

# NORTH CAROLINA POLICY SOLUTIONS 2020

*John Locke*  
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# **NORTH CAROLINA POLICY SOLUTIONS**

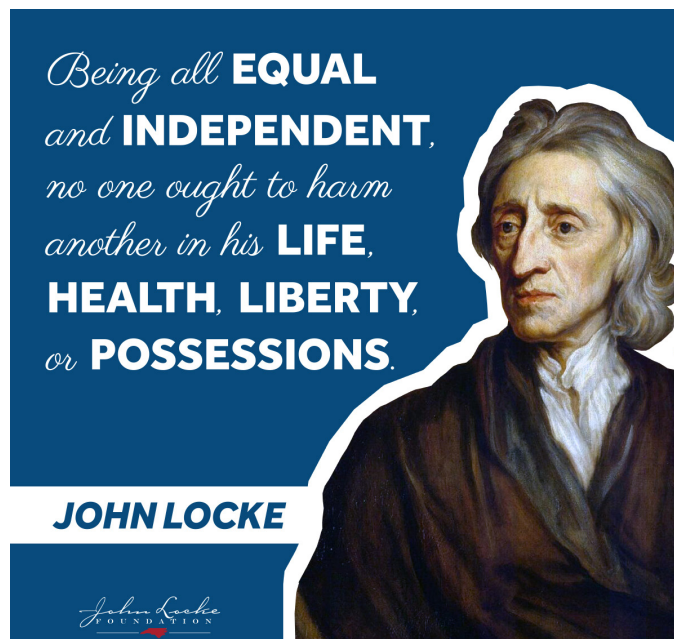
2020



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With John Locke's vision as our guide, and the North Carolina Constitution as our foundation, we joyfully plant the flag for freedom and nurture its growth in North Carolina. Over three decades we have educated policymakers and informed the public debate with reason and research. Our spirited defense of economic liberty and personal freedom has established the John Locke Foundation as North Carolina's premier free-market public policy think tank, one of the most influential in the nation.

We share our resume not with hubris, but with humility and pride.

Our researchers, analysts, and writers have helped transform North Carolina into a thriving, vibrant state that attracts an enviable blend of youth and experience, from college students and young families, to mid-career professionals and entrepreneurs, to empty-nesters embarking on life after work. Across this diverse and beautiful state, North Carolinians are enjoying the opportunities that overflow when freedom flourishes.

On these pages you will find the guideposts that generated North Carolina's renewal, and the policy prescriptions that will continue to propel the state forward in the new decade. Whether your interest is sound budget and taxation, the many facets of K-12 education, the challenge of delivering low-cost and high-quality health care, or freeing us from government regulations and overreach, Policy Solutions 2020 is your essential resource and road map.

Welcome to freedom in North Carolina and to the expertise of the John Locke Foundation that sparks its power to change lives. We're ready and eager to work with you.

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

# CAPITAL AND INFRASTRUCTURE

POLICY ANALYST: JOSEPH COLETTI

## INTRODUCTION

State facilities became a surprisingly contentious part of budget discussions in 2019. In 2017, state government owned nearly 118 million square feet of space across 12,000 buildings worth \$25.6 billion. The state budget includes \$700 million per year to pay the principal and interest on money it borrowed to build and maintain these facilities.

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

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

If the debate were simply about the best way to finance construction, we could compare the opportunity cost of borrowing a dollar at low interest rates against paying cash. Instead, under Gov. Cooper's proposal, the comparison is between spending a dollar every year on recurring government expenses *plus* repaying the dollar borrowed for construction, against the dollar in cash paid on construction. Over 10 years, that equates to roughly \$11 in cost under Gov. Cooper's plan versus \$1 in cost under the legislative plan. The legislative plan leaves \$10 unobligated over the next 10 years, cash that would be available to fund other capital needs, for operations, or to be returned to taxpayers.

## KEY FACTS

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

- » Principal and interest payments on state debt supported by the General Fund is \$700 million per year.
- » Voters last approved debt via the \$2 billion Connect NC bond program in 2016. Two-thirds of Connect NC money will fund projects at public universities and community colleges, while the remainder will be used for water and sewer projects, state parks, and public safety and National Guard facilities. Although 15 percent of the bond package is intended to go to water and sewer projects, they received just 2 percent of the \$622 million spent as of October 11, 2019. The state has borrowed \$1.2 billion, with another \$600 million to be issued in 2020 and the final \$200 million in 2021.
- » The statutory debt limit for state government is 4.5 percent of General Fund revenues, which is \$1.07 billion. The State Capital and Infrastructure Fund (SCIF) passed in 2017 dedicates 4 percent of tax revenue (\$953 million) plus one-fourth of unreserved cash balances to debt service, repairs, renovations, and new construction.

## RECOMMENDATIONS

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

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

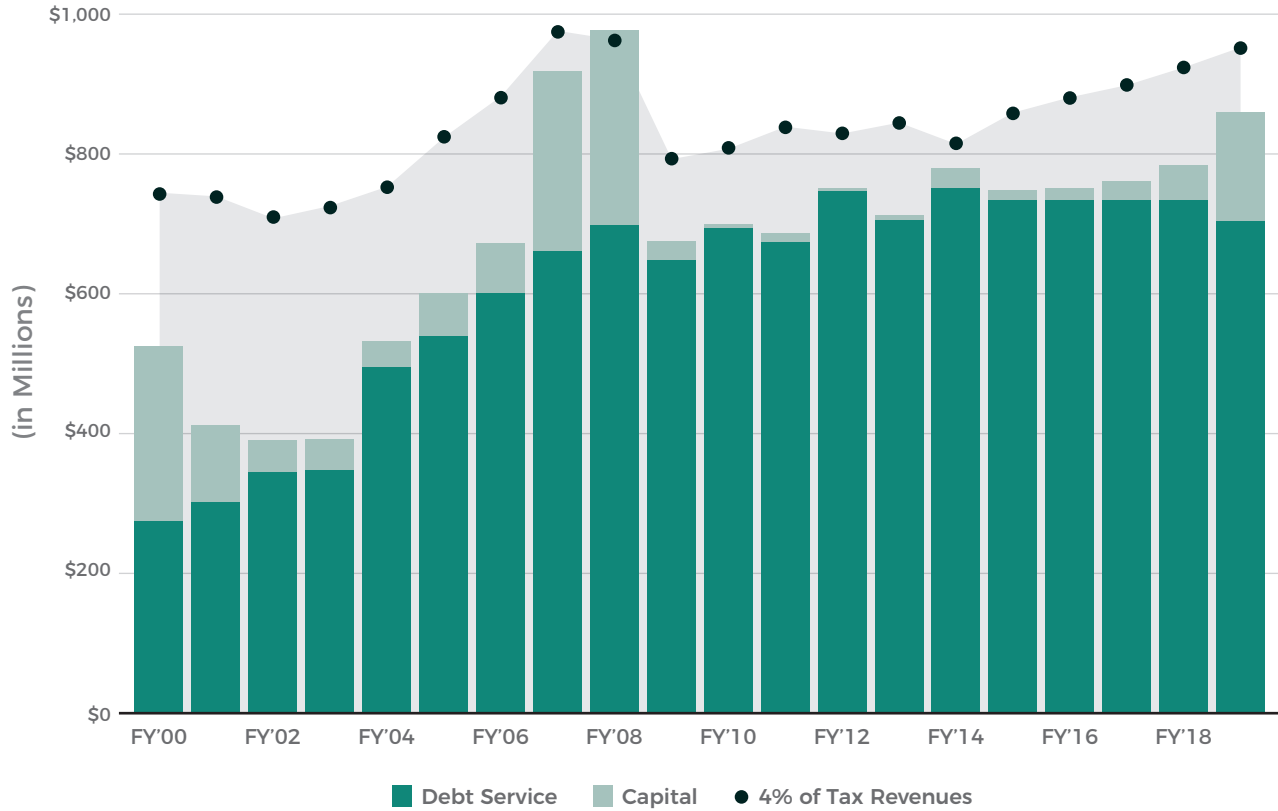
### 2. Consolidate state-owned facilities.

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

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

The unfunded liability for the Teachers and State Employees Retirement System is \$10 billion of \$80 billion in total liabilities. The unfunded liability for retiree health benefits, the largest portion of other post-employment benefits, is \$28.5 billion of \$29.8 billion in total liabilities. (See State Employee Benefits for more information).

## Actual General Fund Appropriations for Debt Service and Capital (Adjusted for Inflation)



**SOURCES:** OFFICE OF STATE CONTROLLER, FEDERAL RESERVE BANK OF ST. LOUIS

# ECONOMIC GROWTH

POLICY ANALYST: **DR. ROY CORDATO**

## INTRODUCTION

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

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

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

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

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

### KEY FACTS

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



## 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 creating universal tax-free saving and investment accounts, abolishing or reducing taxation on capital gains, and allowing businesses to deduct all expenses from their taxable income in the year that they are incurred. (See Tax Reform.)

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

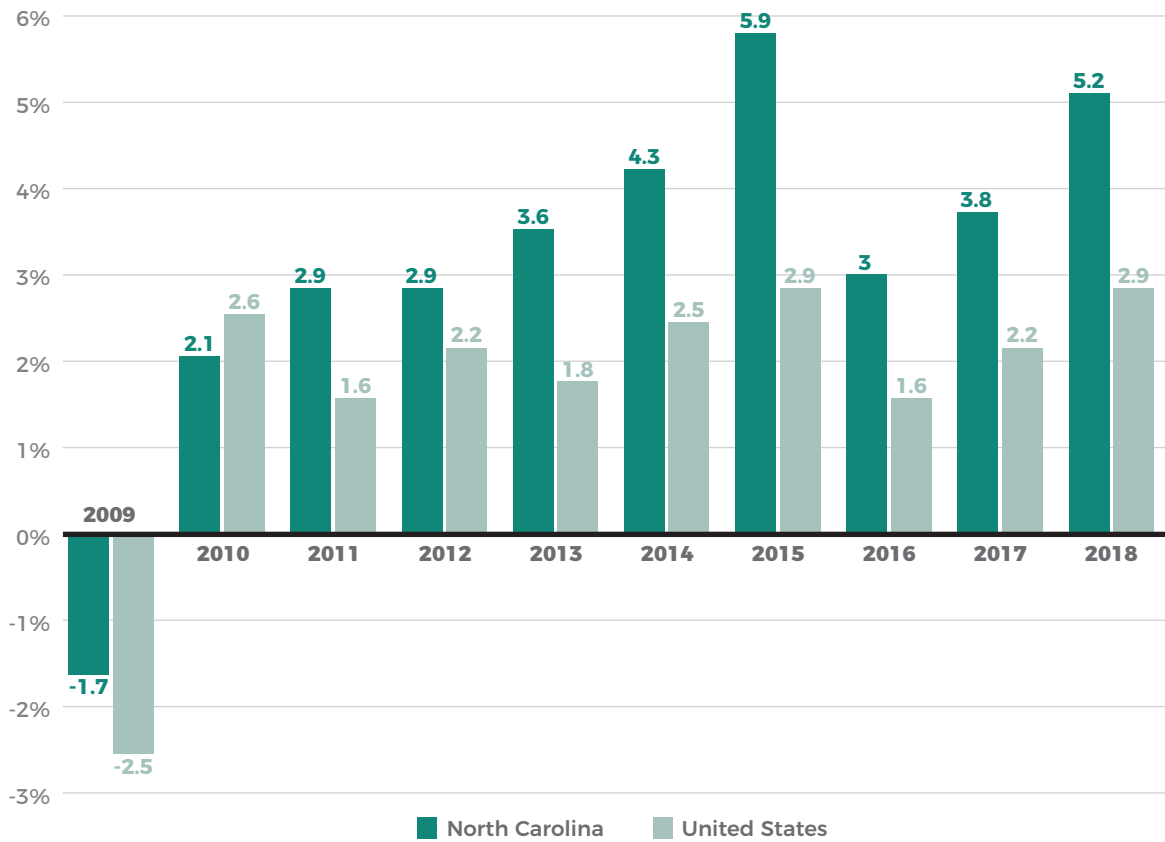
For example, abolish laws that restrict growth in particular industries, such as certificate-of-need laws for hospitals and restrictions on the production and distribution of alcoholic beverages.

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

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

### 5. Repeal the Local Development Act of 1925.

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

**NC/USA Gross Domestic Product (GDP) Growth Comparison**

SOURCE: STATISTA

# ECONOMIC IMPACT STUDIES

POLICY ANALYST: **DR. ROY CORDATO**

## INTRODUCTION

Whether it's to advocate for Medicaid expansion, promote special tax breaks for solar energy, or justify subsidies for Hollywood film producers, you can find an economic impact study that touts the benefits of the proposal for the state or local economy.

The formula is simple. A special-interest group that stands to benefit from the proposal funds an economic impact study that purports to provide sound projections of the number of jobs to be created, the increase in wages, and the additional output that will be generated by the project or subsidy. Often it will do this on an industry-by-industry basis. It is not unusual for these studies to make absurdly grandiose claims, often “calculating” that the proposal will return as much as \$10 or \$20 to the economy for every dollar spent.

Typically, the special-interest group that paid for the study will tout these results in press releases that will be picked up by a mostly uncritical media, ensuring that the political decision-makers and others who determine the fate of the project receive political cover.

These studies all have several things in common. First, they typically use proprietary, off-the-shelf models with acronym names like IMPLAN (Impact Analysis for Planning) and REMI (Regional Economic Model, Inc.). Rights to use the models are purchased by professional consulting firms who are hired by the interest groups to conduct the studies. Furthermore, seldom do those who perform the studies have formal training in economics. (For example, a 2019 study promoting Medicaid expansion in North Carolina.) Instead, they are experts in using one or more of the proprietary models proficiently. Finally, these studies ignore basic principles of economics and, as a result, do not meaningfully measure what they claim to be measuring: the economic impact of the public policies and projects under consideration.

## KEY FACTS

- » To properly assess the impact of any economic activity, it must first be understood that the project will not only generate directly observable economic activities that can be anticipated, but also economic activities that do not occur but otherwise would. These are called “opportunity costs.” Opportunity costs exist because the project uses revenues and, more importantly, resources (including labor, land, and capital) that would have been used elsewhere in the economy if the proposed project were not pursued.
- » In a normal economy, what these studies typically describe as job creation is actually labor diversion. In an otherwise full-employment

economy, workers that will be employed by the proposed project are likely being bid away from other areas of employment. These labor shifts are part of the opportunity costs that need to be considered, but seldom are. The same is true for other resources such as land.

- » Any economic impact study that does not attempt to assess opportunity costs cannot legitimately be called economic analysis. None of the studies using the commercial models mentioned above even attempt to make these assessments.
- » These studies claim to be measuring impacts on variables like job creation and gross domestic product. Because they ignore opportunity costs, they, in fact, are not.
- » Because alternative resource uses are not considered in these studies, the economic impact of any project being evaluated by these studies will automatically be positive. A negative result – a result that shows a negative economic impact – is ruled out by the study’s assumptions.
- » The impact numbers typically generated by these studies should not be viewed as social benefits but as a measurement of the extent to which the project being considered is drawing resources away from other uses.

## RECOMMENDATIONS

- 1. If policymakers plan to commission studies that provide quantitative economic analysis to inform their decision-making, they should insist that it be a cost-benefit analysis, not an “economic impact” analysis.**

They should also demand that qualified economists, not economic development consulting firms, conduct the study.

- 2. Before using any economic impact study to inform a public policy decision, elected officials and agency leaders should have the study assessed by an independent team of qualified economists to ensure that estimates of opportunity costs are included in the analysis.**
- 3. No government, government agency, or advisory committee should commission an economic impact study using proprietary, off-the-shelf models such as those mentioned above.**

# FEDERAL AID DEPENDENCY

POLICY ANALYST: JOSEPH COLETTI

## INTRODUCTION

Federal funds are tempting, but they create risks for states that accept them. North Carolina is no exception.

First, they leave the state and those who rely on federally funded programs vulnerable to a federal government shutdown (such as the one in 2013), sequestration and related policy decisions that reduce spending, and various changes in the ability or willingness of Washington to spend. As the federal deficit regularly exceeds \$1 trillion per year and the debt grows past \$22 trillion, drawing down more federal funds means there is more risk.

Second, federal funds remove state authority to set related policies, including sex-segregated bathrooms in public schools, health insurance mandates, the organization of sports teams in universities, and reforms of social services. Federal regulators have final approval of what would otherwise be state and local decisions.

Third, and most importantly, federal funds distort decisions as budget writers and agencies focus on the money instead of the need. Questions about outcomes go unasked or unanswered if the program substitutes federal money for state appropriations or private and nonprofit efforts.

As such, local and state officials need to have a better understanding of how much federal money comes into the state and how it is used to pay for personnel, services, programs, and infrastructure. Only then can they evaluate the costs, benefits, and risks of taking what appears to be “free” money from the federal government.

Obviously, it is not “free money” and should not be treated as such.

In fact, every tax dollar Washington, D.C., sends to North Carolina is a dollar taken from taxpayers in North Carolina and the other states. Economists have found that federal subsidies to the states lead to higher state taxes and spending in the long run because the federal “seed money” creates a demand for more government with current and future commitments. One dollar of federal funding in a state leads to an additional 40 cents in state spending. That hardly qualifies as free.

## KEY FACTS

- » North Carolina received \$20.7 billion in federal funds in Fiscal Year (FY) 2016-17, including \$17.2 billion in the state budget. This is \$4.1 billion less than the \$24.8 billion peak in 2011 but still \$11 billion more than in 2008.

- » In Fiscal Year 2016-17, nearly half of federal funds to North Carolina (\$9.6 billion) went to Medicaid and the Children's Health Insurance Program (CHIP). The next four largest categories – food assistance, financial aid, transportation, and K-12 schools – received \$7.1 billion. Federal funds in every other area totaled \$4 billion.
- » Total Medicaid spending increased \$1.9 billion between FY 2012-13 and FY 2017-18 as the program enrolled 384,000 more people. Pushing back against efforts to expand Medicaid helped keep spending increases in check over this period, making the state less dependent on the federal government.

## RECOMMENDATIONS

### **1. Limit total spending growth, including federal funds, to no more than the combined rate of population growth and inflation.**

Budget writers should forecast federal funds the state expects to receive.

### **2. Prepare for future reductions in federal funds.**

Programs that depend on federal funding should begin planning now for the probable loss of federal support due to economic downturns, political changes, and the inevitable increase in spending on Social Security, Medicare, and other entitlement programs.

### **3. Do not expand reliance on federal funds.**

Whether Medicaid expansion, housing, or transportation, North Carolina policymakers and taxpayers will be better prepared financially if the state limits its exposure to federal funds.



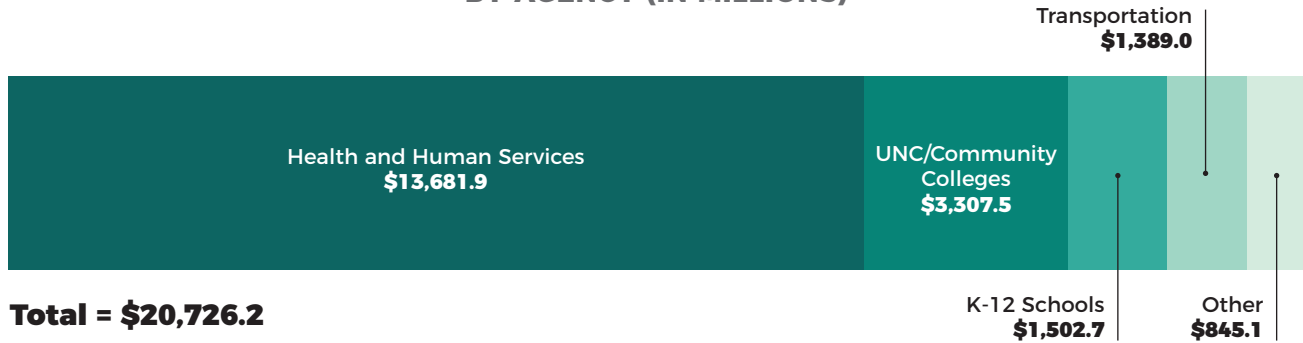
## FEDERAL AID DEPENDENCY

### Federal Grants to North Carolina (FY 2016-17)

#### BY PURPOSE (IN MILLIONS)

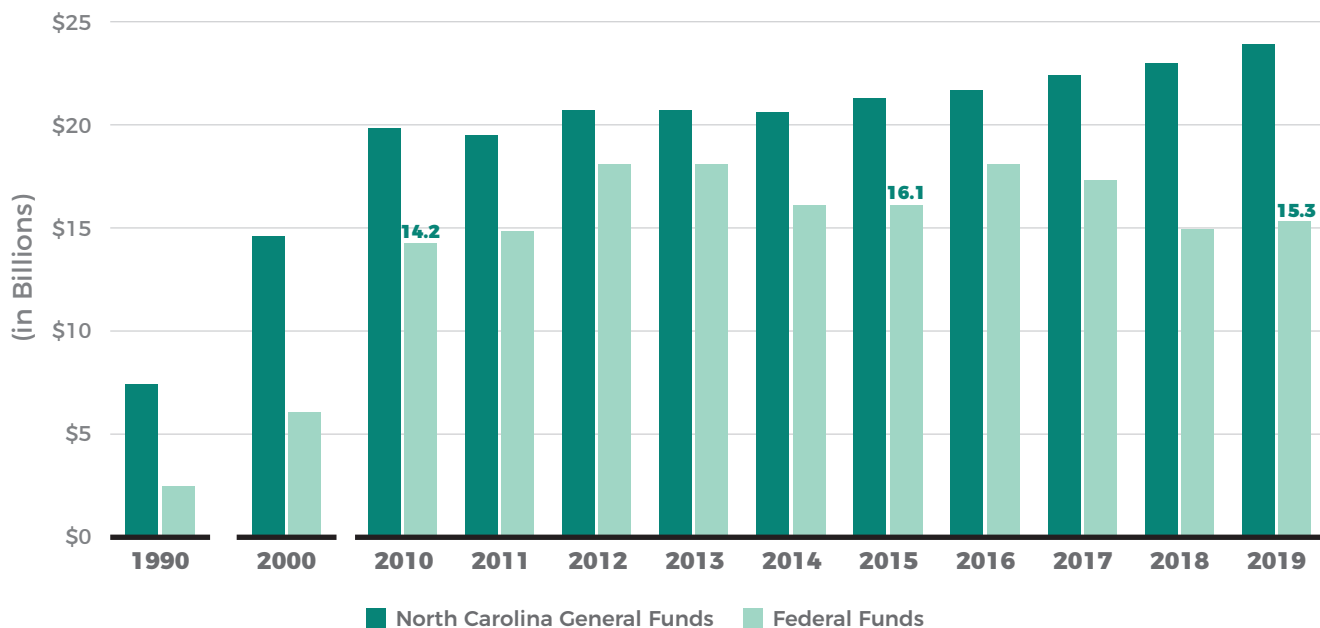


#### BY AGENCY (IN MILLIONS)



SOURCE: OFFICE OF THE STATE CONTROLLER

### Federal Funding Compared to North Carolina's General Fund



SOURCE: OFFICE OF STATE BUDGET AND MANAGEMENT

# FILM GRANTS

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

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

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

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

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

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

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

## KEY FACTS

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

- » Currently, the film grant program offers a rebate of up to 25 percent of qualifying expenses, with differing maximum credits for television series (\$12 million), feature films (\$7 million), and commercials (\$250,000).
- » Multiple third-party studies of North Carolina's program incentivizing film productions showed negative returns, ranging from just over 19 cents per dollar of tax credit given, to a high of 61 cents per dollar (in a study that did not account for opportunity costs and whose authors acknowledged that "a more detailed report is likely to conclude that the loss to the State is even greater").
- » State film incentives programs were a fad popular in the early 2000s. By 2009, all but six states had some kind of film incentive. Meanwhile, studies were consistently finding deeply negative returns on investment, so states began getting out of the bidding war. By 2019, 18 states were not offering film incentives.
- » Recent peer-reviewed research shows that state film incentive programs have no impact on their states' economies or industries, in effect benefitting only outside film production companies and current workers.
- » Out-of-state recipients of film incentives have also demonstrated a desire to leverage the programs to pressure state lawmakers into passing laws conforming to their social politics, not only in Georgia but also in North Carolina and other states.

## RECOMMENDATIONS

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

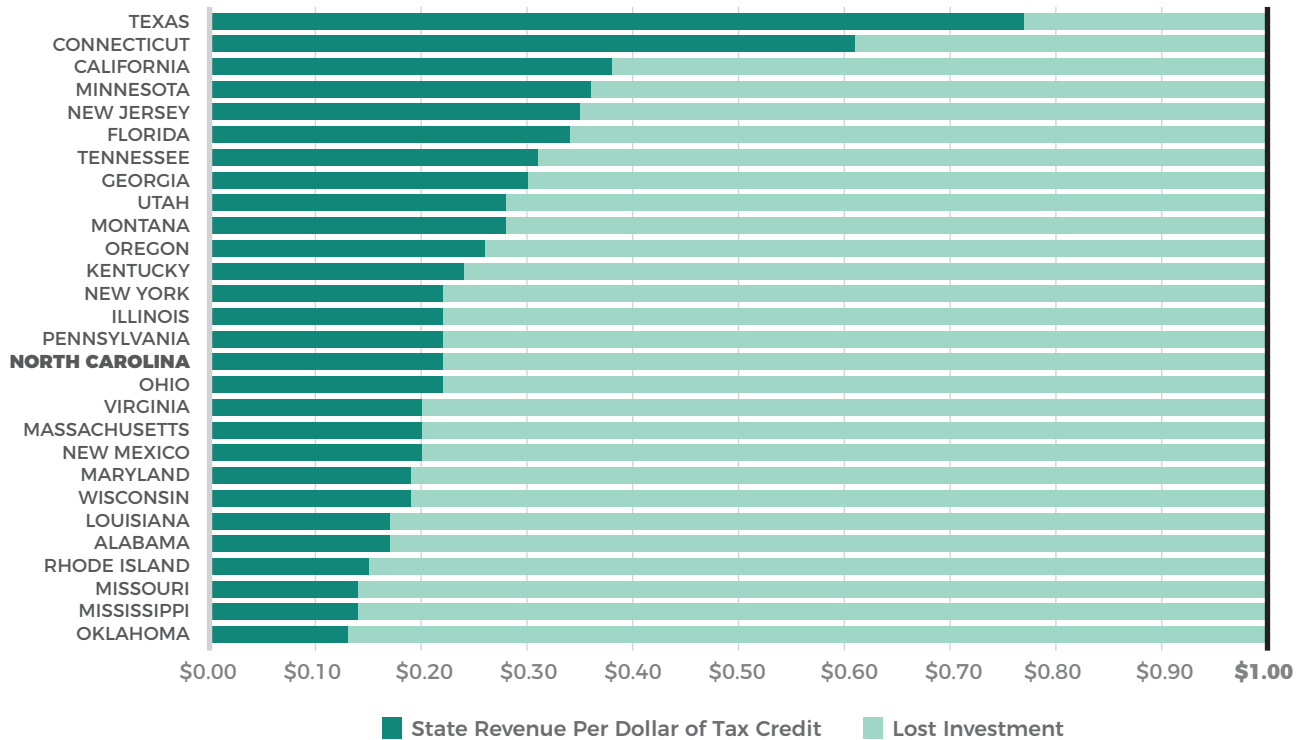
State leaders should ignore, not reward, outside film productions' demands for higher incentives bids in their search for a state to pay them for their short-term business endeavors.

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

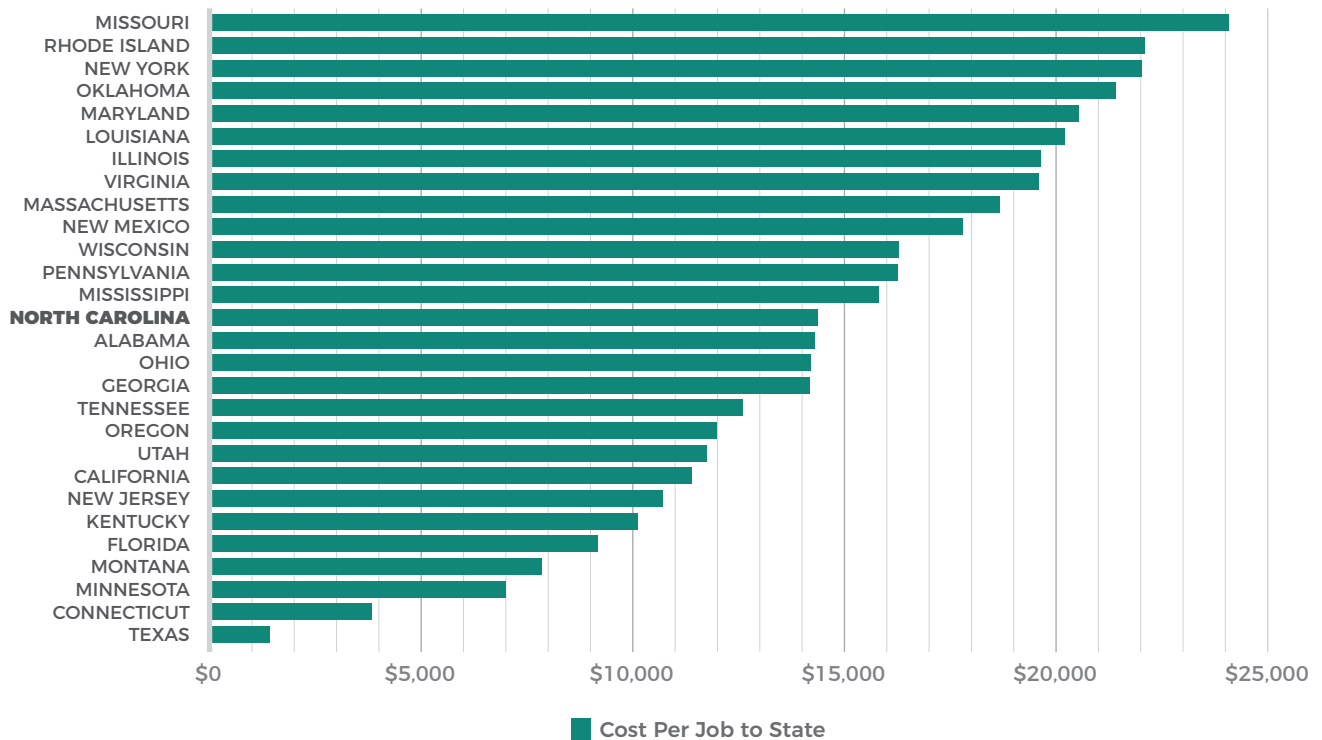
Thanks in part to recent tax and regulatory reforms, North Carolina boasts a freer business climate, a vibrant economy, lower costs of doing business, and beautiful natural amenities. These are already attracting hosts of other business endeavors that will be here for the long haul.

## FILM GRANTS

### States Get Negative Returns on Investment Trying to Incentivize Film Productions



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



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

# MINIMUM WAGE

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

North Carolina's minimum wage is tied to the federal minimum wage, which is currently \$7.25 per hour. Except in the case of tipped workers, employers in this state cannot pay workers below that level. In recent years, some Democrats, activists, and editorial boards have sought to raise the minimum wage by more than double, to \$15 per hour.

The minimum wage is a government policy intended to bring about a certain outcome: to raise the ability for the poorest among us to meet their needs by having a higher per-hour wage. But it's not enough to have good intentions. Responsible policymakers should make sure a public policy intended to help the poor actually helps the poor. Research points us to the opposite conclusion. The expectation that higher minimum wages have net negative effects is clearly in the mainstream of economic thinking on the subject.

Raising the minimum wage, especially to the arbitrary but politically popular figure of \$15 per hour, would represent a significant increase in labor costs faced by employers. This increase would fall hardest on poorer areas and small businesses. It would create hard choices for affected employers: Do they cut people's hours to retain as many workers as before? Do they choose to automate? Do they cut employee benefits? Do they require employees to possess greater skills and more formal education than before? Do they go out of business? Those hard choices point to the reality of minimum-wage hikes.

All that a minimum wage increase can do is raise the lowest wage that can be paid to a worker for an hour of work.

A higher minimum wage cannot keep labor costs what they were before the hike. It cannot increase the skill level of any worker. Or expand payrolls. Or keep work hours the same as before. It cannot keep jobs available to first-time and low-skilled workers the same as before. Or prevent automation from becoming a cheaper alternative to human labor. Or prevent inflation from destroying gains in people's income. A higher minimum wage cannot help young people find work and stay out of mischief. Nor can it keep employers in business despite sharply rising labor prices.

While minimum-wage hikes can help some low-income workers, they also hurt the very people they're supposed to help: the poorest, the least skilled, and the disadvantaged.

## KEY FACTS

- » Only 3.1 percent of workers in North Carolina are paid at or below the minimum wage. Most minimum-wage workers are new to the workforce, often unproven, and often not educated beyond high school. But nearly half the workforce in North Carolina earns less than \$15 per hour.
- » More than doubling the minimum wage to \$15 per hour would result in a significant increase in labor costs statewide, affecting nearly half the state's workforce. Research from the Heritage Foundation estimated that raising the minimum wage to \$15 per hour would cost over 330,000 jobs in North Carolina.
- » Surveys of economists by the Employment Policies Institute show that large majorities of economists believe a \$15 per-hour minimum wage would result in lost jobs, more skills required to get any job (even entry-level jobs), fewer young people finding work, and more small business closings. Furthermore, almost no economists expect positive changes from hiking the minimum wage to \$15 per hour. In fact, 3 percent or fewer expected it would create jobs, increase youth employment, create better outcomes for lower-skilled job seekers, or help small businesses stay afloat.
- » Research into Seattle's minimum-wage increase found there were over 5,000 fewer low-wage jobs, fewer hours worked in low-wage jobs, and, most importantly, lower earnings for those in low-wage jobs. Experienced workers saw their hours cut, but they offset this loss by finding additional work outside the city. Less experienced workers saw no gains. Also, people out of work stayed out of work, leading to a significant reduction in people joining the workforce.
- » Other recent economic research on minimum-wage increases found the following: price inflation in groceries alone erased most of the gain for the poorest workers; most of the costs of the increases fell on the poor; fewer jobs for teens and fewer hours worked by those teens with jobs; greater crime rates among 16-to-24-year-olds, costing society nearly \$2.4 billion; and complete ineffectiveness in fighting poverty.

## RECOMMENDATION

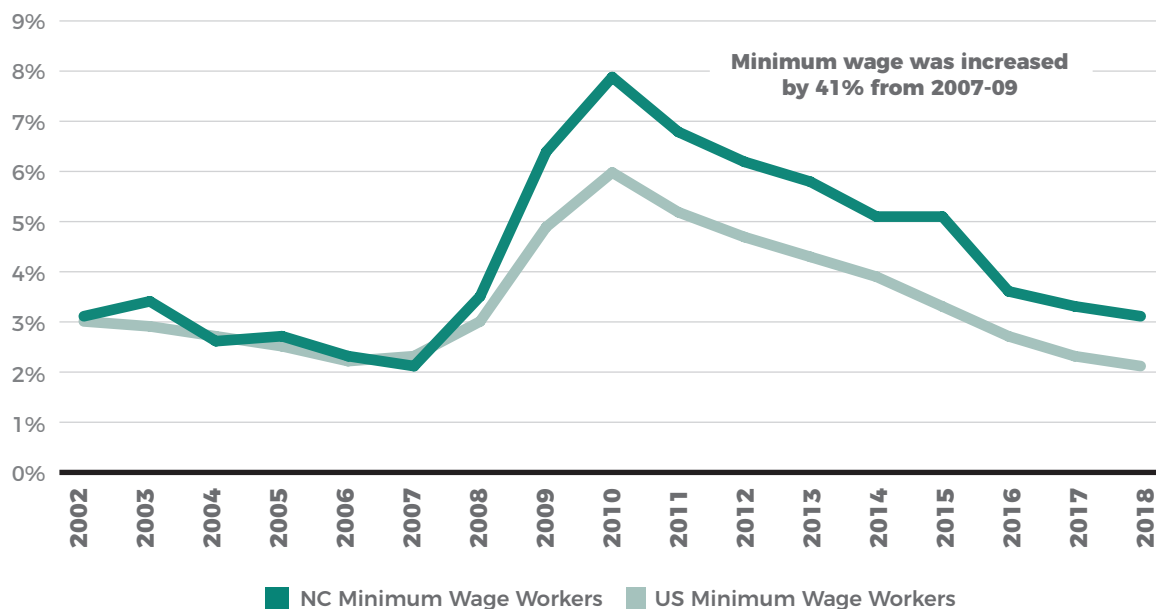
### 1. Keep the state minimum wage no higher than the federal minimum wage.

Impose no greater harm on the poorest, least-experienced, and least-skilled workers in North Carolina.



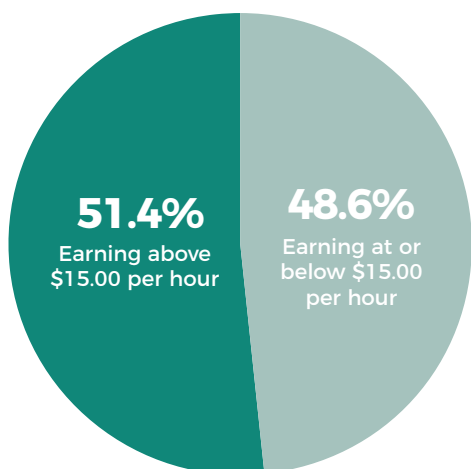
## MINIMUM WAGE

### Percent of United States and North Carolina Workers Earning the Minimum Wage, 2002-18



SOURCE: U.S. BUREAU OF LABOR STATISTICS

### Proportion of North Carolina Workers Earning Above or Below \$15.00 Per Hour



SOURCE: NATIONAL EMPLOYMENT LAW FOUNDATION AND ECONOMIC POLICY INSTITUTE

▼ 334,000

Estimated number of jobs North Carolina would lose by increasing the minimum wage to \$15.00 per hour



SOURCE: JAMES SHERK, HERITAGE FOUNDATION

# STATE EMPLOYEE BENEFITS

POLICY ANALYST: JOSEPH COLETTI

## INTRODUCTION

State government is the largest employer in North Carolina, with more than 300,000 full-time-equivalent positions. State employees have been working for the state an average of 11 years. Attracting and keeping employees is a constant challenge. Benefits beyond salary have traditionally been a factor in the desirability of government jobs. State employees received benefits in 2018 worth \$26,437 on top of their average \$48,748 salary. The fastest-growing component of employee compensation is the state payment for pension and health benefits.

Retired state employees receive generous health insurance at no cost. A May 2017 court ruling in *Lake, et al. v. State Health Plan for Teachers and State Employees* could cost the state \$100 million, adding to a \$28.5 billion liability in the State Health Plan, against which the state has set aside almost no money. A unanimous three-judge panel reversed the decision in March 2019, but the threat of higher costs remains. North Carolina state employees who start work after Dec. 31, 2020, will not be eligible to participate in the State Health Plan after retirement.

Retirees also receive pension payments based on their length of service and their last three years of salary. The largest pension system owes current and future retired teachers and state employees \$79.2 billion but has assets valued at just \$69.6 billion. Investments have fallen short of the assumed rate of return, even as former state treasurers took advantage of greater latitude to invest in hedge funds and other nontraditional assets. State Treasurer Dale Folwell has saved \$175 million in investment management fees since January 2017 and has pared back the assumed rate of return for pension assets from 7.25 percent to 7.0 percent.

North Carolina's pension system guarantees a defined level of monthly payments to retired state employees for life. If there were not enough money available to cover these payments, the state either would need to raise taxes or cut spending in other areas. The risk to employees is that the liability, left unaddressed, will be so great that the state would reduce the monthly pension payments. As municipal bankruptcies around the country have demonstrated, unfunded liabilities can lead governments to raise taxes or to cut or eliminate benefits with no warning. States like Illinois, Kentucky, and New Jersey – states with huge unfunded liabilities – could face similar decisions in the next economic downturn.

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

## KEY FACTS

- » Employer contributions for state pension and health benefits totaled \$14,047 per employee in 2018, an increase of 92 percent from 2008. Higher cost for required benefits means less money for salaries.
- » Unfunded liabilities for state pensions and retiree health benefits total \$40 billion or more.
- » A district court ruled in *Lake, et al. v. State Health Plan for Teachers and State Employees* that the state could not charge premiums for retiree health benefits. With no ability to limit current benefits, the state eliminated benefits for new employees who begin their employment after December 31, 2020.
- » State pension investments have not met the assumed 7 percent rate of return over the past 20 years. Treasurer Dale Folwell has adjusted the portfolio, cut fees, and reduced the expected rate of return, but even a lower expected return would still require more appropriations to the pension system.

## RECOMMENDATIONS

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

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

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

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

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

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

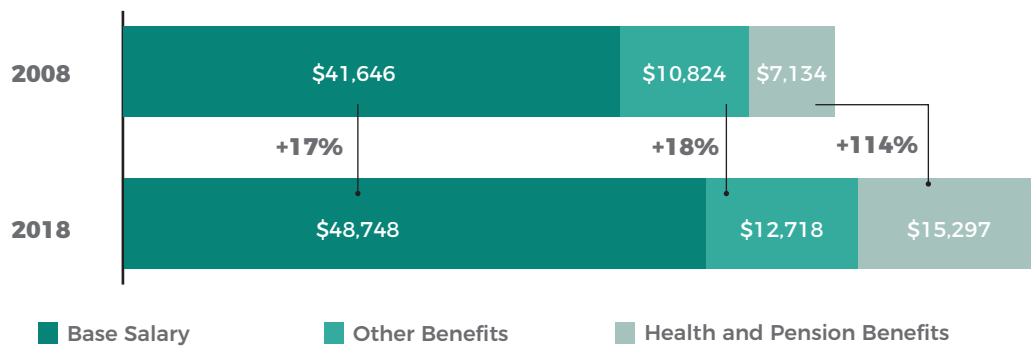
### 4. Offer pension alternatives for new employees and current employees.

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

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

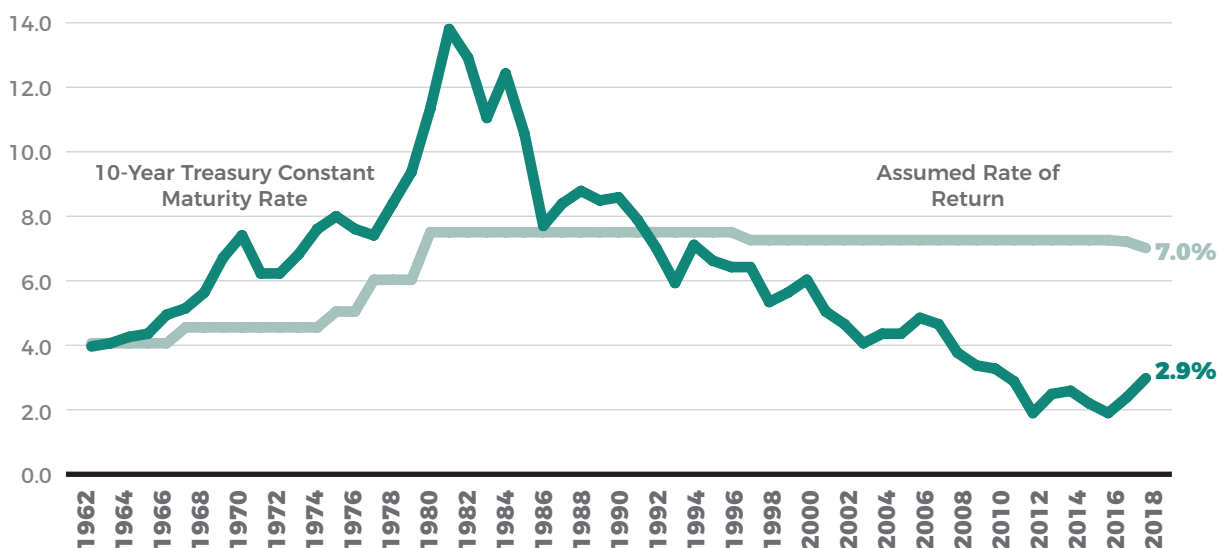
Financial statements for these accounts need to be available for review in a convenient place, preferably an easily accessible website. Finances should be considered a priority when evaluating the state's fiscal situation. State employees should be able to see the value of their benefits and the likelihood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

### Growth in State Employee Benefits



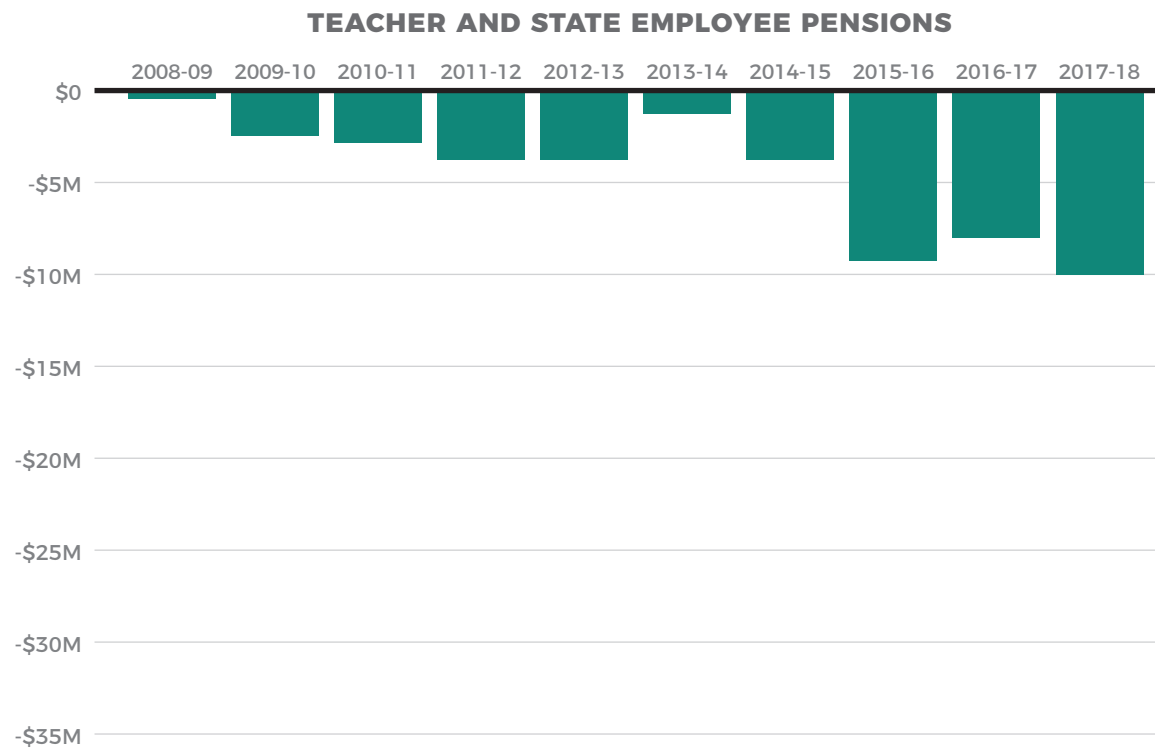
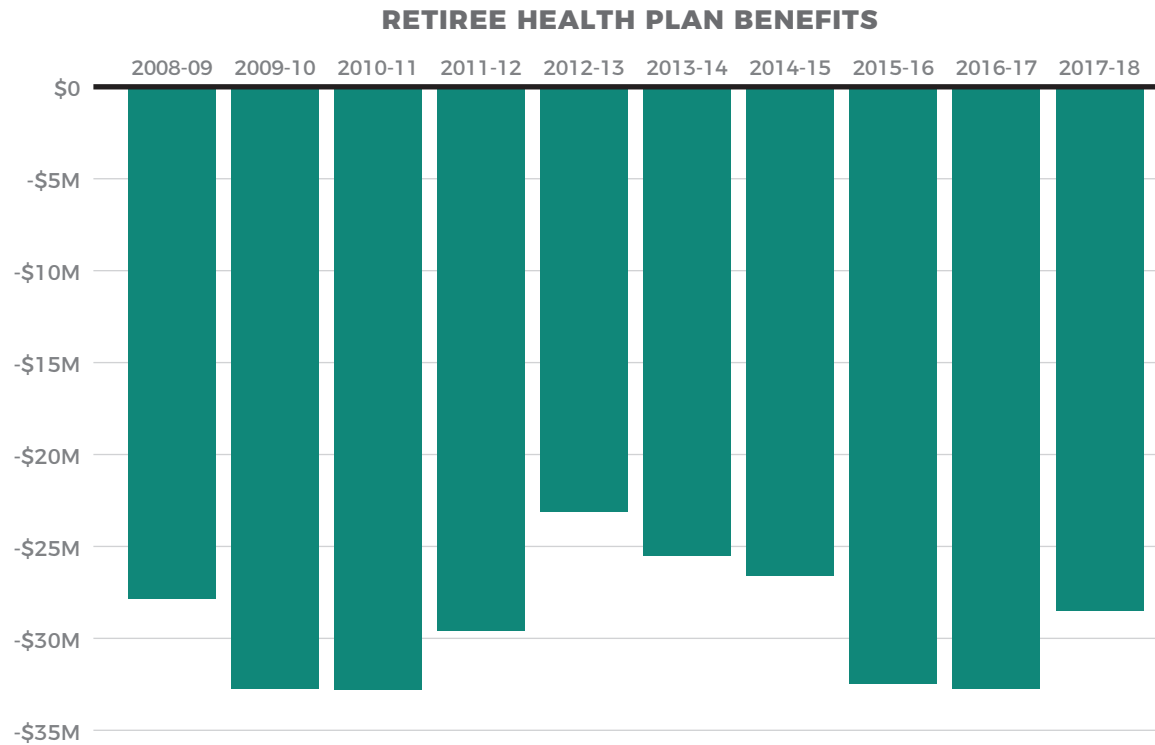
SOURCE: OFFICE OF STATE HUMAN RESOURCES

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



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

## Unfunded Liabilities of North Carolina State Government



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

# STATE SPENDING AND TAXES

POLICY ANALYST: JOSEPH COLETTI

## INTRODUCTION

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

A close look at recent numbers shows that education, Medicaid, and public safety received 89 percent of the \$23.7 billion in Fiscal Year (FY) 2018-19 General Fund appropriations, including debt service. Taxes on personal income and sales provided 85 percent of the \$24.8 billion in FY 2018-19 General Fund revenues.

State government needs revenue to pay for the goods and services it provides, and the state raises that revenue by imposing personal income, sales, and other taxes on its residents. Vehicle owners pay \$4 billion to cover transportation funding. Federal funds add \$15 billion. Lottery sales, tuition payments, unemployment insurance, and other sources contribute \$11 billion, bringing total state spending in FY2018-19 to \$54 billion.

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

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

## KEY FACTS

- » Actual General Fund appropriations in FY 2018-19 totaled \$23.7 billion, including debt service. Actual revenue totaled \$24.8 billion. The year began with an unreserved cash balance of \$905 million. This left \$1.8 billion available at the start of FY 2019-20.
- » In FY 1989-90, when the John Locke Foundation was launched, General Fund appropriations per person, adjusted for inflation,



was \$2,219. After peaking in FY 2007–08 at an inflation-adjusted \$2,829, appropriations in FY 2018–19 were back to \$2,329.

- » Total government spending in FY 2018–19 was \$54.5 billion, or \$5,302 per person. In FY 1989–90, adjusted for inflation, total spending was \$3,508 per person.
- » State government’s reliance on tuition payments, lottery tickets, and other unbudgeted receipts increased from 8 percent of total spending in FY 1989–90 to 21 percent in FY 2018–19.
- » Government savings in the rainy-day fund, also known as Savings Reserve, climbed to \$2.0 billion before Hurricane Florence in 2018. As of December 1, 2019, it sat at \$1.25 billion, with a target of 10.9 percent of General Fund appropriations, or \$2.5 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.

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

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

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

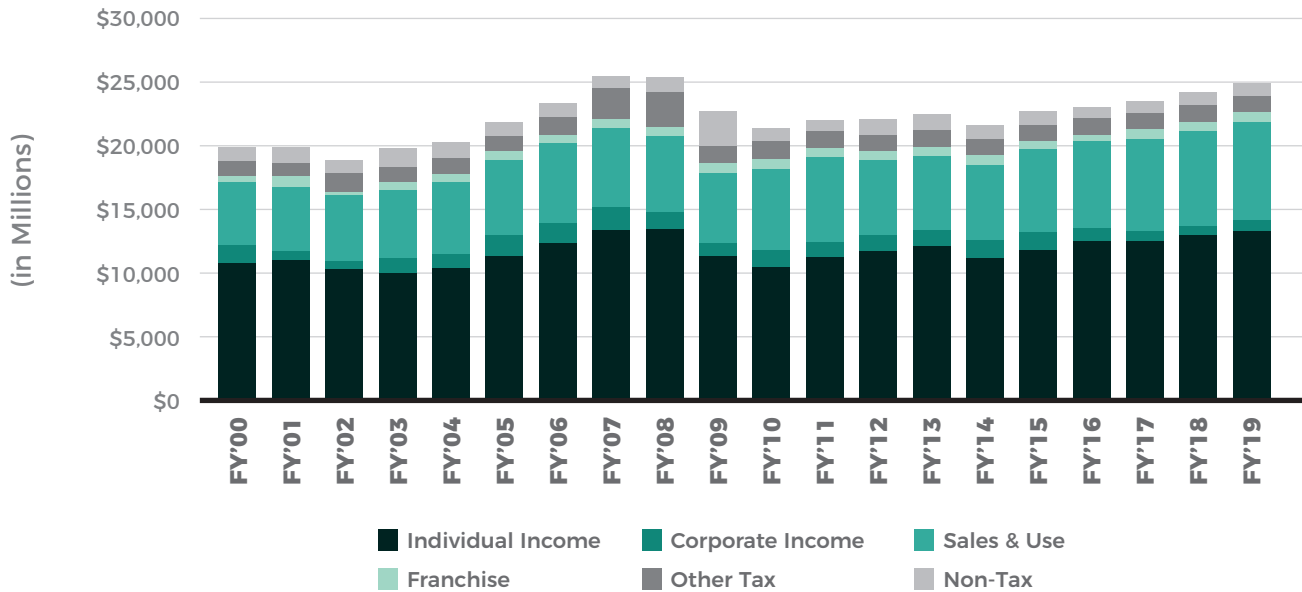
Projections that show a range of options for spending and taxes can provide a better understanding of the financial implications of budget decisions today, while shedding light on future choices policymakers will face.

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

These measures may reduce volatility in tax revenue and provide greater certainty for future spending growth.

## Actual General Fund Revenues

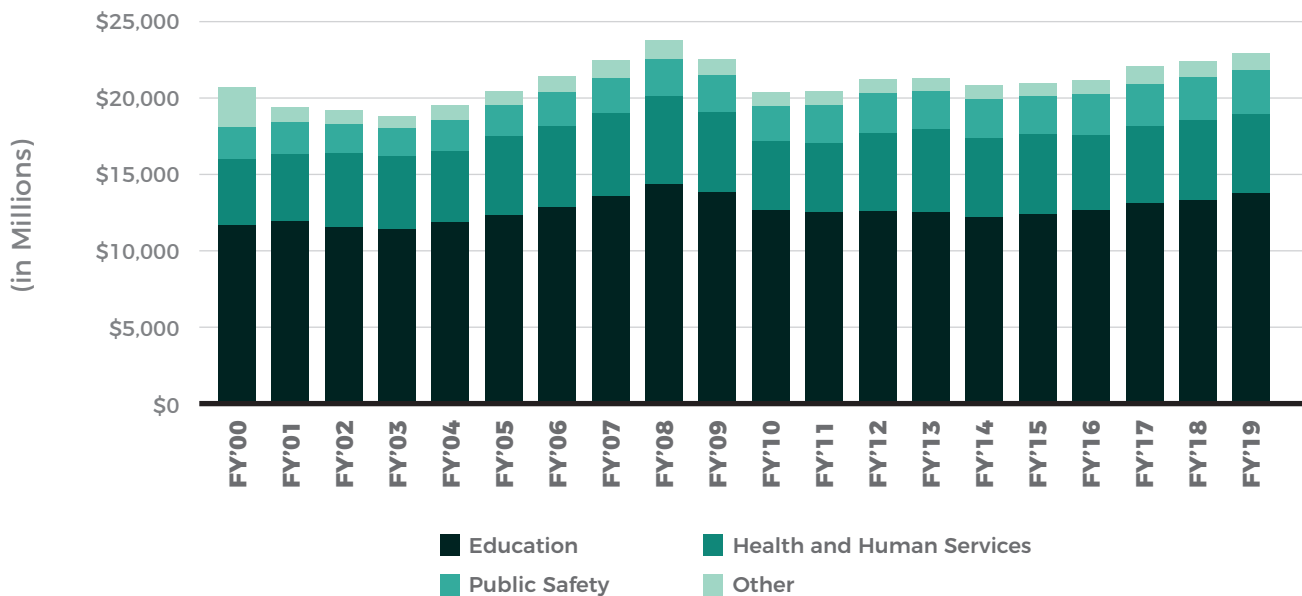
Adjusted for Inflation



SOURCES: OFFICE OF THE STATE CONTROLLER, BUREAU OF LABOR STATISTICS RETRIEVED FROM FRED

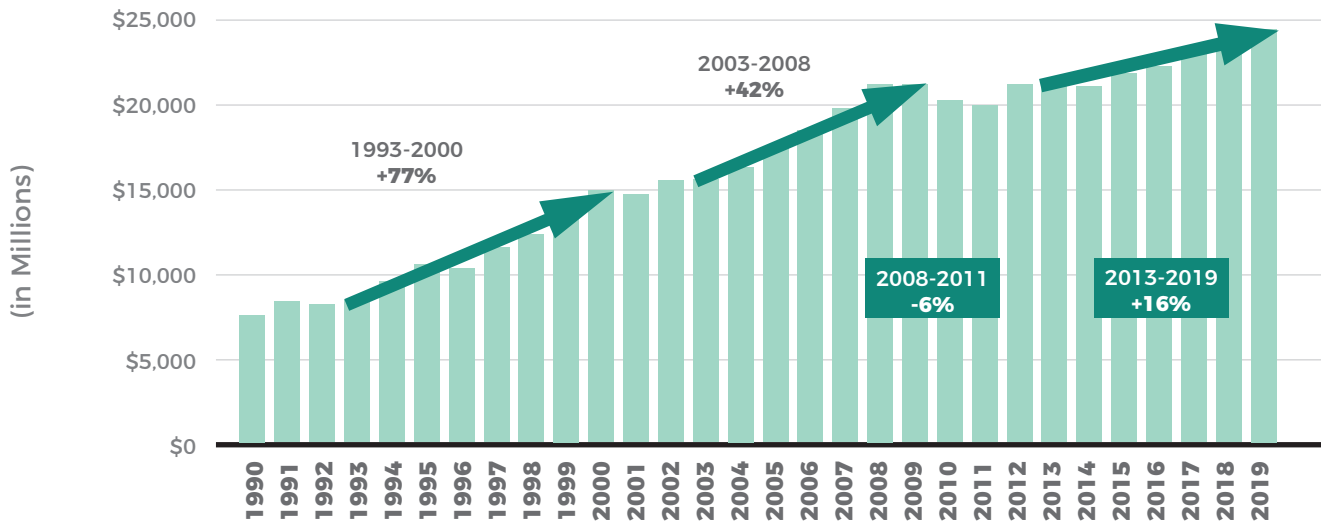
## Actual General Fund Appropriated Expenditures For Operations

Adjusted for Inflation



SOURCES: OFFICE OF THE STATE CONTROLLER, BUREAU OF LABOR STATISTICS RETRIEVED FROM FRED

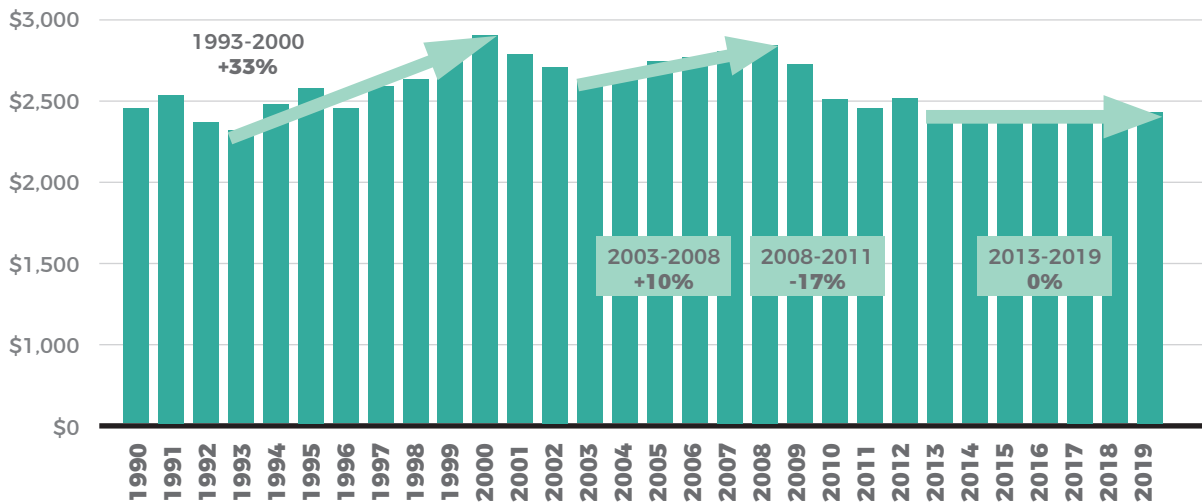
## General Fund Appropriations



SOURCES: OFFICE OF THE STATE CONTROLLER, BUREAU OF LABOR STATISTICS RETRIEVED FROM FRED

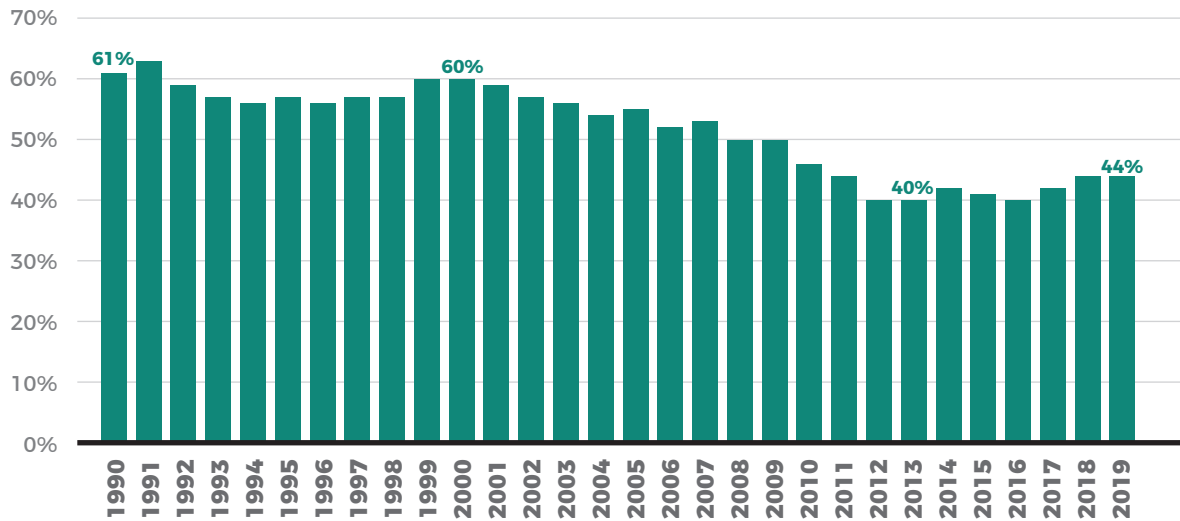
## General Fund Appropriations Per Person

Adjusted for Inflation



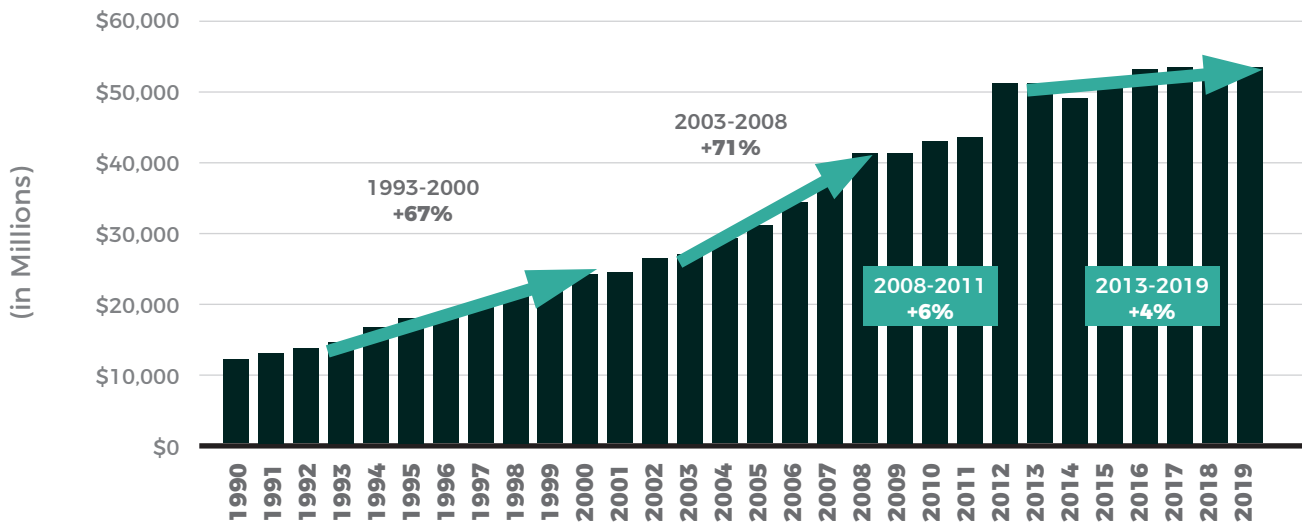
SOURCES: OFFICE OF THE STATE CONTROLLER, BUREAU OF LABOR STATISTICS RETRIEVED FROM FRED

## General Fund Share of Total Spending



SOURCES: OFFICE OF THE STATE CONTROLLER, BUREAU OF LABOR STATISTICS RETRIEVED FROM FRED

## Total Spending



SOURCES: OFFICE OF THE STATE CONTROLLER, BUREAU OF LABOR STATISTICS RETRIEVED FROM FRED

# TAX REFORM

POLICY ANALYST: **DR. ROY CORDATO**

## INTRODUCTION

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

The process of improving the tax code began in 2011. A 1 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.

But there is more to be done. North Carolina's tax code still has some features that create biases against saving and investment. In particular, by taxing interest and capital gains, the state tax code imposes a double tax on all saved income. This needs to be remedied.

## KEY FACTS

- » The 2013 tax reforms replaced a three-rate progressive income tax that ranged from 6 to 7.75 percent, the highest in the region, with a flat-rate tax of 5.8 percent. This rate was subsequently lowered to 5.499 percent and then to 5.25 percent, which took effect in January 2019. The relatively low, flat personal income tax rate has ameliorated the bias against work effort and productivity that plagued the previous progressive rate structure.
- » The standard deduction, also known as the zero tax bracket, has been dramatically increased from \$6,000 prior to the 2013 reforms to \$20,000 for a couple filing jointly in 2019. This was a way of building progressivity into what is essentially a flat-rate system.
- » The corporate tax rate has been reduced from 6.9 percent in 2012, the highest in the Southeast, to 2.5 percent in 2019, the lowest of any state that taxes corporate income.

- » The sales tax rate did not change, but the base was expanded to include some services. Business-to-business sales continue to be taxed.
- » North Carolina continues to double tax saving and investment by taxing investments and capital gains. Full repeal of the capital gains tax would save taxpayers an estimated \$500 million a year, which would need to be offset by budget cuts. A 50 percent exclusion would save taxpayers \$250 million, and so on.

## RECOMMENDATIONS

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

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

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

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

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

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

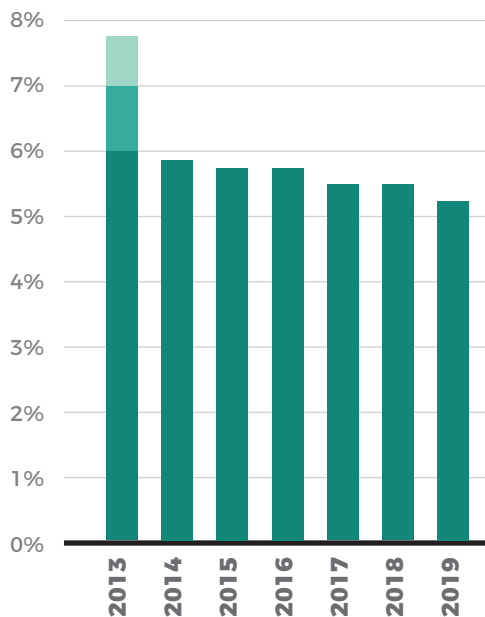
### 4. Impose a moratorium on any new expansion of the sales tax base until business-to-business sales are exempted from the tax.

This is a hidden double tax embedded in the system.

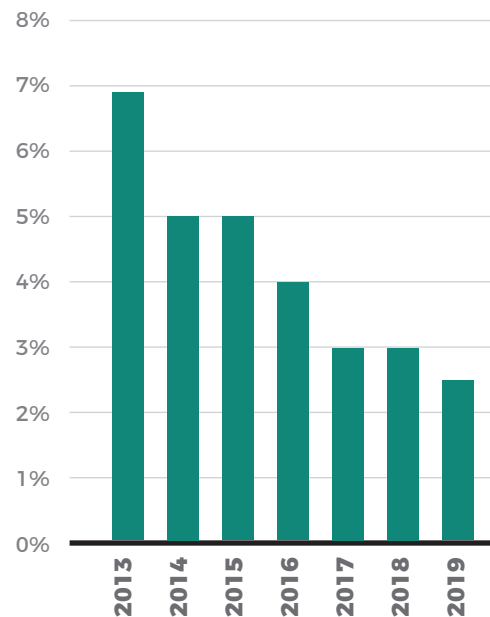
**5. Ideally, lawmakers should seek to eliminate the double taxation of saving and investment returns by converting the current system into a “consumed income tax.”**

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

**Personal Income Tax Rate in North Carolina**



**Corporate Income Tax Rate in North Carolina**



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

**SOURCE:** JOHN LOCKE FOUNDATION RESEARCH

# TRANSPORTATION FUNDING

POLICY ANALYST: JOSEPH COLETTI

## INTRODUCTION

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

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

In addition, North Carolina has tried alternative funding mechanisms to supplement declining revenues from the motor fuels tax and other sources. The North Carolina Turnpike Authority manages tolls on the Triangle Expressway (new stretches of NC-147 and NC-540) in Durham and Wake counties. I-77 Mobility Partners won a 50-year contract to partner with the Department of Transportation (NCDOT) on I-77 express lanes in Charlotte. North Carolina uses Grant Anticipation Revenue Vehicle (GARVEE) financing to spend future federal funds today. In 2018, the legislature approved up to \$3 billion in new Build NC borrowing over 10 years to fund additional road construction.

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

The Strategic Transportation Investments formula replaced much of the political wrangling that had marked transportation planning in the past with a data-driven approach. While improvements are needed to calculate the total cost and congestion savings for each project, the formula will help North Carolina meet anticipated transportation needs. NCDOT has two initiatives to prepare for the future. Transportation needs are being planned with NC MOVES, and a final report is expected in mid-2020. NC FIRST will recommend methods to pay for the NC MOVES plan, with a report due in early 2021.

## KEY FACTS

- » State government dedicates 77.6 percent of its \$5 billion annual transportation spending – which includes \$1.2 billion in federal funds – to building and maintaining 80,000 miles of roads and more



than 13,500 bridges. Municipalities add another \$800 million for local roads and transportation needs. North Carolina has no county-owned roads.

- » Because of improved fuel efficiency, raising revenue from the motor fuels tax to pay for roads will remain a challenge. Adjusted for inflation, the gas tax may be low compared to the rate before 1970, but the current 36.2 cents per gallon is just shy of the 37.8-cent average over the past 30 years.
- » Although North Carolinians think more funding is needed, they do not necessarily support new taxes. A March 2016 poll from High Point University found that 63 percent of respondents opposed toll roads, 72 percent opposed increasing the gas tax, and 87 percent opposed taxing motorists per vehicle mile traveled.

## RECOMMENDATIONS

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

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

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

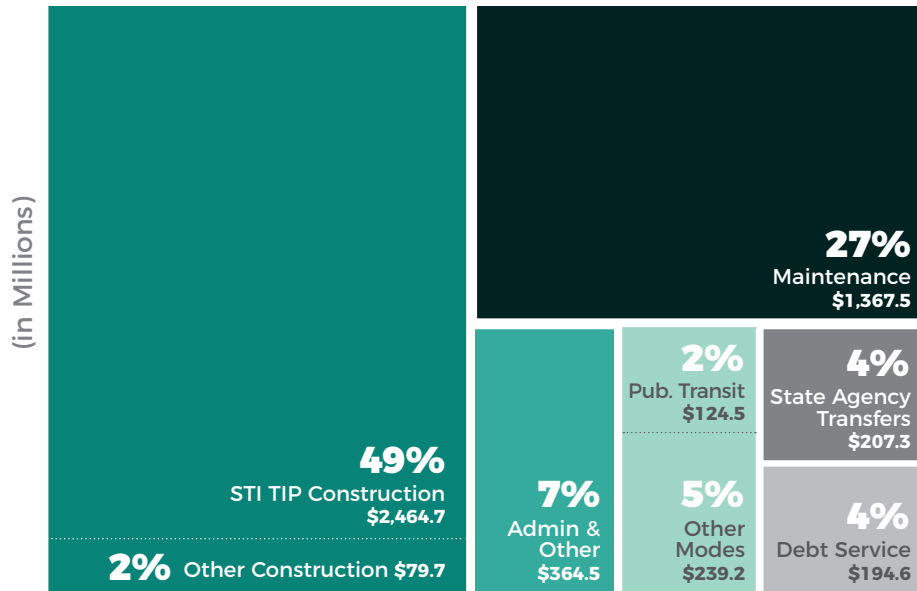
The gas tax has been a convenient and effective user fee, but fuel economy improvements and growing share for electric vehicles make it a questionable source of future road funds. Prominent among future financing options are shifts from the gas tax to a charge based on vehicle miles and weight, a separate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

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

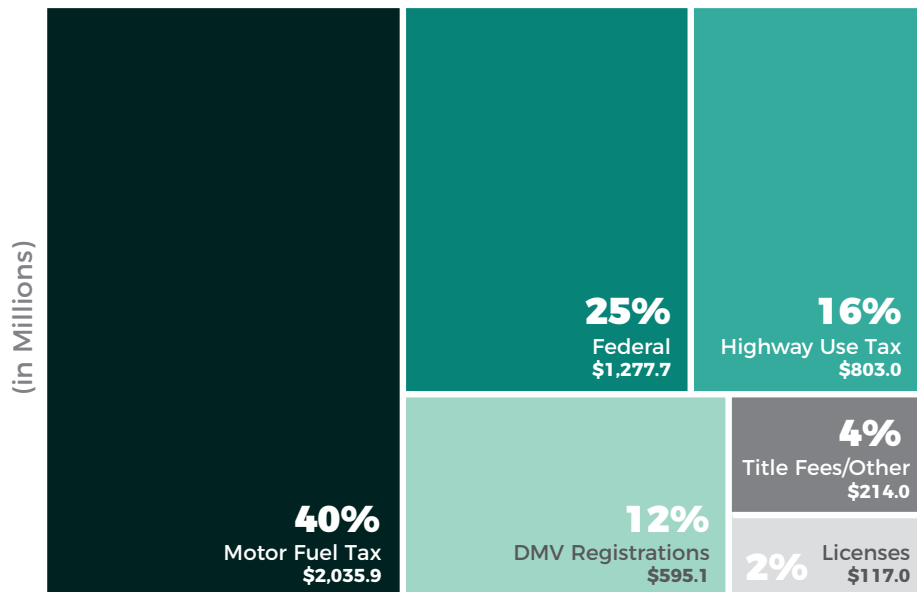
Few roads in North Carolina are the responsibility of municipalities, and none are the responsibility of counties. As a result, property tax, which could capture the value created by proximity to the transportation network, is not available to pay for most roads. Public-private partnerships could also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

## TRANSPORTATION FUNDING

### Transportation Spending, FY2018-19 (\$5.0 Billion)



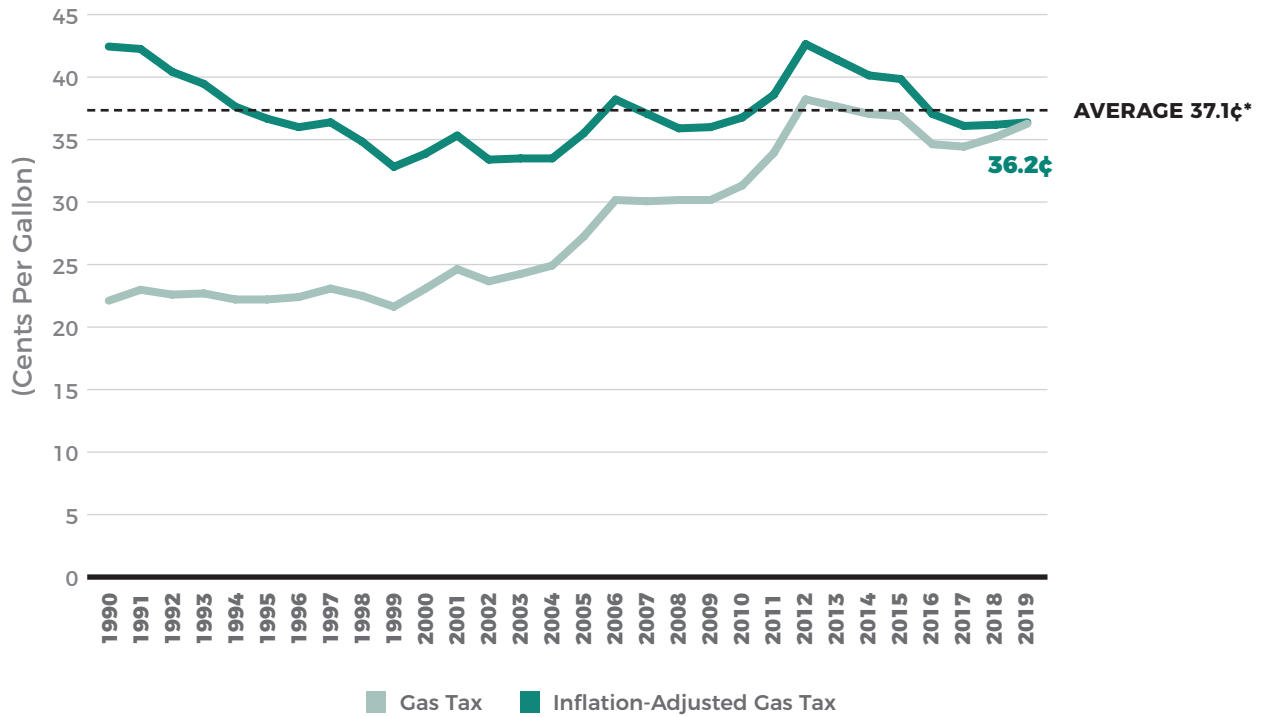
### Sources of Transportation Funding, FY2018-19 (\$5.0 Billion)



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

**SOURCE:** NC DEPARTMENT OF TRANSPORTATION

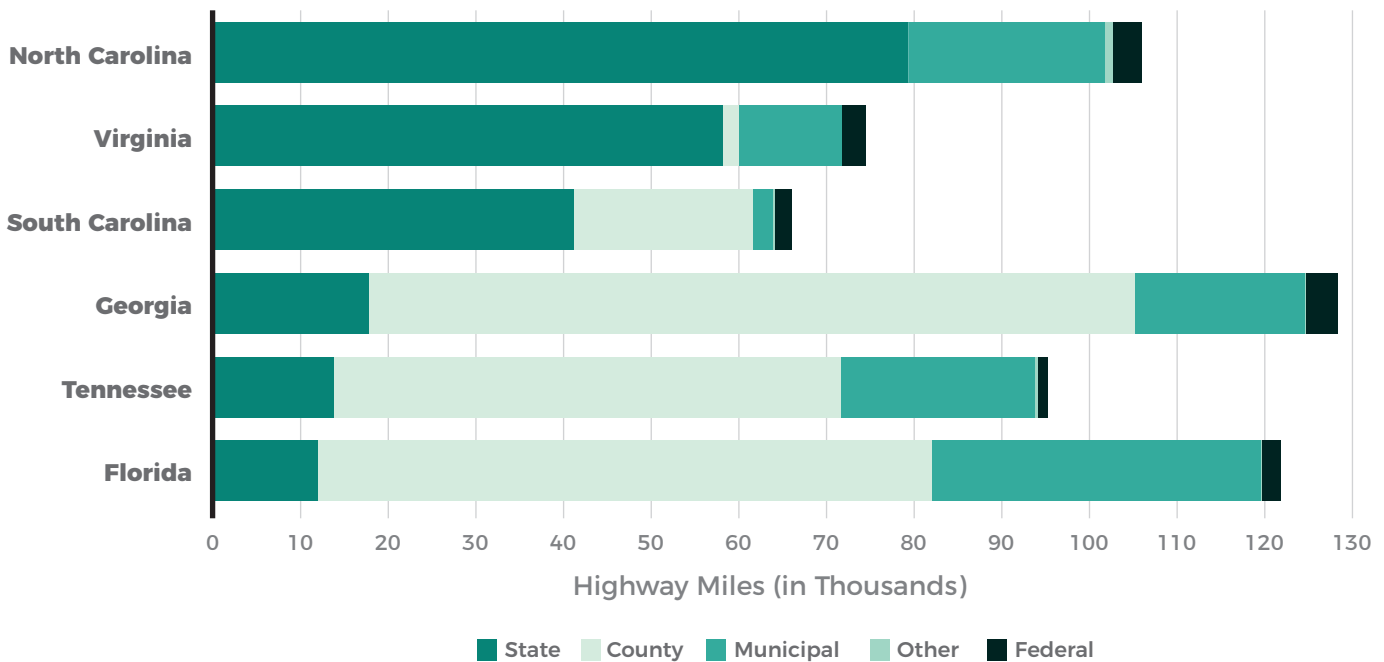
## North Carolina Gas Tax Over Three Decades



\*ADJUSTED FOR INFLATION

SOURCE: NC DEPARTMENT OF TRANSPORTATION

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



SOURCE: US DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION



**EDUCATION**

# APPRENTICESHIPS

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

For decades, economists have considered the costs and benefits of adopting variations of highly developed apprenticeship systems operating in Germany and Switzerland. Such efforts are based on the belief that apprenticeships are almost always a “win-win” for employers and apprentices. For employers, it is an efficient and cost-effective way to address skills and knowledge that are deficient in the workforce. For apprentices, it is a way to acquire hard and soft skills that boost employment prospects and wages.

Nevertheless, not all firms have the incentive or capacity to support apprenticeships. Businesses in the United States have reasonable concerns about the costs and benefits of work-based programs. During the initial apprenticeship period, the cost of paying wages to apprentices and trainers, supplying apprentices with requisite equipment and materials, and compensating for lost productivity may far exceed any short-term benefits. Studies of apprenticeship programs in Germany, Switzerland, Austria, and England indicate that as many as 88 percent of firms incurred a net loss from apprenticeship programs. A separate study found that 60 percent of all Swiss firms that sponsored apprenticeship programs encountered a net loss.

Only when the apprentice obtains knowledge and skills comparable to trained workers and applies what he or she has learned for an extended period does the business begin to recoup its initial investment. But studies of German and Swiss apprenticeship programs indicate that only between one-third and one-half of apprentices remain with the firm that trained them. As such, businesses may be reluctant to invest in an apprentice because they believe that it will ultimately benefit their competitors. While a valid concern, research suggests that the likelihood of “poaching” talent depends on the industry, the quality of the apprenticeship program, and market conditions.

The size of the business also plays a role. Larger firms can train several apprentices simultaneously, thereby reducing the marginal cost of training each. Additionally, large businesses are better positioned to recoup their costs because they are likely to have post-apprenticeship job opportunities available. Small and medium enterprises, on the other hand, have limited financial and human resources and are less likely to have post-apprenticeship job openings.

## KEY FACTS

- » The North Carolina Community College System oversees pre-apprenticeships and apprenticeships in its ApprenticeshipNC program. Pre-apprenticeships are short work-based experiences that introduce high school students to an industry or profession. Apprenticeships are intensive programs that require participants to

receive both post secondary classroom instruction and on-the-job training. Although requirements vary by occupation, most apprentices must have a high school diploma or GED.

- » According to the North Carolina Community College System, more than 30,381 North Carolinians and 1,041 employers have participated in apprenticeship programs since 2008.
- » During fiscal year (FY) 2018-19, the North Carolina Community College System's program served 11,399 youth and adult apprentices. Construction, advanced manufacturing, and energy were the three most popular industry sectors for apprenticeships in the state.
- » Among the 491 youth apprentices participating in apprenticeships in FY 2018-19, 73 percent worked in advanced manufacturing.
- » Nearly 2,000 active duty service members received training through an apprenticeship program in FY 2018-19.
- » High school students may receive academic credit for satisfactory participation in work-based programs, so long as they meet the requirements established by the North Carolina State Board of Education. To receive one credit, a student must log between 135 and 150 hours, depending on the type of schedule used by the school. School districts may increase hour requirements at their discretion.

## RECOMMENDATIONS

### 1. North Carolina should strongly encourage participation of students and employers in apprenticeship and work-based programs.

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

### 2. Financial or tax incentives should not be used to subsidize work-based programs.

Subsidies or tax incentives for firms that sponsor apprenticeships may put small businesses at a competitive disadvantage. Rather, participation should be based on the belief that it is in the best interest of the business to do so.

### 3. Other types of work-based programs should be considered.

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

# CHARTER SCHOOLS

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

Few educational institutions are as misunderstood as public charter schools. They are not private or religious schools. They are not for-profit enterprises. They cannot pick and choose students. In short, they may not take taxpayer dollars and operate as they please.

Charter schools are tuition-free public schools that have more freedom than district-run public schools but are required to meet certain state regulations, including participation in the state testing program.

Charter schools are nonsectarian and may not be affiliated with a religious school or church. Charters are subject to the same health, safety, and criminal background check requirements as local school districts. All charter schools must comply with the Public Records Act and conduct annual financial audits.

All charter schools are operated by nonprofit boards that have the option of contracting with charter management organizations or companies that provide administrative and technical services. Each charter board is accountable to the State Board of Education for ensuring compliance with applicable laws and the provisions of their charters. Unlike their counterparts in the district system, failure to maintain sufficient academic progress or financial sustainability may lead to the revocation of the charter and closure of the school.

According to state law, charter schools may not limit admission to students based on intellectual ability, measures of achievement or aptitude, athletic ability, or disability. Likewise, admission may not be limited to students based on race, creed, national origin, religion, or ancestry. When applicants outnumber available seats, the school must initiate a lottery selection process, and only in certain circumstances may the school weight the lottery to favor demographic groups.

Increasingly, charter schools are unable to accommodate even a fraction of those who apply. Before the Republican-led General Assembly started eliminating restrictions on growth in 2011, the state imposed a 100-school cap and enrollment restrictions that limited supply. Since then, legislators have strengthened the charter application and review process, loosened grade expansion requirements, clarified sibling admissions statutes, and eased teacher certification requirements.

Even though the number of charter school seats has increased since the passage of the 2011 legislation, it will take years for new and existing charter schools to accommodate the pent-up demand created by 15 years of ill-advised restrictions on growth.



## KEY FACTS

- » According to North Carolina Department of Public Instruction data, the statewide average expenditure for charter schools during the 2018-19 school year was an estimated \$9,398 per student. At the same time, the average district school spent \$9,865 per student to cover operating expenses and an estimated \$750 per student for capital expenses. Unlike school districts, charter schools do not receive state or local capital funding or county-funded debt service payments on their behalf.
- » While North Carolina's 196 charter schools are physically located in 65 of the state's 100 counties, all families have access to charters. Students are permitted to cross county lines to attend the charter school of their choice. In addition, the state's two virtual charter schools allow students to enroll regardless of where they live in North Carolina.
- » As of the 2019-20 school year, enrollment in the state's 196 charter schools had grown to an estimated 117,000 students. Still, based on final average daily membership figures for the 2018-19 school year, charter school students represent only around 6.1 percent of the total public school population in North Carolina.
- » According to data collected by the North Carolina Department of Public Instruction, in 2018, charter schools statewide had an estimated 55,000 students on wait lists.
- » Since the passage of charter school authorizing legislation in 1996, 58 charter schools have closed or relinquished their charters. Closure is a form of accountability unique to charter schools.
- » Based on 2018-19 state test results, a higher percentage of charter schools earned school performance grades of A or B than district schools.

## RECOMMENDATIONS

### **1. The State Board of Education should repeal any policy or regulation that sets student performance standards for charter schools but not district schools.**

All public schools that administer state tests should be subject to the same accountability rules.

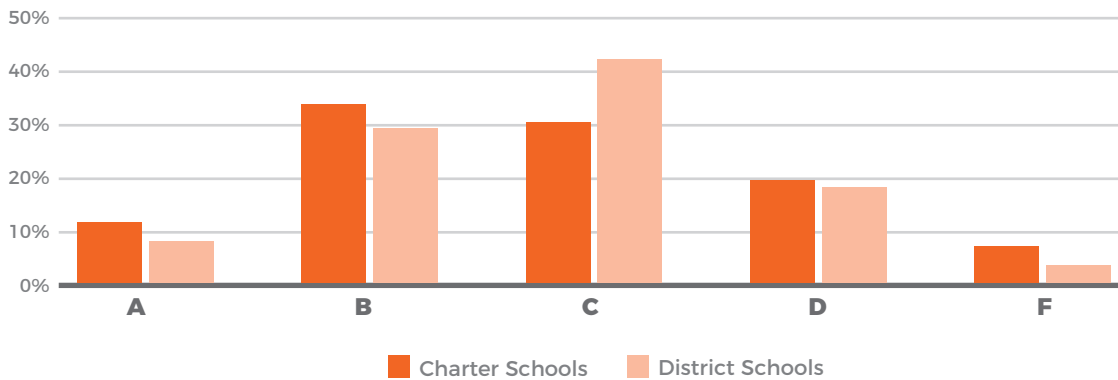
### **2. Lawmakers should allow municipalities and counties to support the capital needs of charter schools within their jurisdictions.**

Elected officials should be allowed to add capital funding for charter schools into their annual appropriations or when incurring debt for capital outlay.

### 3. The state should restructure the charter school funding system.

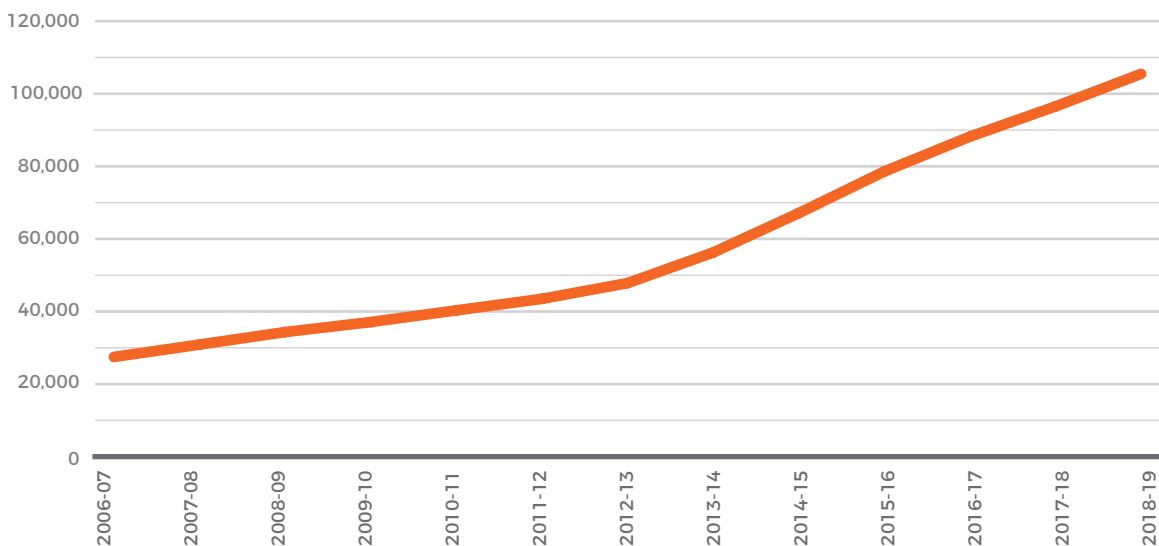
State law should reconsider the practice of routing charter school funding through school districts. Instead, all charter schools should receive a fair and equitable appropriation directly from its source and on a weighted-student-funding basis.

#### Distribution of Performance Grades, 2018-19



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

#### Charter School Final Average Daily Membership



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

# CHILD CARE

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

The state began offering subsidies for child care services in 1964, making the Subsidized Child Care Program one of North Carolina's longest-running welfare programs. The program provides vouchers to eligible families for child care services offered in any number of settings – licensed child care centers, family child care homes, religious-sponsored programs, and informal arrangements such as care by a relative or care in the child's home.

To qualify, parents must meet both situational and financial criteria. Parents must be employed (or seeking employment) or enrolled in an education program. They may also qualify if their child has developmental needs or is receiving child protective or welfare services. Income eligibility depends on income and family size, but subsidy recipients are required to contribute to the cost of child care.

The Division of Child Development and Early Education, a division of the North Carolina Department of Health and Human Services (DHHS), oversees the Subsidized Child Care Program and evaluates the quality of all licensed child care centers and family child care homes in North Carolina. County social services departments administer the subsidy program. A third entity, the North Carolina Child Care Commission, adopts regulations that ensure DHHS compliance with legislation passed by the North Carolina General Assembly.

While state and county agencies manage the program, the federal government supplies most of the dollars for the Subsidized Child Care Program. Only about one-fifth of the funding for the Subsidized Child Care Program comes from the North Carolina General Fund. The remainder of the funding for the program comes from two federal grants: the Child Care and Development Fund (CCDF) and Temporary Assistance for Needy Families (TANF).

Although hundreds of millions of state and federal dollars are appropriated for child care subsidies, it is important to note that most preschool families do not receive a subsidy, nor do they spend their days in centers or homes where paid staff care for them. Stay-at-home mothers, working mothers and fathers, relatives, and neighbors supply the majority of care provided to preschoolers, and usually on a nonpaid basis.

## KEY FACTS

- » The total budget for child care subsidies (including administration) in North Carolina was over \$399 million in 2019. The North Carolina General Assembly provided approximately 20 percent of the total.

- » As of Fiscal Year 2017-18, around 82 percent of parents who receive a child care subsidy are employed, and 81 percent of parents who receive a subsidy earn less than \$25,000 per year.
- » To be eligible for subsidized child care assistance, a family of four with children ages 0-5 or special-needs children may not have a gross monthly income that exceeds \$4,100. For children ages 6-12, the maximum gross monthly income for a family of four is \$2,727.
- » Parents are required to pay a fee of 10 percent of maximum gross monthly income toward the cost of child care.
- » As of September 2019, over 56,000 children received subsidized child care services (not including children served by Smart Start Subsidy) and over 42,000 eligible children were on wait lists for the Subsidized Child Care Program. In general, wait lists reflect economic conditions and funding levels.
- » North Carolina has nearly 4,500 regulated child care centers and nearly 1,500 regulated family child care homes as of September 2019. Approximately 96 percent of children who receive care outside of the home are enrolled at child care centers.
- » Starting in 2000, the North Carolina Division of Child Development and Early Education began to evaluate child care facilities using the Star Rating System. Facilities earn stars based on staff education and program standards. One star facilities meet minimum licensing requirements. Five star facilities meet the highest quality standards.

## RECOMMENDATIONS

- 1. Collect, analyze, and disseminate longitudinal data on child care subsidy participation to assess entry, exit, and re-entry trends and to detail the impact of eligibility, provider, and program funding changes on household income and child care arrangements.**

Child care subsidies should furnish financial stability for adults and promote developmental gains for children.

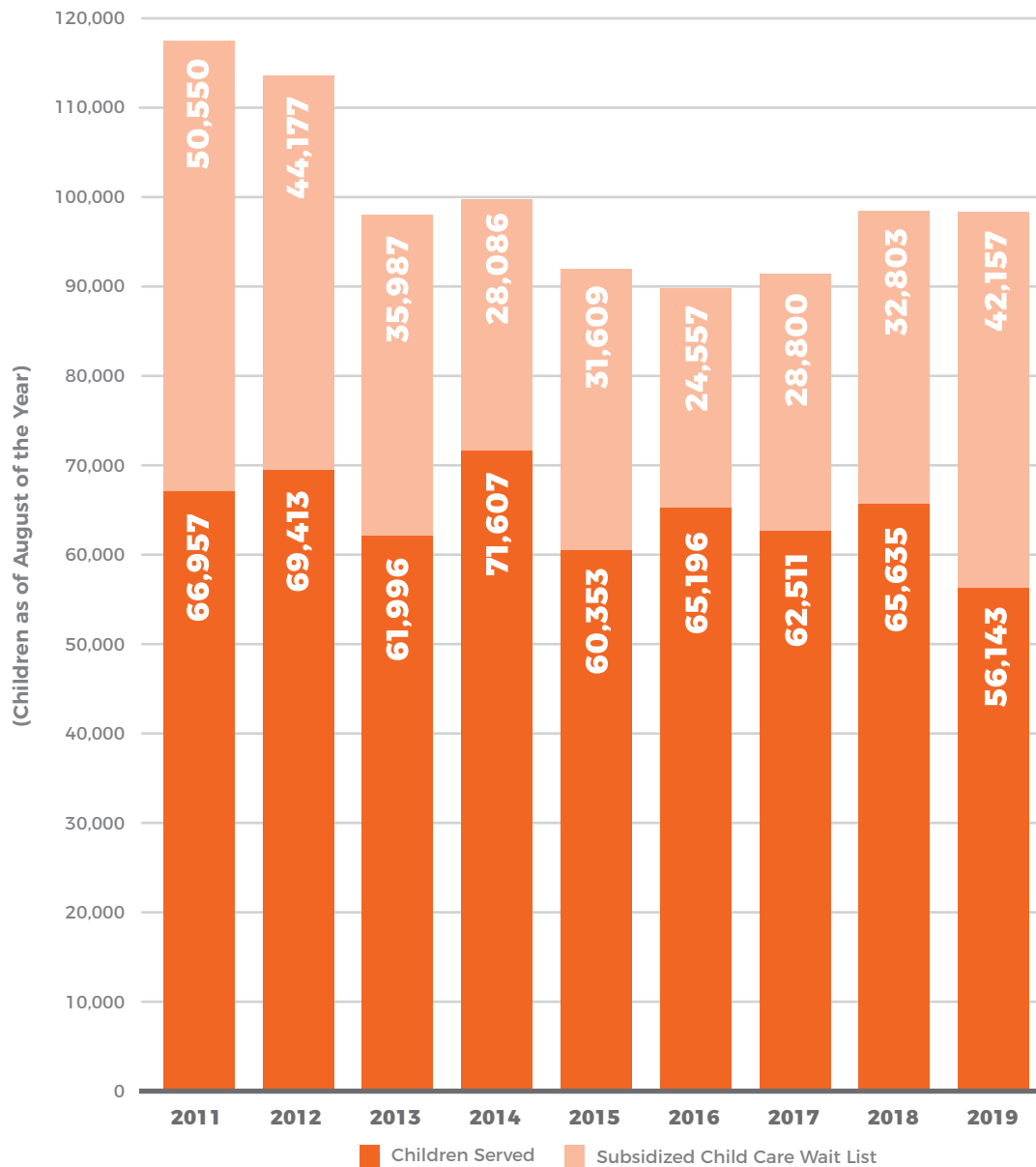
- 2. Determine whether there is a relationship between subsidy use in North Carolina and children's social-emotional, cognitive, health, and behavioral development.**

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

### 3. Limit regulation of day-care operations to health and safety requirements only.

Parents should make their own decisions about the trade-offs between price and child-staff ratios or qualifications.

#### Subsidized Child Care



SOURCE: N.C. DEPARTMENT OF HEALTH AND HUMAN SERVICES EXPENDITURE REPORTS

# CHILDHOOD HEALTH AND NUTRITION

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

As childhood obesity rates continue to rise, the debate over the National School Lunch Program and the sale of junk food in and around public schools has intensified. Public health advocates contend that schools can curb obesity by banning the sale of junk food and soda. Their more radical proposals include taxes on unhealthy foods and beverages and zoning regulations that prohibit certain businesses from operating near schools. Taking their cue from these advocacy efforts, lawmakers and agency officials have undertaken efforts to promote healthy lifestyles for children. Nevertheless, research suggests that passing new and stricter regulations does not necessarily make children healthier.

The Obama administration spearheaded passage of the Healthy, Hunger-Free Kids Act in 2010. This initiative was designed to combat childhood obesity by changing the nutrition requirements of school lunches. As expected, the law produced unintended consequences.

A January 2014 Government Accountability Office (GAO) study found that the law multiplied costs, increased fruit and vegetable waste, created new menu planning problems, and decreased participation in the federal school lunch program. A year later, Dr. Lynn Harvey, Chief of School Nutrition Services in the North Carolina Department of Public Instruction, confirmed the GAO findings. In her 2015 testimony to the U.S. House of Representatives Committee on Education and the Workforce, she feared that many of the state's school nutrition programs would no longer be self-sustainable unless federal regulators granted relief.

On December 12, 2018, the Trump administration published a federal rule that provides regulatory relief to public school breakfast and lunch programs. The rule allows local operators to offer flavored low-fat milk permanently, modifies whole-grain food requirements, and provides additional time for schools to meet sodium reduction targets.

Because implementation of the program requirements is ongoing, the overall effect of the legislation on childhood health, if any, will not be known for some time. Since passage of the law, the nutritional quality of the meals has improved, participation rates remained stable, and students demonstrated better food-consumption behaviors. Despite those positive findings, a May 2016 study published in the academic journal *Obesity* concluded there have been no statistically significant decreases in childhood obesity since the 2011-12 school year. Other studies suggest that school lunch changes may have benefitted certain student groups.

Why have stricter laws and regulations imposed by government officials failed to significantly reduce childhood obesity rates nationwide?

The consumption of unhealthy foods and drinks is inelastic. In other words, taxing or regulating certain food and beverage items will not

necessarily reduce consumption of them by very much. Consumers, particularly children, simply shift their consumption preferences to other unhealthy foods and beverages. For example, public school students often respond to bans on soda by purchasing different kinds of sugary drinks, such as juices and sports drinks, from school vending machines. Even schools that ban all sugar-sweetened beverages from campus will not significantly reduce students' consumption of unhealthy drinks. Kids can (and will) simply bring them from home.

## KEY FACTS

- » Childhood health and nutrition are part of the Whole School, Whole Community, Whole Child (WSCC) Model, a framework initially formulated by the Centers for Disease Control and Prevention and adopted by the North Carolina Department of Public Instruction.
- » Each school district in North Carolina convenes a School Health Advisory Council (SHAC), a multidisciplinary advisory group that provides “advice to the school system on aspects of the school health programs.”
- » According to the state’s Healthy Active Children Policy Report, 95 percent of North Carolina elementary schools provide 30 minutes of daily moderate-to-vigorous physical activity. That percentage drops to 82 percent for middle schools.
- » Only 40 percent of North Carolina school districts ensure that all elementary students receive at least 150 minutes per week of physical education instruction taught by a physical education specialist.
- » Approximately 43 percent of North Carolina school districts ensure that all middle school students receive at least 225 minutes per week of Healthful Living instruction.

## RECOMMENDATIONS

### 1. Federal, state, and local governments should not impose taxes, regulations, or prohibitions on the consumption of certain foods and beverages.

We should depend on parents and guardians to instill values of healthy and active lifestyles in children.

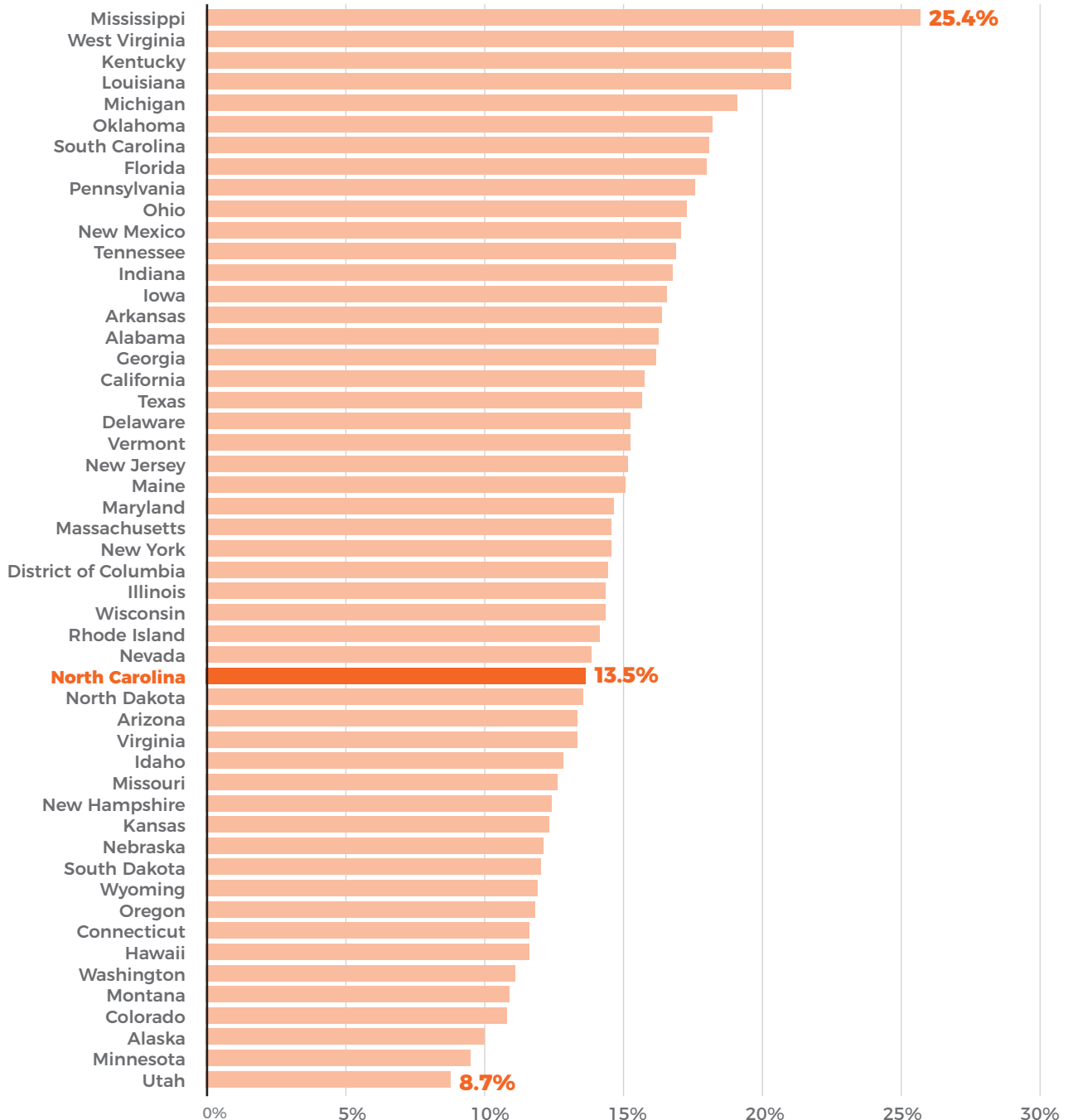
### 2. Public schools should ensure all children participate in health and physical education activities several times a week.

Additionally, public schools should invite all students to use district-owned sports and recreational facilities under the supervision of school staff.

### 3. States should ask Congress to reassess changes to the federal school lunch program.

Lawmakers should try to find ways to mitigate the unintended consequences produced by the Healthy, Hunger-Free Kids Act of 2010.

#### Childhood Obesity Rates By State – 2018



SOURCE: THE NATIONAL SURVEY OF CHILDREN'S HEALTH AND THE ROBERT WOOD JOHNSON FOUNDATION



# CLASS SIZE

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

Support for reducing class size usually cuts across political and ideological divides, garnering accolades from legislators, policymakers, and parents alike. But does it work?

The relationship between class size and student achievement has been the subject of scholarly debate for decades. While several large-scale studies suggest that students benefit from class size reductions, a number of high-quality studies conclude that smaller classes are not the “magic bullet” that many believe them to be.

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

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

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

## KEY FACTS

- » Studies of class sizes in North Carolina public schools suggest there is little or no significant relationship between class sizes and student achievement. One research study also found that teachers’ perceptions about their class sizes were not tied to teacher job retention.
- » Results from the 2018 North Carolina Teacher Working Conditions Survey indicate that most teachers are content with current class sizes. Sixty percent of the over 107,000 respondents to the survey agreed or strongly agreed that class sizes “are reasonable such that teachers have the time available to meet the needs of all students.” Twenty-nine percent of respondents disagreed, and 11 percent strongly disagreed with that statement.

- » According to the latest data from the National Center for Education Statistics, North Carolina's average elementary class size was 18.8 students, and the average secondary class size was 25.8 students. Both were lower than the national average of 21.2 students and 26.8 students, respectively.
- » Class sizes in the United States are comparable to those of other industrialized nations. According to the Organization for Economic Cooperation and Development (OECD), the average number of students in a primary school classroom in the U.S. was 21.2 in 2017.

## RECOMMENDATIONS

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

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

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

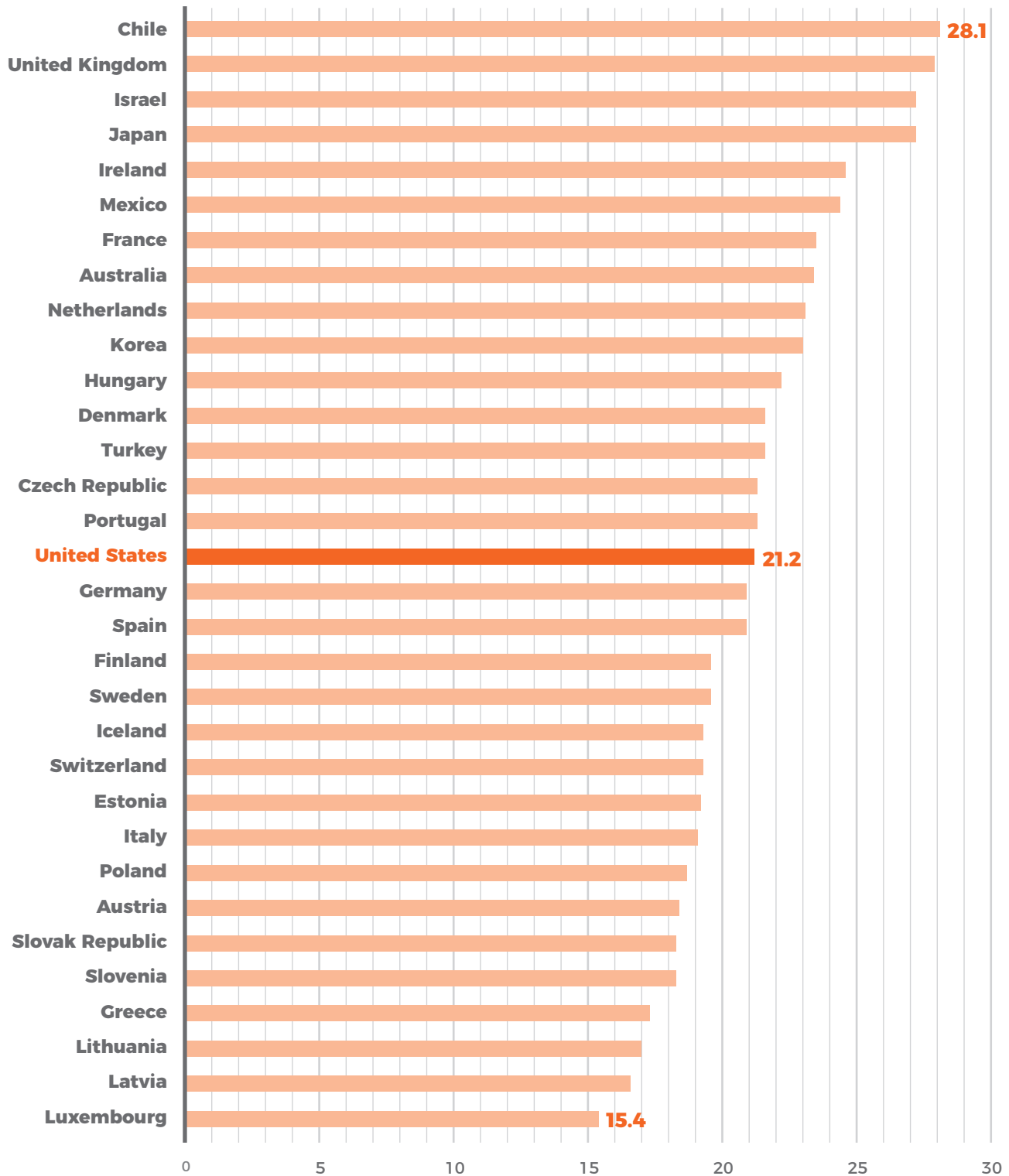
Clearly, class sizes affect students and teachers differently. State-wide requirements do not account for district- and school-based factors, including subject, grade, student exceptionality, and facilities, which are more appropriate criteria for establishing class sizes.

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

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

## CLASS SIZE

### Average Number of Students Per Primary School Class in 2017 (public institutions only)



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

## CLASS SIZE

### Average Number of Students in North Carolina Classrooms

Grade/ Course	Grade K	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Biology	English II	Math I
2002	20	20	21	21	21	22	21	21	21	20	18	21
2003	19	19	20	21	21	22	21	21	21	20	18	19
2004	19	19	19	20	21	21	21	21	21	20	19	19
2005	19	19	19	19	21	21	21	21	21	21	20	21
2006	19	19	19	19	21	21	21	21	20	19	19	20
2007	19	19	19	19	20	21	21	21	20	15	16	18
2008	19	19	19	19	21	21	21	21	20	17	17	19
2009	19	19	19	19	21	21	21	21	20	17	18	19
2010	19	20	19	20	21	21	22	21	21	18	18	20
2011	20	19	20	20	21	21	22	22	21	18	18	20
2012	19	20	19	20	21	21	22	22	21	18	18	20
2013	20	20	20	19	21	21	22	22	21	18	18	20
2014	19	19	19	19	20	20	22	22	22	18	18	20
2015	19	19	19	19	20	20	22	22	22	18	19	20
2016	19	19	19	19	20	21	21	22	21	18	18	20
2017	19	19	19	19	21	21	22	21	22	18	18	20
2018	18	18	18	18	21	21	22	22	21	18	18	20

SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

# COMMON CORE STATE STANDARDS

POLICY ANALYST: **DR. TERRY STOOPS**

## INTRODUCTION

Common Core State Standards are mathematics and English language arts standards for students in kindergarten through 12th grade. They were developed by three Washington, D.C.-based organizations – the National Governors Association, the Council of Chief State School Officers, and Achieve, Inc. The Seattle-based Bill and Melinda Gates Foundation also funded a significant portion of the project but later focused its education reform efforts elsewhere.

In June 2010, the North Carolina State Board of Education formally adopted the standards, largely without input from the then Democrat-led state legislature, North Carolina educators, and the public. North Carolina was one of the first states to adopt the standards and did so, in part, to improve the state's chances of obtaining one of the Obama administration's Race to the Top grants, which North Carolina received shortly after.

Although the adoption of new standards had seldom been newsworthy in the past, a debate about the Common Core Standards intensified in 2012. Parents and concerned citizens began to speak out about detrimental changes in math and English instruction, unacknowledged costs of adoption, lack of transparency, and unwelcome involvement of the federal government.

In response, legislators passed a bill that requires the State Board of Education to obtain approval from the General Assembly for the adoption of any Common Core-based testing program. Additionally, the General Assembly created the Academic Standards Review Commission, an appointed group of educators, elected officials, and citizens that convened in 2014 to review the English and math standards. The commission's 2015 report recommended superficial changes to the standards.

There is no indication the state legislature will support an outright repeal of the standards, despite the introduction of legislation that would do so. Nevertheless, changes have occurred. The State Board of Education approved revisions to the English and elementary and middle school math standards in 2017. The revised standards for both subjects were implemented during the 2018-19 school year.

## KEY FACTS

- » Forty-one states, the District of Columbia, Department of Defense Schools, and four U.S. territories have adopted Common Core standards for one or both subjects. Many states, including North Carolina, have modified the standards since adoption.
- » Although the research literature is very limited, studies suggest the Common Core Standards did not improve student achievement. In an empirical study published in 2019, researchers with the American Institutes for Research concluded, “Contrary to our expectation, we found that the CCR standards had significant negative effects on 4th graders’ reading achievement during the 7 years after the adoption of the new standards, and had a significant negative effect on 8th graders’ math achievement 7 years after adoption based on analyses of NAEP composite scores.”
- » The federal government has bankrolled the development of Common Core tests. The Education Department distributed \$360 million in grants to members of two state consortia, the Smarter Balanced Assessment Consortium (SBAC) and the Partnership for Assessment of Readiness for College and Careers (PARCC). To date, the District of Columbia, Louisiana, Massachusetts, Bureau of Indian Education, and the Department of Defense Education Activity use at least a portion of the PARCC testing program. Thirteen states, Bureau of Indian Education, and U.S. Virgin Islands are members of SBAC. North Carolina is a former member of SBAC but never adopted its tests.
- » The 2018 EdNext Poll found that 45 percent of respondents supported Common Core, while 38 percent opposed it. Support was highest among Hispanics (59 percent support) and lowest among Republicans (38 percent support). Less than half of the public school teachers surveyed for the poll said they supported Common Core.

## RECOMMENDATIONS

### 1. The Department of Public Instruction should be relieved of the responsibility of developing academic standards for the state’s public schools.

The North Carolina Department of Public Instruction readily admits state-authored standards lacked the rigor of the Common Core Standards. As such, it makes little sense to entrust the agency with a task – development of rigorous, clear, and coherent standards – that it has failed to perform adequately in the past.

**2. Legislators should create two permanent commissions charged with raising the quality and rigor of state English language arts and mathematics standards, as well as curricula and assessments.**

The goals of the commissions would be to 1) modify substantially or replace the Common Core State Standards; 2) specify content that aligns with the standards; 3) recommend a valid, reliable, and cost-effective testing program; and 4) provide ongoing review of the standards, curriculum, and tests throughout implementation.

**3. Any review of the Common Core State Standards should employ a large and diverse group of stakeholders.**

This includes teachers, administrators, curriculum and content area experts, policy professionals, practitioners, parents, community leaders, school board members, state education officials, and state legislators.

# EDUCATION AND THE WORKFORCE

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

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

BLS analysts predict that jobs requiring a high school diploma, associate degree, or post-secondary certificate will be plentiful over the next decade. Of the 20 occupations projected to have the largest numeric growth in jobs, only six require a bachelor's degree. Of those six occupations, registered nurses lead the pack with a projected 371,500 jobs to be created nationwide by 2028. That figure pales in comparison to personal care aides and food service workers, which usually do not require a bachelor's degree and are projected to add 881,000 and 640,100 jobs, respectively, during that period.

Likewise, the North Carolina Department of Commerce projects that health care support occupations will have the largest percentage growth in North Carolina over the next six years. The largest estimated declines will be in production and manufacturing occupations, followed closely by farming, fishing, and forestry occupations.

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

A renewed focus on career and technical education is only a first step, but it is a welcome one for employers and taxpayers.

## KEY FACTS

- » Selected career and technical education students in 12th grade complete the ACT WorkKeys assessment. Scores help students determine if they have the skills needed for particular jobs or professions. In 2019, 14,689 students earned WorkKeys Gold or Platinum scores, the highest of the four career readiness credentials.



- » The number of industry-recognized credentials earned by North Carolina students has risen sharply in recent years. During the 2010-11 school year, North Carolina students earned nearly 25,000 career and technical education credentials. By 2018-19, that figure rose to 276,114 credentials. Around 13 percent of the 2018-19 credentials were awarded for acquiring proficiency in Microsoft PowerPoint and Word, the two most popular credentials earned during that school year.
- » Other popular credentials earned by public school students include National Center for Construction Education & Research modules, EverFi (financial literacy), CPR Health Care Provider, Conover Credential Workplace Readiness, and First Aid.
- » Forty-two credential areas had 25 or fewer completers during the 2018-19 school year.

## RECOMMENDATIONS

### 1. Dispel the myth that all high school graduates should pursue college degrees.

Students who are ill-prepared for college would not incur massive student loan debt, and taxpayers would not be compelled to subsidize their pursuit of four-year degrees. Employers would enjoy a larger, arguably better-prepared, pool of candidates from which to hire. Most importantly, these students would have plentiful employment opportunities in North Carolina for years to come.

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

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

**3. If high schools are to remain the primary pipeline for workers in high-demand fields, we must ensure that K-12 schools provide baseline skills and knowledge to all students.**

All high school graduates should possess adequate literacy and computational skills, know basic facts about the world around them, and be able to use those facts to think, write, and speak critically and analytically.

**4. Expand school choice.**

Increasing access to charter, private, and online schools would encourage entrepreneurs to develop specialized career and technical schools suitable for students in their communities.

**5. Community colleges and universities should continue to invest scarce resources in professional training and degree programs that correspond to the needs of our workforce.**

While this does not preclude 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.

# EDUCATION FACILITIES

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

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

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

As part of their joint responsibility, local government officials collaborate with boards of education to oversee the funding, construction, renovation, and maintenance of school district facilities. In most cases, county commissions and local boards of education accept discrete responsibilities for school facilities. School districts manage the school facilities program, while county commissions finance it.

County commissions may allow local boards of education to build schools on property owned by the county. Commissions also have the power to acquire property on behalf of a board of education, as well as to construct, equip, expand, improve, or renovate property for use by a local school system.

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

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

## KEY FACTS

- » Since 1995, North Carolina's local governments have spent over \$15 billion on school facilities, an average of nearly \$655 million per year. Locally funded capital expenditures represented 87 percent of all public school capital spending in the state.
- » The state legislature occasionally provides state funds for school facilities. Since 1949, the North Carolina General Assembly has passed one facilities appropriation bill and five state school bonds. The legislature approved the last statewide facilities bond in 1996. In 2019, Gov. Roy Cooper proposed borrowing \$2 billion for school capital projects.
- » There are three primary sources of state funds for school facilities: a portion of corporate income tax (ADM Fund), state lottery revenues, and local option sales taxes. The ADM Fund has a balance of around \$90 million per year. School districts receive a share of approximately \$100 million in North Carolina Education Lottery funds for school construction and repair annually. All counties levy two one-half cent additions to the state sales tax with 30 percent and 60 percent, respectively, going to schools. Counties may also levy either an additional one-quarter cent sales tax or a land transfer tax for school facilities.
- » In 2017, the North Carolina General Assembly established the Needs-Based Public School Capital Fund, which allocated North Carolina Education Lottery funds totaling \$30 million in 2017 and nearly \$141 million in 2018 to low-wealth (Tier 1 or Tier 2) counties for new school construction.
- » In 2019, legislators proposed setting aside \$1.9 billion over 10 years in a pay-as-you-go fund called the State Capital and Infrastructure Fund (SCIF). The SCIF would provide additional state funds for school facilities.

## RECOMMENDATIONS

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

A short-term need for additional classroom space or building repair must be weighed against the fiscal implications of assuming long-term capital debt. Planning for these obligations should include a thorough examination of current and projected revenue streams, student enrollment, population, and the county's financial obligations. Local government officials can then determine whether the county's tax base will support years of debt service payments. It will also provide an opportunity to consider deferring the project(s) under consideration or building up a reserve fund.

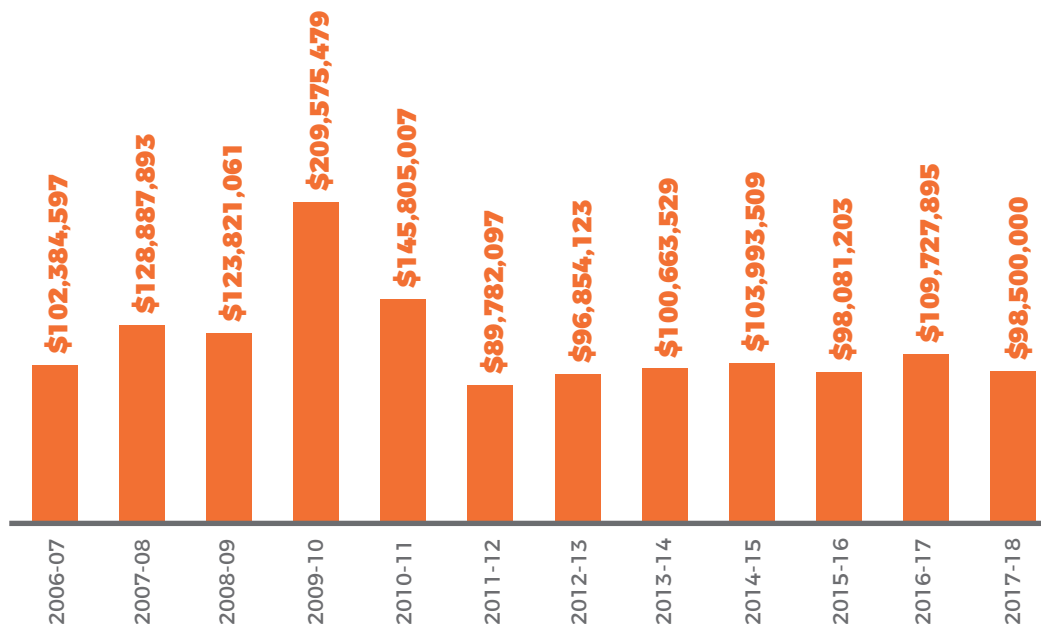
**2. Local governments should encourage school districts to use proven, cost-efficient solutions that do not burden county taxpayers and that enhance educational opportunities for students.**

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 building capacity faster and more cheaply than conventional school construction and renovation methods permit.

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

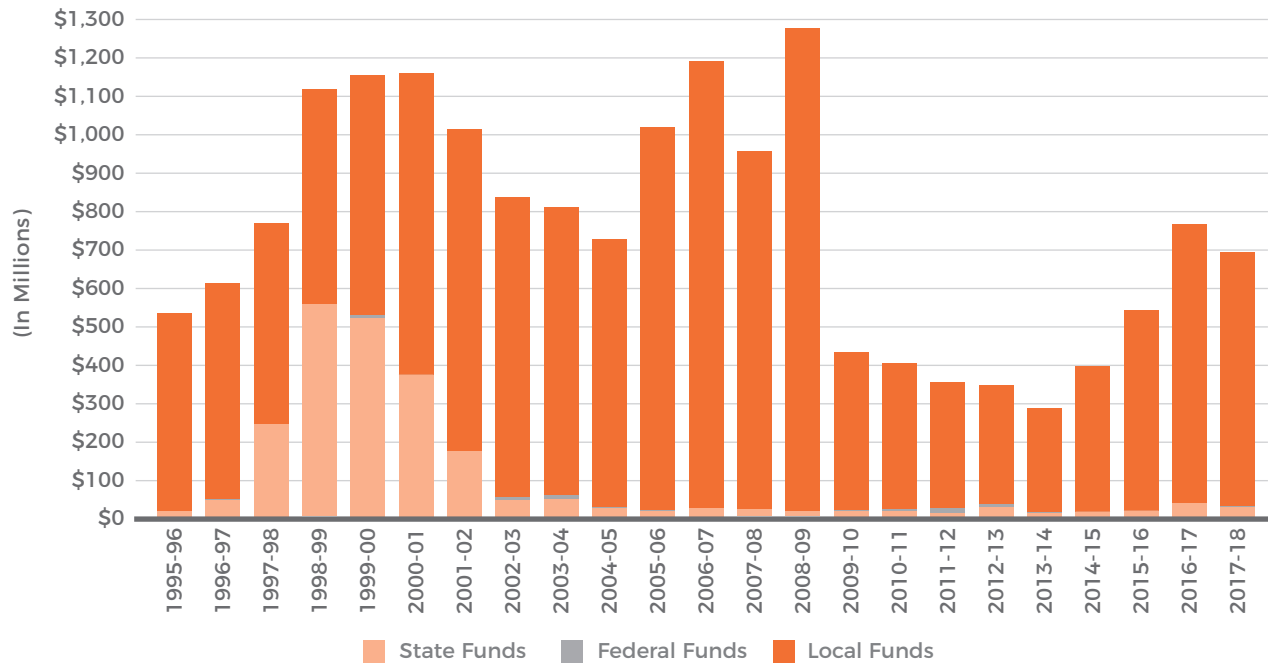
Public charter schools do not receive capital funds from the state or local government. Elected officials should have the option of adding capital funding for charter schools into their annual appropriations or when incurring debt for capital outlay.

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



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

## Sources of Funding for Education Facilities



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

# FEDERAL EDUCATION POLICY

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

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

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

At no time before did the federal government's role become larger, or more controversial, than Congress' 2002 reauthorization of 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) is the latest reauthorization of the Elementary and Secondary Education Act and borrows from the No Child Left Behind blueprint. President Barack Obama signed ESSA into law in December 2015. The Trump administration, specifically Secretary of Education Betsy DeVos, is responsible for its implementation.

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

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

## KEY FACTS

- » While most federal education funds are earmarked for special-needs children, low-income students, child nutrition, and vocational education, occasionally the U.S. Congress will authorize discretionary, multiyear initiatives, such as the American Recovery and Reinvestment Act (also called the “Stimulus”), and the Education Jobs Fund.
- » Current expense expenditures from federal funds totaled \$1.38 billion and accounted for only 10 percent of North Carolina's \$13.92 billion public school operating budget for the 2018-19 school year. Virtually none of the state's capital expenditures included federal funds and seldom do.
- » During the 2018-19 school year, North Carolina public schools used federal funds to support 12,424 public school employees, or 6.75 percent of all district school personnel in the state.
- » The 2017 federal tax reform legislation included a provision that allows families to use tax-free funds deposited in a 529 college savings plan for elementary and secondary private school tuition.

## RECOMMENDATIONS

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

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

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

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



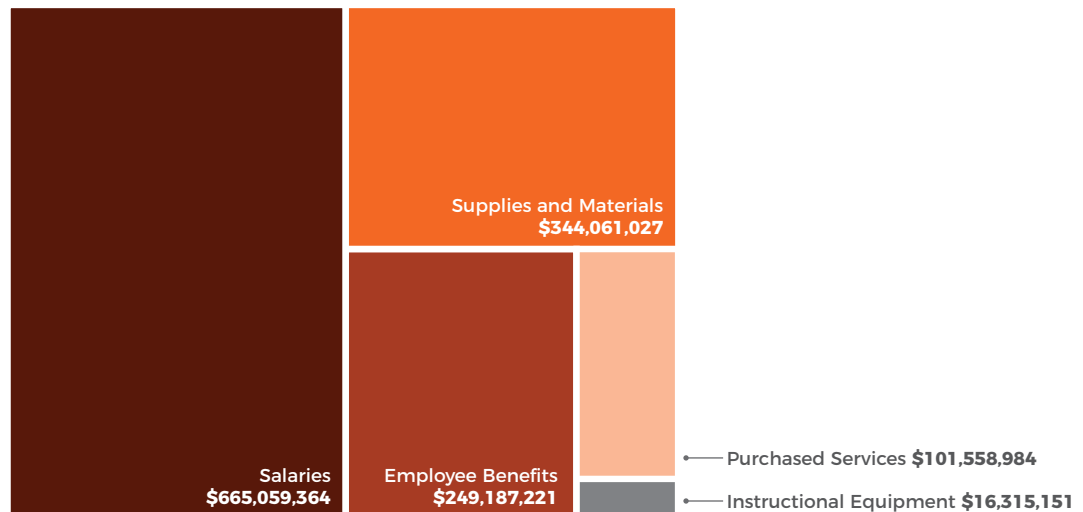
### 3. Refuse to accept any federal grant that interferes with the opportunity for children to receive the best education possible.

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

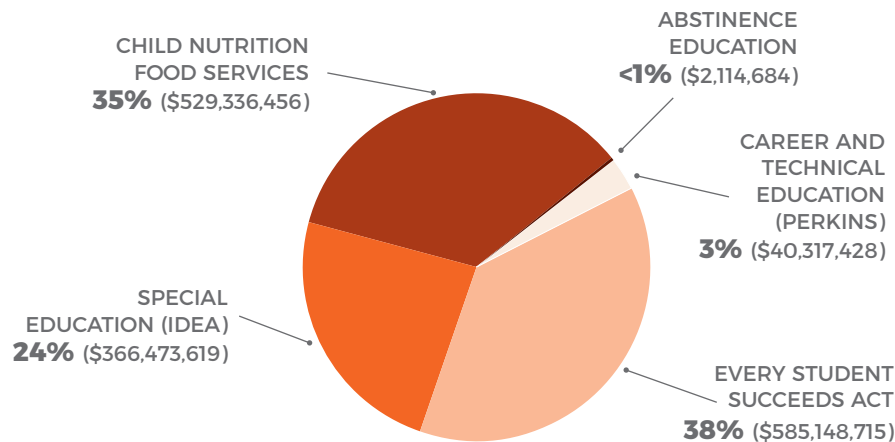
### 4. If using federal funds, use them prudently.

For example, school districts should reject invitations to use temporary federal grant dollars to fund permanent teaching positions.

#### Current Expense Expenditures: Federal Funds, 2018-19



#### Federal Grants Received 2018-19



SOURCE: NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

# HIGHER EDUCATION FUNDING

POLICY ANALYST: JOSEPH COLETTI

## INTRODUCTION

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

Consistent with the constitutional mandate, affordability has been a distinctive focus of the UNC System. Because of grants to students, UNC-Chapel Hill perennially ranks as one of the best values among colleges and universities in the country. It also ranked the sixth lowest in net price after aid (\$11,100) across the UNC system in 2016-17, the last year comparable numbers are available through the National Center for Education Statistics.

In addition, three universities that traditionally serve students from high-poverty, low-opportunity communities (Elizabeth City State University, UNC Pembroke, and Western Carolina University) cut tuition in 2018 to \$1,000 for North Carolina residents and \$5,000 for non-residents as part of NC Promise. Once other fees and room and board are included, annual prices climb to \$19,000 at ECSU, \$15,000 at UNC Pembroke, and \$16,000 at Western Carolina before books and other expenses.

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

Purdue University in Indiana, a public land grant institution that is similar to NC State University, has taken a different approach. Purdue has reduced administrative costs to keep tuition and fees flat since 2013 and has already set the 2020-21 price, when other schools had not yet determined their tuition and fees for the 2019-20 year. As a result of Purdue’s ability to keep prices low, students’ average annual borrowing fell from \$5,451 in the 2010-11 school year to \$3,657 in the 2017-18 year.

Purdue’s net tuition has fallen \$1,424, or 11 percent since 2013. After being \$1,412 above tuition at the highest UNC System school, Purdue is now lower than eight UNC schools, though still \$1,017 higher than

UNC-Chapel Hill. Surprisingly, Purdue has accomplished this not with higher revenues, which grew at a similar rate as North Carolina's flagship schools, or through more out-of-state or international enrollment. Instead, Purdue reduced a broad swath of administrative costs by 5 percent between 2012-13 and 2016-17, while it increased instructional spending by 25 percent. Elements of Purdue's strategic reforms may be worth replicating in North Carolina.

No discussion about affordability would be complete without mentioning the North Carolina Community College System's 58 colleges. These institutions provide two-year degrees and articulation agreements that allow students to transfer their credits directly towards a four-year degree. Community colleges can be a great option for students, thanks to lower costs and more flexible options designed around commuting students.

## KEY FACTS

- » At most UNC System schools, North Carolina residents must comprise 82 percent or more of undergraduate enrollment. NC A&T (70 to 80 percent range) and the UNC School of the Arts (40 to 50 percent range) are the two exceptions to this rule.
- » In-state tuition and fees jumped an average of 45 percent between the 2008-09 and 2013-14 school years but increased just 7 percent through 2017-18 before falling in 2018-19, due to the introduction of \$1,000 tuition at three NC Promise schools: Elizabeth City State University, UNC-Pembroke, and Western Carolina University.
- » UNC System endowments have grown 32 percent, from a combined \$3.7 billion in 2012-13 to \$4.9 billion in 2016-17.
- » Community college funding is based on enrollment the previous year. UNC plans to adopt a similar model of funding based on actual credit hours completed instead of projected enrollment.

## RECOMMENDATIONS

### 1. Freeze tuition and fees.

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

### 2. Cut non-instructional staff and costs.

Purdue University's experience since 2012-13 shows it is possible to reduce administrative costs, particularly at flagship schools.

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

Six UNC schools graduate less than half of their students. Only UNC-Chapel Hill and the UNC School of the Arts have 4-year graduation rates above 60 percent. The key to affordable education is having a degree on the other side that makes the investment worthwhile.

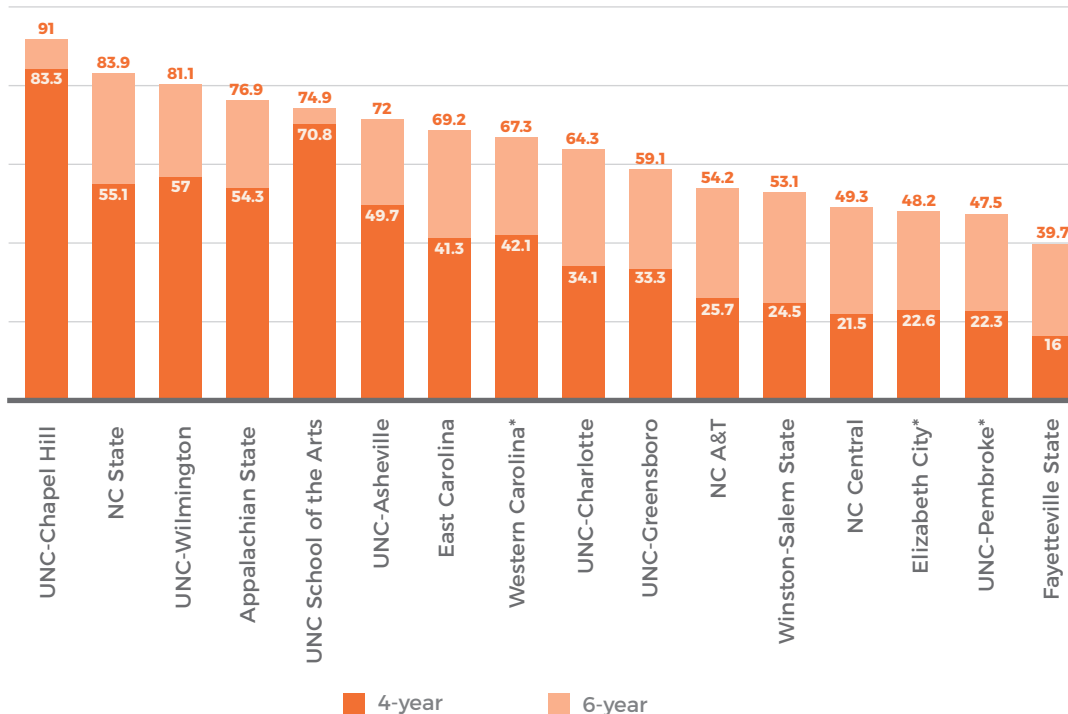
### 4. Improve articulation between schools in the Community College System and UNC System.

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

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

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

## UNC Campus 4-Year and 6-Year Graduation Rates

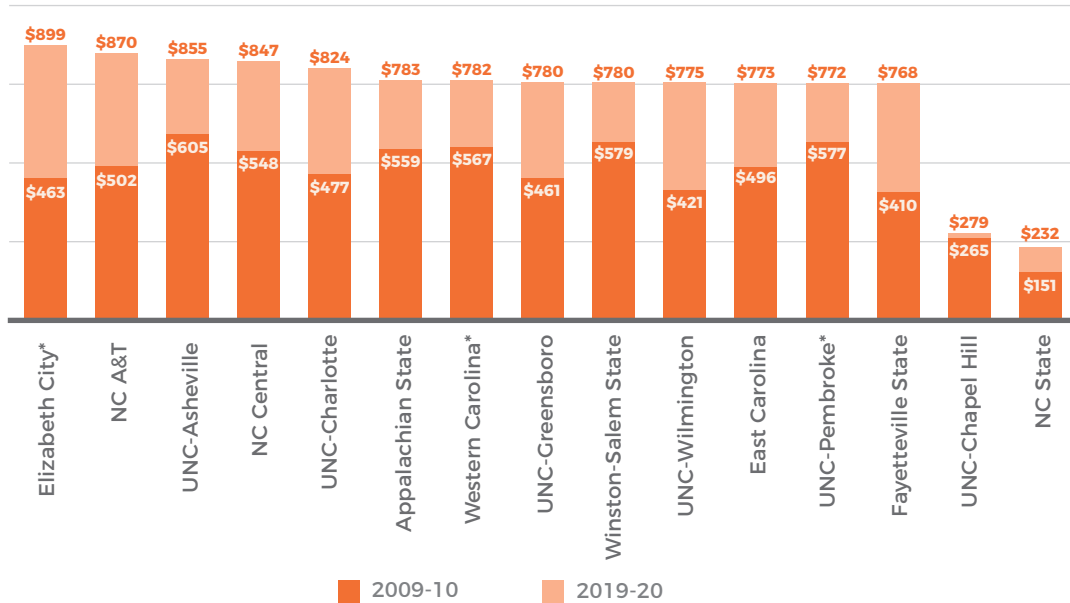


NOTES: DATA FOR FRESHMEN ENTERING FALL 2012

\*NC PROMISE SCHOOLS

SOURCE: UNC SYSTEM FRESHMEN ADMISSIONS AND PERFORMANCE DASHBOARD

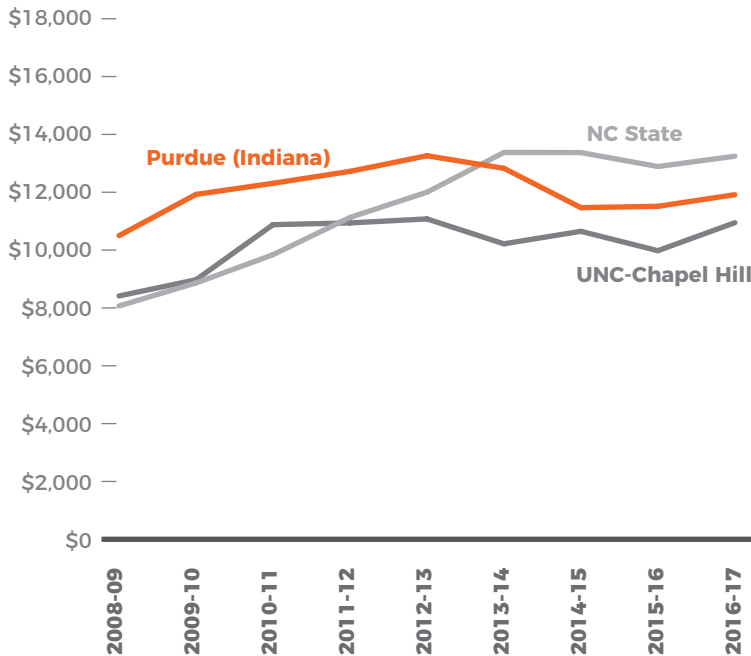
## UNC Campus Athletic Fees, 2009-10 vs. 2019-20



NOTE: \*NC PROMISE SCHOOLS

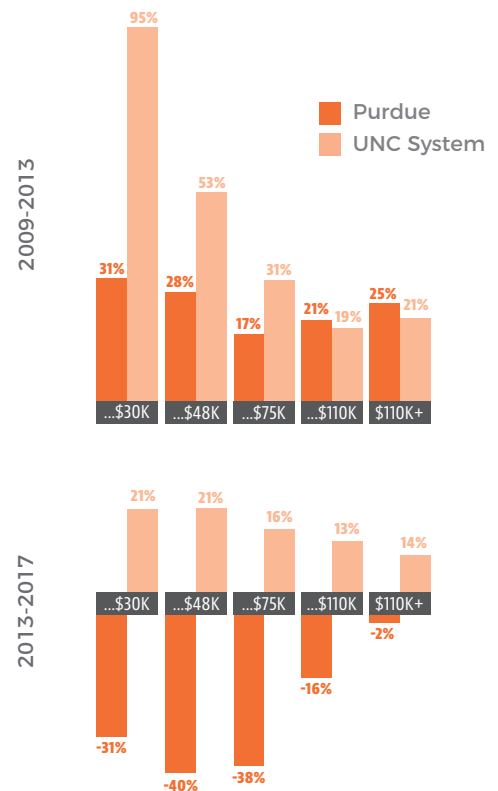
SOURCE: UNC GENERAL ADMINISTRATION

## Net Price UNC System Students (In-State)



SOURCE: US DEPARTMENT OF EDUCATION, IPEDS

## Change in Net Price To Attend, By Family Income



SOURCE: US DEPARTMENT OF EDUCATION, IPEDS

# NORTH CAROLINA EDUCATION LOTTERY

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

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

People on both sides of the political aisle share the same worries about the lottery's effects on North Carolinians, especially its poorest, least educated, and most economically vulnerable. Since the lottery's very beginnings, counties with the highest lottery ticket sales per adult have been the state's poorest and most economically distressed counties.

Over the years, the lottery has transferred a growing amount of money to the state's General Fund, targeted for education. At the same time, however, it has been sending a smaller and smaller proportion of its revenues to education, even though that was the original purpose touted by supporters. More and more of its funds are going instead to prizes, administrative costs, and advertising. In short, it has become an entity unto itself.

The North Carolina Education Lottery was sold as a way to boost education spending in North Carolina. It's a promise that state education lotteries typically fail to deliver on, and here's why. The presence of an education lottery tends to make people and lawmakers think education needs are being "taken care of." As a result, they're less likely to regard other possible state budget expenditures as competing with school funding for scarce dollars, even though they still are.

The irony is, an education lottery tends to boost state funding for things other than school funding. Lotteries are notorious for supplanting rather than supplementing education funding. What was expected to be new money in addition to an ongoing funding stream winds up taking the place of some of the funding in the stream. Budget writers then feel free to find "new money" for other spending items.

The fact is, the lottery is no substitute for the political will of budget-makers to prioritize education among myriad spending choices.

## KEY FACTS

- » The lottery is a state funding source that many North Carolinians on both sides of the political aisle consider immoral. Some have ethical objections to taking advantage of the poor and undereducated. Others have religious objections to gambling. These concerns are heightened because the lottery is a state monopoly.
- » At first, over one-third (35 percent) of lottery proceeds went to education funding. By 2013, that had shrunk to 28 percent. In 2018, the share of lottery proceeds going to education was just over one-fourth (26 percent).
- » Lottery sales come disproportionately from the least economically well-off counties. Counties with high poverty rates, high unemployment rates, and high property tax rates also tend to have high lottery sales per adult. This has consistently been the case since the lottery's first days.
- » In 2019, 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 were over twice the state average – and two-and-a-half times greater than in the 20 most well-off counties in the state.

## RECOMMENDATIONS

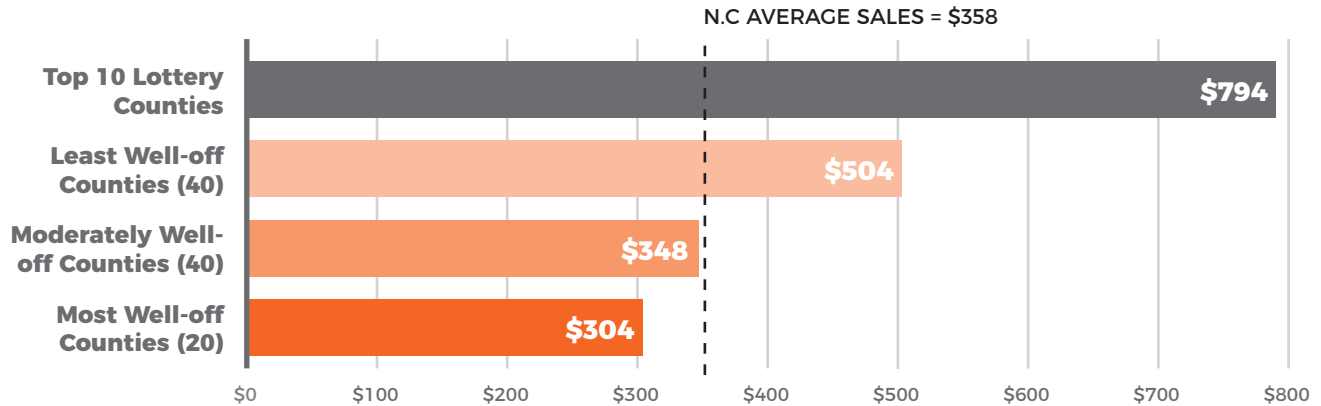
### 1. End the state lottery and return to direct, transparent education funding.

The best possible reform is to fund education through the state budgeting process, after open debate and discussion.

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

Ending the lottery monopoly wouldn't necessarily mean an end to the idea of gambling revenues helping to fund education. Taxed like other ventures, private gambling enterprises would contribute to education spending and the General Fund.

## North Carolina Lottery Ticket Sales Per Adult – 2019



## County Lottery Sales Per Adult and Economic Well-Being – 2019

### Unemployment and County Lottery Sales

County Unemployment	Number of Counties	Sales Per Adult
Below 4%	17	\$302
Between 4-5%	47	\$339
Between 5-6%	25	\$448
Over 6%	11	\$603
4.2%	NC Average	\$358

### Median Income and County Lottery Sales

County Median Income	Number of Counties	Sales Per Adult
Over \$60K	10	\$298
Between \$50-60K	23	\$371
Between \$40-50K	46	\$364
Below \$40K	21	\$522
\$52,797	NC Average	\$358

### Poverty Rates and County Lottery Sales

County Poverty Rate	Number of Counties	Sales Per Adult
Below 12%	13	\$294
Between 12-16%	32	\$371
Between 16-20%	27	\$358
Between 20-24%	16	\$463
Over 24%	12	\$567
14.7%	NC Average	\$358

### Unemployment and County Lottery Sales

County Property Tax Rate	Number of Counties	Sales Per Adult
Below 50¢ (per \$100)	11	\$305
Between 50-60¢	20	\$314
Between 60-70¢	21	\$345
Between 70-80¢	29	\$381
Over 80¢	19	\$394
67.71¢	NC Average	\$358

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

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



# PREKINDERGARTEN EDUCATION

POLICY ANALYST: **DR. TERRY STOOPS**

## INTRODUCTION

Taxpayer-funded prekindergarten education in the United States is a multibillion-dollar hodgepodge of state and federal programs.

The North Carolina Division of Child Development and Early Education, a division within the Department of Health and Human Services (DHHS), oversees two large state programs – NC Pre-K and the Subsidized Child Care Program. NC Pre-K is a preschool program for at-risk 4-year-olds. (The Subsidized Child Care Program is discussed separately.)

In addition, Smart Start is a public/private program that was established in 1993 to serve children from birth to five years old. The N.C. Partnership for Children and 75 local partnerships oversee the program. Smart Start provides child-care subsidies, teacher training, health screenings, and support for families regardless of income.

North Carolina also has three federally funded prekindergarten programs – Preschool for Exceptional Children, Title I Preschool, and Head Start. Preschool for Exceptional Children is supported by state and federal funds and provides prekindergarten services for special-needs children. Title I Preschool allows school districts to set aside a portion of their federal Title I funding to provide prekindergarten programs for at-risk 4-year-olds.

Finally, the federal Head Start program is the largest and one of the oldest federal prekindergarten initiatives in North Carolina. Head Start provides education, health, and nutrition services to low-income children between the ages of 3 and 5. In a landmark 2012 study of Head Start outcomes, researchers concluded that, by third grade, there was no significant difference between children who had been assigned randomly to a Head Start program and those who had not. This finding was consistent with previous studies that concluded the initial advantages of preschool attendance for the typical child begin to narrow or “fade out” by middle school.

A handful of empirical studies have found that high-quality, state-run early childhood education programs may provide lasting benefits for children who live in poverty or have endured physical or emotional trauma. But researchers disagree about the duration and scope of those benefits.

A recent evaluation of the NC Pre-K program published by the Frank Porter Graham Child Development Institute of the University of North Carolina at Chapel Hill found consistent effects on language and literacy skills at the end of preschool, but researchers found no significant

effects for written comprehension, math skills, executive function, and parent ratings of social skills and problem behaviors. On the other hand, a January 2019 working paper by Duke University researchers concluded that students who had received NC Pre-K services demonstrated academic benefits that lasted through middle school.

## KEY FACTS

- » To be eligible for NC Pre-K, families must have a household income at or below 75 percent of state median income. Military families and families with children who have limited English proficiency, special needs, disability, or extraordinary educational need may also qualify, regardless of income.
- » During the 2017-18 school year, approximately one out of four NC Pre-K classrooms operated in a for-profit site. Of the remaining classrooms, just over half were in public schools. Around 15 percent were in Head Start programs, a small percentage of which were operated by public schools.
- » In 2018, an estimated 6,345 children were on wait lists. During that year, the North Carolina General Assembly initiated a multiyear effort to provide funding to eliminate the wait list.
- » During Fiscal Year 2018-19, NC Pre-K received over \$163.8 million in state, lottery, and federal Temporary Assistance for Needy Families (TANF) funds for 29,791 slots in nearly 1,200 child care facilities statewide.
- » North Carolina received \$69.9 million from 2012 to 2016 as part of the Race to the Top – Early Learning Challenge, a federal initiative designed to improve access to high-quality prekindergarten programs.

## RECOMMENDATIONS

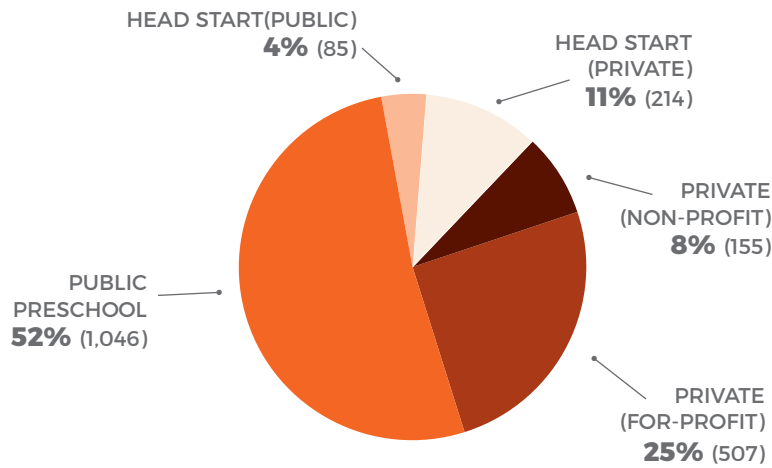
### 1. Existing early childhood programs should be consolidated or significantly reorganized.

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

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

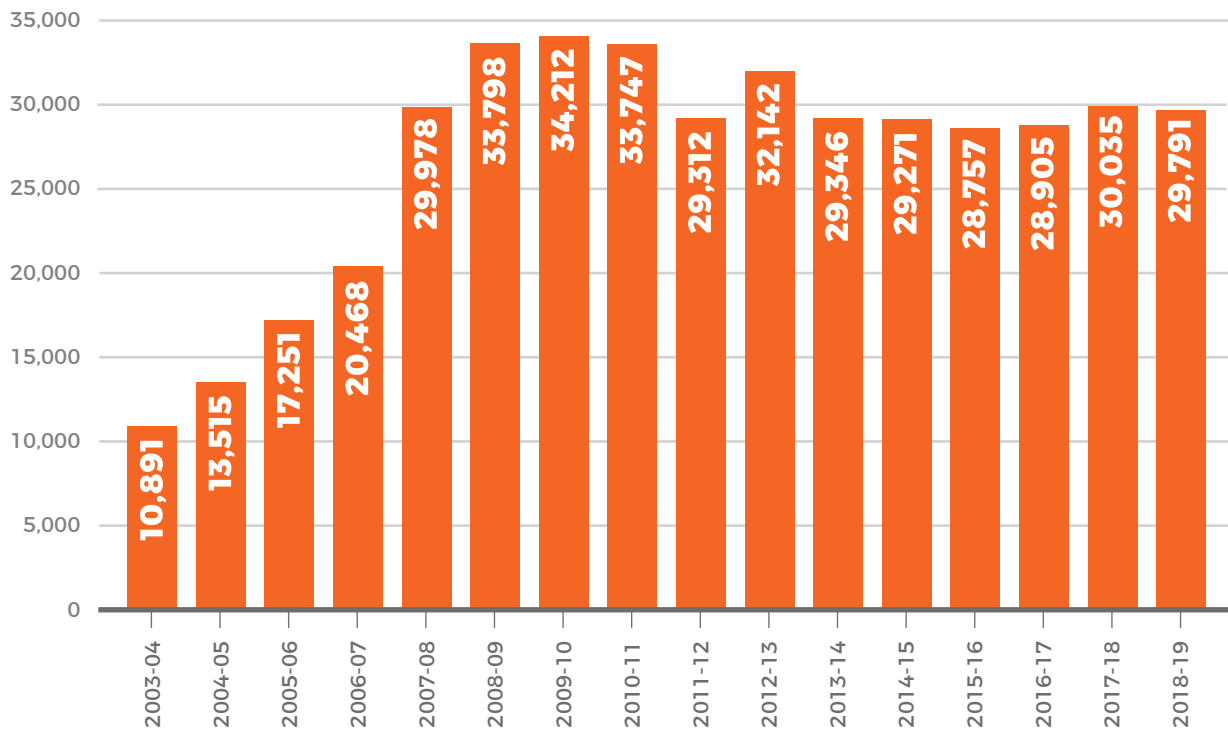
State-subsidized preschool programs are more likely to provide lasting benefits to children from distressed households than children from middle- or upper-income families. Narrowing the focus to aiding North Carolina's most vulnerable children would ensure that NC Pre-K prioritizes the educational needs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

## Distribution of NC Pre-K Classrooms By Setting Type, 2017-18



**SOURCE:** FRANK PORTER GRAHAM CHILD DEVELOPMENT INSTITUTE, THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, "EFFECTS OF THE NORTH CAROLINA PRE-KINDERGARTEN PROGRAM FINDINGS THROUGH PRE-K OF A SMALL-SCALE RCT STUDY 2017-2018 STATEWIDE EVALUATION"

## NC Pre-K Enrollment (Formerly More at Four)



**NOTE:** THE 2018-19 FIGURE REFLECTS CONTRACTED SLOTS, NOT NECESSARILY ENROLLMENT.

**SOURCE:** FRANK PORTER GRAHAM CHILD DEVELOPMENT INSTITUTE, THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, STATEWIDE EVALUATIONS.

# PUBLIC SCHOOL FINANCE

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

Discussions of funding levels are necessary, but not sufficient, for truly understanding the health of our public schools. Researchers generally agree that how the money is spent is far more important than how much money is available to be spent. But no matter how many times researchers find weak empirical relationships between spending and performance, the public will insist that schools are one teacher pay raise away from the educational promised land.

Unfortunately, the American public too often equates the quality of public schooling with the condition of various inputs: per-student spending, educational technology, teacher pay, class size, school buildings, and the like. Presumably, schools will succeed so long as federal, state, and local governments use taxpayer money to furnish high-tech gadgets, pay teachers more, reduce class sizes, and construct magnificent school buildings.

But there is a better way for us to think about education finance: a focus on productivity. Researchers use the term “educational productivity” to describe analyses that compare funding to student performance. To do so, they use quantitative methods to measure the relative return on investment for schools and school districts, while considering differences in cost of living, household income, English language proficiency, and special education services.

All things being equal, there are tremendous variations in productivity within North Carolina’s public school system. Some districts have below-average per-pupil expenditures but above-average test scores. Others have relatively high per-pupil expenditures, but their test scores are disappointingly low.

Whether you call it “return on investment,” “educational productivity,” or “bang for the buck,” an assessment of the relationship between educational inputs and outputs is an essential starting point for good K-12 education policy.

## KEY FACTS

- » In 2019, North Carolina spent an average of \$9,865 per K-12 student in federal, state, and local operating funds and \$750 (five-year average) in per-student capital funds. When average spending for buildings and other capital costs is included, the total per-student expenditure on public education in our state is \$10,615 per student.
- » During the 2018-19 school year, total operating expenditures reached \$13.9 billion. State funds accounted for over \$9.14 billion, 66 percent of that total.

- » State funding is not distributed to all public school children equally. State and federal agencies allocate funds based on the needs, circumstances, and grade level of each student. During the 2018-19 school year, for example, school systems received an additional \$884 in state funds for each limited English proficiency student and \$4,464 for each special-needs student (limitations apply). Federal funding added up to \$6,158 per elementary student, depending on program eligibility.
- » Counties are responsible for financing their own capital programs and have spent almost \$13.45 billion on school construction and maintenance since 1999. The state contributed over \$1.94 billion for capital expenditures during the same period. Taking all sources of revenue into account, school districts have spent over \$15.47 billion for school capital expenditures since 1999.
- » Federal No Child Left Behind/Every Student Succeeds Act funding to North Carolina public schools remained relatively flat between 2009 and 2014. It increased from \$517 million to \$585 million between 2015 and 2019. Child nutrition programs received an additional \$200 million in federal funds since 2012, mostly to implement revised nutritional standards for child nutrition programs.

## RECOMMENDATIONS

### 1. Acknowledge that empirical studies do not find a consistent relationship between education spending and student performance.

Research suggests expenditures on classroom instruction provide the most “bang for the buck.” Even when dollars flow to the classroom, however, the fundamental principles of educational productivity still apply; that is, it’s not how much you spend but how you spend it.

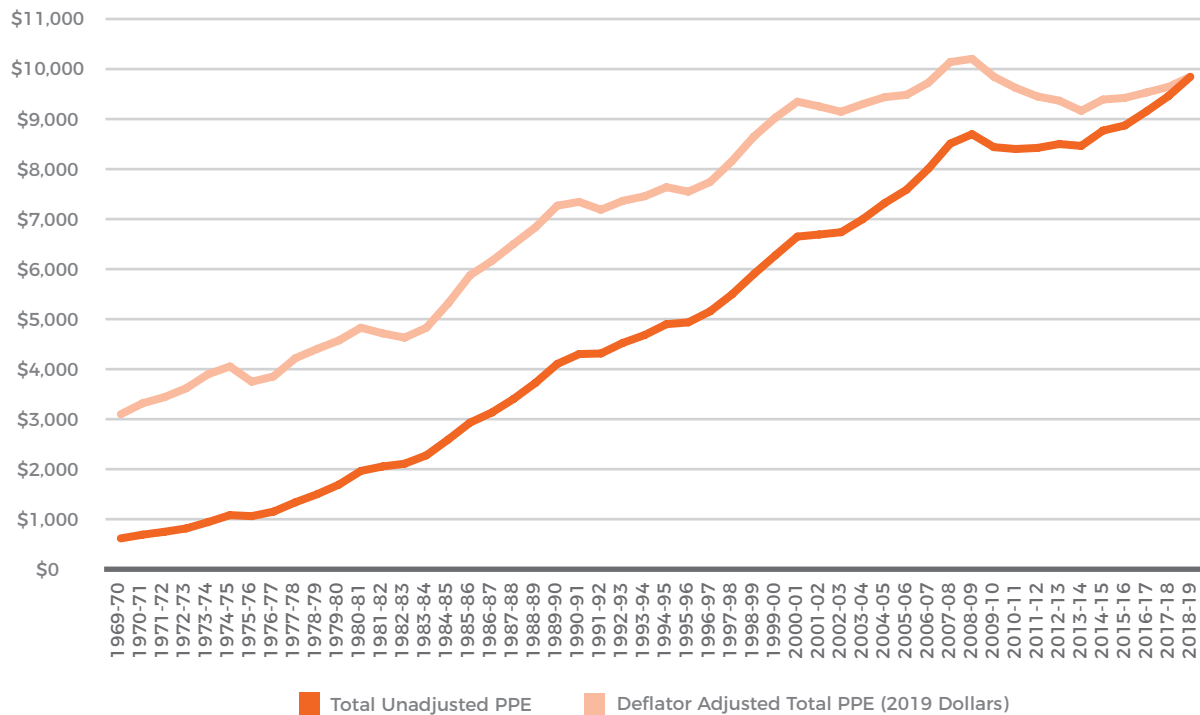
### 2. Discontinue the confusing practice of allocating funds using dozens of state-developed funding formulas. Instead, change the way that North Carolina funds public education by attaching funding to the student.

Coupled with open enrollment for schools statewide, student-centered funding will ensure that schools chosen by parents will receive funds necessary to educate each child – nothing more, nothing less.

### 3. Require school districts to post budgets, check registers, contracts, and other public documents online.

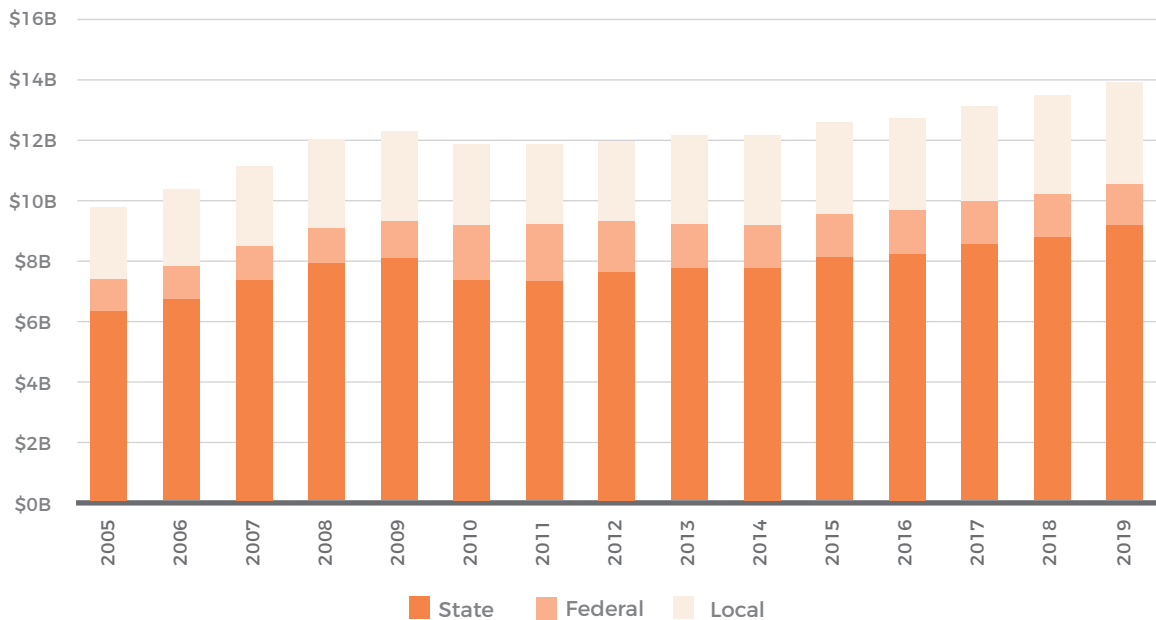
Taxpayers should have access to information and data that details how their dollars are spent.

## Inflation-Adjusted and Unadjusted Per-Pupil Expenditures, 1970-2019



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

## Total Unadjusted Expenditures



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

# SCHOOL CHOICE

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

In North Carolina, public education is a core fiscal responsibility of state and local government. In the words of the North Carolina Supreme Court, the state constitution recognizes the right to a “sound, basic education” for each child. Ideally, there would be two ways to assess whether a school is satisfying that right.

On the one hand, parents may rely on standardized testing and other metrics to gauge the quality of their assigned schools. Unfortunately, if those schools produce disappointing results or impose direct physical or psychological harm on their children, only a fortunate few have the option of relocating their children to a better district, public charter school, private school, or home school.

On the other hand, the parental choice model makes schools directly accountable to parents. Parents are given the financial means and unrestricted opportunity to move their children and tuition dollars to competing educational institutions.

Therein lies one of the major advantages of school choice – fairness. No longer does family income or ZIP code dictate a family’s access to a better school, as it does in most communities today.

In the end, education need not (and should not) be delivered by government monopolies. A diverse array of prekindergarten, primary, secondary, and postsecondary schools benefit both those who utilize educational options and those who do not. No system for delivering goods and services functions well without providing a means for consumers to make their desires known and to express their levels of satisfaction.

## KEY FACTS

- » Between 2008-09 and 2018-19, there was an 84 percent increase in the number of homeschool students. During the 2018-19 school year, an estimated 142,037 students were taught in 90,688 home schools.
- » In 2013, the General Assembly changed the state’s homeschool statute to affirm that homeschool parents determine the scope and sequence of academic instruction and permit them to incorporate additional sources of instruction, including online and cooperative schools.
- » Between 2008-09 and 2018-19, there was a 6 percent increase in the number of private school students. Private school enrollment dropped during the Great Recession and only recently began to rebound. In 2018-19, 102,400 students enrolled in 769 private schools.
- » The North Carolina General Assembly passed two private school voucher programs in 2013. The first was a \$4,200-per-year

Opportunity Scholarship for public school children in low-income households. The second was what became the \$8,000-per-year Disabilities Grant Program for public school children with a documented disability.

- » At the start of the 2019-20 school year, 12,009 low-income children received Opportunity Scholarships, which is approximately nine times the number of students who received a scholarship during the program's first year of operation.
- » Under the Disabilities Grant Program, 1,754 special-needs students received a voucher during the 2018-19 school year.
- » Lawmakers continue to increase state support for the Opportunity Scholarship and Disabilities Grant programs. In 2016, legislators created an Opportunity Scholarship Grant Fund Reserve, which will increase funding for the program by \$10 million per year for the next 10 years. If scheduled increases are maintained in subsequent budgets, the program will have a \$144.8 million budget in 2027-28.
- » In 2016, the General Assembly approved a \$9,000 Education Savings Account (ESA) program for special-needs children. An ESA gives parents maximum control of scholarship funds by allowing them to direct state-provided dollars to one or more approved schools, educational service providers, or vendors providing instructional materials and technology. At the start of the 2019-20 school year, 282 students received an ESA.

## RECOMMENDATIONS

### 1. Continue to increase funding for existing voucher programs to accommodate all eligible applicants.

Every year, low-income and special-needs students remain on wait lists due to legislatively imposed funding caps. The increasing popularity of both programs suggests that, at their current level, the supply of scholarships will fail to meet annual demand.

### 2. Increase the number of students eligible to receive state-funded Education Savings Accounts (ESAs) and allow unspent funds to be deposited into a college savings account.

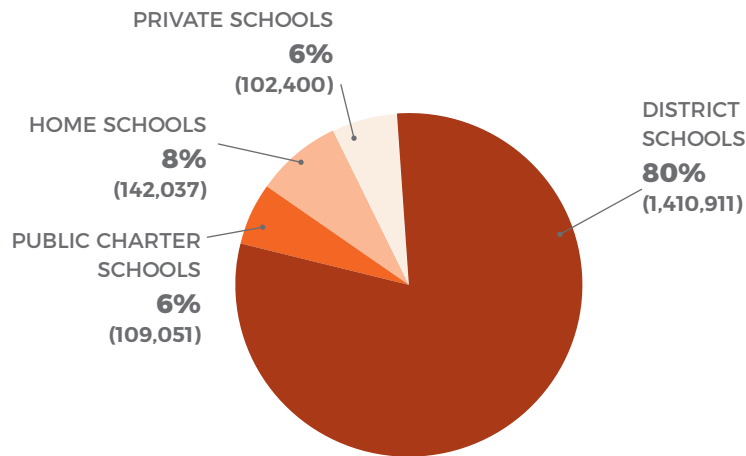
North Carolina should expand ESA eligibility to low- and middle-income students and allow them to deposit unspent funds into a 529 savings account to offset the cost of postsecondary education and training.



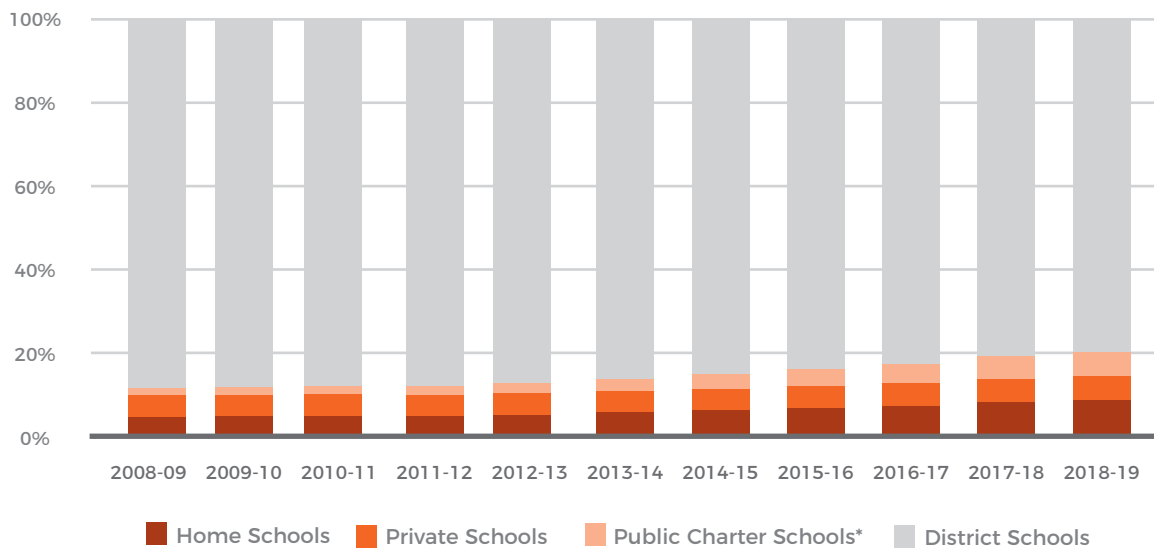
### 3. School districts should make greater use of open enrollment and magnet schools, allowing parents to send their children to the public schools that best meet their needs.

District leaders should employ choice and competition to improve academic performance within the district system.

#### K-12 Student Enrollment Market Shares, 2018-19



#### Public and Non-Public School Enrollment, 2009-2019



NOTE: \*INCLUDES REGIONAL SCHOOLS

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

# STANDARDS AND CURRICULA

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

Curricula are not standards. Standards are not curricula. In the debate over the Common Core State Standards, definitions of key terms such as “standards” and “curricula” vary considerably. For some, standards and curricula are the same. For others, standards are a framework by which curricula are developed.

Although there is no universally accepted definition, most education experts agree it is important to make a clear distinction between the two concepts. In general, standards are broad goals, or, in the words of the North Carolina Department of Public Instruction, “standards define what students know and should be able to do.”

Curricula include specific course content either developed by the teacher or obtained from an external source. Teachers may use different curricula so long as it is aligned to the standards established for that subject and grade. Arguably, the latter is more important than the former. In an early assessment of Common Core adoption and implementation, Tom Loveless, an educational researcher at the Brookings Institution, found no apparent relationship between the quality and the rigor of state standards and National Assessment of Educational Progress (NAEP) scores. These findings suggest that the content teachers teach and that students learn likely has a much greater bearing on student achievement than what standards alone may provide.

Simply put, standards reform is not enough to boost student performance. Standards are successful only when they are buttressed by content-rich curricula delivered by well-trained educators, preferably using direct instruction.

## KEY FACTS

- » State education officials mandate that all subject-area teachers follow the Standard Course of Study, which defines “appropriate content standards for each grade level and each high school course to provide a uniform set of learning standards for every public school in North Carolina.” State standards are reviewed and updated periodically.
- » The Common Core State Standards were developed by three Washington, D.C.-based organizations – the National Governors Association, the Council of Chief State School Officers, and Achieve, Inc. – and were championed by the U.S. Department of Education. In 2010, the North Carolina State Board of Education adopted Common Core mathematics and English language arts standards for students in

kindergarten through 12th grade. In 2018, English language arts and mathematics teachers began using a revised version of the Common Core State Standards.

- » State-authored standards included in the Standard Course of Study include arts education, career and technical education, English as a second language, guidance, healthful living, information and technology skills, science, social studies, and world languages.
- » Currently, the North Carolina Department of Public Instruction provides curriculum resources to teachers without mandating that they adopt any of them.
- » North Carolina state law prescribes teaching of curricular content in certain grades and course areas. For example, state law prescribes inclusion of a civic literacy curriculum during a high school social studies course. Health education, character education, and financial literacy are other content requirements outlined in the statute. The requirement to teach multiplication tables and cursive writing are two notable curriculum mandates passed into law.

## RECOMMENDATIONS

### **1. Legislators should create two permanent commissions charged with raising the quality and rigor of state English language arts and mathematics standards, as well as curricula and assessments.**

The goals of the commissions would be to 1) modify substantially or replace the Common Core State Standards; 2) specify content that aligns with the standards; 3) recommend a valid, reliable, and cost-effective testing program; 4) provide ongoing review of the standards, curriculum, and tests throughout implementation.

### **2. The commission should develop a rigorous state-developed curriculum or adopt a rigorous, independently developed curriculum, such as the Core Knowledge Sequence.**

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

# TEACHING PROFESSION

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

No system of public education can thrive without a high-quality teacher workforce. The problem is that state education bureaucracies enforce rules and regulations that fail to distinguish excellent teachers from poor ones. Indeed, a large body of research shows that certification status, advanced degrees, years of experience, education school courses, and teacher test scores are unreliable indicators of teacher quality.

Our continued use of experience- and credential-based teacher salary schedules means, for example, that some superb educators are making less money than mediocre ones, simply because they have fewer years of experience, lack an advanced degree, or fail to obtain a specialized certification. In the end, the current system does little to encourage our best public school teachers to stay in the classroom.

Across-the-board salary and benefits increases may attract some to the profession, but targeted increases are a much better long-term strategy for improving quality. That said, the state's capacity to recruit and retain teachers depends on more than just compensation. Educators choose to teach in (or leave) North Carolina for any number of personal and professional reasons. It is equally important for lawmakers to ensure that the state maintains a low cost of living, a strong economy, and superior quality of life.

## KEY FACTS

- » During the 2018-19 school year, North Carolina public school districts employed 93,397 full-time teachers. Public charter schools employed 6,939 teachers.
- » Approximately 27 percent of North Carolina teachers earned an advanced degree. The North Carolina General Assembly eliminated master's pay for newly hired educators starting in the 2014-15 school year.
- » As of 2019, 22,653 teachers earned National Board Certification, an advanced credential that provides educators a 12 percent salary supplement for 10 years.
- » North Carolina Department of Public Instruction data show that unadjusted teacher pay increased 110.5 percent between 1999 and 2019. This outpaced the 42.2 percent increase in state employee salaries and the 56.4 percent increase in the Consumer Price Index during that period.
- » According to the state salary schedule for the 2019-20 school year, teachers on the typical 10-month contract had a base salary range of \$35,000 for a beginning teacher with a bachelor's degree to

\$65,970 for a teacher with a doctorate, National Board Certification, and over 25 years of experience. These figures are base salary and do not include local supplements.

- » In addition to their state-mandated base salary, most teachers receive an annual salary supplement from their local school district. The average salary supplement was nearly \$4,580 per teacher in 2019. Six school districts provide no local salary supplement. Wake County Schools offered the state's largest average supplement at nearly \$8,720 per teacher.
- » For the 2018-19 school year, average teacher pay was \$53,975. Matching benefits for teachers add 7.65 percent for Social Security, 18.86 percent for retirement, 4.59 percent for liability insurance, and \$6,104 for health insurance to their base salary. To put a value on the benefits package, the average teacher receives over \$18,900 in annual Social Security, retirement, liability insurance, and health insurance benefits.
- » According to the 2018 State of the Teaching Profession in North Carolina report, the teacher attrition rate for the state's 115 school districts was 8.1 percent. The rate includes teachers who retired or resigned due to personal circumstances. The mobility rate, that is, those who resigned to teach in another North Carolina public school, was 4.37 percent.

## RECOMMENDATIONS

### 1. Broaden the teacher applicant pool by loosening or eliminating certification and licensure requirements.

Although the state puts a premium on licensure, advanced degrees, and other credentials, there is little evidence that these factors improve teacher quality or raise student achievement.

### 2. Implement a comprehensive performance and incentive pay system that will pay a portion of teachers' salary based on the value they add to their students' learning.

North Carolina's salary schedule is based on years of experience and credentials, neither of which are sound indicators of teacher quality. Rather, the state should consider expanding the availability of performance-based pay based on student growth, which is generated annually by a computer program called EVAAS (Education Value Added Assessment System). While not perfect, research suggests that value-added analysis is the most accurate teacher evaluation tool available.

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

While a handful of institutions in the University of North Carolina System consistently produce outstanding educators, others do not.

#### Average Teacher Compensation, 2018-2019

Compensation	Amount
Salary	\$53,975
Social Security	\$3,701
Retirement	\$9,123
Health Insurance	\$6,104
<b>Total Benefits Package</b>	<b>\$18,928</b>
<b>Total Average Compensation</b>	<b>\$72,903</b>

SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

#### Average Teacher Compensation, 2005-2019



SOURCE: N.C. DEPARTMENT OF PUBLIC INSTRUCTION

# TESTING AND ACCOUNTABILITY

POLICY ANALYST: DR. TERRY STOOPS

## INTRODUCTION

School accountability comes in two forms. Either parents keep schools accountable by “voting with their feet,” or states compel public school districts to administer standardized tests. As educational options increase, the value and necessity of testing decreases. Likewise, as long as states such as North Carolina maintain stringent limitations on parental choice, test scores and similar measures remain their primary method of keeping schools accountable.

Beginning with the ABCs of Public Education in 1996 and continuing with the implementation of the READY accountability model in 2012, the North Carolina Department of Public Instruction authored, field-tested, administered, and analyzed nearly all end-of-grade and end-of-course tests. During that time, state tests were subject to countless modifications, deletions, and additions. Some of these changes were for the better, but others were for the worse.

Indeed, many teachers and parents remain incredulous about the state accountability system. According to the 2016 Teacher Working Conditions Survey, for example, 57 percent of the over 92,800 teachers who responded to the survey question did not believe that state-developed assessments accurately gauge students’ understanding of state learning standards. (The question was removed from the 2018 survey.) Amid widespread discontent with the state accountability program, elected officials have taken steps to improve North Carolina’s testing system.

Even the most promising efforts to transform the state accountability program, however, may not mitigate the use of excessive, duplicative, or poorly designed tests. That is because research suggests that school- and district-based testing mandates consume more time than tests required by the state or federal government. Nevertheless, it would be a mistake for state legislators or federal bureaucrats to impose one-size-fits-all rules that govern decisions made at the school and district levels.

## KEY FACTS

- » The federal government requires that the state administer and report results from end-of-grade tests in English and math for students in grades 3-8 and science tests for students in grades 5 and 8. High school students must take, at minimum, end-of-course English II, Math I, Math III, and Biology tests. Testing for English language learners and career and technical education students is also required.

- » For most state assessments, student test scores fall into one of five achievement levels. Levels 3, 4, and 5 meet the “on grade-level proficiency” standard. Levels 4 and 5 meet the “career-and-college readiness” standard.
- » Although some students elect to take the SAT, all North Carolina students are required to take the ACT. In addition, selected career and technical education students who are in the 12th grade will complete WorkKeys.
- » In 2013, the North Carolina General Assembly mandated that the state use test scores, academic growth measures, and other outcome measures to create a simple A-to-F performance grading system for all North Carolina public schools. The current grading system uses a 15-point scale and is composed of 80 percent student proficiency and 20 percent growth on state tests.
- » North Carolina public schools also participate in the federal National Assessment of Educational Progress (NAEP). The rigorous NAEP tests are administered infrequently; a representative sample of students is tested in mathematics and reading every two years, while science, history, civics, and geography tests are administered every four years. Because of the nature of the sample, NAEP cannot provide data on individual school districts, only states. In most cases, only fourth- and eighth-grade students are tested.
- » The North Carolina General Assembly passed the Testing Reduction Act of 2019. Beginning in the 2020-21 school year, the NC Final Exam will no longer be used for teacher evaluations, and school districts will be required to review local standardized tests and explore new assessment options.

## RECOMMENDATIONS

### 1. Adopt an independent, field-tested, and credible national test of student performance.

There are a number of norm-referenced tests available for students in grades K-12, including the Basic Achievement Skills Individual Screener (BASIS), Metropolitan Achievement Tests (MAT 8), and the Stanford Achievement Test Series, 10th Edition (Stanford 10).



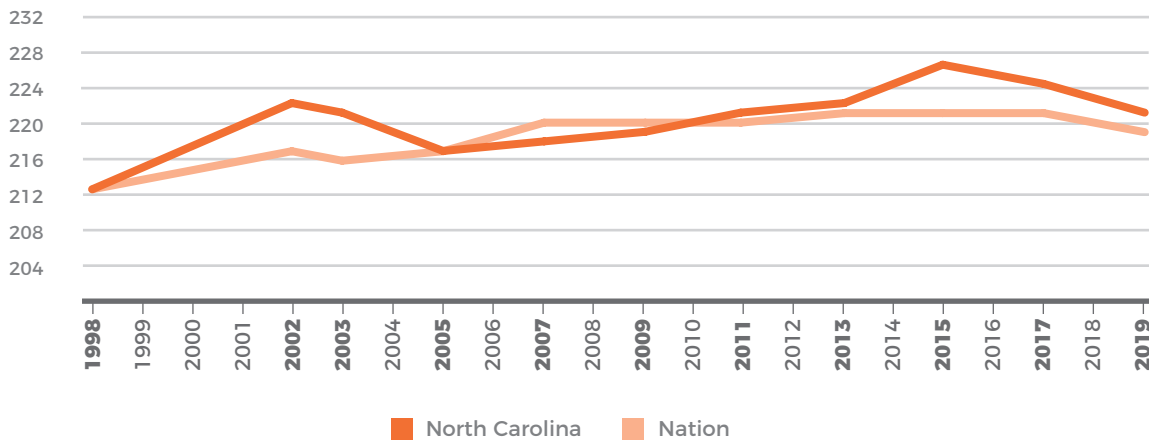
2. **The North Carolina Department of Public Instruction should sponsor a comprehensive study that attempts to discover the causes of the state's dramatic increase in math achievement and relative stagnation of reading scores over the last decade.**

North Carolina's public schools produced remarkable increases in fourth- and eighth-grade math and fourth-grade reading scores in the 1990s and early 2000s. Researchers should conduct a similar study to determine why the graduation rate has been on the rise.

3. **The state should augment educational options for all families, thereby curtailing dependence on standardized tests and other measures of student achievement.**

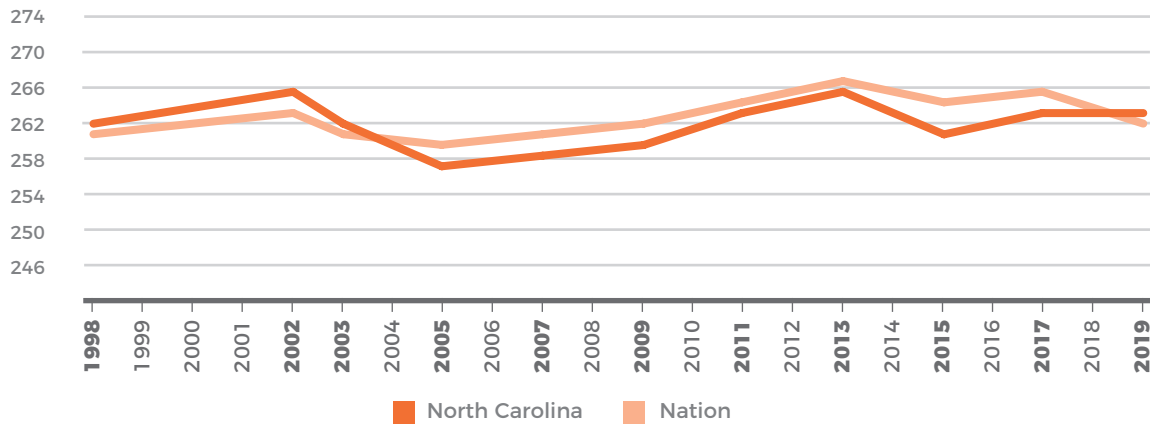
Like testing, parental choice is a form of accountability.

### NAEP Scores: Fourth-Grade Reading

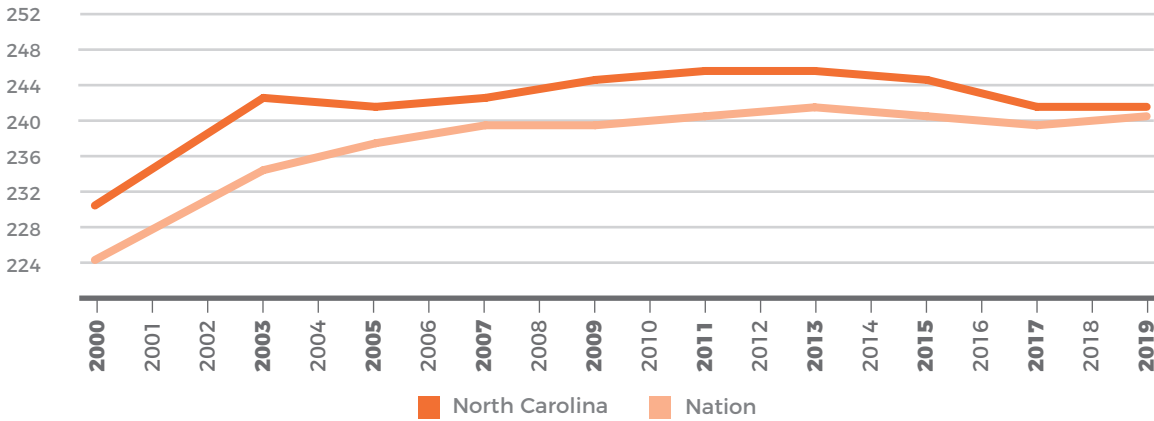


**SOURCE:** NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP) AVERAGE SCALE SCORES

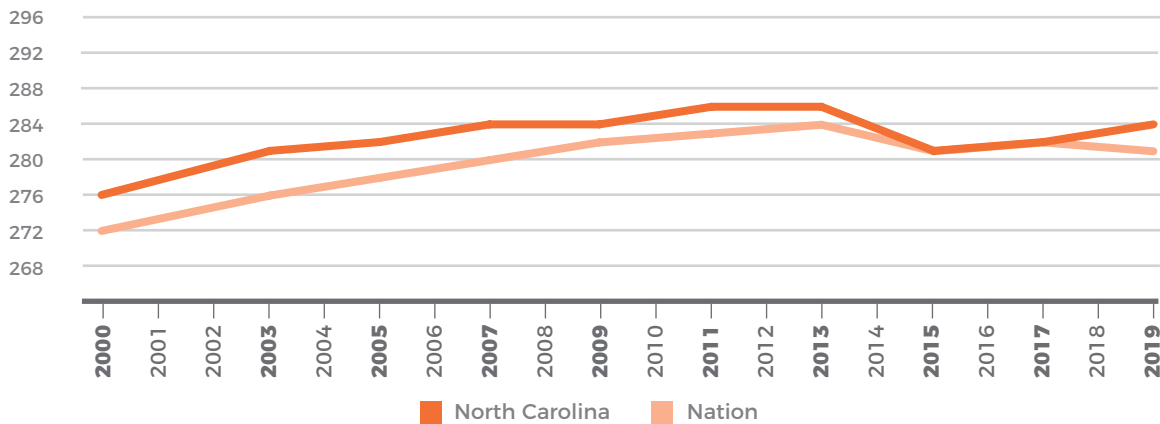
## NAEP Scores: Eighth-Grade Reading



## NAEP Scores: Fourth-Grade Mathematics



## NAEP Scores: Eighth-Grade Mathematics



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

## Average SAT Scores

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

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

**SOURCE:** COLLEGE BOARD

## Average ACT Scores

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

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

**SOURCE:** ACT, INC.

# VIRTUAL SCHOOLS

POLICY ANALYST: **DR. TERRY STOOPS**

## INTRODUCTION

A virtual school is an internet-based learning environment that allows students to participate in a class using a computer rather than being present in a classroom. Students can access all class materials, including lectures, notes, assignments, handouts, and audio and video content through the internet. Certified teachers offer one-on-one communication with the student, and they often recruit experts in the subject area to engage with virtual school students through interactive lectures and online chats.

Virtual schools come in many shapes and sizes. A virtual school may be operated by a state entity, a nonprofit organization, or a for-profit company. Some offer full-time programs, while others provide a part-time or “blended” approach. In North Carolina, they are subject to state performance standards and regulations, including teacher certification requirements, grade-level restrictions, enrollment caps, defined course offerings, and student-to-teacher ratio guidelines. Funding mechanisms vary significantly, as well.

Despite those differences, the one element common to all virtual schools is choice. Online and blended programs do not exist simply to repackage the status quo. Rather, they deliver a genuine alternative for children whose needs are not met by the traditional instructional or institutional model of public schooling.

In recent years, however, virtual schooling has become a target for those who have incentives to maintain the status quo. In North Carolina, state education officials have thwarted good-faith efforts to open a virtual charter school that would compete with the state-run North Carolina Virtual Public School. In 2011, nonprofit organization North Carolina Learns attempted to open the first virtual charter school in the state, but the State Board of Education denied the application without a proper review. In response, the North Carolina General Assembly approved legislation that allowed two virtual charter schools to begin operating as a pilot program. The State Board of Education approved applications submitted by N.C. Virtual Academy and N.C. Cyber Academy (formerly N.C. Connections Academy) in 2014.

## KEY FACTS

- » Beginning as a pilot in 2005, the North Carolina Virtual Public School (NCVPS) is a state-operated online school that enrolls over 32,000 high school students. NCVPS offers approximately 150 courses but no full-time programs. It is the second-largest state-operated virtual school in the country.

- » The Virtual Charter School Pilot Program was approved by the North Carolina General Assembly in 2014. The two participating schools, N.C. Virtual Academy and N.C. Cyber Academy (formerly N.C. Connections Academy), are full-time virtual schools and are subject to caps on student enrollment and teacher-student ratios, as well as other requirements.
- » At the end of the 2018-19 school year, virtual charter schools had over 4,600 students enrolled. Enrollment varies considerably from month to month because some families choose to enroll their children in a virtual school to meet short-term needs.
- » Parent satisfaction surveys suggest most families are satisfied with their virtual charter school experience and plan to enroll their children the following year.

## RECOMMENDATIONS

- 1. Maximize competition in course offerings by expanding the number of virtual school providers, including private and for-profit online schools, as well as institutions of higher education in North Carolina and beyond.**

Allow state, local, and federal funds to follow the student to the traditional or virtual school (or course) of their choice.

- 2. Allow all current and future virtual school providers to hire teaching candidates who possess the requisite skills and relevant knowledge and experience, rather than those who possess mandated credentials.**

If eliminating the existing certification process is not an option, the state should reform lateral-entry or alternative certification programs, so that individuals who do not possess education credentials to teach can obtain them easily. At minimum, lawmakers should require that the North Carolina Department of Public Instruction award a North Carolina teaching license to educators who possess a valid teaching license from another state and who pass a criminal background check.

**3. Commission annual independent cost-benefit analyses of virtual schooling that assess fiscal implications, student/parent satisfaction, and student performance.**

While the initial findings of cost savings are suggestive, the state should expand online course offerings only if the cost of those courses decreases current personnel and capital outlays at the school district level.





**HEALTH CARE**

# ASSOCIATION HEALTH PLANS

POLICY ANALYST: **JORDAN ROBERTS**

## INTRODUCTION

Association health plans (AHPs) are a type of group health plan in which a business or trade association offers health insurance benefits to its member employers. AHPs allow groups of small businesses or self-employed owners to group together for the purpose of purchasing health insurance through their association, thereby leveling the playing field between small-group and large-group plans when it comes to both cost and benefits.

This wasn't always the case. When the Affordable Care Act, also known as Obamacare, was implemented, it separated the insurance market into the "large-group" market and the "small-group and individual" market. The large-group market and small-group markets are regulated differently. Small-group plans have to abide by all of the insurance regulations placed on plans sold in the Obamacare exchanges. Large-group plans are usually self-insured, which means they don't have to comply with community rating, health benefit mandates, and other Obamacare regulations that add expenses to the bottom line.

In 2011, to push as many people as possible into the small-group market, and thus subject them to Obamacare requirements, the Obama administration made it almost impossible for AHPs to form.

However, the rules have now changed. Through an executive order, the Trump administration ordered the Department of Labor (DOL) – which oversees the enforcement of employer benefits – to broaden the access to, and use of, these plans.

The new Trump administration guidance made it much easier for groups of small employers to meet the requirements of an AHP in two ways under the Employee Retirement Income Security Act (ERISA). First, a group of small business and self-employed owners in the same geographic area would be considered a "bona fide" group employer. Second, a group of employers in the same industry would be considered a "bona fide" group and a large group under ERISA. Large-group plans still have to comply with all the state regulations for these type of plans in the states in which they are located.

Before the Trump administration's rule change, self-insured AHPs were governed by a "look through" doctrine. The law "looked through" the association providing benefits and viewed the employee members as individuals who were, therefore, subject to the small-group and individual market requirements.

## KEY FACTS

- » Small businesses almost always pay more for health care because of their size compared to large businesses. A study done by the National Conference of State Legislatures found that small businesses could decrease their premiums by 8 to 18 percent if they were allowed to purchase health insurance as a large group.
- » For individuals who struggle to afford health coverage or are uninsured, AHPs may offer a more affordable alternative. A study conducted by the Foundation for Government Accountability found that up to 110,000 North Carolinians could join an association health plan.
- » Land O'Lakes launched a multi-state Cooperative Farmer Health Plan calling itself the first to do so after approval of the Trump administration's new rules. Without burdensome mandates, the plan offered the 10 essential health benefits and broad network coverage. The plans offered were 20 to 30 percent cheaper than comparable plans on the Obamacare exchange.
- » Opponents of AHPs claimed they would offer bare bones coverage in comparison to Obamacare plans. However, the first plans to be sold under this new rule offered a variety of different plan options, each of which covered all Obamacare essential health benefits, prescription drugs, maternity care, and mental health and substance abuse treatment.
- » Opponents of AHPs also claimed consumers would lack adequate protections. Yet, these plans must follow the same rules that apply to plans currently being sold on the large-group market. These plans cannot deny coverage based on pre-existing conditions, cannot cancel coverage if someone becomes ill, and must abide by all other health care discrimination protections.

## RECOMMENDATION

### **1. Amend North Carolina's insurance codes to allow for small businesses and self-employed owners to band together and be treated as a large-group insurance plan.**

If the North Carolina General Assembly and Department of Insurance would allow association health plans to operate with more flexibility and offer more consumers a lower-cost health benefit plan that still includes various consumer protections, more small employer groups may begin forming their own plans.

# CERTIFICATE OF NEED

POLICY ANALYST: JORDAN ROBERTS

## INTRODUCTION

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

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

Since the federal CON repeal, 15 states have scrapped their CON programs. North Carolina did not. The state still has one of the most stringent CON programs in the nation, regulating over 25 services that range from kidney dialysis units to mental health services to ambulatory surgical centers (ASCs).

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

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

Even so, the State Health Coordinating Council and other proponents of Certificate-of-Need laws argue that centralized decision-making must remain intact to prevent duplicative services and underused facilities that may yield low-quality care.

## KEY FACTS

- » When CON laws were implemented, public policymakers hoped to tackle massive health care inflation due to the “cost-plus” reimbursement method under which providers were paid at the time. However, years of research have shown that, despite the presence of CON laws in most states, health care costs continued to rise and the federal government realized these laws failed to achieve its goal of keeping inflation in check.
- » The impact of CON laws extends beyond artificially higher prices. North Carolina’s CON program reduces access to health care for consumers and local communities, especially those who live in small towns and rural areas. CON states have 30 percent fewer rural hospitals and 13 percent fewer rural ambulatory surgical centers compared to states without CON laws. The elderly, the poor, people under time constraints, and people with emergency medical needs would be better served by having medical services nearby, rather than traveling to a hospital or clinic fortunate enough to have received CON approval for a service or procedure.
- » Supporters of CON laws claim they are necessary to ensure hospitals can provide “charity care” or can accommodate those without insurance or those who have trouble paying for medical care. However, studies have shown there is no difference in the amount of charity care between states that impose CON laws and states that don’t.
- » CON laws inhibit the economic freedom of medical entrepreneurs. Dr. Gajendra Singh of Forsyth County was told by North Carolina Department of Health and Human Services regulators that he would be required to obtain their permission to install and operate an MRI scanner for his medical practice. Dr. Singh partnered with the Institute for Justice to file a lawsuit that challenges the constitutionality of North Carolina’s CON law related to MRI machines.

## RECOMMENDATION

### 1. Repeal Certificate of Need.

CON laws restrict access to care, put government control ahead of patients and doctors, handcuff health providers from offering care in their communities, increase health care costs by preventing competition, undermine the doctor-patient relationship, and add anxiety about the quality of care when we are most vulnerable. North Carolina families deserve access to quality care and lower costs, unencumbered by government control.

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

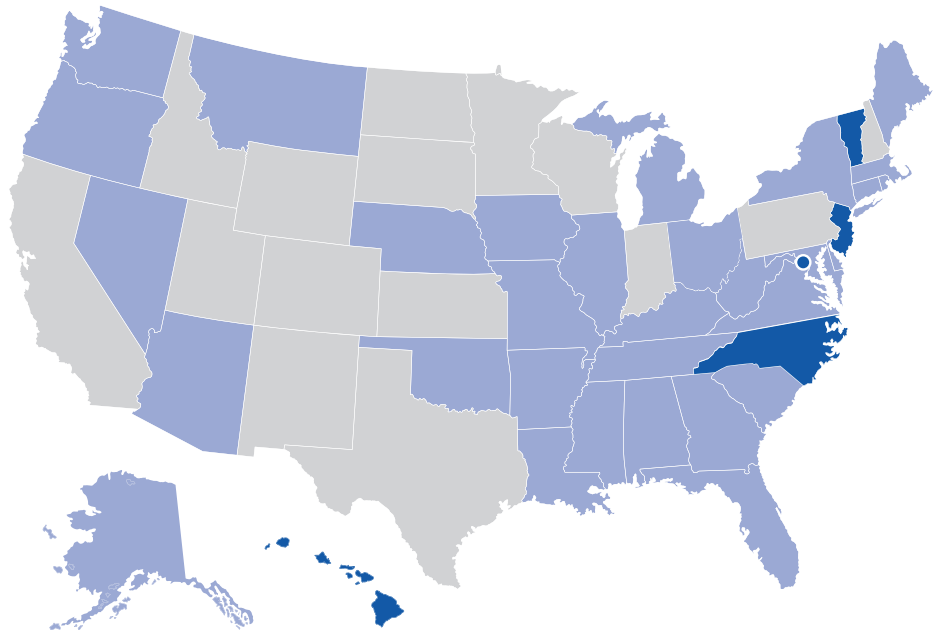
- Acute Hospital Beds
- Ambulatory Surgical Centers (ASCs)
- Assisted Living/Residential Care Facilities
- Burn Care
- Cardiac Catheterization
- Gamma Knives
- Home Health
- Hospice
- Intermediate Care Facilities for Individuals with Intellectual Disability (ICF/IDs)
- Linear Accelerator Radiology
-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

SOURCE: MERCATUS CENTER

## Jurisdictions With the Most Restrictive Certificate-of-Need Laws

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

Vermont.....	<b>30</b>
Hawaii.....	<b>29</b>
District of Columbia....	<b>28</b>
New Jersey.....	<b>26</b>
North Carolina.....	<b>25</b>



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

SOURCE: MERCATUS CENTER

# DENTAL CARE ACCESS

POLICY ANALYST: **JORDAN ROBERTS**

## INTRODUCTION

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

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

While 10 states allow, to some capacity, the practice of dental therapists, only four states currently have dental therapists practicing on the ground. North Carolina is not one of them. The introduction of dental therapists into North Carolina would likely help many who have trouble accessing or affording proper dental care. Dental therapists specialize in preventive care, so patients will benefit from having oral problems addressed before they become painful and expensive. With the appropriate regulatory framework in place, dental therapists will receive supervision from a dentist, but they still will have the flexibility to practice outside the traditional dental office. This is key. One of the easiest ways to provide patients in rural areas with access to oral care is to allow these professionals to travel to schools, community centers, or nursing homes.

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

## KEY FACTS

- » Health professional shortage areas (HPSAs) are geographic areas, populations, or facilities where the number of dental care providers does not meet the needs of the nearby population. North Carolina

has 165 dental HPSA designations where over 2.5 million individuals live, and as of the end of 2018, 74 of North Carolina's 100 counties were affected by dental professional shortages.

- » North Carolina could lead the southeastern United States in the dental field by allowing dental therapists to practice. As of April 2019, 10 states allow dental therapists to practice in some capacity. Arizona, Maine, Michigan, Minnesota, New Mexico, and Vermont have authorized dental therapists to practice statewide. In Alaska, Idaho, Oregon, and Washington, dental therapists are only allowed to practice in tribal communities.
- » After Alaska approved the practice of dental therapy, more children and adults received preventive care in areas where dental therapists practiced. These communities also had fewer children with front-tooth extractions and fewer adults with permanent-tooth extractions. In total, the introduction of dental therapy in Alaska had expanded access to over 40,000 individuals in 80 rural communities.
- » In 2011, Minnesota licensed the state's first dental therapists and, as of 2019, had the most dental therapists practicing on the ground. Over 40 percent of these dental therapists practice in non-metropolitan areas. A report by the Department of Health and Minnesota Board of Dentistry observed 14 clinics where dental therapists treated over 6,000 patients, 84 percent of whom had public insurance.

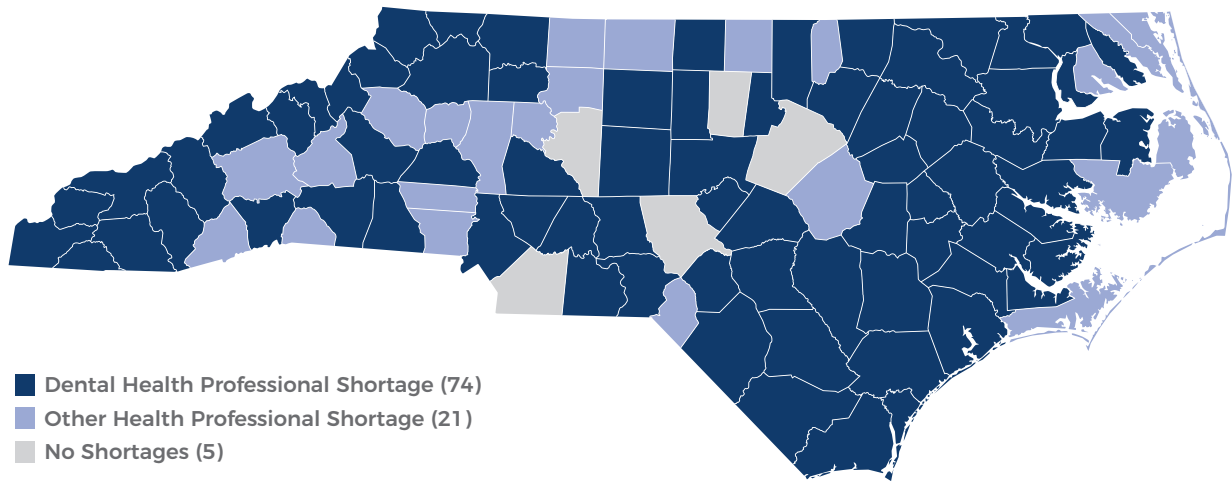
## RECOMMENDATION

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

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



## N.C. Dental Health Professional Shortage Areas



**SOURCE:** NC DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF RURAL HEALTH, "NORTH CAROLINA COUNTIES DESIGNATED HEALTH PROFESSIONAL SHORTAGE AREAS SFY 2018"

# DIRECT PRIMARY CARE

POLICY ANALYST: **JORDAN ROBERTS**

## INTRODUCTION

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

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

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

For physicians, DPC may forestall burnout. Because DPC doctors are no longer subject to insurance companies' complex billing codes and prior authorizations, they can be creative in how they care for their patients. They also don't have to spend 40 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. In traditional practice settings, primary care physicians see as many as 32 patients per day to stay afloat financially.

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

## KEY FACTS

- » While DPC is a niche market, it is experiencing considerable growth. As of 2019, there were 1,117 DPC offices in the country, up from 125 in 2014, and 53 physicians in North Carolina who practice DPC.

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

## RECOMMENDATIONS

### **1. Policymakers should pass legislation that states direct care providers do not act as a risk-bearing entity so that patients' monthly DPC membership fees are not classified as an insurance premium.**

To date, 26 states have enacted legislation that specifically defines DPC as not acting as insurance. This would protect DPC providers from North Carolina Department of Insurance regulations and keep costs low for patients.

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

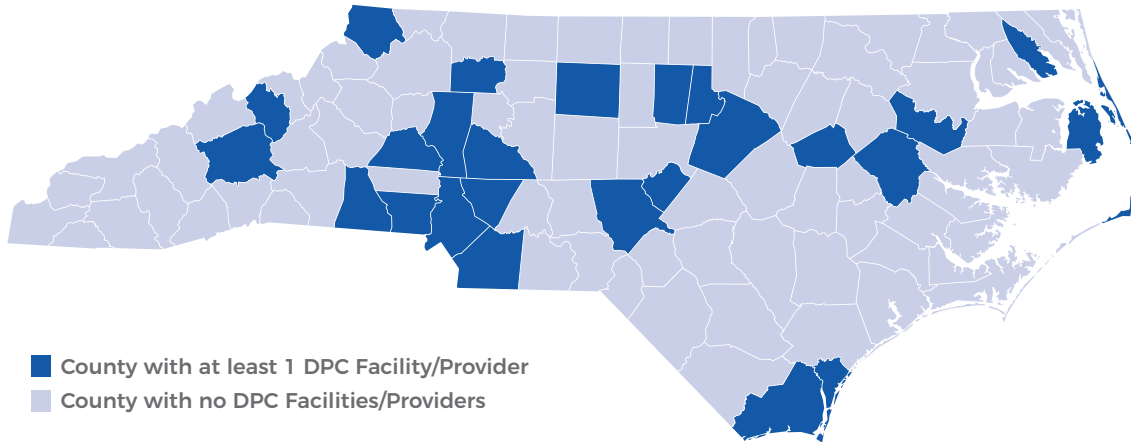
The North Carolina Department of Health and Human Services (NCDHHS) could work within a federal waiver to administer and monitor health savings accounts (HSAs) or debit cards with a lump-sum contribution to eligible enrollees.

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

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

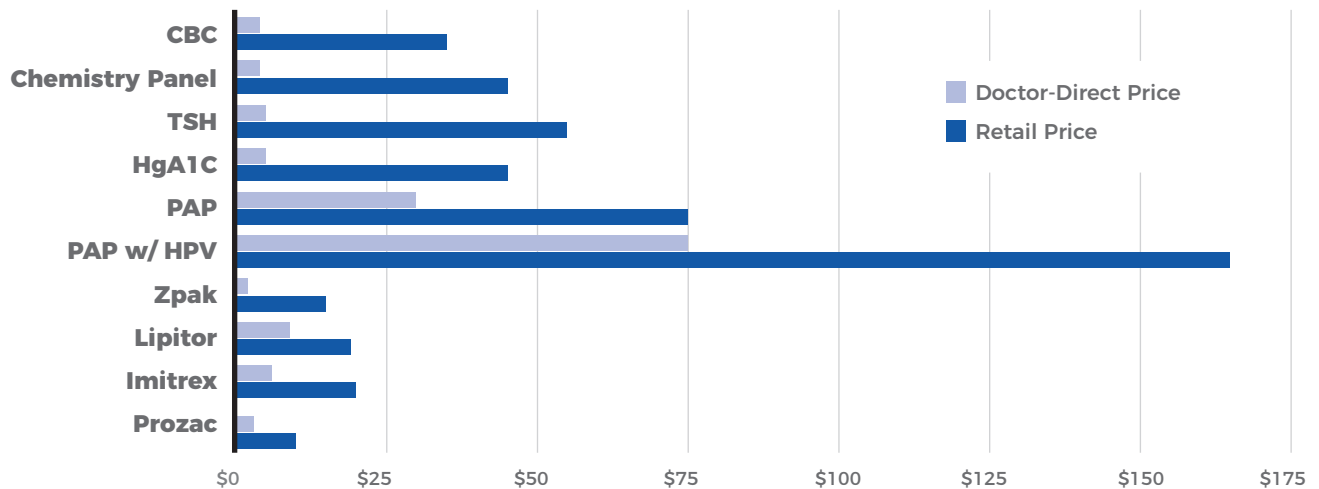
## DIRECT PRIMARY CARE

### North Carolina Counties With Direct Primary Care Facilities – 2019



SOURCE: DPC FRONTIER'S DPC MAPPER

### Discounted Lab and Medicine Pricing



	Doctor-Direct Price	Retail Price
CBC	\$4.00	\$35.00
Chemistry Panel	\$4.00	\$45.00
TSH	\$5.00	\$55.00
HgA1C	\$5.00	\$45.00
PAP	\$31.00	\$75.00
PAP w/ HPV	\$75.00	\$165.00
Zpak	\$2.00	\$15.00
Lipitor	\$9.00	\$19.00
Imitrex	\$6.00	\$20.00
Prozac	\$3.00	\$10.00

SOURCE: WWW.DOCTORDIRECTMD.COM

# HEALTH BENEFIT MANDATES

POLICY ANALYST: **JORDAN ROBERTS**

## INTRODUCTION

There are opportunities for North Carolina lawmakers to help lower the cost of health insurance. One way is to re-examine the 53 health benefit mandates state officials have passed into law since the 1970s.

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

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

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

## KEY FACTS

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

- » The insignificant cost of each mandate makes legislation relatively easy to sell to lawmakers. For example, people pay just 5 cents per month for pastoral counselor services. Access to dentists costs \$1.02. Podiatrists amount to \$2.17. This partly explains why there are now 2,200 mandates nationwide, up from almost zero in the 1970s. Individually, each mandate costs little, but collectively, they make insurance policies more expensive.
- » Because of the added costs associated with state benefit mandates, small businesses are discouraged from offering health coverage to their employees. Research shows that one in five small businesses would offer health benefits if there were fewer mandates built into small-group insurance plans.
- » Not all businesses are subject to state health benefit mandate laws. Self-insured employers are exempt under the 1974 Employment Retirement Income Security Act. Nationwide, 61 percent of all firms are self-insured. However, the exemption from state regulation doesn't deter these firms from offering generous health benefits to their workers. For example, a 2017 National Business Group on Health survey of 148 large employers shows that 96 percent of employers plan to offer telemedicine services to employees, up from 48 percent in 2015.
- » Another self-insured, mandate-free entity that provides generous coverage is North Carolina's State Health Plan. There are cases in which all members of the State Health Plan, including legislators, are subject to health benefit mandates. But there are some exceptions in which legislators exempt the State Health Plan from health mandates they have voted to become law for other plans.

## RECOMMENDATIONS

### 1. Limit benefit mandates.

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

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

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

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

### Evidence-based screenings and counseling

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

### Vaccines

- Influenza
- Tetanus
- Hepatitis A and B
- Measles

### Preventative Services: Children and Youth

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

### Preventative Services: Women

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

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

## North Carolina Health Benefit Mandates

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

# HEALTH INSURANCE EXCHANGES

POLICY ANALYST: **JORDAN ROBERTS**

## INTRODUCTION

One key provision of the Affordable Care Act (ACA or Obamacare) is the implementation of health insurance exchanges – online marketplaces where individuals can shop for federally qualified health plans offered by participating insurance companies.

Through the exchanges, the Obama administration promised to offer quality and affordable health coverage, while ensuring that insurers comply with the provisions of the law, such as guaranteeing coverage to patients with pre-existing conditions. Yet, the law rarely produced the kind of quality, affordability, and access promised by its architects and proponents.

The ACA required adults who do not receive health benefits through their employer and do not qualify for Medicare or Medicaid to acquire and maintain health insurance coverage. However, the mandate's tax penalty on people who decided not to buy health insurance did not ensure compliance, as the cost of purchasing health insurance on the exchange sometimes exceeded the cost of the penalties. Thanks to Congress's 2017-18 tax plan that was passed into law, the individual mandate was repealed in 2019.

Obamacare also produced a massive disruption in the health insurance industry. In 2017, UnitedHealth Group announced its departure from North Carolina's exchange. The nation's largest carrier stated that it lost hundreds of millions of dollars on its ACA line of business because exchange regulations prohibit the company from accurately pricing its policyholders' risk. Aetna subsequently announced its departure from 70 percent of its exchange market nationwide. Within the first two fiscal quarters of 2016, the company suffered \$200 million in losses.

Currently, only three insurance companies offer plans on North Carolina's exchange – Blue Cross and Blue Shield (BCBSNC), Cigna, and Centene/Ambetter. BCBSNC is the only insurer operating in all 100 counties in the state. Cigna offers plans in just five counties in the Raleigh-Durham area, while Ambetter is only available in Durham and Wake counties.

## KEY FACTS

- » The Affordable Care Act's health insurance exchanges offer four “metallic” levels of health plans: bronze, silver, gold, and platinum. Low-premium bronze plans cover 60 percent of expenses but



require consumers to be responsible for higher out-of-pocket expenses, including co-pays, co-insurance, and deductibles. Platinum plans come with the most expensive premiums but cover 90 percent of expenses.

- » Consumers with annual household incomes between 100 and 400 percent of the federal poverty level (FPL) may qualify for subsidies to offset the cost of insurance premiums. In North Carolina, you qualify for a subsidy with a household income of: \$12,490 to \$49,960 for a single individual, \$16,910 to \$67,640 for a couple, and \$25,750 to \$103,000 for a family of four. However, subsidy amounts greatly tail off beyond 250 percent of FPL.
- » Community rating under the ACA prohibits insurers from charging a high-risk individual more than three times the amount charged for a low-risk individual's premium. This results in the elderly and sick benefiting at the expense of the young and healthy because these low-risk individuals will pay higher premiums to subsidize the health care costs of the high-risk population. For the exchanges to maintain a balanced risk pool, the Obama administration projected that healthy 18-to-34-year-olds need to represent 40 percent of total ACA enrollees. Of the 501,271 North Carolinians that selected a marketplace plan for 2019, just 26.6 percent of signups are in this demographic.

## RECOMMENDATIONS

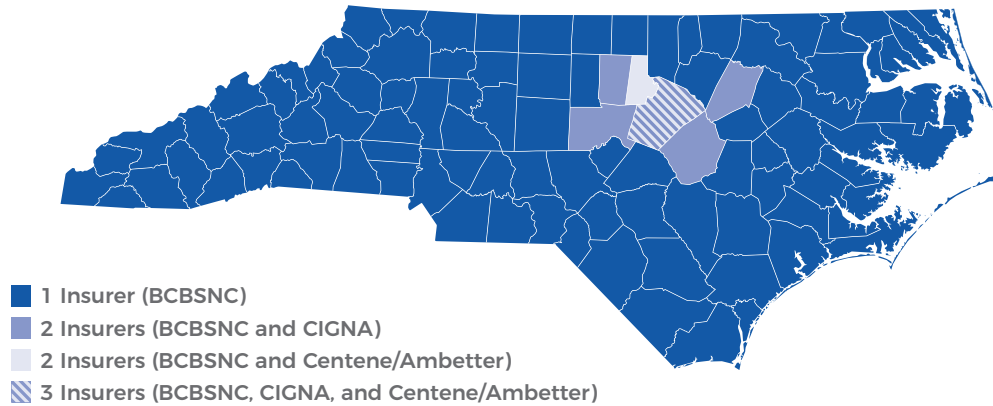
### 1. Set limits to the Affordable Care Act's impact.

Until policymakers in Washington, D.C., repeal the Affordable Care Act, the state should pursue relief by creating health plans that meet consumer preferences and demands. The expansion of association health plans is a logical first step.

### 2. Let market innovations and state-based high-risk pools provide options for individuals who have been denied insurance because of pre-existing conditions.

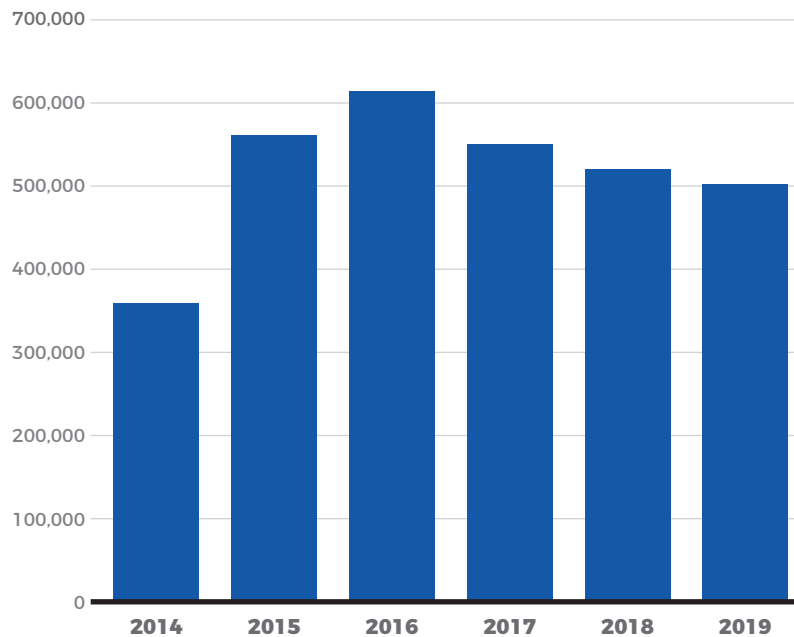
In the past, UnitedHealth Group has offered an insurance product that prevents people from being priced out of the market if their health drastically changes. This could be a workable model if adopted broadly.

## Number of Insurance Companies Offering Health Plans on North Carolina's Federal Health Insurance Exchange



SOURCE: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Number of North Carolinians Who Purchased Insurance on the ACA Exchange



SOURCE: THE KAISER FAMILY FOUNDATION

**NOTE:** One of the ACA's core functions is to provide a competitive marketplace where individuals can shop for insurance and choose from many different plans. However, in North Carolina, the number of insurers in the marketplace is low and enrollment is declining. The decline in ACA exchange enrollment is likely due to several factors. First, double-digit premium increases have likely contributed heavily. Unsubsidized enrollment dropped 40 percent from 2016 to 2018. In addition, economic and job growth may have provided an opportunity for more individuals to obtain health insurance through work. Another factor may be that the Trump administration has created many more opportunities for people to acquire health insurance via alternative sources. Regardless, in North Carolina, enrollment has declined since its peak in 2016, which raises questions about the sustainability of the exchanges and price tag that comes with premium subsidies.

# MEDICAID EXPANSION

POLICY ANALYST: **JORDAN ROBERTS**

## INTRODUCTION

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

The federal government currently funds two-thirds of North Carolina's \$14 billion Medicaid program. The Affordable Care Act, also known as Obamacare, allows states to expand Medicaid eligibility to individuals earning up to 138 percent of the federal poverty level. This figure equates to an individual earning \$17,236 per year or a family of four earning \$35,535. As of December 2019, North Carolina was one of 14 states that have not expanded Medicaid.

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

The experiences of states that have expanded Medicaid should temper the enthusiasm of those who champion expansion. For example, Arizona's expansion in 2002 initially projected slow enrollment growth, sustainable costs, a reduction in the number of uninsured, and reduced uncompensated care. Instead, the expanded population (mostly childless adults) ended up costing two to four times more than the cost of covering low-income parents. Similar outcomes occurred in other expansion states, including Oregon, Delaware, Maine, Utah, and Vermont.

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

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

## KEY FACTS

- » Federal funding of Medicaid expansion and other health care entitlements will necessitate either higher levels of deficit spending, which adds to the multitrillion-dollar federal debt, or substantial increases in taxes, which impedes economic growth.
- » Medicaid expansion would cost North Carolina an estimated \$6 billion between 2020 and 2030. To pay for the expansion, the North Carolina General Assembly would need to reduce provider payments, increase taxes, or divert resources from education, transportation, and other essential parts of the budget.
- » Expanding Medicaid eligibility puts traditional program enrollees at risk. Low-income parents, children, pregnant women, the elderly, the blind, and the disabled would have to compete for access to health care with an estimated 500,000 people who would be added to Medicaid, 78 percent of whom are able-bodied, childless adults.
- » With less access to physicians that accept new Medicaid patients, new enrollees would likely turn to hospital emergency rooms for service. Studies show that Medicaid expansion is unlikely to reduce visits to the emergency room, one of the most expensive ways to receive care. In some cases, Medicaid expansion actually raises emergency room utilization.
- » Expanding the eligibility pool for government health insurance programs crowds out access to private insurance coverage. Studies indicate the crowd-out effect contributes to the fact that six out of 10 people on Medicaid once had private coverage.

## RECOMMENDATIONS

### 1. North Carolina should not expand Medicaid.

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

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

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

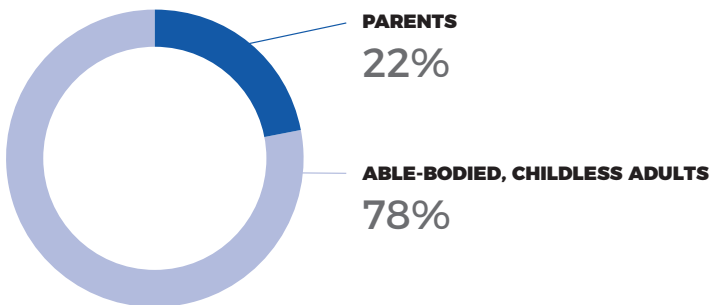
### 3. Congress and North Carolina lawmakers should relax Medicaid rules and regulations.

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

### 4. Congress should offer a refundable tax credit to able-bodied, working Medicaid patients and their dependents.

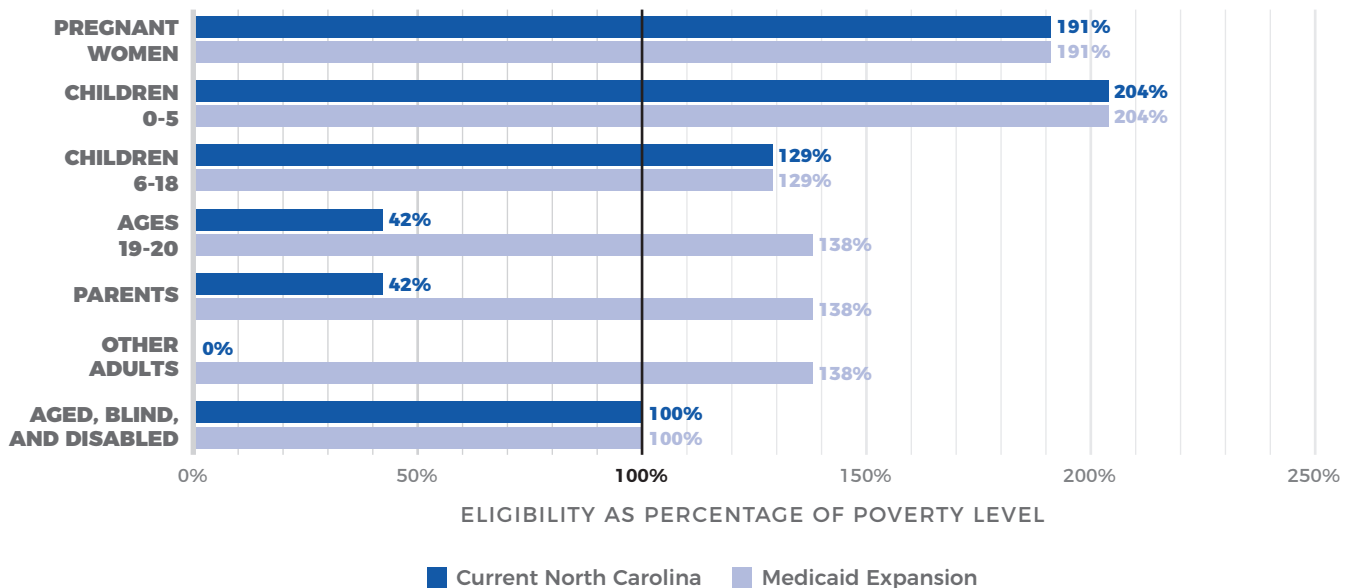
This may reduce government dependence in the long term, instill consumer awareness, and promote patient choice.

#### Medicaid Expansion Population



SOURCE: KAISER FAMILY FOUNDATION

#### Medicaid Income Eligibility Categories in North Carolina



SOURCE: NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

# SCOPE-OF-PRACTICE REFORM

POLICY ANALYST: **JORDAN ROBERTS**

## INTRODUCTION

For patients living in rural North Carolina, quality health care can be hard to find. Over 1.9 million people, 19 percent of the state's population, live in primary-care shortage areas.

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. Only 3 percent of family doctors who graduated from North Carolina residency programs between 2008 and 2011 are practicing 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 January 2020, if nurse practitioners want to practice in North Carolina, they must establish a collaborative practice agreement with a physician. The agreement outlines patient management and describes how the providers will interact. Interestingly, NPs are not required to be in the same geographic location as the overseeing physician, and they are required to meet only twice a year. The lack of oversight, then, demands asking why the contracts are even necessary.

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

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

## KEY FACTS

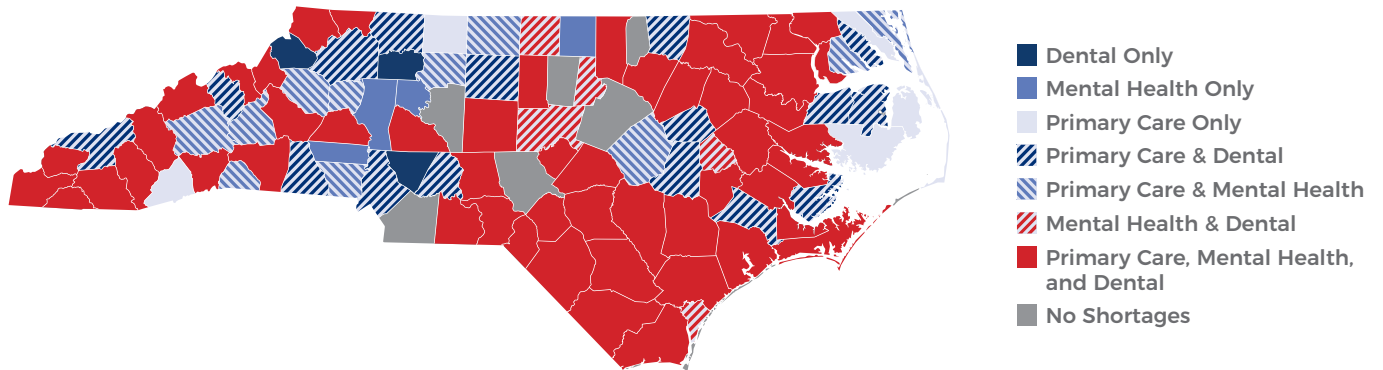
- » Twenty-two states and Washington, D.C., have granted full practice authority to nurse practitioners.
- » Nurse practitioners are valuable assets to the health care workforce. Many of the 6,644 nurse practitioners who are licensed in North Carolina practice in a primary-care setting and focus on managing chronic disease.
- » Nurse practitioners are one of the fastest-growing types of medical professionals. Between 2001 and 2017, the number of nurse practitioners in North Carolina increased by 215.9 percent in non-rural counties and 187.3 percent in rural counties.
- » As of 2017, only 15.3 percent of nurse practitioners reported a primary practice location in a rural county.
- » Ending the requirement for a contract with a physician would open opportunities for nurse practitioners to deliver patient care in more rural and underserved areas. Arizona, for example, granted nurse practitioners full practice authority in 2002. Five years later, the state reported a 73 percent increase in the number of nurse practitioners serving rural counties.
- » Because it takes less time and money for nurse practitioners to complete their clinical training compared to physicians, they may fill health care gaps at a faster rate. Based on health care workforce projections between 2010 and 2020, the number of fully trained nurse practitioners is expected to increase by 30 percent, compared to an 8 percent rise in the number of physicians.

## RECOMMENDATION

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

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

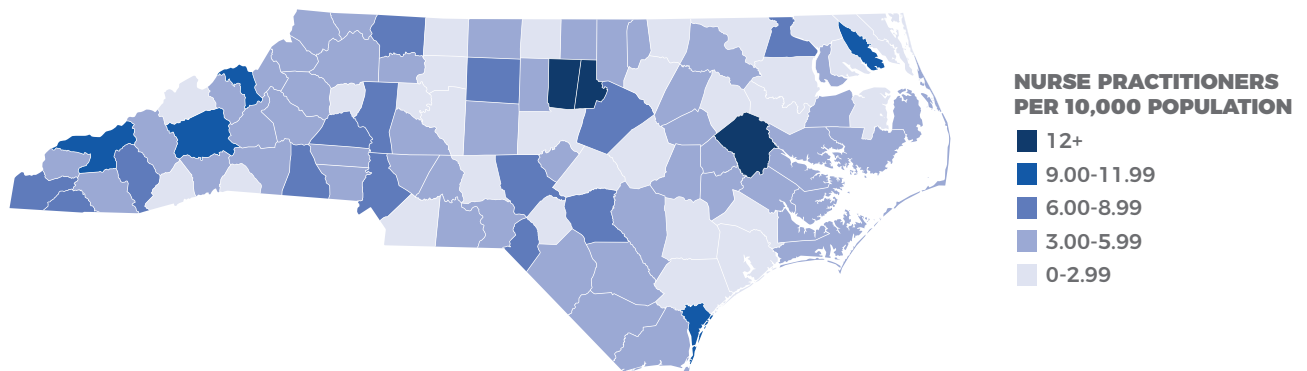
## Health Professional Shortage Areas in North Carolina



**NOTES:** SHORTAGE AREA MAY BE WHOLE COUNTY, OR POPULATION GROUP OR GEOGRAPHICAL AREA WITHIN A COUNTY. DATA AS OF JANUARY 1, 2018. COUNTIES THAT ARE GRAY ARE URBAN COUNTIES OR RURAL COUNTIES WITHOUT AN OFFICIAL HPSA DESIGNATION.

**SOURCE:** NORTH CAROLINA OFFICE OF RURAL HEALTH

## North Carolina Nurse Practitioner Workforce – 2018



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



# TELEMEDICINE

POLICY ANALYST: **JORDAN ROBERTS**

## INTRODUCTION

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

Despite the convenience that telemedicine offers without compromising the quality of care, some medical providers still resist adopting the practice because certain services don't always come with insurance reimbursement. Such pushback is one of the reasons why almost 40 state legislatures have passed telemedicine parity laws. Telemedicine parity laws force private insurance carriers to pay medical providers for services delivered via telemedicine at the same rate as those delivered during an in-person office visit.

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

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

## KEY FACTS

- » In some cases, telemedicine parity laws may incentivize physicians to adopt telemedicine platforms. However, enforcing such a rule undermines telemedicine's cost-effective capabilities. Compared to an average \$114 office visit, a patient can connect with a physician through telemedicine for \$38.
- » As early as the mid-1990s, Blue Cross and Blue Shield of North Carolina (BCBSNC) provided telemedicine benefits for psychiatric care, psychotherapy, health behavior assessments, and diabetic counseling. Meanwhile, UnitedHealthcare began covering virtual visits for its policyholders in 2015.

- » Basic health care can be accessible when it's not covered by insurance. In 2015, a group of emergency physicians in North Carolina founded RelyMD, an app that offers 24/7 virtual doctor appointments to patients in exchange for a \$50 per-visit fee. Patients can seek medical consultation or treatment in the comfort of their own homes via a computer, smartphone, or tablet in a matter of minutes.
- » Direct primary care (DPC) physicians incorporate telemedicine into their patients' monthly membership fees. Phone calls, texts, emails, FaceTime, secure messaging platforms, and specialty consults – the most common uses of telemedicine – are all included at no additional cost to the patient.
- » To mitigate the ongoing provider shortage, Carolinas HealthCare System (CHS) has its intensivists and nurses remotely monitor hundreds of patients across 10 of the system's intensive care units (ICUs). The ability for remote providers to practice proactive medicine has helped lower the health system's mortality rates by 5 percent and length of stay in the hospital by 6 percent.

## RECOMMENDATIONS

### 1. Do not pass telemedicine parity laws.

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

### 2. Congress should pass a law stating that the practice of telemedicine is tied to where the provider is located, not to the patient.

Currently, physicians can deliver telemedicine only to patients who are located physically in the state where the provider is licensed. If payment instead is tied to the provider's location, then the provider could deliver care to patients anywhere.

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

Absent action from Congress, North Carolina could still increase the use of telemedicine by allowing out-of-state physicians to treat North Carolinians virtually.

# **REGULATION, LAW, AND LOCAL GOVERNMENT**

# ALCOHOL POLICY

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

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

For liquor, however, North Carolina became a "control" state. The state exerts total government control over liquor distribution and sales. Only 16 other states are control states, but North Carolina is different even from them. North Carolina is the only state with local government control over liquor sales, which is done through 170 different ABC boards operating 433 different ABC stores.

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

As a government monopoly, North Carolina's ABC system seeks to maximize revenues and minimize choice and competition. Advocates for the ABC system are quick to point to its over \$1 billion in sales and talk about its government revenue transfers. But most of the sales revenue covers business expenses. In 2018 only 38 percent went to government purposes. Importantly, state government revenue from liquor sales is already built in by taxes and surcharges in state law. They don't depend on whether North Carolina is a strict control state with an ABC system or a license state.

In 2019 the North Carolina General Assembly loosened state restrictions on alcohol in several ways. Among other things, distillers were allowed to hold tastings at ABC stores, receive ABC permits to sell beer, wine, and mixed drinks on premises, sell bottles to distillery visitors without limit, and self-distribute to mixed-beverage permittees and out-of-state consumers. In a major compromise, craft breweries were given much greater freedom to self-distribute.

Other state restrictions remain. For example, taverns, bars, etc. cannot offer "happy hours" or "ladies nights" promotions or a variety of drink specials other states allow. Tastings at distilleries are still strictly limited. Distilleries can't sell bottles at farmers markets or state fairs, and distilleries can't hold for-profit events or sell bottles or drinks offsite.

## KEY FACTS

- » Under the lighter regulatory regime for beer and wine, North Carolina sees thriving industries bringing pride to their communities, with over 300 breweries and 168 wineries at the close of 2018. With North Carolina's strict control over liquor, however, there were only 63 active distilleries.
- » Advocates for keeping the ABC system speculate that, without it, North Carolina would see a spike in teenage drinking, teenage binge drinking, DUIs, and alcohol-related deaths, which would create havoc for Alcohol Law Enforcement (ALE) and local law enforcement. Research and further consideration suggest those fears, while understandable, are overblown.
- » Research finds no significant differences between control and license states with respect to the negative outcomes mentioned above. Meanwhile, sales of bottles of liquor for off-premise consumption (sales at ABC stores) are a small subset of alcohol consumption in North Carolina, dwarfed by sales of beer and wine for on- or off-premise consumption and also liquor-by-the-drink sales at restaurants, bars, clubs, etc.

## 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.

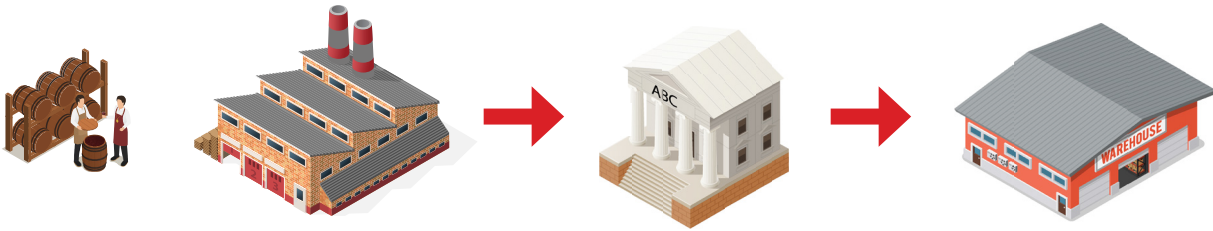
### 2. Continue to remove anticompetitive restrictions and overregulation of the alcohol industry.

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.

### 3. Tax cider at the same rate as beer.

There are now at least 28 cideries in the state, mostly in western North Carolina and most supported by apples from Henderson County, the seventh-most productive county for apples in the U.S. The state's definition of cider, however, is stricter than the federal government's, and the state taxes cider like unfortified wine instead of beer. Taxing cider like beer would result in a 38 percent tax cut. Matching the state's definition of cider to the federal government's definition would remove uncertainty from cider production and allow that natural industry to grow faster.

## 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

# ASSET FORFEITURE

POLICY ANALYST: JON GUZE

## INTRODUCTION

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

Civil asset forfeiture is inherently unjust. It violates property rights and the right to due process. Perhaps 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, however, 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 our *criminal* asset forfeiture statutes, property linked to a crime is only subject to forfeiture after the property’s owner has been convicted of that crime. And under the North Carolina Constitution, asset forfeiture proceeds do not revert to the agency that made the seizure. Instead, they must be used for maintaining public schools.

These features of North Carolina law protect the innocent and discourage abuse and have earned the state high marks in repeated editions of the Institute for Justice’s “Policing for Profit” report. In 2015, they also earned the state 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 then the bulk of the proceeds are returned to the state agency that made the seizure. Adoptions serve only one purpose: to facilitate the circumvention of state asset forfeiture laws.



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

### KEY FACTS

- » North Carolina's statutes and the state constitution protect the innocent and discourage abuse by requiring a criminal conviction before property can be forfeited and by requiring forfeiture proceeds to be used for maintaining public schools.
- » The federal government's equitable sharing program makes it possible for North Carolina law enforcement agencies to circumvent those protections.
- » In 2018, North Carolina law enforcement agencies collected more than \$17 million in equitable sharing proceeds from the Department of Justice alone, and they collected millions more from the Department of the Treasury.
- » Ten states and the District of Columbia have imposed restrictions on equitable sharing in the form of prohibitions on federal adoptions and monetary thresholds that must be met before asset sharing is permitted in joint investigations. Similar reforms have been proposed in two more states.

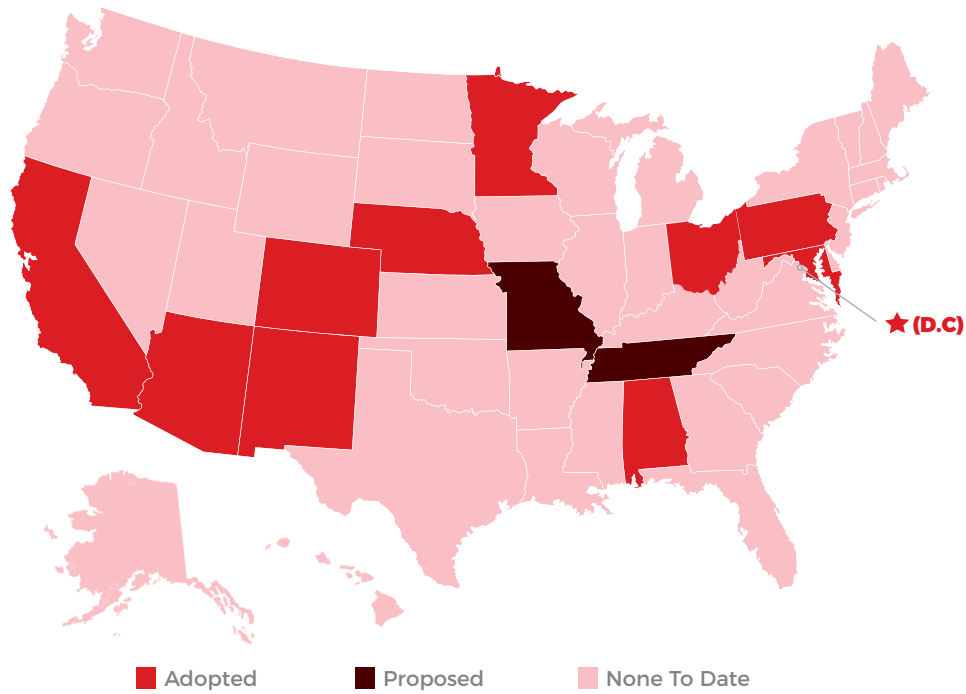
### RECOMMENDATION

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

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



## Status of Anti-Circumvention Laws Across the U.S. – 2019



SOURCE: JOHN LOCKE FOUNDATION

## Top 10 North Carolina Recipients of U.S. DOJ Equitable Sharing Funds – 2018



SOURCE: U.S. DEPARTMENT OF JUSTICE

## North Carolina Recipients of U.S. DOJ Equitable Sharing Funds – 2018

Agency	Cash Value	Sales Proceeds	Total
North Carolina State Bureau Of Investigation	\$1,281,429	\$49,863	<b>\$1,331,292</b>
State Highway Patrol	\$1,051,411	\$27,803	<b>\$1,079,214</b>
Charlotte-Mecklenburg Police Department	\$886,753	\$3,720	<b>\$890,473</b>
Raleigh Police Department	\$781,561	\$51,152	<b>\$832,713</b>
Alcohol Law Enforcement	\$754,139	\$73,886	<b>\$828,025</b>
Cary Police Department	\$809,753	\$7,227	<b>\$816,980</b>
City Of Durham Police Department	\$738,460	\$7,227	<b>\$745,687</b>
Wake County Sheriff's Office	\$734,154	\$10,462	<b>\$744,616</b>
Orange County Sheriff's Office	\$642,549	\$7,891	<b>\$650,440</b>
Harnett County Sheriff's Office	\$625,884	\$8,281	<b>\$634,165</b>
Nash County Sheriff's Office	\$445,184	\$6,475	<b>\$451,659</b>
Pineville Police Department	\$395,093	\$1,841	<b>\$396,934</b>
Winston-Salem Police Department	\$326,164	\$0	<b>\$326,164</b>
City Of Wilmington Police	\$320,390	\$0	<b>\$320,390</b>
City Of Burlington Police Department	\$312,301	\$0	<b>\$312,301</b>
Durham County Office Of The Sheriff	\$259,830	\$3,105	<b>\$262,935</b>
Alamance County Sheriff's Department	\$250,555	\$0	<b>\$250,555</b>
New Hanover County Sheriff's Office	\$221,281	\$11,345	<b>\$232,626</b>
Gastonia Police Department	\$232,217	\$0	<b>\$232,217</b>
Fayetteville Police Department	\$224,824	\$3,556	<b>\$228,380</b>
Graham Police Department	\$198,271	\$0	<b>\$198,271</b>
Wayne County Sheriff's Office	\$195,877	\$0	<b>\$195,877</b>
McDowell County Sheriff's Department	\$169,099	\$20,678	<b>\$189,777</b>
High Point Police Department	\$178,625	\$1,510	<b>\$180,135</b>
Division of Motor Vehicles	\$173,883	\$4,254	<b>\$178,137</b>
Guilford County Sheriff's Office	\$162,880	\$2,459	<b>\$165,339</b>
Greensboro Police Department	\$156,504	\$1,229	<b>\$157,733</b>
Buncombe County Anti-Crime Task Force	\$120,878	\$35,743	<b>\$156,621</b>
Gibsonville Police Department	\$156,379	\$0	<b>\$156,379</b>
City Of Greenville Police Department	\$118,220	\$36,018	<b>\$154,238</b>
84 Other Agencies			<b>\$3,816,561</b>
		<b>Total</b>	<b>\$17,116,834</b>

SOURCE: U.S. DEPARTMENT OF JUSTICE

# CONNECTIVITY AND BROADBAND

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

One aspect of the economy that garners much attention in the urban/rural divide is internet service. More populous metropolitan areas have a greater range of private services offering broadband, just as they have more options among grocery stores, restaurants, gasoline stations, and other things. It is expensive and challenging for service providers to site broadband infrastructure to connect relatively sparse populations to high-speed broadband.

Connectivity is an increasingly important need for homes and businesses, however. For that reason, local government officials can become convinced that the solution is for government to provide the service. But the results from local governments offering public broadband networks are not desirable. Even for the few public networks that are cash-flow positive, most would take over 60 years before they could break even.

Public networks are marked by financial difficulties. Earlier this century, a handful of North Carolina cities – Wilson, Salisbury, Mooresville, Davidson, and Morganton – chose to set up municipal broadband services. In short order, however, their residents faced higher taxes and even higher electricity and water rates, as the cities were borrowing from other funds to cover their broadband network losses.

In response, state legislators passed the Level Playing Field Law in 2011. The law protects citizens from being hit with higher property taxes and utility costs owing to such cross-subsidization, and it also protects any existing or future service providers from facing unfair competition from governments.

The law does that by requiring new public broadband systems to comply with the same federal, state, and local laws that their private competitors must follow. It prevents public systems from requiring subscribership from individuals or developments, and the law disallows cross-subsidization to cover losses or pricing services below cost. The law also forbids local governments from using bonds not approved by voters to fund the services.

The Level Playing Field Law is grounded in the wisdom that the private sector, featuring competing enterprisers seeking new opportunities and finding innovations, is best suited to solve difficult market problems.

## KEY FACTS

- » By 2011, Wilson was borrowing from its municipal electric and gas funds to make up for an over \$11 million shortfall in its Greenlight network. Mooresville and Davidson's MI-Connection had posted consecutive annual losses of \$5.6 million, \$6.8 million, and \$6.4 million. Salisbury was borrowing millions of dollars from its water and sewer fund to support its Fibrant network, saw its bond rating downgraded, and in 2018 easily passed a voter resolution to lease the network.
- » In December 2018, the U.S. Department of Agriculture (USDA) announced a \$600 million grant program to be used by “telecommunications companies, rural electric cooperatives and utilities, Internet service providers, and municipalities ... to connect rural areas that currently have insufficient broadband service.” Insufficient service was deemed to be download speeds of 10 megabits per second (Mbps) or less and 1 Mbps to upload. Approved service would be at least 25 Mbps (download) and 3 Mbps (upload).
- » Under USDA's 2018 standard, nearly all of North Carolina has sufficient service speeds and competition. In June 2018, the Federal Communications Commission's analysis of fixed broadband deployment found that 95 percent of North Carolinians had access to at least three providers offering broadband speeds of 25/3 Mbps or more, and the remaining 5 percent had two choices at those speeds. Over 92 percent of North Carolina had access to very high speeds of 100/10 Mbps.
- » An April 2019 report from WUNC discussed how smaller, innovative broadband companies were sprouting up across North Carolina to offer rural broadband services. Despite a lack of traditional infrastructure, the companies are making ingenious use of such features as grain elevators, water towers, and even sweetgum trees for posting transmission equipment.

## RECOMMENDATIONS

### 1. Leave broadband service to private providers.

The private sector, featuring competing enterprisers seeking new opportunities and innovations, is best suited to solve difficult market problems.

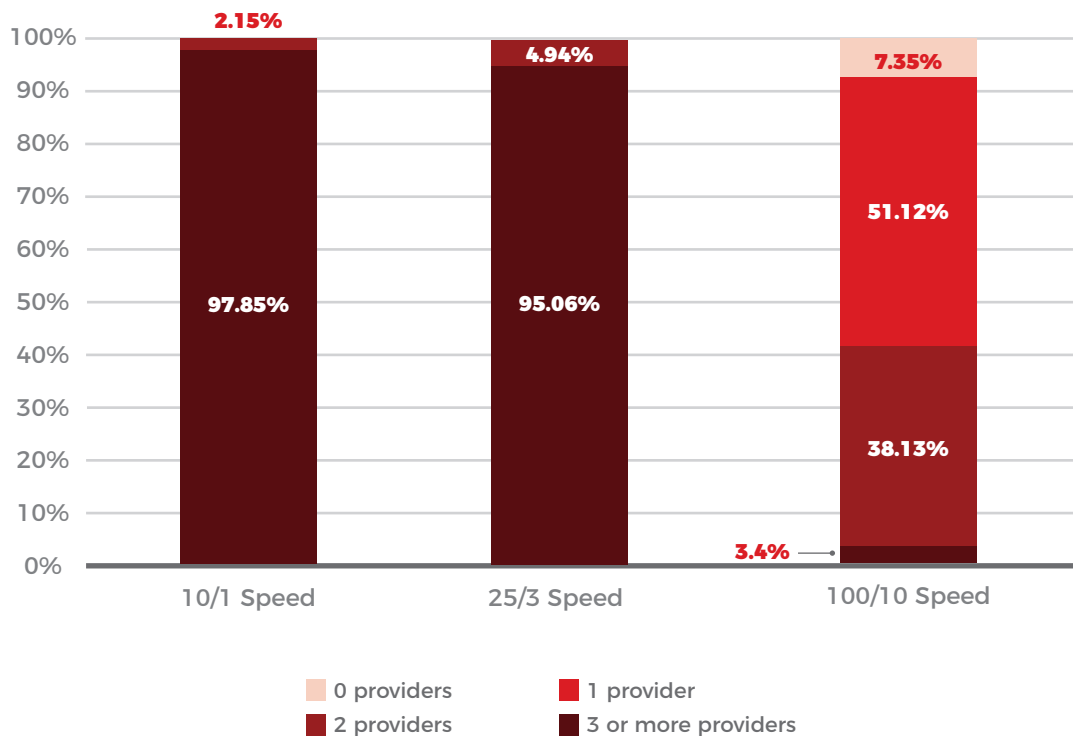
### 2. Uphold the Level Playing Field Act.

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

### 3. Streamline permitting and remove regulatory roadblocks to building wireless infrastructure.

Examining rural broadband issues in North Carolina, the Mercatus Center at George Mason University in 2017 recommended that North Carolina reduce state and local regulatory obstacles to building wireless infrastructure on public property and public rights-of-way.

#### North Carolinians' Access to Broadband, Select Speeds and Number of Providers – June 2018



SOURCE: FEDERAL COMMUNICATIONS COMMISSION

# CONVENTION AND EVENT CENTERS

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

The idea of a new convention center appeals to city and county leaders' civic pride and aspirations. They expect the new center to be a huge boost to the local economy, bringing in lots of newcomers who will pay special taxes on hotel rooms, car rentals, and prepared meals.

It is important to realize their peers in countless cities across the state and nation have the same dreams for their convention and event centers. And that gives a hint at why publicly funded convention centers are usually expensive money losers. There just aren't that many events out there for the taking, and there's an oversupply of convention space.

Convention and event center projects come packaged with impressive economic-impact studies that anticipate wide utilization with great spillover effects for hotels, restaurants, transportation services, and retailers. But results rarely match the projections. As a consequence, the centers begin offering discounted rates as the cities offer greater subsidies to keep the centers going. Actual attendance tends to be those who live in the area or in the state – people who would already have been spending locally (netting no actual impact) or who are less likely to stay overnight and dine.

In his 2014 book “Convention Center Follies,” Heywood T. Sanders, professor of public administration at the University of Texas at San Antonio and the nation's top scholar on convention centers, wrote: “In city after city, from Anaheim and Atlanta to Seattle and Washington, D.C., the consultant forecasts simply are not realized, the actual center performance in terms of new convention and tradeshow attendees and hotel room nights often half or a third of what the consultants promised.” Despite that, Sanders found no evidence that the forecast errors were even acknowledged by consultants to improve their forecasting.

The consultants' reports are biased to produce “deal of a lifetime” projections to pressure leaders to support the projects. As one Belmont, North Carolina city councilman said about such studies, “no elected official wants to stand up and say ‘I’m standing in the way of new jobs.’”

The public venture also squelches private ventures, an unseen harm to the economy. Municipal convention centers compete against private centers, such as the Koury Center in Greensboro and the Sea Trail Convention Center in Brunswick County, as well as hotels offering their own meeting spaces, including smaller options. This unfair competition can be exacerbated by city-subsidized hotels and restaurants placed near the convention center.

## KEY FACTS

- » In 2016, the John Locke Foundation warned that the Rocky Mount Event Center would result in “tens of millions of dollars in additional tax burden” falling on taxpayers in Rocky Mount. From 2016 to 2018 the City of Rocky Mount approved three property tax increases “dedicated to the Rocky Mount Event Center debt payments.” Rocky Mount’s 2020 budget for the Rocky Mount Event Center projected spending far more on operating the center (\$2.5 million) than it expected in center revenues (\$1.83 million), and that didn’t even count the \$3.1 million debt service payment.
- » The proposed 2019 budget for the City of Raleigh included more money for debt service for the Raleigh Convention Center than it proposed for its operations. The annual debt service for the Raleigh Convention Center was nearly \$20 million, compared with nearly \$19.2 million for operations.
- » In 2019 the City of Charlotte began an expansion of the Charlotte Convention Center expected to cost \$110 million. *The Charlotte Observer* reported that “the Charlotte Regional Visitors Authority says the meeting market has changed, with planners demanding more breakout rooms, space for smaller meetings, and less square footage of floor space for massive exhibitions.” This speaks to the disconnect between the varying needs of organizations and companies that host conventions and perceptions of their needs by elected officials.

## RECOMMENDATIONS

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

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

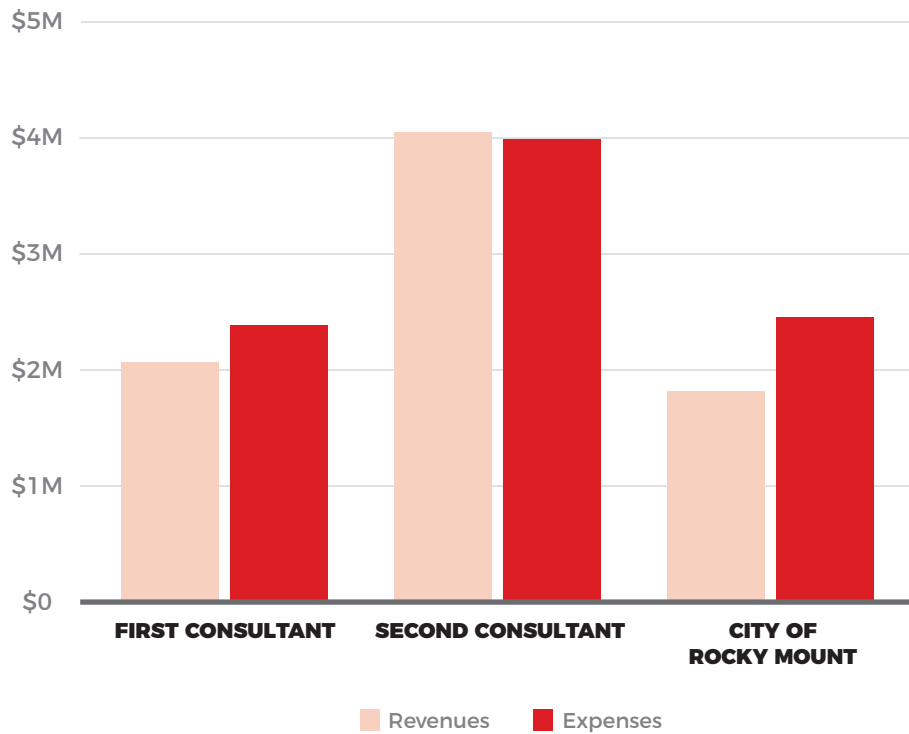
### 2. Demand a true cost/benefit analysis of a proposed project.

Consultants’ economic-impact reports are notorious for overstatement. A disinterested third party, such as an economist from one of North Carolina’s many universities, should evaluate a project responsibly, including accounting for opportunity costs and unforeseen negative consequences.

### 3. Make taxes and zoning less restrictive.

Look beyond the downtown core. Lowering or at least freezing property tax rates will boost homeowners and businesses across the whole area. It will make the area more attractive to investors, developers, and businesses in many ways. Less restrictive zoning can encourage business growth, local innovation, creative uses of space, and outside interest.

#### 2020 Financial Projections For the Rocky Mount Event Center



	FIRST CONSULTANT	SECOND CONSULTANT	CITY OF ROCKY MOUNT
OPERATING REVENUES	\$2,074,000	\$4,051,748	\$1,828,290
OPERATING EXPENSES	\$2,389,000	\$3,990,955	\$2,458,790
DIFFERENCE	- \$315,000	+ \$60,793	-\$630,500

SOURCE: AECOM, SFA, CITY OF ROCKY MOUNT



# CRIMINAL LAW REFORM

POLICY ANALYST: MIKE SCHIETZELT

## INTRODUCTION

North Carolina's criminal code is hardly a code at all. Crimes are scattered across more than 140 chapters of the General Statutes, thousands of pages of the administrative code, and more than 650 county and municipal codes of ordinances. And these crimes all sit atop the foundation of the common law. There is no publicly available database where the average citizen can find all the crimes a person or a business can commit in our state. As James Madison wrote in *The Federalist* No. 62 (1788), "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."

This state of affairs, commonly referred to as "overcriminalization," reduces consistency in enforcement, erodes confidence in the rule of law, and wastes scarce law enforcement resources that could otherwise be devoted to preventing and punishing serious crimes against persons and property.

All of this makes it particularly unfair that the definitions of many crimes, including most regulatory crimes, lack the traditional *mens rea* ("mental state") requirement. Requiring the prosecution to prove that the accused has an appropriate level of knowledge of the law or intent to break it protects innocent people from unjust prosecution and conviction. The absence of *mens rea* puts such people at risk.

This is unacceptable to even the broadest conception of notice in the criminal justice system. It is an ancient principle of our legal system that ignorance of the law is no excuse. But this places a corollary duty on law-makers to ensure our laws are clear, concise, and consistent.

North Carolina's criminal laws are a minefield. And that minefield has a chilling effect on private enterprise and speech. North Carolina criminal laws have ensnared hot dog stand owners, bloggers, and even nonprofits sheltering animals during a hurricane. We must take steps to reduce the current level of overcriminalization in North Carolina and ensure that overcriminalization does not rise to this level again in the future.

## KEY FACTS

- » Definitions of more than 800 separate crimes appear in Chapter 14 of the North Carolina General Statutes, which deals specifically with criminal law. Definitions of more than 1,600 additional crimes can be found throughout more than 140 other chapters of the General Statutes.

- » Hundreds of crimes have been created under various statutory provisions that criminalize the rules and regulations promulgated by administrative agencies, professional licensing boards, county and municipal governments, and even metropolitan sewer districts. These criminalized rules and regulations do not appear in the General Statutes at all. Instead, a citizen who wants to learn about them must comb through thousands of pages of the North Carolina Administrative Code and other compilations.
- » Many of the crimes now on the books are obsolete, unnecessary, redundant, or unconstitutional, and the definitions are riddled with inconsistencies. The definitions of many crimes are incomplete, and the *mens rea* (or “mental state”) requirement is among the most commonly missing elements. Incomplete definitions cause uncertainty and raise the cost of adjudication. Moreover, when the *mens rea* requirement is missing, it exposes citizens who never knowingly or intentionally broke the law to the risk of unjust prosecution and conviction.
- » In 2018, the North Carolina General Assembly voted unanimously to approve Session Law 2018-69. The legislation included three provisions. One instructed North Carolina state agencies, boards, and commissions to provide the General Assembly with a list of all the crimes they have created by December 1, 2018. Another instructed all North Carolina counties, cities, towns, and metropolitan sewage districts to submit a list of crimes by the same date. And a third provision instructed the North Carolina Administrative Office of the Courts to compile a list of common-law crimes and crimes defined in the North Carolina General Statutes and to identify crimes that are duplicative, inconsistent, rarely charged, incompletely defined, obsolete, or unconstitutional by February 1, 2019.
- » Information collected under Session Law 2019-198 will help North Carolina understand and solve its overcriminalization problem.

## RECOMMENDATIONS

### 1. To solve the problem of overcriminalization today, the General Assembly should:

- a. 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.
- b. Properly codify all common law offenses and defenses.
- c. Ensure 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.
- d. Consolidate the entire body of revised criminal law into a single, well-organized, easily intelligible chapter of the General Statutes.

### 2. To ensure that overcriminalization doesn't recur in the future, the General Assembly should:

- a. Create a formal oversight body to review proposed crimes and periodically audit existing crimes.
- b. Eliminate or impose suitable limitations on the power that administrative boards, agencies, local governments, and other entities have to create crimes.
- c. Provide a default "criminal intent" standard for all crimes created subsequent to recodification and require that strict liability crimes can be created only by explicit statutory enactment.
- d. Make "mistake of law" a defense for any crime created subsequent to recodification that is not clearly defined in the "criminal law" chapter of the General Statutes.

# ELECTRICITY AND ENERGY

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

Electricity is a basic human need. Rich or poor, it doesn't matter. But electricity prices have a greater affect on the poor because they spend a larger proportion of their income on this necessity.

North Carolina has the infrastructure right now in place for cheap, efficient electricity, but its laws and policies effectively promote higher costs than necessary.

The cheapest, most efficient sources of electricity are power plants that are already paid for. Existing power plants have lower fixed costs, and component replacement can go on indefinitely. Existing nuclear power plants have a regulated lifespan of 60 years that can expand to 80. State law, however, effectively disincentivizes utilities from keeping paid-for, working power plants on the grid by incentivizing new plant construction with accelerated depreciation schedules and guaranteed rates of return for investors.

North Carolina policymakers have pursued aggressive policy interventions in electricity provision all century: Clean Smokestacks in 2002, a 35 percent investment tax credit for renewable energy in 2005, Renewable Energy Portfolio Standards (REPS) in 2007, and an 80 percent property tax abatement for solar energy systems in 2008.

A federal law called the Public Utility Regulatory Policies Act of 1978 (PURPA) makes utilities buy any power generated from qualifying renewable energy facilities in their area, at predetermined prices, regardless of actual need. States decide which facilities qualify, the price that must be paid for the energy, and how long the prices are in effect.

North Carolina dictated the region's highest contract rates and longest contract terms for qualifying facilities, with avoided-cost rates (the contract price utilities must pay for the renewable energy) 10 to 20 percent higher than even the next most expensive state in the region.

North Carolina's generous PURPA terms, REPS mandate, subsidies, tax credits, and more resulted in North Carolina having 60 percent of the nation's PURPA-qualifying renewable energy facilities. Government policies, not geographic distinctions, make this state "second in solar."

This rapid expansion threatens serious problems for utilities and their customers. Forcing utilities to pay extremely high rates for all energy generation from a notoriously intermittent source (solar) could cause customers to pay over \$1 billion dollars more than necessary for electricity and soon threaten even baseload generation.

To prevent that, Session Law 2017-192 struck a major compromise between utilities and solar energy facilities. It lowered the size of PURPA-qualifying facilities in exchange for guaranteeing solar energy facilities a full seat at the table competing to provide electricity to North Carolinians.

Gov. Roy Cooper dramatically altered this compromise, forcing Duke Energy to contract with 240 solar companies under the older, costlier provisions. Duke needed the Cooper administration to approve key permits for the Atlantic Coast Pipeline. WBTV has raised questions about a possible connection between the solar contracts and a different project, the Atlantic Coast Pipeline, reporting that Cooper and senior staff “use[d] the pipeline permit as leverage to force Duke into cutting a deal with the state’s solar industry.”

Gov. Cooper’s actions will cost consumers at least \$100 million more than necessary for electricity, and that’s not even counting the grid costs. A significant factor in Duke’s original multibillion-dollar plan to rebuild much of its electricity grid was connected to being required to incorporate so much more solar into its energy mix under the state’s must-take obligations.

Taken together, these mandates and actions are pushing North Carolina toward a self-inflicted energy crisis with major long-term repercussions for ratepayers, small businesses, industry competitiveness, public schools, local governments, nonprofits, churches, and more. The proper, responsible course of action in this uncertain environment is to step back and assess the situation, rather than continuing to make and incentivize unstudied changes.

### KEY FACTS

- » Nuclear is North Carolina’s top source of electricity, producing 33 percent of our energy in 2017 (most recent data available). Natural gas (30 percent) and coal (26.8 percent) follow close behind. Solar provides only 4 percent of the mix.
- » The levelized cost of energy from existing nuclear power plants is just one-third the levelized cost of energy from new wind and solar plants plus their required backup generation. It is just two-thirds the cost of a new natural gas plant.
- » Relicensing and maintaining existing nuclear plants is complex. Policymakers should study how best to incent utilities to retain existing nuclear plants.
- » Energy-based emissions in North Carolina have fallen dramatically. Since 2000, carbon dioxide emissions are down 37.5 percent, nitrous oxide is down 74.2 percent, and sulfur dioxide is down 91.8 percent. Price-competitive, comparatively low-emissions natural gas from fracking is a major reason.

- » At the beginning of 2000, nearly two-thirds of the state's electricity generation was from coal (62.1 percent). By 2017, nearly two-thirds was from zero-emissions nuclear and low-emissions natural gas (63 percent total).

## RECOMMENDATIONS

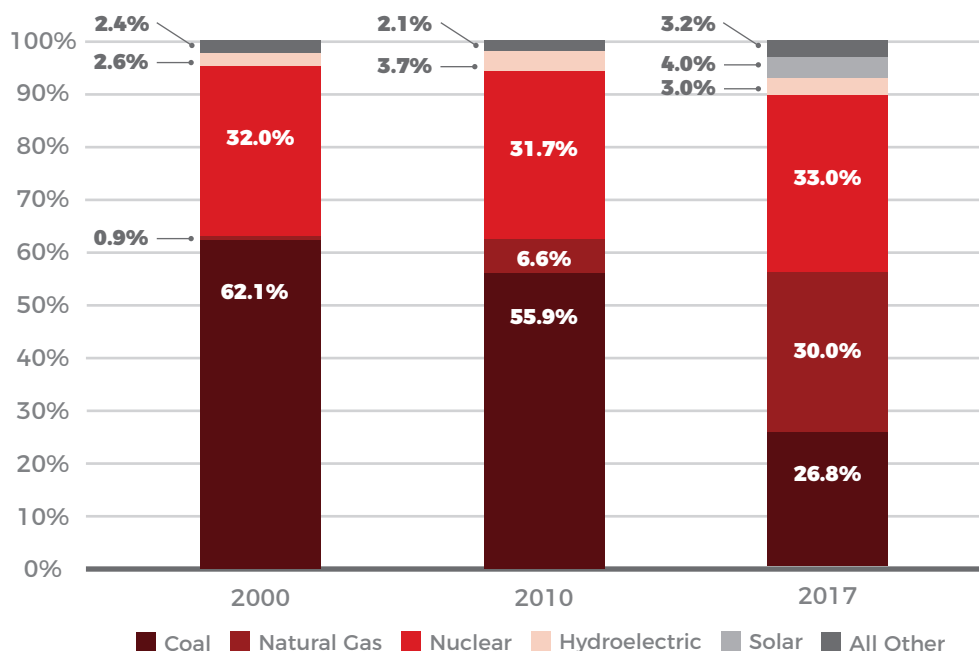
### 1. Study how to promote the retention of existing, zero-emissions nuclear plants.

Their levelized cost of energy is by far the lowest of any source. Their loss would lead to higher emissions and much more expensive electricity.

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

The potential unintended impacts on the grid, ratepayers, and even the environment are too great to risk. The prudent course is to pause and take stock.

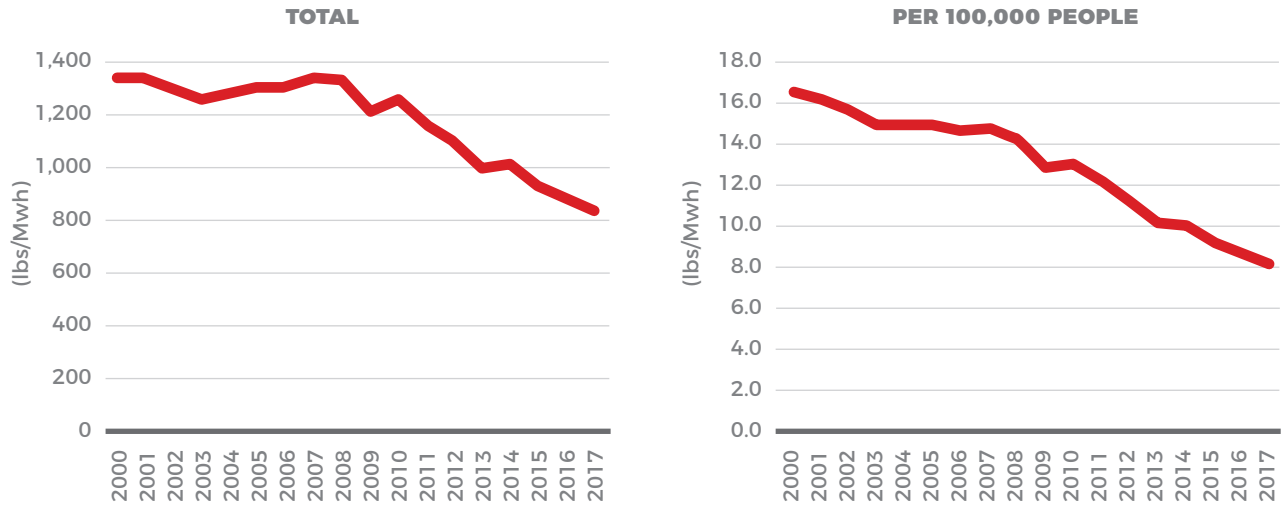
## Change in Electricity Generation in North Carolina, By Source, 2000–17



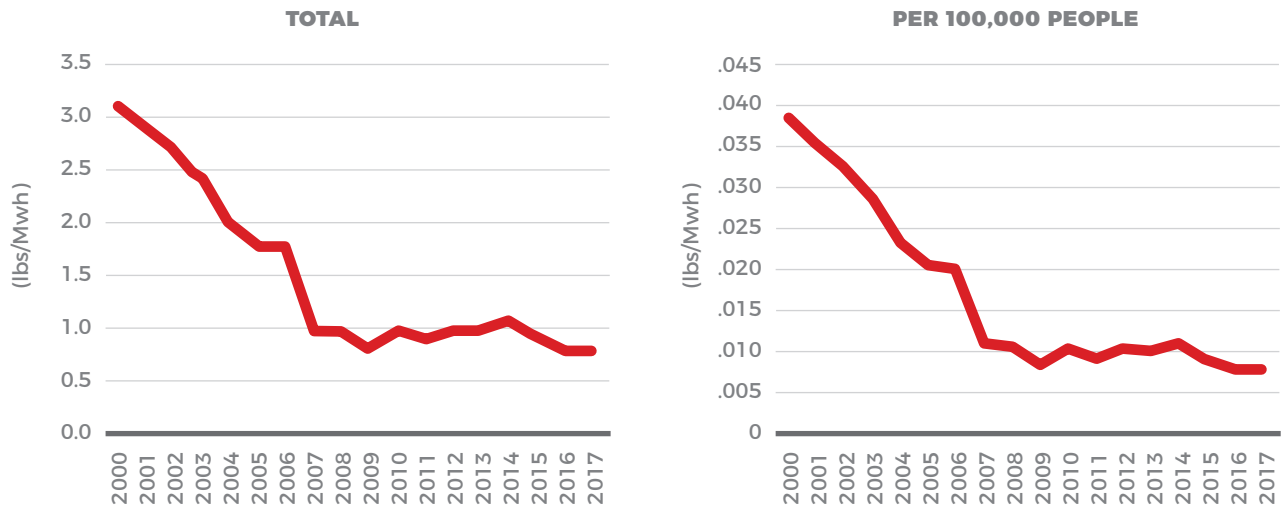
**NOTE:** NUMBERS MAY NOT SUM TO 100 DUE TO ROUNDING

**SOURCE:** U.S. ENERGY INFORMATION ADMINISTRATION

## Carbon Dioxide Emissions From Electricity Generation in North Carolina



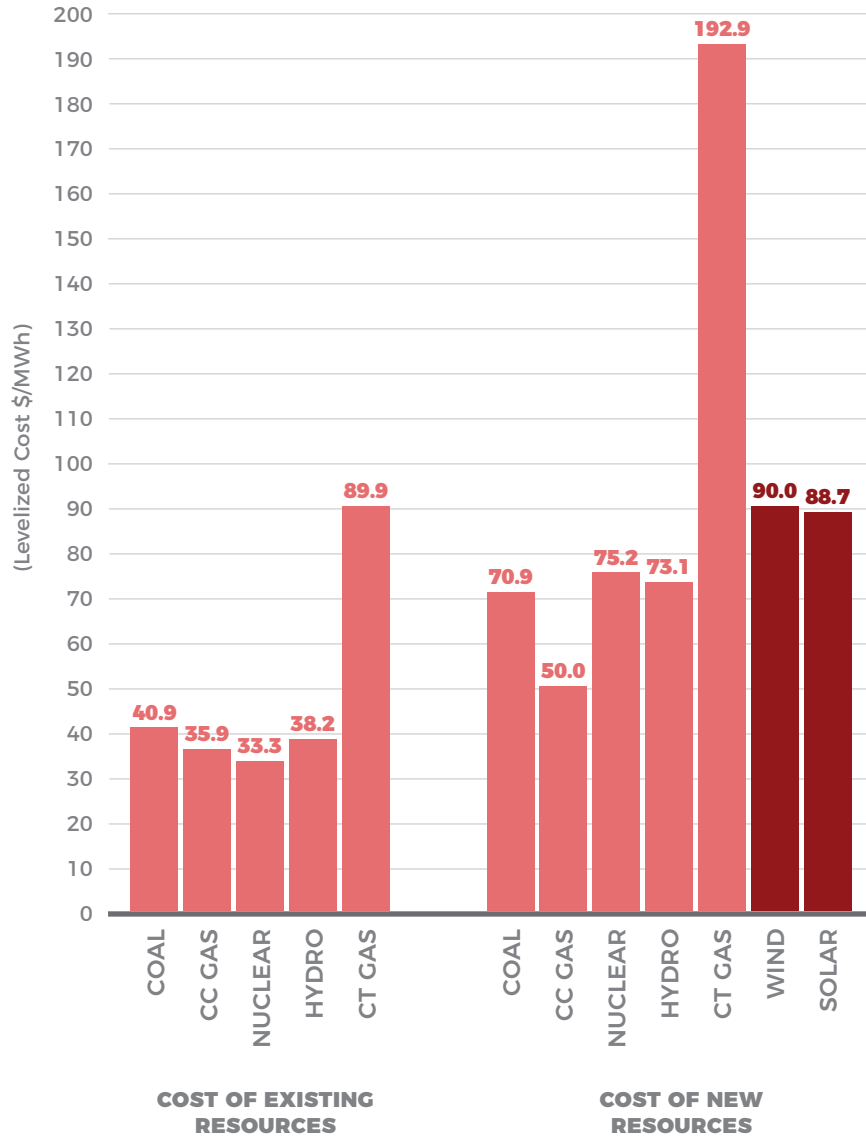
## Nitrogen Oxide Emissions From Electricity Generation in North Carolina



## Sulfur Dioxide Emissions From Electricity Generation in North Carolina



## Levelized Cost of Electricity From Existing and New Resources



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

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



# EMERGING IDEAS AND THE SHARING ECONOMY

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

Technologies widely available on smartphones and over the internet have given rise to new marketplaces and platforms by which people can obtain and offer goods and services. Existing providers in the traditional marketplaces naturally complain about the new competition. Too often, their answer is to saddle the new marketplaces with all the red tape afflicting the older marketplaces.

For example, protectionist food truck regulations needlessly prevent mobile restaurant offerings and food diversity. Local entry regulations and public service restrictions stifle business opportunities in cities and counties, and worse, they can vary wildly from one jurisdiction to the next. Outdated zoning, rent controls, and other regulations are preventing people in high-demand urban settings from providing affordable housing arrangements, such as adding accessory dwelling units (ADUs) like granny flats and garages converted into living spaces.

Those who thwart market innovations might as well try to replace smartphones and the internet with rotary-dial telephones and library card catalogs. As Duke University professor Michael Munger, author of “Tomorrow 3.0: Transaction Costs and the Sharing Economy,” put it: “The platform revolution is here.”

Platforms are not just businesses. They’re new ways of bringing consumers and sellers together. They’re coming about, in part, because of significant reductions in what economists call “transaction costs.” A transaction cost is the economic cost of conducting a trade – not just monetary costs like sales taxes but also time searching, uncertainty, hassle, etc.

For example, taxis in many cities require expensive licenses and are often limited to a certain number. Hotel room stays are heavily regulated and involve several layers of taxation. Going shopping involves time driving, finding parking, dealing with mall patrons, and maybe not even finding what you need.

In the sharing economy, platforms significantly cut those costs, so much so that transactions can occur that otherwise would never have occurred or even been imagined. Ride-sharing applications such as Uber and Lyft connect potential riders with drivers with minimal waiting. Home-sharing apps such as Airbnb connect potential guests with a wide variety of hosts. Online retailers such as Amazon let consumers find a needed item without even leaving the house.

Fast-emerging platforms worry local and state officials about unregulated providers. Still, policymakers must show restraint. Not all of them will succeed. But ill-conceived regulations can persist and have ongoing negative effects on local economies, consumers, and entrepreneurs.

## KEY FACTS

- » In June 2015, the Federal Trade Commission (FTC) held a workshop on the sharing economy to examine the regulatory, competitive, consumer protection, and other economic issues connected to emerging marketplaces, receiving over 2,000 public comments in response. The FTC recommended a cautionary approach to regulation, “only when there is evidence regulation is needed,” “narrowly tailored,” and “no more restrictive than necessary.”
- » Platforms like Uber and Airbnb are often regulated by their own users, with buyers and sellers rating each other. Users are more likely to trust ratings from users like themselves than decisions made by unknown bureaucrats. Trust is a key component of how platforms work. To stay viable, they have to attract and keep buyers and sellers.
- » Tight restrictions on home-sharing imposed by Asheville and Raleigh led to the North Carolina General Assembly passing a law in 2019, limiting the ability of local governments to regulate properties subject to the state Vacation Rental Act.
- » In 2019, Raleigh leveled some of the toughest regulations in the country on e-scooters that riders rent via smartphone apps, causing existing providers to leave the city.
- » Under threat of a lawsuit in 2018, Carolina Beach scrapped its prohibitions on food trucks from out of town or those not affiliated with existing brick-and-mortar restaurants that had been in business for at least a year.
- » A highly restrictive law passed in California in 2019 struck at the business models of many platforms (and freelance writing in general) by defining most independent contractors as company employees and, therefore, subject to the full scope of employment regulations. The new annual payroll expenses imposed by this law have been estimated at \$6.5 billion.
- » City-imposed wait times on ride-sharing apps in Barcelona, Spain, forced Uber and competitor Cabify to suspend service there in 2019, costing an estimated 3,000 jobs.

## RECOMMENDATIONS

1. **Remove outdated regulations shown to prevent emerging innovations and resist a rush to regulate emerging consumer options and new ideas.**

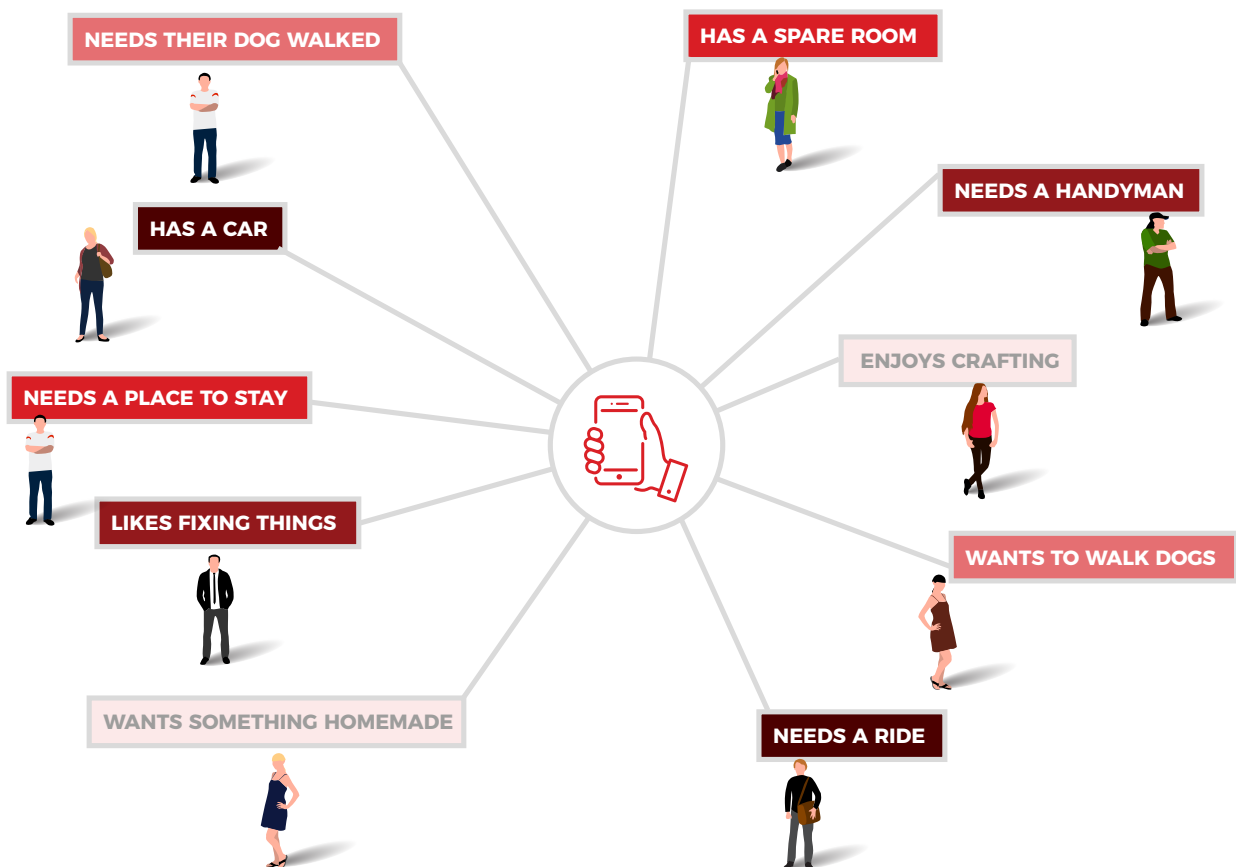
With emerging platforms and ideas, policymakers should still adhere to the wisdom of the Hippocratic Oath: “First, do no harm.”

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

Policymakers should be attentive to persistent regulatory obstacles to both existing enterprises and emerging innovations.

## The Platform Revolution

CONNECTING PEOPLE WHO DIDN'T KNOW THEY NEEDED EACH OTHER



# EMINENT DOMAIN

POLICY ANALYST: JON GUZE

## INTRODUCTION

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

The Takings Clause of the Fifth Amendment to the U.S. Constitution ("Nor shall private property be taken for public use without just compensation") was traditionally thought to restrict the use of eminent domain to cases in which the government needed the land for roads, military bases, other public facilities, or for use by a "common carrier," a private entity such as a railroad or utility that is obliged to serve the public.

That's why the 2005 U.S. Supreme Court ruling in *Kelo v. City of New London* shocked the country. The court upheld the use of eminent domain to take working-class citizens' homes and give the land to a private corporation for "high-end" commercial development.

The issue in *Kelo* was whether New London's use of eminent domain to transfer property from one private party to another for the sake of economic development violated the Takings Clause. The court held that, while the Takings Clause might forbid a transfer from one private party to another "for the purpose of conferring a benefit on a particular private party," it does not prohibit such a transfer when it serves a "public purpose" like promoting economic development.

It also held that the question of whether a specific taking serves a public purpose is not one the federal courts should attempt to answer. Instead, state and local governments should be allowed to determine for themselves "what public needs justify the use of the takings power." At the end of the opinion, the court added, "We emphasize that nothing in our opinion precludes any State from placing further restrictions on its exercise of the takings power."

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

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

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

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

### KEY FACTS

- » The U.S. Supreme Court decision in *Kelo v. City of New London* brought two serious but previously little-known problems to the attention of the American public: First, in the name of economic development, state and local governments across the country were using eminent domain to transfer property from ordinary citizens to politically connected developers and industrialists. And second, the federal courts would do nothing to prevent such transfers.
- » Most states responded to *Kelo* by changing their own statutes and constitutions in ways designed to protect their citizens from eminent domain abuse. Unfortunately, North Carolina is one of the few states that hasn't taken such steps.
- » In 2019, the North Carolina House of Representatives passed an eminent domain reform bill for the seventh consecutive session. The North Carolina Senate has refused to consider any of them.

### RECOMMENDATION

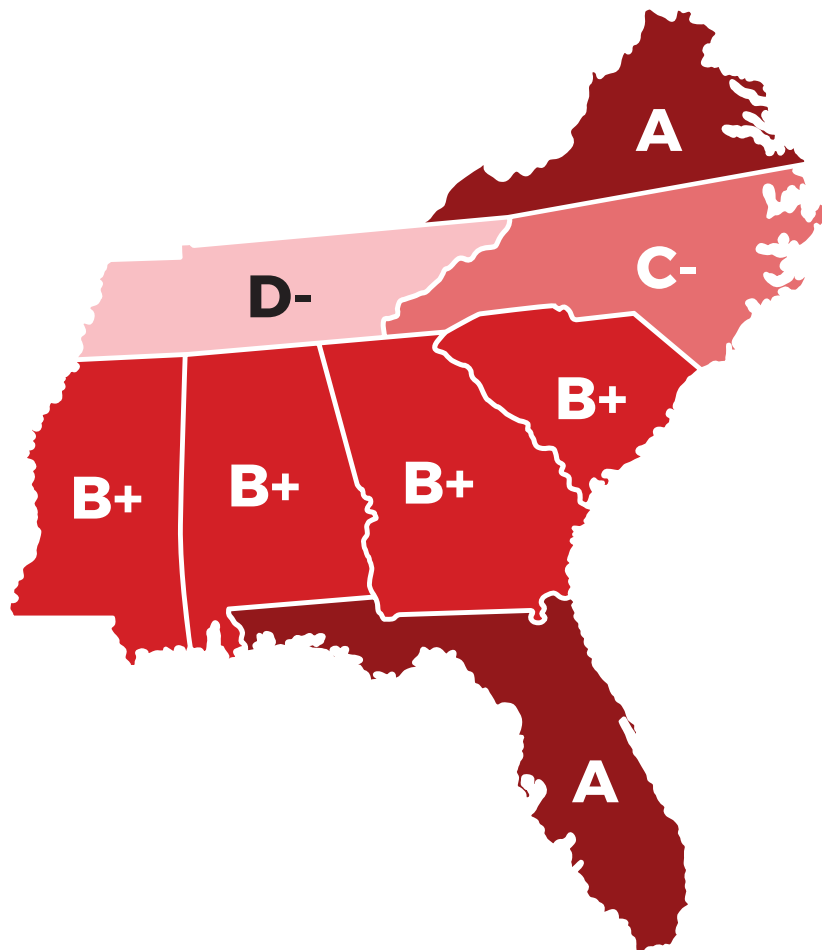
#### **1. The North Carolina General Statutes and the North Carolina Constitution should be amended to provide protections against eminent domain abuse. These protective provisions should:**

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

## EMINENT DOMAIN

- c. Define “public use” in a way that forbids transfers from one private party to another for the sake of economic development and permits such transfers only when the property is needed by a common carrier or public utility to carry out its public mission or, in cases of blight, when the physical condition of the property poses an imminent threat to health or safety.
- d. Define “just compensation” in a way that ensures property owners are reimbursed for all losses and costs, including loss of access, loss of business good will, relocation costs, and reasonable attorneys’ fees.

### Report Cards: Eminent Domain Laws in the Southeastern United States



SOURCE: CASTLE COALITION

# GOVERNMENT ACCOUNTABILITY

POLICY ANALYST: **JOSEPH COLETTI**

## INTRODUCTION

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

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

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

Efforts to make information more available have had mixed success. In 2017, the Office of State Budget and Management (OSBM) received funds and direction to implement a Results First initiative with assistance from the Pew Charitable Trusts and the MacArthur Foundation. Lawmakers created the Office of Program Evaluation Reporting and Accountability (OPERA) in the Department of Health and Human Services in 2015, but after years providing appropriations with no staff and no reports, they sought to repeal it in the Fiscal Year 2019-20 budget.

New financial management systems are in the works for state agencies, community colleges, public schools, and the UNC System that could help answer questions about how well programs are working and how cost effective they are. If successfully implemented, these systems would integrate with one another, providing a single source with detailed information on how the state spends money.

## KEY FACTS

- » Until 2009, the governor's budget proposal included performance measures. Agencies still have strategic plans and measures, but they are not systematically collected, analyzed, or connected to spending decisions.

- » Financial systems in state government were designed to produce specific reports, not to provide performance analytics for management.
- » Few programs at any level of government have been evaluated for effectiveness. Performance-based contracts have led to disputes over measurement and outcomes.
- » North Carolina software company SAS created a new tool for the Office of State Budget and Management that allows citizens and government employees to explore or search for spending. OpenBudget contains data from fiscal years 2013 through 2019.

## RECOMMENDATIONS

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

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

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

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

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

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



# OCCUPATIONAL LICENSING

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

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

Occupational licensing threatens this fundamental right. It is an entry barrier against people enjoying the fruits of their own labor in many kinds of jobs. They have to satisfy the state’s requirements before they can even start work.

Because it is an entry barrier, occupational licensing is an extreme policy option. It should be used only in extreme cases. North Carolina’s default approach to occupational regulation should be to protect occupational freedom. 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 none of those things. Just the opposite. Decades of academic research reiterate that occupational licensing’s many barriers to entry limit the supply of competitors and drive up consumer costs for work in licensed fields.

The most consistent finding in the academic research literature is that occupational licensing boosts the earnings of people already in the profession. That’s because they face fewer competitors and get to charge consumers higher prices.

Policymakers who accept the costs of putting occupations under state licensing often believe they are ensuring safety and the quality of service provided. But does occupational licensing actually boost service safety and quality? Research findings on that question are inconclusive at best.

For workers, getting a license costs time and money: school tuition and fees to satisfy educational credits, time spent studying, sitting fees for required qualifying exams, time spent logging job experience, opportunity costs of forgone work, passing a criminal background check, and license and renewal fees.

These costs can be enormous hurdles for the poor, the less educated, minorities, mothers returning to the workforce, relocated military families, older workers seeking a new career, migrant workers, workers seeking better opportunities by moving across state lines, and even workers with conviction records unrelated to the work they seek to do.

Just how necessary are most occupational licenses? States disagree widely. Of over 1,100 state-regulated professions, only 60 (a little over 5 percent) are regulated by all states. Importantly, employment within an occupation grows 20 percent faster in states where the occupation isn't subject to state licensing than in states where it is.

## KEY FACTS

- » North Carolina has 58 occupational licensing boards licensing at least 181 occupations, and the state licenses 22 percent of North Carolina's workforce. North Carolina licenses three times as many occupations as South Carolina, twice as many as Virginia, and is also the 17th most restrictive state for lower-income occupations.
- » In 2015 the U.S. Supreme Court ruled against the state in *North Carolina Board of Dental Examiners v. Federal Trade Commission*, putting licensing boards at heightened risk of federal antitrust violations.
- » Many states have reformed their licensing regimes since N.C. *Dental*. Some de-licensed occupations (most notably, Rhode Island eliminated 27 licenses). Nebraska, Idaho, and Ohio instituted sunset with periodic review of occupational licenses. Arizona instituted reciprocity for other states' licenses, as did New Mexico, which added consumer choice with non-license disclosure agreements. Arizona and Tennessee passed Right to Earn a Living Acts, and Mississippi passed similar reforms.
- » Model legislation known as the Right to Earn a Living Act makes occupational licensing the regulation of last resort, and then only if ensuring public safety and health cannot be met by other, less intrusive state regulations. These include inspections, bonding, registration, recognizing certification, and a stronger deceptive trade practices act. Unlike licensing, none of these are entry regulations.

## RECOMMENDATIONS

### 1. North Carolina's default policy option should be occupational freedom, trusting competitive forces, consumers, information providers, and the courts.

If legitimate, serious safety concerns are identified, policymakers have several policy options other than licensing that still preserve occupational freedom.

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

Make licensing the policy of last resort. If state regulation proves necessary, gear it to (a) match the regulation to the concern and then (b) go no further.

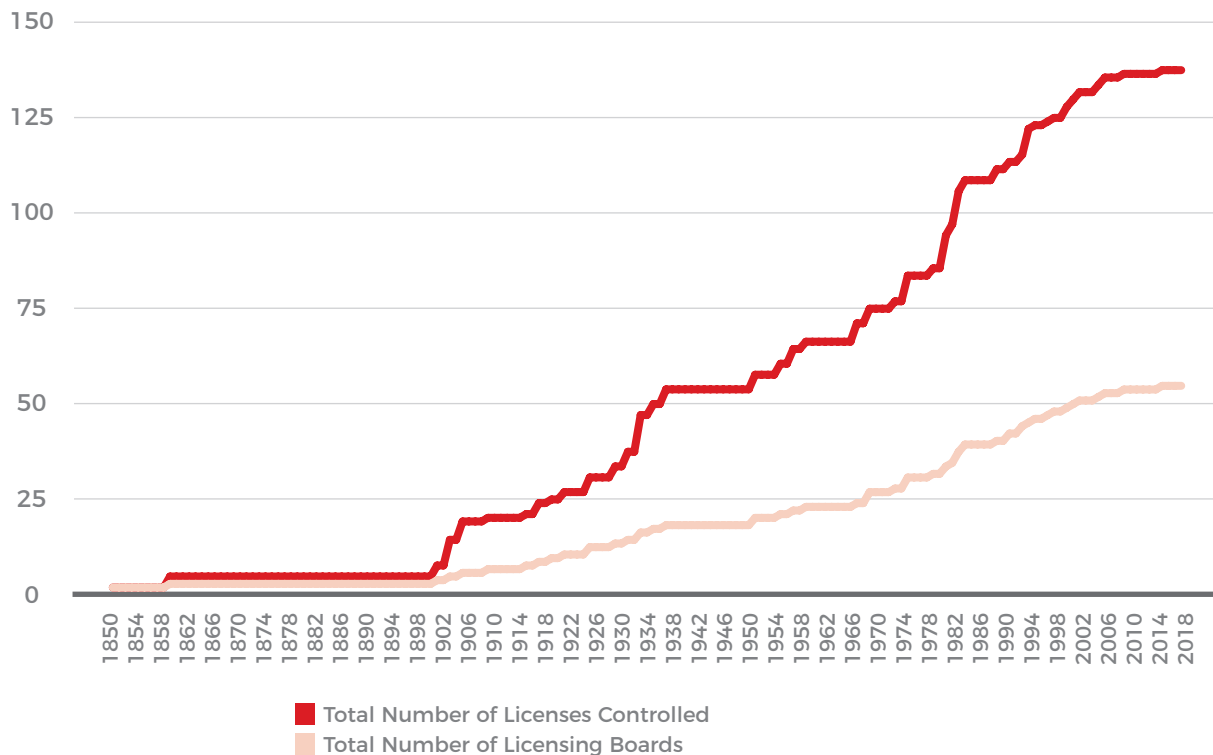
**3. Subject all licensing boards and their licenses to periodic review, eliminating those that are questionable.**

**4. Work with licensing boards to make acquiring licenses less costly and burdensome.**

Options include lowering fees, reducing education/experience requirements, reducing examination requirements when possible, and expanding recognition of other states' licenses.

### Growth of Occupational Licensing in North Carolina

NC Occupational Licensing Boards and The Licenses They Control



SOURCE: JOHN LOCKE FOUNDATION ANALYSIS

# PUBLICLY FUNDED STADIUMS

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

“If you build it, they will come” may be an iconic movie line, but it makes for poor public policy. It is basically what big-league or even minor-league teams promise city, county, and state leaders to persuade them to use public funds to build stadiums and athletic complexes.

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

Why don’t publicly funded stadiums actually boost their host cities’ economies? There are several reasons. For one, those funds are being diverted from their alternative uses; it’s not as if they would be sitting in a pile unused. These projects also have unseen opportunity costs that aren’t taken into account by the economic impact studies, but which are real, nevertheless.

Projects also habitually underestimate construction costs to seem affordable; actual costs typically run far higher. On the other end of the ledger, the projects wildly overestimate spending by the public. Actual game days are few, while much of the “new” spending they attract is actually the same old spending, redirected from other entertainment options.

Usually, the local government owns the stadium, while the team and its ownership control the revenues. This arrangement leaves taxpayers on the hook for maintaining the stadium year after year, team or not.

Since sports franchises don’t bear much risk for upgrading their stadiums or building new ones, they frequently press for improved facilities after just a few years into the lives of their current, publicly funded facilities. By then, the franchise has additional leverage over public officials. The team bears the city’s name, has an established fan base, and can dangle the threat of lost spending if it leaves.

Stadiums are also fighting a losing battle with technology. The affordability of large, high-definition televisions makes home-viewing highly competitive with the full stadium experience. Staying at home offers better views of the field, pause and replay options, comfortable seats, a cadre of friends

to share the experience, cheaper food and drink, better bathrooms with shorter lines, and other amenities. For those who want to enjoy more than one game, local sports bars offer multiple games in high definition all at the same time.

Sports teams are big business, but they are business. Private sector entities are not the province of government. Stadium projects should be left to the private sector to build when private risk-takers are willing to bet the stadiums are viable projects. Stadiums may have great appeal, but government spending on stadiums invariably leads to multi-year drains on taxpayers. That reality doesn't help economic growth for the overall community, it harms it.

## KEY FACTS

- » A 2008 survey by sports economists Dennis Coates and Brad Humphrey of nearly 20 years of published economic research on the subject found “strikingly consistent” results across cities or geographical areas regardless of estimators, model specifications, and variables used: “almost no evidence that professional sports franchises and facilities have a measurable economic impact on the economy.”
- » A 2005 poll of economists found only 4 percent who disagreed with the statement that “Local and state governments in the U.S. should eliminate subsidies to professional sports franchises.”
- » A 2017 University of Chicago poll found only 2 percent of economists disagreed with the statement that “Providing state and local subsidies to build stadiums for professional sports teams is likely to cost the relevant taxpayers more than any local economic benefits that are generated.”
- » In December 2019 Charlotte Mayor Vi Lyles promised \$110 million to bring in a Major League Soccer team. The money would be used to upgrade Bank of America Stadium, where the Carolina Panthers also play, and build new practice and office facilities. This announcement came mere months after the Panthers were promised \$115 million in tax credits from the State of South Carolina to move their headquarters south.
- » An economic impact study of the new Carolina Panthers headquarters projected it would create 5,715 jobs and have an economic impact of \$3.8 billion over 15 years. A South Carolina state senator hired an economist to evaluate that study. The economist found the economic impact to be overstated by \$2.7 billion and estimated it would create only 208 jobs, meaning it would cost the state over a half million dollars per job.
- » Teams can attract private stadium funding. The Los Angeles Rams are planning to open the NFL's most expensive stadium in 2020, built without government funding. Closer to home, Raleigh's bid in 2017 for a Major League Soccer team included a \$150 million stadium funded by private investors.

## RECOMMENDATIONS

### 1. Resist calls to spend taxpayer money to support private enterprises, including sports teams.

If a sports team has the potential to be financially profitable, then it will attract sufficient private investment.

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

To attract private investment, local governments should maintain a business-friendly tax and regulatory environment.

### 3. Ease planning restrictions to allow private developers to build stadiums and ballparks where there is real demand.

There is no need to complicate the planning process for those willing to invest millions of dollars in a sports facility.

## Public Financing of NFL Stadiums

Stadium Name	Location	Cost	Renovations	Public	Private	Tenant
NRG STADIUM	Houston, TX	\$449,000,000.00		43%	57%	Houston Texans
GILLETTE STADIUM	Foxboro, MA	\$325,000,000.00		0	100%	New England Patriots
NISSAN STADIUM	Nashville, TN	\$290,000,000.00		70.90%	29.10%	Tennessee Titans
STUBHUB CENTER	Carson, CA	\$150,000,000.00		0%	100%	Los Angeles Chargers
PAUL BROWN STADIUM	Cincinnati, OH	\$450,000,000.00		94.40%	5.60%	Cincinnati Bengals
SPORTS AUTHORITY FIELD	Denver, CO	\$364,000,000.00		68.40%	31.60%	Denver Broncos

SOURCE: [WWW.STADIUMSOFPROFOOTBALL.COM](http://WWW.STADIUMSOFPROFOOTBALL.COM)

**Public Financing of NFL Stadiums (Continued)**

Stadium Name	Location	Cost	Renovations	Public	Private	Tenant
HEINZ FIELD	Pittsburgh, PA	\$2,810,000,000.00		61.10%	38.90%	Pittsburgh Steelers
M&T BANK STADIUM	Baltimore, MD	\$220,000,000.00		90%	10%	Baltimore Ravens
METLIFE STADIUM	East Rutherford, NJ	\$1,600,000,000.00		0	100%	New York Jets
FIRSTENERGY STADIUM	Cleveland, OH	\$290,000,000.00		74.70%	25.30%	Cleveland Browns
NEW ERA FIELD	Buffalo, NY	\$22,000,000.00		100%	0	Buffalo Bills
LUCAS OIL STADIUM	Indianapolis, IN	\$720,000,000.00		85%	15%	Indianapolis Colts
HARD ROCK STADIUM	Miami Gardens, FL	\$115,000,000.00		90%	10%	Miami Dolphins
EVERBANK FIELD	Jacksonville, FL	\$121,000,000.00		85.80%	14.20%	Jacksonville Jaguars
ARROWHEAD STADIUM	Kansas City, MO	\$43,000,000.00		100%	0	Kansas City Chiefs
OAKLAND COLISEUM	Oakland, CA	\$200,000,000.00	YES	100%	0	Oakland Raiders
FEDEX FIELD	Landover, MD	\$250,000,000.00		28%	72%	Washington Redskins
SOLDIER FIELD	Chicago, IL	\$600,000,000.00		65.90%	34.10%	Chicago Bears
US BANK STADIUM	Minneapolis, MN	\$1,100,000,000.00		45.20%	54%	Minnesota Vikings
UNITED AIRLINES MEMORIAL COLISEUM	Los Angeles, CA	\$954,872.00		100%	0	Los Angeles Rams

SOURCE: WWW.STADIUMSOFPROFOOTBALL.COM

**Public Financing of NFL Stadiums (Continued)**

Stadium Name	Location	Cost	Renovations	Public	Private	Tenant
CENTURYLINK FIELD	Seattle, WA	\$360,000,000.00		69.80%	30.20%	Seattle Seahawks
LINCOLN FINANCIAL FIELD	Philadelphia, PA	\$518,000,000.00		36.30%	63.70%	Philadelphia Eagles
MERCEDES-BENZ SUPERDOME	New Orleans, LA	\$134,000,000.00		100%	0	New Orleans Saints
FORD FIELD	Detroit, MI	\$5,000,000,000.00		51%	49%	Detroit Lions
AT&T STADIUM	Arlington, TX	\$1,000,000,000.00		32.50%	67.50%	Dallas Cowboys
UNIVERSITY OF PHOENIX STADIUM	Glendale, AZ	\$455,000,000.00		62.70%	37.30%	Arizona Cardinals
METLIFE STADIUM	East Rutherford, NJ	\$1,600,000,000.00		0	100%	New York Giants
BANK OF AMERICA STADIUM	Charlotte, NC	\$242,000,000.00		23%	77%	Carolina Panthers
LEVI'S STADIUM	Santa Clara, CA	\$1,300,000,000.00		12%	88%	San Francisco 49ers
MERCEDES-BENZ STADIUM	Atlanta, GA	\$1,500,000,000.00		30%	70%	Atlanta Falcons
RAYMOND JAMES STADIUM	Tampa, FL	\$194,000,000.00		100%	0	Tampa Bay Buccaneers
LAMBEAU FIELD	Green Bay, WI	\$295,000,000.00	YES	57.30%	42.70%	Green Bay Packers

SOURCE: WWW.STADIUMSOFPROFOOTBALL.COM



# PUBLIC TRANSIT

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

The most obvious fact about transportation in America in the 21st century is that people overwhelmingly prefer personal automobiles. Cars offer the greatest range of mobility and fastest arrival at destinations. They also offer privacy, choice, flexibility, adaptability to wants and needs, insulation from weather, and individuality.

Good transportation policy begins by respecting that choice.

According to the Bureau of Transportation Statistics, only 1.0 percent of North Carolina commuters take public transit. Of public transit options, however, buses are clearly superior. They can offer a wide range of routes and choices. They use pre-existing transportation capital (i.e., roads) and can adjust routes as needs change.

In contrast, fixed-rail lines offer no route flexibility once installed. Operating rail is very expensive, and building new rail routes requires enormous capital expenditures. At the same time, rail transit attracts very few riders – fewer than 1 percent of the share of motorized passenger travel in all but the very largest, densest metropolitan areas. That share seems to be dwindling with the onset of ridesharing services such as Uber and Lyft.

What about nonmotorized choices? Walking and bicycling may be healthy choices favored by planners, but only handfuls of people opt for them. When it comes to commuting, walking and biking depend on population density, closeness of work to home, geography, and weather conditions. In North Carolina, just 1.7 percent of commuters walk to work (a higher share than those who take public transit), while only 0.2 percent choose to bike.

The essential fact that policymakers must confront in public transit policy is that there are limits on public dollars for transportation options. Spending public money for transit competes against spending public money on other important areas, including education, police protection, fire and emergency services, even public parks. It also competes against the real public good of keeping taxes low with an eye toward promoting faster economic growth, greater job creation, more business investment, and greater freedom and choices.

The aim of sound transportation policy is to provide mobility and move people effectively. Planners should build to serve people's needs. Policy should not be about reshaping the community or dismissing people's primary mode of choice. Spending should be commensurate with how frequently individuals use transit. Spending scarce transportation funds disproportionately on low-demand modes like rail or bike lanes will increase congestion over time and hinder economic growth.

## KEY FACTS

- » Longer travel times, whether by traffic congestion or transit lags, negatively affect local productivity, employment, company profits, and consumer prices.
- » According to the federal Bureau of Transportation Statistics, North Carolinians overwhelmingly choose personal vehicles for their commutes: 81.1 percent chose to drive alone in 2017, up from 80.6 percent in 2013. The only other growing option was working from home (from 4.5 percent to 6.1 percent).
- » The Bureau of Transportation Statistics reported that carpooling declined from 10.5 percent in 2013 to 8.9 percent in 2017. Other options also declined during the same time period: public transit (from 1.1 percent to 1.0 percent), walking (from 1.9 percent to 1.7 percent), and choosing taxis, motorcycles, or biking (from 1.3 percent to 1.2 percent). Bike-riding, which didn't register previously, came in at 0.2 percent.
- » A recent index of city transportation choices ranked Charlotte and Raleigh among the 10 least “car-free” metropolitan areas in the United States. As the index creators explained, choosing not to commute by car “depends a lot on where you live,” and Charlotte and Raleigh are less dense and more spread out places “where it is relatively easy to get around by car.”

## RECOMMENDATIONS

### 1. Spend scarce transportation funds to meet people's needs, not to change behavior.

Over time, diverting limited resources disproportionately to low-demand transportation options leaves highways and roads unable to sufficiently handle their high demands.

### 2. Avoid the “romance of rail.”

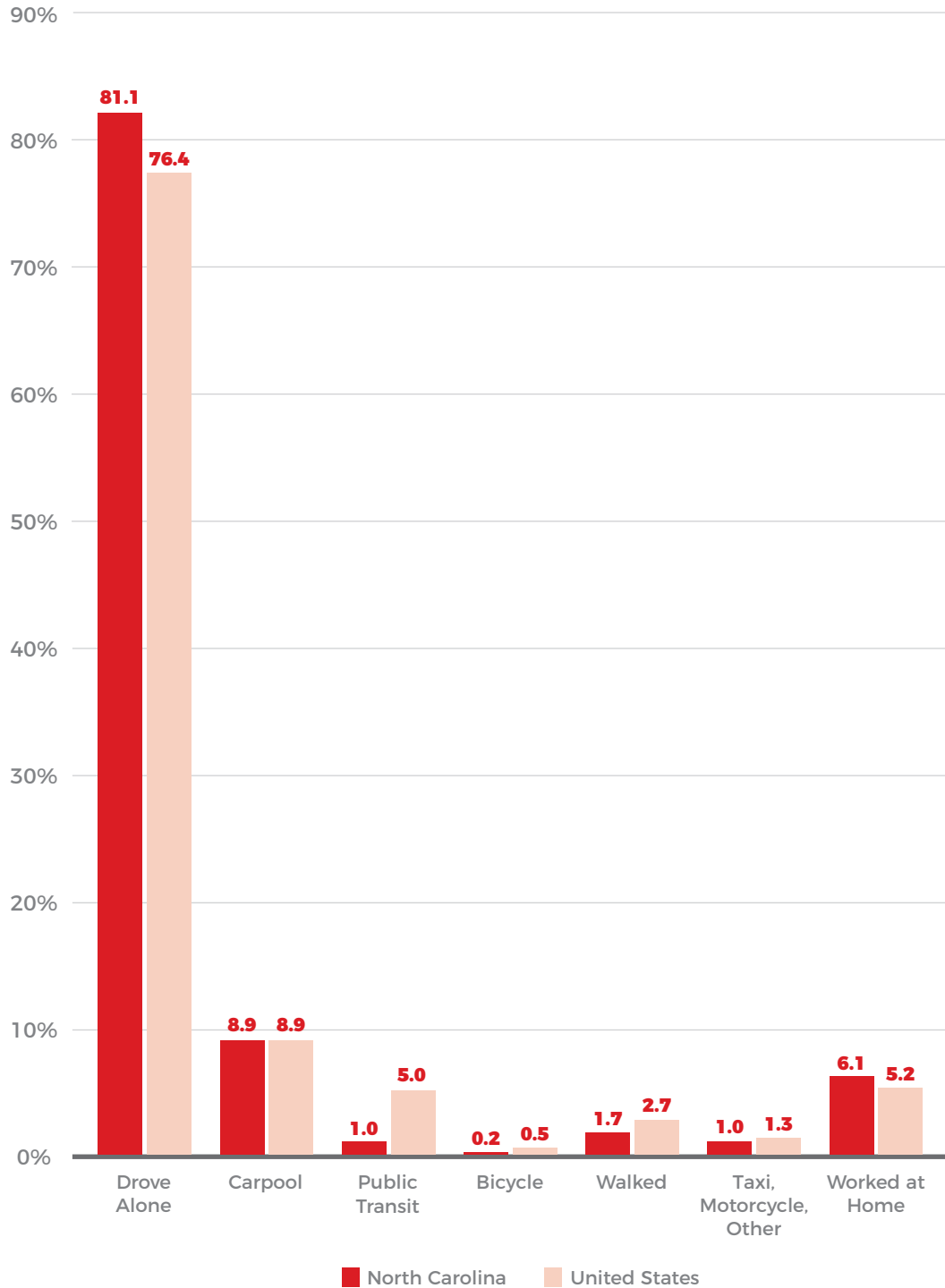
Make practical transit improvements, such as providing better bus systems and allowing private innovation, such as ridesharing. These are more cost effective and flexible and move far more people far more efficiently than rail.

### 3. Repeal outdated zoning concepts and other urban regulations.

Regulations create artificial barriers between where people live and where they work and shop. This makes driving more necessary than it otherwise would be for some people.

## How Residents Get to Work

PERCENTAGE OF WORKERS OVER AGE 16 — 2017



SOURCE: BUREAU OF TRANSPORTATION STATISTICS

# RED TAPE AND REGULATORY REFORM

POLICY ANALYST: **JON SANDERS**

## INTRODUCTION

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

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

Still, plenty of work remains. The John Locke Foundation's First in Freedom Index ranked North Carolina's regulatory freedom 36th out of the 50 states – eighth out of the 12 Southeastern states. Occupational regulations are a significant obstacle to North Carolina having greater regulatory freedom.

Red tape and regulations harm economic growth. That is a consistent finding across the great bulk of economic studies of the issue. In 2019, federal regulation cost American consumers and businesses \$1.9 trillion from lost economic productivity and higher prices. That's so big that it towers over the economies of all but eight nations in the world, including Canada's.

Adding more and more red tape to an economy is like adding more and more bricks to the trunk of your car. Over time the engine loses fuel efficiency, the car can't go as fast, and it takes longer and longer and costs more and more to reach mileposts than before. Take the bricks out, and you will restore speed and performance. Take the red tape out and keep more from creeping in, and the state's economy will then grow faster and better.

More lightly regulated industries grow much faster and produce at much higher rates than more regulated industries. Cutting red tape and keeping regulatory burdens light and up to date are essential for economic growth – which means personal income growth, too.

There are several reforms open to leaders hoping to free North Carolina from unnecessary red tape. The goal is to produce sound, common-sense rules only when needed and without unnecessarily hamstringing the economy.

## KEY FACTS

- » A 2015 study by economists at Beacon Hill Institute estimated that state regulations cost North Carolina's economy as much as \$25.5 billion – and that's just for one year. This regulatory slowdown goes on, year after year, like a car loaded down with bricks.
- » In 2013, the General Assembly enacted a significant reform for administrative rules: sunset provisions with periodic review. By July 2019, over 19,000 total rules had undergone review, and over 2,000 rules had been repealed. More than one in 10 rules reviewed had been repealed.
- » North Carolina is one of only six states without small-business regulatory flexibility. This reform lets agencies make common-sense adjustments to small businesses' regulatory burdens, such as compliance and reporting requirements. Those things are more expensive for small businesses, which make up 99.6 percent of North Carolina's employers.

## RECOMMENDATIONS

### 1. Implement a “rules throttle” for legislative ratification of certain rules.

A “rules throttle” approach would require legislative scrutiny of rules that impose a significant cost on the state's private sector, whether directly or indirectly. A rule that meets a statutory threshold for significant regulatory cost would need ratification in the legislature, the lawmaking body accountable to the public, before it can take full effect. The process adopted by Florida in 2010 has yielded strongly positive results and increased cooperation between the legislature and state agencies in rulemaking.

### 2. Enact default *mens rea* statutes.

North Carolina's administrative code and general statutes often lack “*mens rea*,” which is a crucial, common-law protection against facing prosecution for unintentionally breaking a rule or law. A default *mens rea* statute would restore this protection.

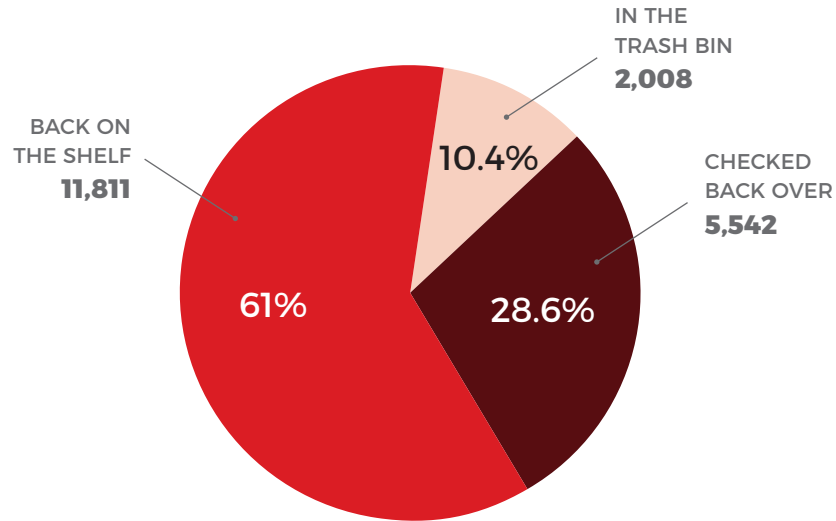
### 3. Enact reforms to occupational licensing.

See Occupational Licensing.

### 4. Consider other reforms.

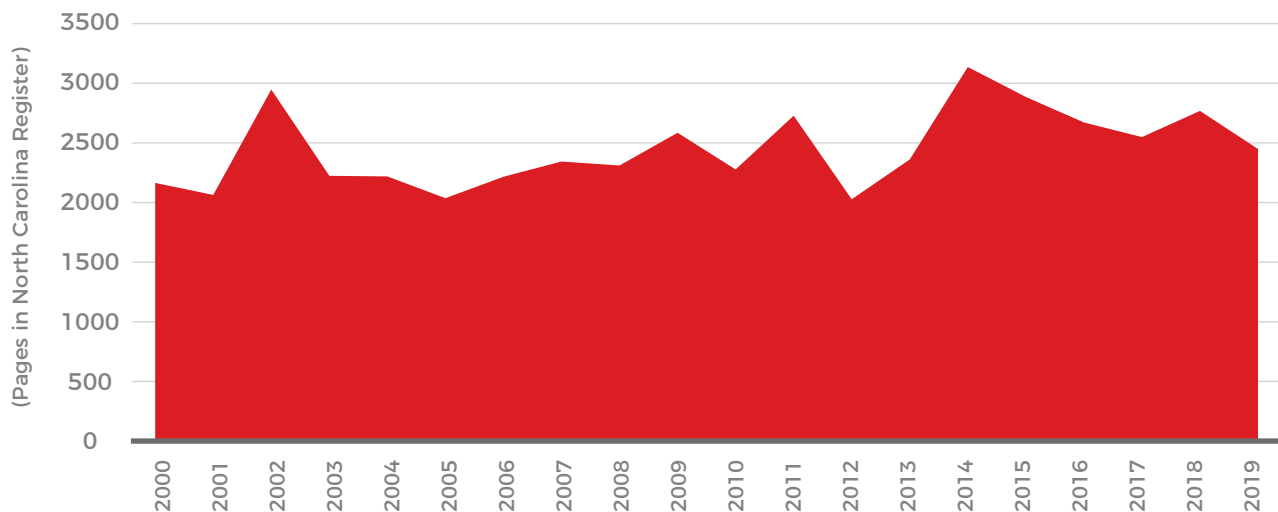
Reforms include small-business flexibility analysis, regulatory budgeting (also called regulatory reciprocity), stated objectives and outcome measures, implementing strong cost/benefit analysis, and expanding to all state agencies the no-more-stringent laws that are already placed on state environmental agencies.

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



SOURCE: RULES REVIEW COMMISSION

## Trends in North Carolina Regulatory Activity, 2000-19



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

**SOURCE:** NC OFFICE OF ADMINISTRATIVE HEARINGS

# TRANSPORTATION PLANNING

POLICY ANALYST: **JON GUZE**

## INTRODUCTION

As the John Locke Foundation explained in a 2015 Spotlight report, transportation planning in North Carolina took a wrong turn in 1987 when the General Assembly approved a controversial piece of legislation known as the Map Act. The Map Act gave the North Carolina Department of Transportation (NCDOT) the power to “control the cost of acquiring rights-of-way for the State’s highway system” by prohibiting long-term residential and commercial development on land within officially designated “transportation corridors.” NCDOT used that power to suppress the value of large tracts of land for years, even decades, without initiating condemnation proceedings typically required to build new roads and without compensating the owners.

In a case known as *Kirby v. NCDOT*, a group of Forsyth County landowners challenged the Map Act. In 2015, the John Locke Foundation filed a friend-of-the-court brief in their support, and, in 2016, the North Carolina Supreme Court ruled in the landowners’ favor. The court held, “By recording the corridor maps ... which restricted plaintiffs’ rights to improve, develop, and subdivide their property for an indefinite period, NCDOT effectuated a taking of fundamental property rights.”

Two implications of the court’s decision were clear. First, NCDOT would have to compensate the plaintiffs and all other Map Act victims for their losses. Second, NCDOT and the North Carolina General Assembly would have to work together to develop a new approach to transportation planning that delivers the roads and other transportation infrastructure North Carolina needs while promoting economic well-being and respecting our constitutional rights.

Thanks to the Supreme Court’s *Kirby* decision, transportation planning in North Carolina now appears to be moving in the right direction. NCDOT has begun to pay compensation to Map Act victims, and it has completed a report that includes a sensible Map Act replacement proposal. For its part, the General Assembly has repealed the Map Act and taken NCDOT’s report under advisement.

## KEY FACTS

- » In response to the decision in *Kirby v. NCDOT*, the General Assembly rescinded all existing corridor maps, placed a moratorium on the filing of new maps, instructed NCDOT to study alternatives to the Map Act, and required the agency to submit a final report.
- » After a series of delays, NCDOT submitted its final report in February 2018. The report provides brief descriptions of the five options NCDOT considered. Option C is the option that NCDOT rightly contends, “achieves an equitable balance of interests without infringing on property owners’ rights.”
- » In 2019, the North Carolina General Assembly repealed the Map Act, clearing the way for a new approach to transportation planning.

## RECOMMENDATIONS

- 1. NCDOT should continue compensating all Map Act victims without delay.**
- 2. The General Assembly should begin to seriously consider what, if anything, should replace the Map Act.**

Option C of NCDOT’s 2018 report would be a good starting point. Option C states, “[R]eplace the current Map Act statute with a new law that provides for filing maps with no restrictions on the property except a requirement that the Department be notified of any zoning, subdivision, or building permit requests within the protected corridor. This notification would then provide an opportunity for the Department to attempt to purchase the land if it is determined that the proposed development could have a significant negative impact on the development of the future transportation corridor.”



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