practices." An empirical approach, such as that or something similar, could help address the lack of internal accountability measures in most state agencies.

## KEY FACTS

- » Until 2009, the governor's budget proposals 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.
- » 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.

- » The Office of State Budget and Management maintains Open Budget, an online program containing data on state grants, contracts, vendor payments, and more.
- » An OSA report found that the Community Care Station in Swannanoa, set up after Hurricane Helene in 2024, cost the state \$220 per load of laundry washed during the five months it operated.

## 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. Experiment with Pay for Success (PFS) contracts.**

PFS contracts can more efficiently deliver some government services, especially those that are longer-term and in which successful outcomes are readily measurable, such as housing or recidivism reduction.

### **3. Improve disaster relief planning and management.**

Conduct earlier and more frequent need and cost analyses of disaster recovery efforts, earlier tracking of relief service utilization, and fuller contingency planning for future disaster relief.

# OCCUPATIONAL LICENSING

JON SANDERS

## INTRODUCTION

All people have a self-evident, inalienable right to “the enjoyment of the fruits of their own labor.” It is recognized in Article I, Section 1 of the North Carolina State Constitution.

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. You cannot even begin to work in a job affected by occupational licensing until you have satisfied all the state’s requirements first. A 2020 report to the General Assembly by the legislature’s Program Evaluation Division described occupational licensing as the state’s “Most Restrictive” occupational regulation, to be used only when the “Risk to Public Welfare” is highest. It’s an extreme regulation supposedly for use only in extreme cases.

Policymakers believe licensing protects people by ensuring safety and quality of service work. But does it? Research findings on that question are inconclusive at best. Mostly what the academic research literature finds is that occupational licensing protects the livelihoods of people already in the profession — boosting their earnings by artificially limiting their competitors and allowing them to charge higher prices.

For workers, getting a license can be costly, not just in license and renewal fees, but also in tuition and fees spent chasing the mandated number of educational credit hours, sitting fees for required qualifying exams, time spent on studying and logging hours of required job experience, as well as the opportunity cost of forgone work. These costs disproportionately impact the poor, the less educated, minorities, mothers returning to the workforce, relocated military families, older workers seeking a new career, migrant workers, and workers seeking better opportunities by moving across state lines.

Are most occupational licenses even necessary? States disagree widely on this question. A 2025 report published by the John Locke Foundation found that more than 20 occupations are licensed in every state, while a handful of occupations are licensed in fewer than five states. The report further noted that North Carolina licenses the 11th-most occupations among states: 186 of the 284 the report examined.

Employment within an occupation grows 20 percent faster in states where it isn’t subject to 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 of those things.

## KEY FACTS

- » North Carolina has 59 occupational licensing boards licensing 18.9 percent 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.
- » Estimates from the Institute for Justice suggest that occupational licensing costs North Carolina more than 42,500 jobs and \$112 million annually.
- » 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. As of this writing, 20 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 enacted broad reform. In 2025, however, the governor signed House Bill 763 into law, which provides recognition for a select list of out-of-state occupational licenses from certain neighboring states.
- » 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.
- » Even for jobs for which policymakers have identified legitimate, serious safety concerns, they have several policy options that preserve occupational freedom without barring entry. These include

inspections, bonding, registration, enforcing the Unfair and Deceptive Trade Practices Act, redress of grievances through courts, and recognizing certification.

- » What about 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, and others? Policymakers can create specialty licensing allowing medical insurance reimbursement — the specialty licenses wouldn't forbid practice to those who choose not to get one.
- » How can policymakers know how much state intervention to use? The idea is to adopt the policy option that best matches with the concern and not regulate any further.

## RECOMMENDATIONS

### 1. Adopt a Right to Earn a Living Act.

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. Eliminate those that fail.

### 2. Implement sunset with periodic review for all licensing boards and their licenses.

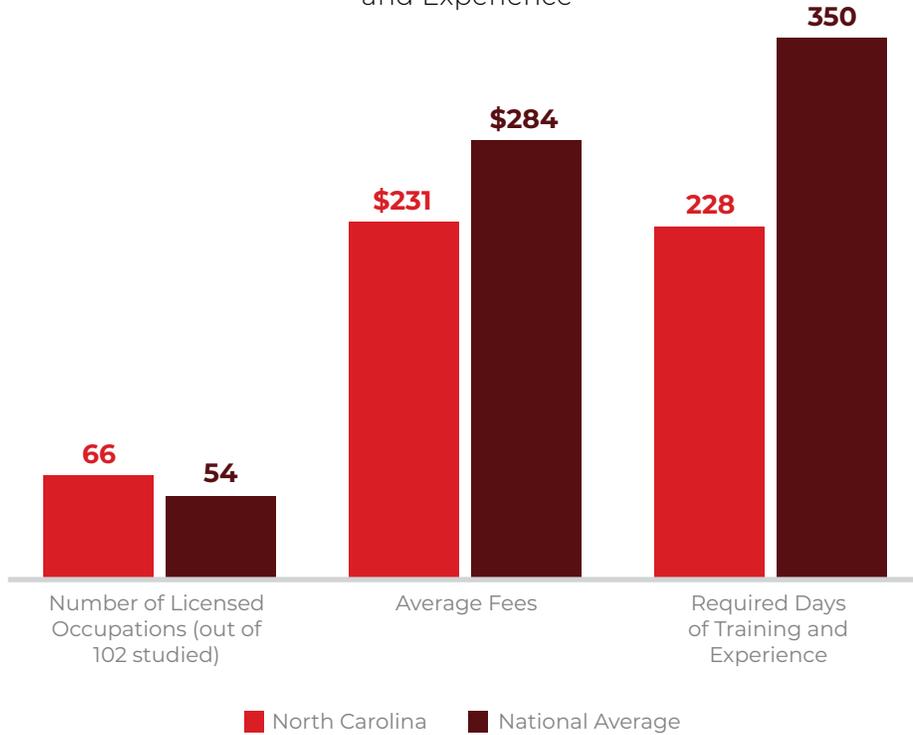
Eliminate questionable ones.

### 3. Lessen the burdens and costs of the occupational licenses that remain.

Expand license recognition beyond neighboring states to allow for universal license recognition. Adopt the Occupational License Consumer Choice Act to protect people's right to work while promoting consumers being fully informed 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). Finally, strive to reduce licensing burdens to make North Carolina the least burdensome state for licensed workers.

## 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

JON SANDERS

## INTRODUCTION

Over the past decade and a half, North Carolina’s regulatory environment has improved steadily. Under Republican leadership, the General Assembly has passed Regulatory Reform Acts regularly since 2011. They have been a mix of some major reforms and handfuls of smaller adjustments to hundreds of regulated areas across the state’s economy. Still, plenty of work remains.

Regulation drags down the state’s economy, keeping it from growing as fast as it should by hindering it with bureaucratic red tape and unwieldily, sometimes even outdated bureaucratic rules. Research consistently shows that freer industries grow much faster and produce at much greater rates than heavily regulated industries.

Cutting fussy administrative rules and keeping regulatory burdens light and up to date are important for economic growth – which means personal income growth, too.

## KEY FACTS

- » The 2025 edition of the Competitive Enterprise Institute’s annual study of federal regulations, “Ten Thousand Commandments,” estimated that compliance with federal regulations and their economic effects cost the U.S. economy well over \$2 trillion annually.
- » A 2015 study by economists with the Beacon Hill Institute at Suffolk University estimated that state regulations cost North Carolina’s economy as much as \$25.5 billion in a year.
- » In 2011, the General Assembly passed a no-more-stringent law to prevent state environmental agencies from unilaterally imposing stricter regulations on North Carolinians than those already imposed by the federal government. The importance of this reform in preventing harmful rulemaking was made clear in 2022 when Gov. Roy Cooper, as part of his agreement with California Gov. Gavin Newsom, wanted California’s environmental rules applied to North Carolina’s cars, trucks, and buses. To accomplish this, he tried to go around the no-more-stringent law by using the North Carolina Department of Transportation, which is not affected by the law. The General Assembly blocked Cooper’s gambit in 2023.
- » In 2013, the General Assembly enacted a significant reform for administrative rules: sunset provisions with periodic review. If an ad-

ministrative rule isn't reviewed by the agency that created it within a set time period (currently 10 years), the rule is automatically repealed. The review itself may result in the agency deciding to repeal it. The first round of reviews in 2018 removed more than one out of every 10 state rules examined. As of 2025, the review process has culled about one out of every 11 state rules up for review.

- » Ten years between reviews is very lengthy, however, and the state's rulemaking is ongoing. As of 2024, according to the Mercatus Center at George Mason University, North Carolina had more than 109,000 regulatory restrictions.
- » Most recently, in 2025, the General Assembly passed — over Gov. Josh Stein's veto — a law instituting legislative ratification for “rules with substantial financial costs” on the private sector. Legislative rules ratification is a measure that has been working well in Florida since 2010. North Carolina's law requires the legislature to approve any administrative rule that has an estimated economic impact exceeding \$20 million over five years before that rule can take effect. The \$20 million threshold is very high, however; Florida's five-year standard is \$1 million.
- » For a rule that would exceed \$1 million over five years, the North Carolina law requires a two-thirds majority of agency members to have voted in favor of it. If it would exceed \$10 million, the required vote must be unanimous.
- » 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, costs the legislature did not anticipate and would not have approved when delegating this authority to the agencies. Legislative rule ratification is a proven, effective way to ensure legislative scrutiny of any rule whose costs exceed a defined high-cost amount.
- » Legislative ratification upholds the separation of powers, making sure a bureaucrat's costly rule won't take effect if it isn't debated and okayed by legislators accountable to the people.
- » There is a stealthy kind of regulation known as “regulatory dark matter.” It includes policies, guidelines, memos, and other kinds of interpretive statements coming from administrative agencies that take the place of administrative rules. In effect, they fulfill the official state definition of a rule despite never being formally adopted as rules. All such regulatory dark matter violates the state's Administrative Procedures Act.
- » 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.

- » From 2020 to 2021, Gov. Roy Cooper’s various executive orders shut down untold numbers of businesses statewide over Covid-19 and also greatly restricted their normal business operations. Those orders amounted 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, an agency must retire a certain number of old rules) and dedicated efforts such as Red-Tape Reduction Commissions. Having stated objectives and outcome measures would help ensure that rules function as intended. Implementing strong cost/benefit analysis would help agencies make better choices.

## RECOMMENDATIONS

### **1. 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 by unelected, unaccountable bureaucrats.

### **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. Lower the cost considered substantial enough to trigger legislative ratification of a proposed rule.**

The current threshold is \$20 million or more over five years, which is *20 times more lenient* than Florida’s standard of \$1 million over that same period. An administrative rule should not be nearly that disruptive to a state’s economy, however. If it would be, then it would serve the people of North Carolina better for their elected representatives tasked with lawmaking authority to make sure the rule conforms to their intent for delegating some of their authority to an agency.

**4. Have all agencies identify and either repeal or codify all regulatory dark matter.**

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

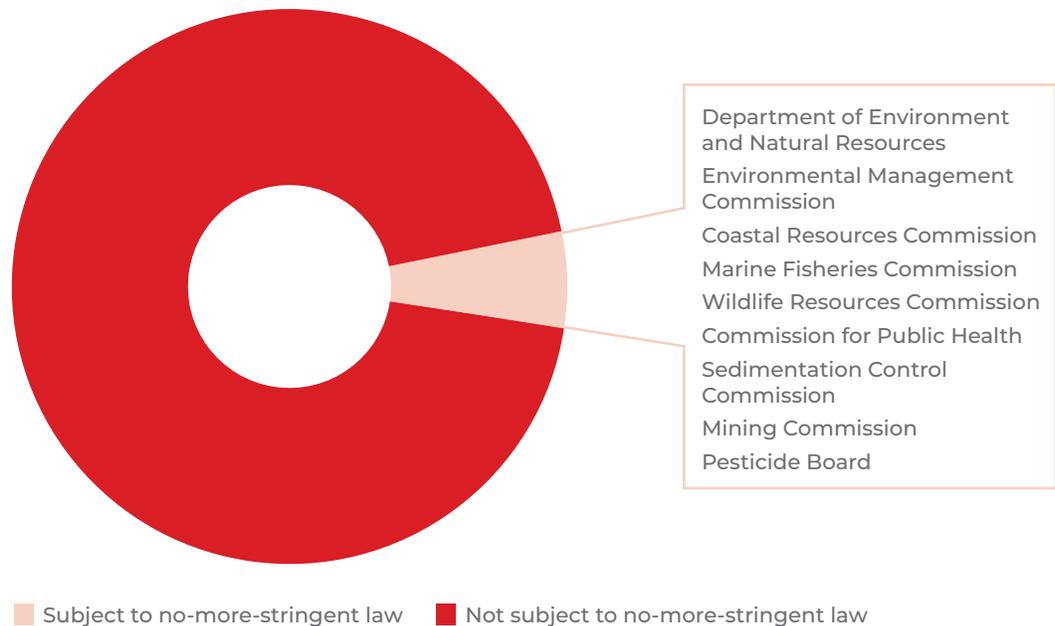
**5. Create clear and fair guidelines for compensating business and property owners victimized by regulatory takings.**

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, and strong cost/benefit analysis.**

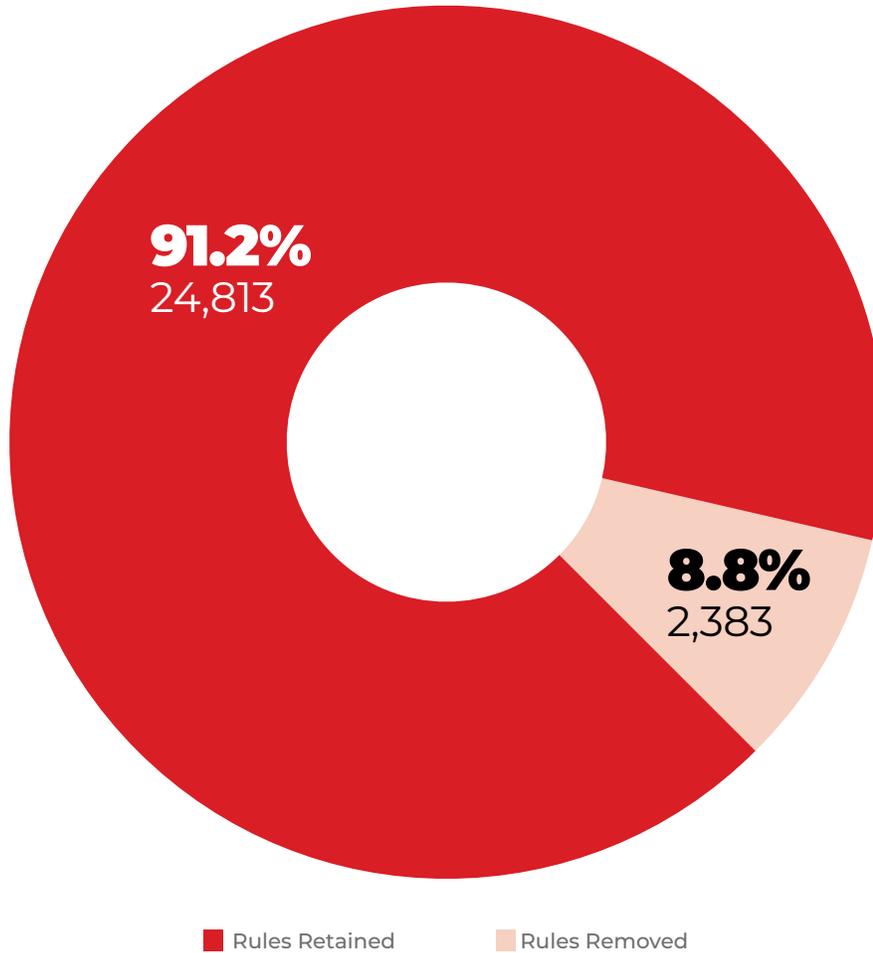
These reforms would all further the goal of having good, common-sense rules only when needed and without unnecessarily hamstringing the economy.

**Most Rulemaking Bodies in North Carolina Are Not Subject to the No-More-Stringent Law**



SOURCE: NUMBERS CALCULATED BY AUTHOR

**Spring Cleaning: Results of NC's Sunset and Periodic Review of State Rules (as of September 2025)**



SOURCE: NUMBERS CALCULATED BY AUTHOR



# **LAW, PUBLIC SAFETY, AND GUN RIGHTS**

# ASSET FORFEITURE

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 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 2024, those agencies collected a total of more than \$380 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.

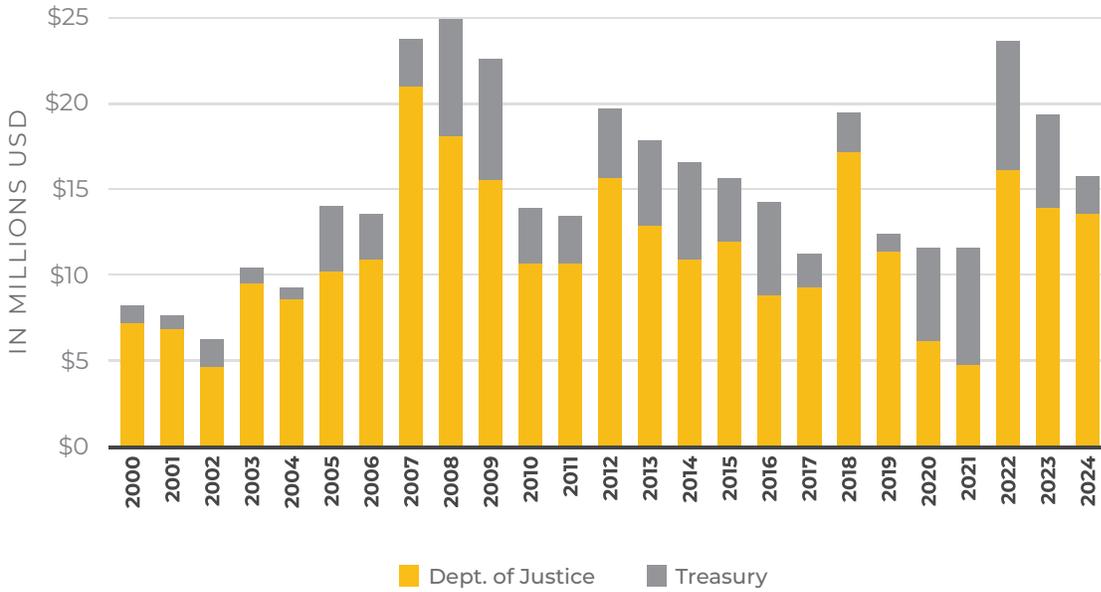
This form of equitable sharing exists only to circumvent North Carolina's well-considered civil asset forfeiture law.

### 2. Limit asset takings.

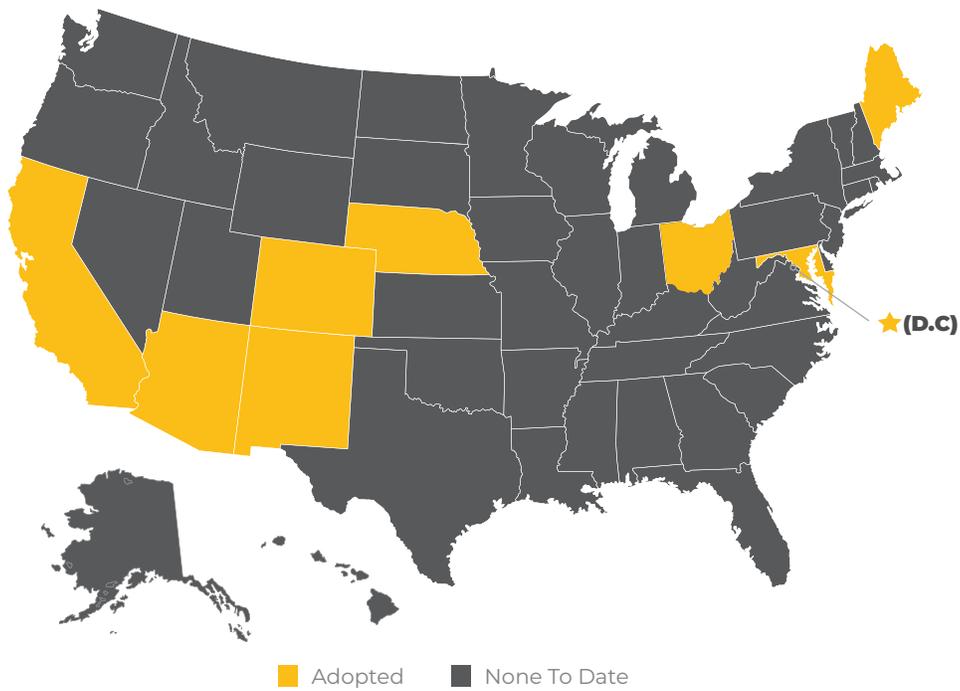
Forbid state law enforcement agencies from sharing the proceeds of assets seized in the course of joint investigations if the value of those assets is less than \$100,000. While joint investigations serve a legitimate law enforcement purpose, taking assets through civil asset forfeiture should be limited.

**ASSET FORFEITURE**

**Total Equitable Sharing Proceeds In North Carolina**



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



SOURCE: JOHN LOCKE FOUNDATION

# CONSTITUTIONAL CARRY

JON GUZE

## INTRODUCTION

Twenty-nine states now allow law-abiding citizens to carry firearms without a permit. North Carolina is not yet one of them, but there are many reasons to hope it will become one in the not too distant future.

Allowing people to carry firearms without a permit is conventionally referred to as “constitutional carry.” That phrase shouldn’t be taken literally, however. The Second Amendment clearly guarantees the right to keep *and bear* arms, but does it guarantee the right to do either without a permit? The United States Supreme Court has never addressed that question, and it is unlikely to do so any time soon.

There is another reason not to take “constitutional carry” literally. While the phrase may seem to imply that *everyone* who lawfully possesses a firearm has a constitutional right to carry that firearm both openly and concealed, that is not always what it means in practice. Some constitutional carry states do indeed authorize both open and concealed carry by all lawful owners. In others, however, only gun owners 21 years of age or older are allowed to carry without a permit. Moreover, some states that allow open carry without a permit still require one for concealed carry.

Despite such variations, constitutional carry in one form or another is rapidly becoming the norm. Twenty-nine states have already enacted constitutional carry laws, and more will almost certainly do so in the future. Such laws, moreover, are part of a larger movement to vindicate Americans’ Second Amendment rights. At the federal level, a series of Supreme Court opinions beginning with *District of Columbia v. Heller* in 2008 confirmed that the right to keep and bear arms is an individual right that applies to both handguns and long guns and includes the right to carry arms outside the home. And while some state legislatures and some state and federal courts have resisted those findings, many states have taken them to heart and liberalized their gun laws, sometimes in ways that go beyond what is required by those Supreme Court decisions, including by implementing constitutional carry.

When it comes to liberalizing its gun laws, North Carolina has lagged behind most other states. Fortunately, however, that is beginning to change. In 2023, North Carolina repealed the archaic pistol purchase permit requirement and adopted a law protecting the gun rights in religious meeting places. In 2025, a constitutional carry law, Senate Bill 50 (SB 50), was approved by both houses of the North Carolina General Assembly in 2025. The governor vetoed it, and the state house failed to override that veto. Nevertheless, the political momentum is clearly on the side of constitutional carry, and the burden is on those who want to maintain

## CONSTITUTIONAL CARRY

the status quo to explain why law abiding North Carolinians shouldn't be allowed to carry firearms without a permit.

They won't be able to do so by raising concerns about public safety. According to a study published in the *Journal of the American College of Surgeons* in 2018, states that have enacted constitutional carry did not experience an increase in violent crime, and Arizona, one of the first states to implement constitutional carry in 2004, saw a steep decline in the murder rate after implementation. Furthermore, even in constitutional carry states, state and federal laws that prohibit criminals and the mentally ill from owning or possessing firearms still apply, and most constitutional carry laws, including SB 50, include exceptions for many other classes of potentially dangerous persons. Similarly, most constitutional carry laws, including SB 50, prohibit the public from bringing firearms into sensitive public areas and authorize private individuals and businesses to prohibit firearms on their premises.

A final consideration is that constitutional carry laws do not preclude the issuance of concealed-carry permits for those who want them. Such permits may be needed to ensure reciprocity with states that do not allow constitutional carry. The permit application process, moreover, provides a valuable opportunity for training and education. That is why under many constitutional carry laws, including SB 50, the state will continue to issue carriage permits to those who want them.

### KEY FACTS

- » Twenty-nine states currently have some form of constitutional 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 override federal firearm law or make firearms available to people who are legally prohibited from owning them.
- » Even in constitutional carry states, individuals and private businesses can still prohibit firearms on their premises.
- » Even if North Carolina implements constitutional carry, state-issued carriage permits will still be needed to ensure reciprocity with states that continue to require such permits.



# CRIMINAL CODE REFORM

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. Finally, 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 2,700 separate crimes are defined in the North Carolina General Statutes. Only about a thousand are where one would expect to find them: Chapter 14, under the title “Criminal Law.” Definitions of the other crimes – more than 1,700 in all – are scattered across more than 140 chapters of the statutes.
- » Making matters worse, many crimes do not appear in the General Statutes at all. For years a variety of “catch-all” statutes made it a crime to violate ordinances promulgated by counties, municipalities, and metropolitan sewerage districts and rules and regulations promulgated by administrative agencies and occupational licensing boards. Despite the reforms discussed below, anyone who wants to be fully informed about what is and is not a crime in North Carolina must find and peruse hundreds of separate, inconsistent local codes.
- » Many of the crimes now on the books are obsolete, unnecessary, redundant, or unconstitutional, and their definitions are riddled with inconsistencies.
- » The definitions of many crimes are incomplete, and the mens rea (or “mental state”) requirement is among their 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 to the risk of unjust prosecution and conviction even though they never knowingly or intentionally broke the law.
- » Legislation enacted in 2021 addressed some of the problems listed above. Session Law (S.L.) 2021-84 repealed statutory provisions criminalizing the violation of rules promulgated by licensing boards. S.L. 2021-138 repealed 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. Clean up, streamline, and recodify the criminal code.

To address current overcriminalization in North Carolina, policymakers should eliminate all crimes that are obsolete, unnecessary, redundant, or unconstitutional; resolve all inconsistencies; and where appropriate, downgrade minor regulatory and municipal offenses from crimes to infractions.

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

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

### 2. Create stronger safeguards for victims of overcriminalization.

Policymakers should pass a default “criminal intent” standard for all crimes created subsequent to recodification and require that strict-liability crimes can be created only by explicit statutory enactment. They should also make “mistake of law” a defense for any crime created subsequent to recodification that is not clearly defined in the General Statutes and explicitly identified as a part of the criminal code.

### 3. Provide stronger oversight of the criminal code.

To prevent future overcriminalization in North Carolina, policymakers should create a formal oversight body to review proposed crimes and periodically to audit existing crimes. They should also create a law requiring that any criminal penalty concerning violation of a regulation must be reviewed and approved by the General Assembly.

# EMINENT DOMAIN

JON GUZE

## INTRODUCTION

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

For centuries, it was generally assumed that this power could be exercised only when the property in question was needed by the government for its own use (such as for roads, military bases, and other government facilities) or for use by a "common carrier" (i.e., a private company like a railroad or utility that is obliged by law to serve the public).

It was also generally assumed that these restrictions were implicit in the Fifth Amendment to the U.S. Constitution, which states, "Nor shall private property be taken for public use without just compensation." In 2005, when the U.S. Supreme Court handed down its opinion in *Kelo v. City of New London*, the American public was shocked to discover that both of those assumptions were wrong.

New London, Connecticut, sought to condemn and demolish 15 well-maintained and well-loved homes and give the land to a private corporation for high-end commercial development. Susette Kelo and her neighbors challenged the taking as a violation of the Fifth Amendment. Their property wasn't being taken for public use, they said; it was being taken for use by a private corporation.

The case received a great deal of media attention, and public sympathy was overwhelmingly on the side of the homeowners. Nevertheless, when it finally reached the U.S. Supreme Court, the court sided with the city. It held that, while the Fifth Amendment might forbid transfers from one private party to another "for the purpose of conferring a benefit on a particular private party," it did not forbid such transfers when they served a "public purpose." The court declared, moreover, that the question of whether this or any taking serves a public purpose is not one that the federal courts should attempt to answer. Instead, the courts should defer to state and local governments and give them "broad latitude in determining what public needs justify the use of the takings power."

In the final paragraph of its opinion, the court acknowledged "the hardship that condemnations may entail, notwithstanding the payment of just compensation," and it invited eminent domain reform at the state level: "We emphasize that nothing in our opinion precludes any State from placing further restrictions on its exercise of the takings power."

Most states responded by adding new restrictions on the use of eminent domain under state law, and North Carolina's neighbors in the Southeast did particularly well in that regard. Almost every state in the region put

## EMINENT DOMAIN

in place highly effective measures to prevent eminent domain abuse, and the measures put in place by Florida and Virginia are regarded as the most effective in the country.

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

Unfortunately, despite the persistent efforts of many diligent 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.

### 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.
- » North Carolina still hasn't taken such steps.
- » The North Carolina Senate has never approved an eminent domain reform bill.
- » For the first time since *Kelo*, in 2025 the North Carolina House of Representatives also failed to approve an eminent domain reform bill during the long session.

### RECOMMENDATION

#### **1. Amend the North Carolina Constitution and General Statutes to reform eminent domain laws and provide clarity.**

These changes would begin with declaring that private property may be taken only for public use and with just compensation. Further measures would include:

## EMINENT DOMAIN

- » Defining “public use” to permit transfers from one private party to another only when the property is needed by a common carrier or public utility to carry out its mission.
- » Defining “just compensation” to include all losses and costs, including loss of access, loss of business goodwill, relocation costs, and reasonable attorney’s fees.
- » Explicitly prohibiting transfers from one private party to another for sake of economic development.
- » Stipulating that courts must decide for themselves whether a taking complies with the public-use requirement without deference to any other authority.
- » Requiring a finding of a clear and imminent threat to health or safety before a property may be taken for blight.

### Grades for Eminent Domain Laws



SOURCE: INSTITUTE FOR JUSTICE

# INTENSIVE COMMUNITY POLICING

JON GUZE

## INTRODUCTION

North Carolinians are worried about crime, and with good reason. Despite recent declines, crime rates remain higher than they were before the crime wave that began in 2014, and they remain higher than in the country as a whole.

Crime is fundamentally a local phenomenon, however, and the burden of crime in North Carolina is not evenly distributed. Instead, it is borne primarily by the residents of a handful of high-crime, high-disorder communities. Regardless of what happens in the state as a whole, the residents of those communities will always have to worry about crime.

Crime victims and their families are not the only ones harmed by high levels of crime and disorder in high-crime, high-disorder neighborhoods. *Everyone who lives in those neighborhoods suffers, too.* Quality of life deteriorates when drug dealers, pimps, and gang members take over the streets and other public spaces and residents are afraid to leave their homes. Furthermore, the rise in crime and the breakdown of public order in these neighborhoods drive away businesses and discourage investment. The result is a cycle of poverty that began in many cities in the late 20th century and continues to this day.

The best way to reduce the burden of crime in high-crime, high-disorder communities would be to implement *intensive community policing*. That means:

- » Hiring more police officers
- » Paying them higher salaries
- » Providing them with state-of-the-art training and support
- » Deploying them to act as peacekeepers in high-crime, high-disorder neighborhoods

A large and growing body of research has consistently found that *police presence deters crime*. That's important because, compared with trying to catch and punish offenders after they commit crimes or trying to mitigate the suffering of crime victims and their neighbors after they have been harmed, it is far better for everyone if potential offenders can be deterred from committing crimes in the first place. As Benjamin Franklin famously observed, "An ounce of prevention is worth a pound of cure."

By deterring crime before it happens, intensive community policing:

- » Protects the lives and property of potential crime victims
- » Improves the quality of life and the economic prospects of everyone who lives in what would otherwise be high-crime communities
- » Improves the life prospects of young men who would otherwise commit crimes
- » Reduces the cost of dealing with criminal offenders through the criminal justice and social welfare systems
- » Improves police morale and professionalism by attracting better qualified officers and making misconduct less likely

Given what we know about police presence and crime, the solution to North Carolina's crime problem might appear to be straightforward: Cities with high levels of crime and disorder should simply hire more police officers and deploy them in high-crime neighborhoods. Unfortunately, that solution isn't feasible. The cities that need intensive community policing the most are generally the ones that can least afford it. For that reason, solving North Carolina's crime problem will probably require supplemental police funding from the state.

## KEY FACTS

- » The residents of cities like Winston-Salem, Fayetteville, and Greensboro are many times as likely to be victims of crime as the residents of cities like Concord, Cary, and Raleigh.
- » The result of these disparities is that the burden of crime in North Carolina falls most heavily on blacks and the poor. To take one example, blacks are about six times as likely to be murdered as whites.
- » A 2016 report by the Council of Economic Advisers summarizing a variety of studies found that "a 10 percent increase in police hiring leads to a crime decrease of approximately 3 to 10 percent."
- » More recent studies have confirmed that finding, and one that looked specifically at homicides found that "every 10-17 officers hired abate one new homicide per year" and that "the effects are approximately twice as large for Black victims."
- » Benefits like these explain why intensive community policing has been found to be extremely cost-effective. One comprehensive analysis found that a \$5 billion investment in additional police presence yielded \$25 billion dollars' worth of long-term benefits.
- » Unfortunately, crime tends to be highest precisely where income levels and property values are lowest, so that the cities most in need of additional police are the least able to afford them.

## INTENSIVE COMMUNITY POLICING

- » For that reason, the State of North Carolina may need to provide supplemental funding to high-crime, low-income communities that cannot afford intensive community policing on their own.

### RECOMMENDATIONS

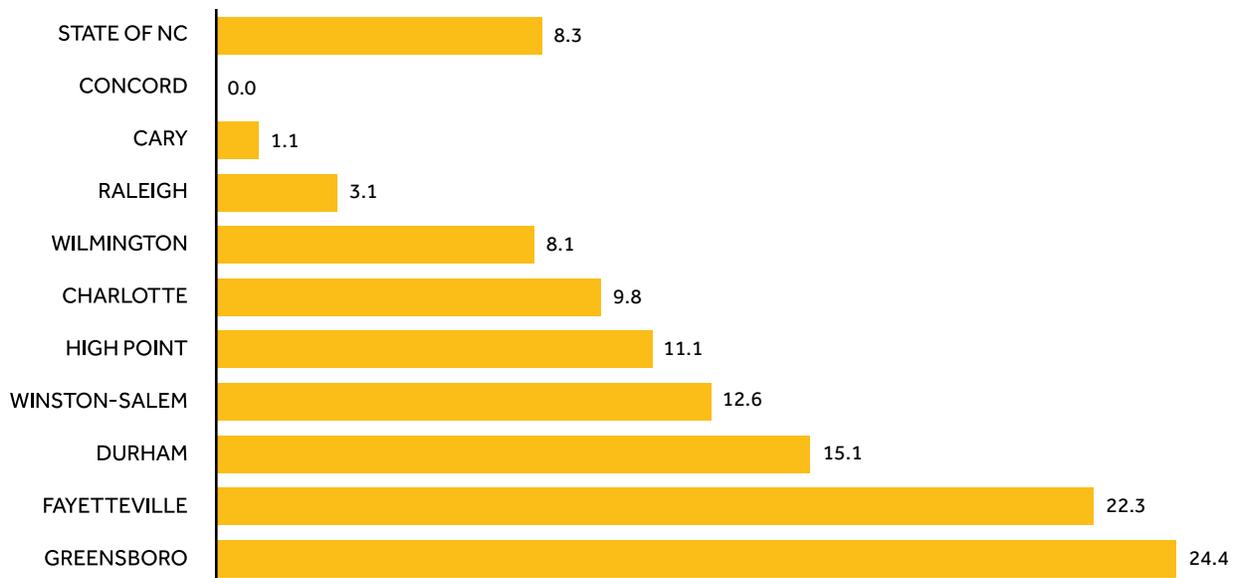
#### 1. Implement a program of intensive community policing in high-crime, high-disorder communities.

That means deploying large numbers of well-trained, well-paid, and well-managed police officers to act as peacekeepers on the streets in crime hotspots.

#### 2. Provide supplemental state funding to cities that cannot afford to implement intensive community policing on their own.

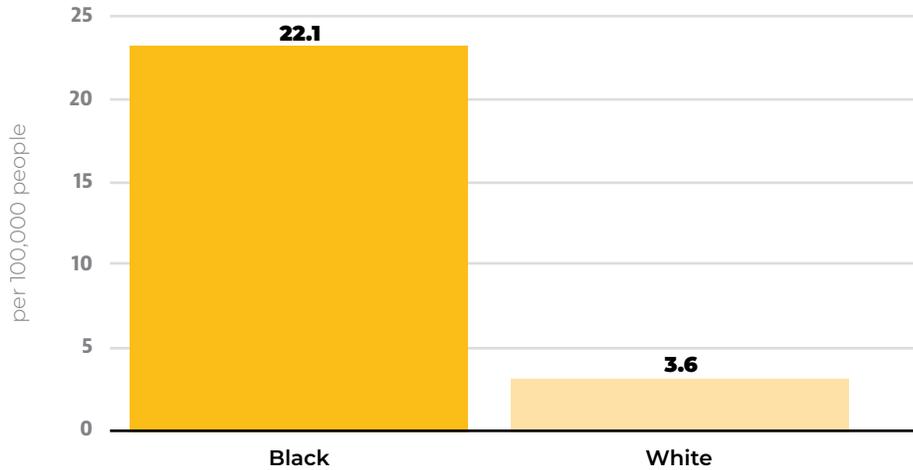
Policymakers seeking to provide supplemental funding for local police forces must be careful, however, not to repeat North Carolina's mistakes in providing supplemental funding for local schools.

### 2023 Murder Rates for NC and 10 Largest Cities per 100,000 people



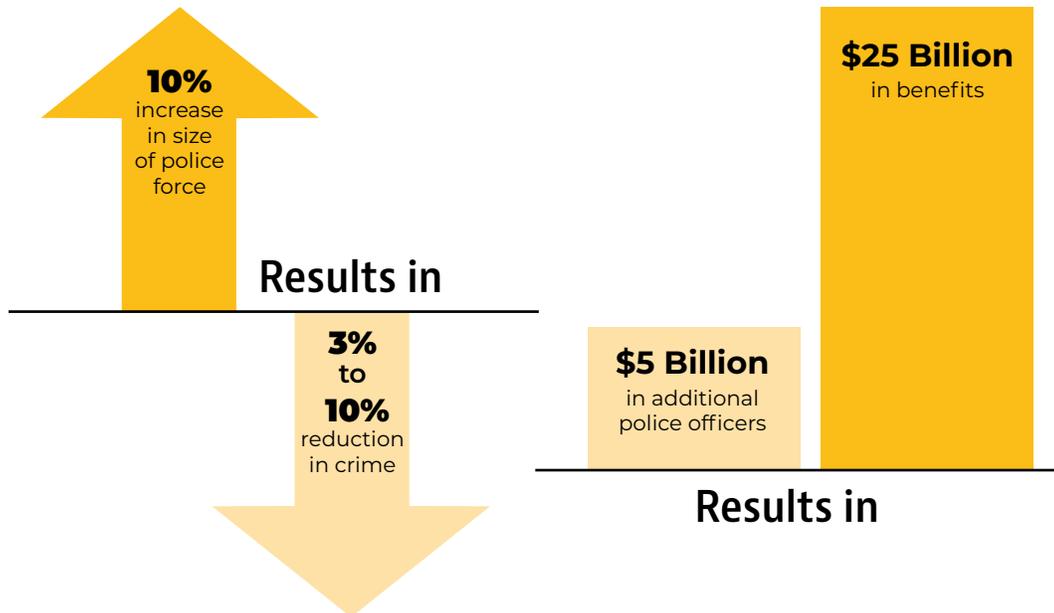
SOURCE: NC BUREAU OF INVESTIGATION/US CENSUS BUREAU

### 2023 Homicide Victimization Rates for North Carolina



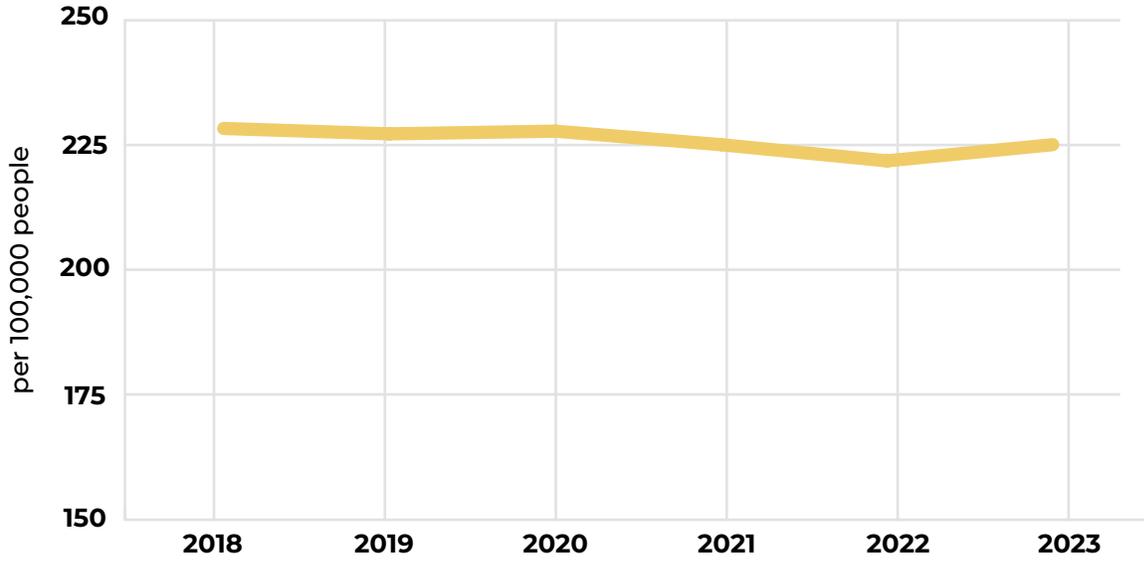
SOURCE: FBI, UNIFORM CRIME REPORTS AND UNITED STATES CENSUS BUREAU

### Benefits of Intensive Community Policing

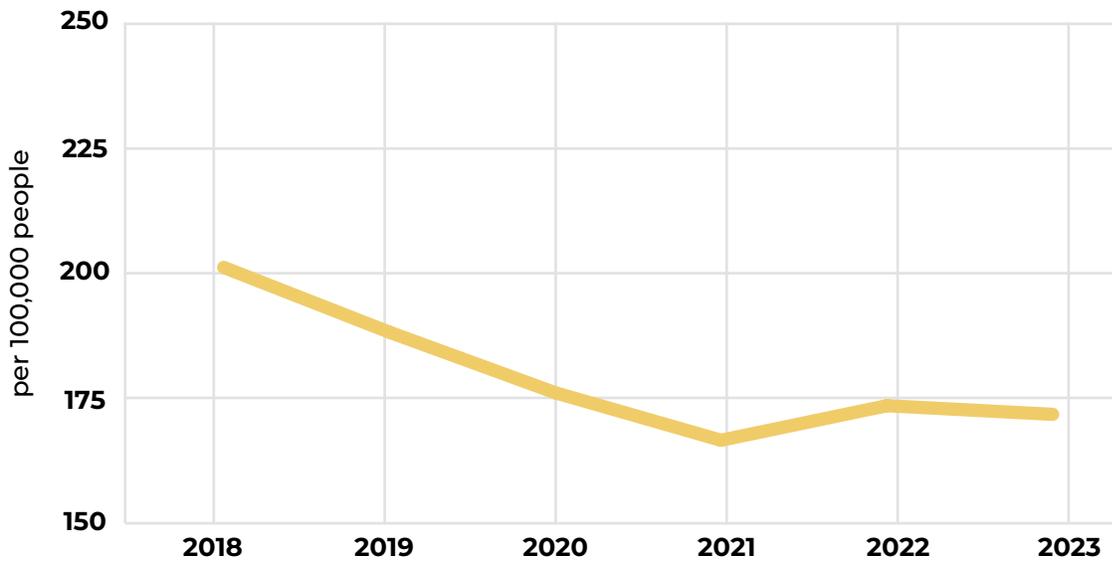


SOURCES: COUNCIL OF ECONOMIC ADVISORS (WASHINGTON, D.C.: THE WHITE HOUSE, APRIL 23, 2016), [HTTPS://OBAMAWHITEHOUSE.ARCHIVES.GOV/THE-PRESS-OFFICE/2016/04/23/CEA-REPORT- ECONOMIC-PERSPECTIVES INCARCERATION-AND-CRIMINAL-JUSTICE](https://obamawhitehouse.archives.gov/the-press-office/2016/04/23/cea-report-economic-perspectives-incarceration-and-criminal-justice).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

### Ratio of Police Officers to Population in North Carolina, 2018-2023



### Ratio of Police Officers to Population in Fayetteville, North Carolina, 2018-2023



SOURCE: FEDERAL BUREAU OF INVESTIGATION

# JUDICIAL DEFERENCE REFORM

JON GUZE

## INTRODUCTION

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment.

James Madison, Federalist No. 10

There can be no liberty ... if the power of judging, be not separated from the legislative and executive powers.

James Madison, Federalist No. 47

The right to a fair trial before an impartial tribunal is one of the oldest and most fundamental principles of free, republican government. It is, moreover, bound up inextricably with another fundamental principle: the separation of powers. The North Carolina State Constitution protects both. It declares that “justice shall be administered without favor, denial, or delay” and that “the legislative, executive, and supreme judicial powers of government, ought to be forever separate and distinct from each other.” Both principles were severely eroded over the course of the 20th century. Fortunately, a movement to restore them is gaining momentum both nationally and in North Carolina.

The self-styled “progressive” elite that rose to power in the early 20th century hated the separation of powers and all the other checks and balances embodied in the traditional American system of limited government. With remarkable persistence, they conducted a long campaign to replace that system with a unified regulatory state in which unlimited power was assigned to ostensibly wise and beneficent technocrats in the executive branch. By the end of the century they had achieved their goal. Today most of the legally binding rules that govern Americans’ conduct consist, not of statutes enacted by their elected representatives, but of executive orders and regulations promulgated and enforced by administrative agencies.

Progressive legislators initiated the transformation by delegating their power to make legally binding rules to administrative agencies. They could not have succeeded, however, without the connivance of progressive jurists. When citizens challenged the new regulatory regime in court, judges had a duty to act as neutral arbiters, and they did so for many years. Eventually, however, they were persuaded to abdicate that duty and start applying two forms of “judicial deference” that tipped the scales decisively in favor of the government.

*Tiers of scrutiny*

During the first few decades of the 20th century, constitutional challenges posed a major threat to the new regulatory regime. The United States Constitution and all the state constitutions explicitly assigned the legislative and executive powers to separate branches of government. On their face, the statutes that transferred legislative power to administrative agencies appeared to violate those constitutional provisions. Making matters worse, many of the rules promulgated under those statutes also appeared to violate other constitutional checks on governmental power, *including explicitly guaranteed individual rights*. When aggrieved citizens challenged the new regulatory regime on the basis those constitutional provisions, the courts — acting as neutral arbiters — often ruled in their favor.

The honest and above board way to have dealt with that situation would have been to try to amend the relevant constitutions. Instead, beginning in the 1930s, the progressives persuaded the courts to adopt a “*tiers of scrutiny*” approach to judicial review under which independent and impartial review was reserved for laws and regulations that impinged on a handful of rights that were deemed to be “fundamental.” All other laws and regulations were automatically *presumed* to be constitutional, and challengers who wanted to overcome that presumption were required to show that the law or regulation under review lacked any conceivable rational basis. The list of fundamental rights was short and subjective. It included freedom of speech and religion and the right to equal protection. It emphatically did not include economic rights like the right to own property and the right to earn a living.

*Administrative deference*

As the new regulatory regime expanded, disputes also arose between citizens and administrative agencies regarding the meaning of the statutes that delegated legislative power to those agencies and over the meaning of the rules the agencies promulgated under those statutes. To tip the scales in the government’s favor in such cases, the progressives persuaded the courts to adopt a policy of “*administrative deference*.” Under that policy, the agencies’ interpretations of statutes and rules were presumed to be correct, and challengers could only overcome that presumption by showing that the agency’s interpretation was clearly irrational.

Between them, tiers of scrutiny and administrative deference gave administrative agencies effective control over all three functions of government: legislative, executive, and judicial. That clearly violated the separation of powers, but it also violated the right to a fair trial. A tribunal that defers to one party in a dispute can hardly be said to be administering justice “without favor.”

The good news is that a movement to reform administrative deference is well under way, and North Carolina has positioned itself as a leader of that movement.

In 2025, the North Carolina Supreme Court renounced *administrative deference* as a matter of doctrine. The North Carolina General Assembly now has an opportunity to consolidate that reform by proscribing administrative deference as a matter of statutory and constitutional law as well.

Restoring the separation of powers and the right to a fair trial will also require tiers of scrutiny reform, and the need for such reform is particularly acute in North Carolina. As currently practiced, tiers of scrutiny cannot be reconciled with the text and history of the North Carolina Constitution. The North Carolina Supreme Court should look for an opportunity to either renounce tiers of scrutiny altogether or bring it into better alignment with our constitution.

## KEY FACTS

- » In 2025, the North Carolina Supreme Court became the tenth state supreme court to renounce administrative deference. In *Savage v. NCDOT*, it “expressly disavow[ed] any rule requiring courts to defer to an agency’s interpretation of a statute,” and in *Mitchell v. UNC Bd. of Governors*, it held that “courts interpreting state administrative regulations must freely substitute their judgment for that of the agency and employ *de novo* review.”
- » These decisions eliminated administrative deference as matter of judicial doctrine in North Carolina. Judicial doctrine can change, however, which is why some states have also taken steps to eliminate administrative deference as a matter of law.
- » In 2018, Arizona enacted a statutory ban on administrative deference:

*In a proceeding brought by or against a regulated party, the court shall decide all questions of law, including the interpretation of a constitutional or statutory provision or a rule adopted by an agency, without deference to any previous determination that may have been made on the question by the agency.*
- » Also in 2018, Florida ratified a constitutional amendment banning administrative deference:

*In interpreting a state statute or rule, a state court or an officer hearing an administrative action pursuant to general law may not defer to an administrative agency’s interpretation of such statute or rule and must instead interpret such statute or rule *de novo*.*
- » While eliminating administrative deference is important, restoring the separation of powers and the right to a fair trial will also require tiers of scrutiny reform, and that is particularly true in North Carolina.
- » Tiers of scrutiny was originally developed by the federal courts to insulate economic regulations from challenges under the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution. It was at least plausible in that context because the

United States Constitution does not explicitly mandate a separation of powers, does not explicitly guarantee the right to a fair trial, and provides few explicit protections for economic rights.

- » Tiers of scrutiny makes much less sense in North Carolina. The North Carolina Constitution explicitly mandates the separation of powers, explicitly guarantees the right to a fair trial, and declares several economic rights to be among “the great, general, and essential, principles of liberty and free government.”

## RECOMMENDATIONS

- 1. Proscribe administrative deference as a matter of law by enacting a statute similar to the ones enacted by Arizona and ratifying a constitutional amendment similar to the one ratified in Florida.**
- 2. Renounce tiers of scrutiny doctrine altogether or bring it into closer alignment with the unique text and history of the state constitution.**

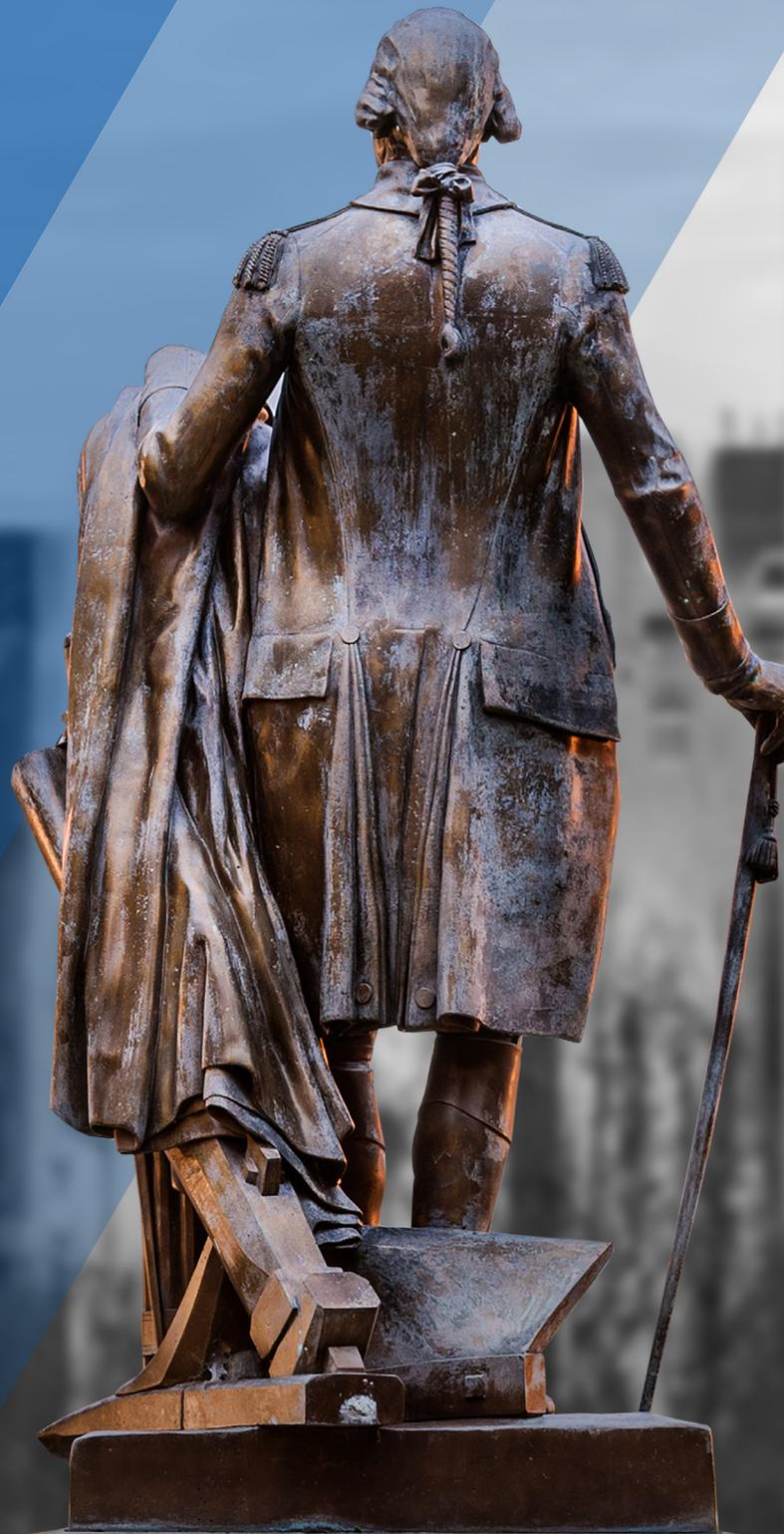


# locke

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