



# THE DEBRIEF

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# THE CAROLINA JOURNAL

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## At long last, the NC budget is done. Here's what you need to know.

BY ALEX BALTZEGAR

On Sept. 22 both chambers of the state legislature sent the state budget, House Bill 259, to Gov. Roy Cooper's desk for his signature. Cooper did not sign the budget because of his objections to school choice and several other policies included in the bill. Instead he allowed the budget to become law on Oct. 2. Gov. Cooper cited the importance of Medicaid expansion, his biggest priority, as his reason for allowing the budget to go into law.

"Make no mistake, overall, this is a bad budget that seriously shortchanges our schools, pri-

oritizes power grabs, keeps shady backroom deals secret, and blatantly violates the constitution, and many of its provisions will face legal action," Cooper said in a press release.

Both the House and the Senate passed the budget with veto-proof supermajority margins.

The House voted on the budget at 12:30 a.m. on Sept. 22. The House passed the budget with bipartisan support, 70 to 40, with five Democrats voting in favor of the plan. Ten House members were absent for the final vote.

"I could not be prouder of the budget approved by the House today, and I am encouraged by the bipartisan support it received from my friends on the other

side of the aisle," House Speaker Tim Moore, R-Cleveland, said in a press release. "Thanks to the fiscally responsible work of this General Assembly on behalf of the people of North Carolina, we have made significant investments where they are needed most."

The Senate voted for the budget, 26-17 at 10:15 a.m. on Sept. 22. The day before, the chamber had passed the budget by a vote of 29-18. Both Senate votes passed the budget along partisan lines, unlike in the House.

Republican leaders in the General Assembly received heavy criticism for how long it took them to negotiate a new budget this year. Senate budget writ-

ers Sens. Brent Jackson, R-Sampson; Ralph Hise, R-Mitchell; and Michael Lee, R-New Hanover, released the following statement regarding the budget:

"It takes time, collaboration, and a lot of back-and-forth to produce a good budget, and that's exactly what we have here. The budget provides the essential services North Carolinians need without encroaching on their freedoms. Our smart tax policy puts more money back into the pockets of hard-working families, and we've included infrastructure upgrades that reach every corner of the state. We look forward to this budget becoming law, and continuing the conservative governance that has helped

make North Carolina a leader in the nation."

There had been talk of legalizing casinos and video lottery terminals this year. At one point, lawmakers wanted to do so through the state budget, but ultimately there was not enough support for the idea in the state House.

"The conference budget will not include VLTs for the rural tourism districts," Berger told reporters at a press conference. "We think this is the best, most prudent way for us to move forward."

Berger asserted that the casino issue is not dead, though. He plans to bring it back up in a lat-

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## Public needs more access to records, not less

**DONNA KING**  
EDITOR-IN-CHIEF



Recently, a coalition of media outlets led by the Carolina Journal sent a letter to all North Carolina lawmakers opposing language in the state budget that grants legislators broad discretion, as custodians of their own public records, to determine what qualifies as a "public record." Further, it allows for destruction of documents lawmakers deem not public records.

"As organizations committed to fostering an informed citizenry and ensuring that government actions are subject to public scrutiny, we believe the ability to access public records is fundamental," the letter, signed by CJ and the North Carolina Press Association, reads. "Public records provide valuable insights into the legislative process, government decision-making, and the actions of elected officials. They are the cornerstone of government transparency, allowing citizens to hold their representatives accountable and make informed decisions about their governance."

While the letter outlines many reasons we are alarmed by this measure, it can all be boiled

down to one: We just want good government.

In this latest budget, we see a pretty clear compare-and-contrast scenario when it comes to the roles of oversight by the legislature and watchdog by the press.

On the one hand, lawmakers have been blasted for providing the Joint Legislative Commission on Governmental Operations expanded access to documents under its authority to oversee local governments and nongovernment entities that receive state funds. The 42-member committee would have access to records for state contractors or any group dealing in state money.

As the stewards of taxpayer money, lawmakers have an obligation to ensure that our money is spent appropriately. That obligation is part of the commitment they each make to good government.

We look no further than the debacle that is Gov. Roy Cooper's Office of Resilience and Recovery. Nearly a decade after Hurricanes Florence and Matthew, victims still live in hotels because the office has mismanaged the contracting and rebuild phase. Investigative hearings have yielded little, and lawmakers say that access to docu-

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IMAGE IS CREATIVE COMMONS VIA RAWPIXELS.COM

IMAGE VIA OFFICE OF THE GOVERNOR

## It's time to sunset JDIG

**DONALD BRYSON**  
PUBLISHER



In a 2015 Fox News interview, Charles Koch, the chairman of Koch Industries, said, "Well, corporate welfare I think is a disaster for this, this country. It's crippling our economy. It is contributing to a permanent underclass and corrupting the business community."

Koch correctly assessed corporate welfare programs, which involve government policies and financial incentives designed to provide assistance and benefits to specific corporations or industries, often to stimulate economic development or job creation. The primary example of a corporate welfare program in North Carolina is the Job Development Investment Grant program, conducted by the state Department of Commerce.

In recent years, JDIG has been scrutinized, and for good reason. While JDIG was initially conceived as a tool to attract and retain businesses, recent examples have raised questions about its effectiveness and the wisdom

of its continuation. Given NC's already strong position as a business-friendly state, exemplified by its repeated ranking as CN-BC's "Top State for Business," it is time for state lawmakers to sunset the JDIG program.

JDIG, as a performance-based incentive program, was intended to provide cash grants to companies that create jobs and invest in the state. The idea was to encourage economic growth, but recent events have exposed the program's inherent flaws and the need for re-evaluation.

The JDIG program, as it stands, allows unelected bureaucrats at the state Department of Commerce to pick winners and losers in the state's economy. Recent examples of involved companies struggling financially or to meet their job-creation goals reveal the inherent difficulty in accurately predicting the economy's future.

One glaring example is the case of Allstate, a major insurance company that entered into a JDIG agreement in 2017. The company pledged to create over 2,200 jobs in Charlotte by 2020. However, the rapid expansion of remote work rendered this

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**SEASON 2**

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**SATURDAYS THIS FALL**

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# NASCAR All-Star race will return to North Wilkesboro

BY ALEX BALZEGAR

On Sept. 28, Sen. Paul Newton, R-Cabarrus, and House Speaker Tim Moore, R-Cleveland, announced that NASCAR's All-Star race will be returning to North Wilkesboro. This will be the 40th running of the NASCAR All-Star Race.

"Your legislature is laser-focused on bringing prosperity to every county in North Carolina," said Newton.

NASCAR president Steve Phelps and Speedway Motorsports president and CEO Marcus Smith drove up to the state Legislative Building with a "special delivery" for the announcement — a NASCAR All-Star Race Chevrolet Camaro pace car. State Rep. Jeffrey Elmore and state Sen. Eddie Settle, both representing Wilkes County, were there to celebrate.

Opening as a dirt track back in 1947, the North Wilkesboro Speedway was a part of NASCAR's founding, operating from NASCAR's inception in 1949 until the track was bought in 1996. The series left after it was sold, returning to racing only briefly. The final cup race at North Wilkesboro came in 1996.

The track had fallen into disrepair prior to community efforts to



A race car from North Wilkesboro Speedway was on hand Sept. 28, 2023, for the announcement that NASCAR was returning to the historic track.

revive it. It is short relative to other tracks, measuring 0.625 miles, and features a unique uphill backstretch and downhill frontstretch, according to enthusiasts.

The 2021-22 North Carolina state budget included \$40 million

earmarked for three race tracks — \$13 million for Charlotte Motor Speedway, \$9 million for Rockingham Speedway, and \$18 million for North Wilkesboro Speedway. The General Assembly gave the North Wilkesboro Speedway

an additional \$4 million grant for additional facility upgrades for the All-Star weekend.

In 2021, the Department of Commerce invested \$30 million in federal American Rescue Plan money to make improvements

to North Wilkesboro and Charlotte Motor speedways. The Department of Natural and Cultural Resources also created a tourism project that includes a Motorsports and Moonshine Heritage Trail.

"We are very grateful that NASCAR and FOX Sports have supported our efforts to bring the NASCAR All-Star Race back to North Wilkesboro in 2024," said Smith. "While NASCAR's current 75th anniversary season still has some memorable moments to come, it's hard to imagine a more magical moment than what we witnessed with NASCAR's return to North Wilkesboro Speedway this past May. The success of the 2023 All-Star Race with fans coming from all 50 states and seven foreign countries would not have been possible without the support of the NASCAR industry, our state legislature, Gov. Roy Cooper, and the Wilkes County community. We're thankful to have the opportunity to bring back an international spotlight for the second consecutive year to North Wilkesboro and the great state of North Carolina."

The NASCAR All-Star Race will take place at North Wilkesboro Speedway as part of a three-day weekend of motorsports entertainment on May 17-19, 2024.

# 'Urban doom loop' could threaten Charlotte's commercial real estate sector

BY ZACH ROUNCEVILLE

A recent analysis detailing an ongoing crisis for the commercial real estate market in US cities has experts concerned that such predictions could reach their way to the Queen City.

Particularly worrisome is the commercial real estate sector in midsize cities like Atlanta, Indianapolis, Washington, DC, and Minneapolis, which have been grappling with empty office space. This trend stems from the shift from in-person work to hybrid or work-from-home policies, as well as rising interest rates, inflation, and mortgage default.

Charlotte's office delinquency rate is at 30% in the analysis, well above the national average of around 5%.

Industry experts have termed the crisis the "Urban Doom Loop." However, some with long-standing ties to Charlotte have mixed opinions as to the gravity of the situation.

"For the commercial real estate buildings here, we have very high vacancy rates, and Charlotte is in trouble," said Professor Yongqiang Chu, director of the Childress Klein Center for Real Estate at UNC Charlotte in an interview with Carolina Journal.

Causes for the empty office



spaces have been attributed to a variety of factors, one of which has been the change in employee work environment.

"Most employers are still using hybrid work models," said Chu. "Most companies are like two to three days in person and the rest is work from home, so that reduces tremendously the demand for office space. In Charlotte, many large employers have significantly downsized their office space."

## How to handle empty office space

One proposed solution to office vacancy has been to repurpose empty buildings to residential use.

"There's effort in trying to convert some office space to multifamily apartments, but it doesn't work for all the office buildings and can be very difficult," Chu explained. "Another thing that I think would

help is regulation in terms of the zoning codes and building codes which could help the conversion."

Despite the doom and gloom predictions posited by others, Chu believes that "Urban Doom Loop" is an inaccurate characterization of Charlotte's economy overall.

"Not necessarily," he said when asked if the label is appropriate for Charlotte. "One of the things that helps Charlotte is that there are skilled people and companies

moving to the area. I'm concerned with the area of uptown Charlotte because not only do we have this downsizing of office space by employers, but there's also an outflow. A lot of companies are moving away from uptown to places like South End. If you look at the data, the uptown area has the highest vacancy rate right now, whereas South End has the lowest."

CJ also spoke with Mark Vitter, a retired senior economist with Wells Fargo, who also feels that Charlotte's economy has fared well despite the issues facing commercial real estate, particularly when it comes to job growth.

"This year will probably be a record year for job growth in Charlotte," he said. "To put that into perspective, in the South there's only one metro area that added more jobs in the last year than Charlotte, and that's Miami-Ft. Lauderdale-West Palm Beach. That colossal metro area is almost the size of the state of North Carolina, and it's 2.5 times larger than Charlotte. Charlotte also added more jobs last year than Atlanta."

## Booming job growth

Recent statistics from the Charlotte Regional Business Alliance have indeed shown that

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# Universal school choice comes to NC

DAVID BASS

Universal school choice is coming to North Carolina thanks to a new budget approved by lawmakers in September.

The spending plan for the new biennium expands the state's Opportunity Scholarship Program — meant to enable families to choose a private school education for their children — to all families while raising the tuition reimbursement amount. The change makes North Carolina the 10th state to enact universal school choice.

All told, the budget will increase spending on the Opportunity Scholarship to \$520 million by the 2032-33 fiscal year. That compares to the current total of \$177 million for the 2023-24 school year.

School choice advocates have praised the development as a major step forward for educational freedom in the Tar Heel State.

"Expansion of the Opportunity Scholarship Program would not only be a game changer for North Carolina families, giving parents a real choice on where they attend schools; the new legislation would help to redefine public education and underscore that not all state-funded education has to be publicly funded, administered, and delivered," said Robert Luebke, director of the Center for Effective Education at the John Locke Foundation.

Former state lawmaker Marcus Brandon, a Democrat, also praised the expansion. "This is the



IMAGE COURTESY OF SCHOOL CHOICE WEEK

most important part of the budget," Brandon shared on social media. "Strengthening and modernizing our public education system to meet the needs of ALL kids is the best investment we can make."

"North Carolina is leading the way on education reform and parental school choice," added Mike Long, president of the school choice advocacy group Parents for Educational Freedom in North Carolina.

"The newly passed bipartisan budget ensures our state takes the next step forward for parental school choice options while funding students over systems."

Most Democrats, meanwhile, have called the new spending on school choice "devastating" and "insidious."

"One of the most devastating things about the budget we will be voting on this week ... is the half a billion dollars that will be going to fund private school education at taxpayer expenses," said Rep. Julie Von Haefen, D-Wake, on social media.

## What's changed

Under the previous framework, Opportunity Scholarships were

available only to families earning 200% or less of the amount required to qualify for the federal free and reduced-price lunch program. Now, eligibility expands to all families in a tiered system based on income. Lower-income households would be first priority, while wealthier families would have access if sufficient funds remain available.

Under the new budget, a family of four earning \$55,500 a year or less would get first priority, second priority to those earning \$111,000 a year or less, third priority to those earning, \$249,750 a year or less, and then any remain-

ing funds would be available to households earning incomes higher than these.

The value of each scholarship would also ratchet down based on income. Lower income households would qualify for 100% of the scholarship — around \$7,400 this year — while the next three categories would receive 90%, 60%, and 45%, respectively.

## Catching momentum

The vast majority of registered voters in North Carolina support expanding Opportunity Scholarships. A poll in March from the Carolina Partnership for Reform found that nearly 7-in-10 voters support a universal scholarship program. Sixty-eight percent supported the idea, with 27% opposed. The support held across party lines, with 46% of unaffiliated voters and 50% of Democrats strongly supporting the concept.

Support for school choice is trending up nationally as well. A poll from RealClear Opinion Research found a growing tide of support for school choice since the COVID-19 pandemic. Today, 71% support school choice with only 13% opposed. In April 2020, that support figure stood at 64%.

That jump in support holds across political and racial lines. Sixty-six percent of Democrats support school choice, 80% of Republicans, and 69% of independents. Meanwhile, 71% of Hispanics back school choice, 71% of whites, 73% of blacks, and 70% of Asians.

THE CAROLINA JOURNAL

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# McHenry named interim speaker of US House

DONNA KING

Republican Congressman Patrick McHenry, R-NC10, was named the interim speaker of the United States House of Representatives following the historic Oct. 3 vote to remove House Speaker Kevin McCarthy, R-CA20. The House voted to remove McCarthy by a vote of 216-210, with all Democrats present joining eight hard-line conservatives.

McHenry has been speaker pro tempore since January, an appointment only known to a few people, kept secret until a speaker cannot fulfill his or her duties. He now controls the chamber as members determine their next steps. This is the first time a US House speaker has been removed from power in history.

In January 2023, McHenry nominated McCarthy for speaker in the 14th round of voting after multiple chamber votes failed to produce a majority for McCarthy. McCarthy ultimately secured the gavel in the chamber in the 15th vote, with 216 House members voting for him.

According to a report from



US Rep. Patrick McHenry, R-NC10, speaks from the floor of the US House of Representatives.

Politico, in one of McHenry's first actions as interim speaker, he notified the office of former Speaker Nancy Pelosi, D-CA11, that she must vacate a hideaway office that she's occupied since relinquishing the gavel.

This is the second time McHenry has been called to step

in suddenly. He was deputy whip to Republican Whip Steve Scalise of Louisiana in 2017, when Scalise was shot by a gunman targeting Republicans during the GOP practice for the annual congressional baseball game. McHenry stepped in as interim whip during Scalise's recovery.

A key negotiator among Republicans, McHenry's political stardom has been on the rise in recent years. He was named chair of the influential House Financial Services Committee in December, following the 2022 election. He has served on the committee since he was first

elected in 2005.

McHenry, 47, was born and raised in Gastonia and graduated from Ashbrook High School. McHenry earned a bachelor's degree in history from Belmont Abbey College. He currently lives in Denver, North Carolina, with his wife, Giulia and their three children.

McHenry represents North Carolina's 10th Congressional District, located just west of Charlotte, around his native Gastonia. He also served one term in the NC House from 2003 to 2005.

Prior to the vote to vacate McCarthy, US Rep. Dan Bishop, a Republican from North Carolina's 8th Congressional District, announced he would vote "no" on the motion to remove McCarthy from the speakership, despite often allying himself with the group that ousted McCarthy.

"After deliberation, I have decided to vote against the motion to vacate the chair," Bishop said.

North Carolina's congressional delegation ultimately split 7-7 as to whether to keep McCarthy, with all Republicans voting to keep him and all Democrats voting to remove him.

IMAGE FROM CSPAN



# NC budget frees up approval process for new charter schools

DAVID BASS

A back-and-forth power struggle between state lawmakers and members of the North Carolina State Board of Education came to a head in the new budget — and, at least for now, lawmakers won.

Earlier this year, the General Assembly OK'd a measure creating a new Charter School Review Board responsible for evaluating and approving new charters. With the previous system, the full State Board of Education had the final say, under recommendations from the Charter Schools Advisory Board.

Republican lawmakers believed the shift was important because the Democrat-controlled State Board of Education has rejected several charter school applications in recent years.

Gov. Roy Cooper, a Democrat, vetoed the bill on July 7, claiming the measure was “a legislative power grab that turns that responsibility over to a commission of political friends and extremists appointed by Republican legislators, making it more likely that faulty or failing charter schools will be allowed to operate and shortchange their students.”

Later, Republican lawmakers overrode the veto with the help of two Democrats in the House. But that wasn't the end of the skirmish.

In an end run around the new law, the Democrat-controlled State Board of Education passed a policy on Sept. 7 that allows the board to control funding for new charters. The policy passed 8-3,



IMAGE COURTESY OF SCHOOL CHOICE WEEK

with all Democrat appointees voting in favor plus one Republican appointee, chairman Eric Davis. Three Republicans voted against the measure: Lt. Gov. Mark Robinson, State Treasurer Dale Folwell, and Olivia Oxendine, who is a GOP appointee.

“To do this in one day is unfair,” said Robinson during the board meeting. “It’s unprofessional, and it smacks of political

pandering and should not be tolerated on an issue this important.”

Davis said the move was needed because seven charter schools have closed in recent years, “at least five of them with questionable financial situations, which are currently being reviewed by federal officials.”

Lawmakers appear to have gotten the last laugh, howev-

er. The new budget prohibits the State Board of Education from withholding funds from a charter authorized by the new Charter School Review Board, except under limited circumstances. Those circumstances are:

- “The change in funding is due to an annual adjustment based on enrollment or is a general adjustment to allocations that

is not specific to the charter or actions of that charter school.”

- “The Review Board notifies the State Board that the charter school has materially violated a term of its charter, has violated a State statute or federal law, or has had its charter terminated or nonrenewed.”

- “The Superintendent of Public Instruction notifies the State Board that the charter school has failed to meet generally accepted standards of fiscal management or has violated a State or federal requirement for receipt of funds.”

Lindalyn Kakadelis, executive director of the NC Coalition for Charter Schools, issued a statement praising the budget provision.

“The waitlist for public charter schools has 77,000 student names on it, and threats to withhold funding for new charter schools would have made that problem worse, not better,” Kakadelis said. “Ultimately, students and families are the ones who lose out most when policymakers put politics and power over funding all of our public schools fairly.”

A recent national report concluded that charters outperform their traditional public school counterparts in reading and math, with gains particularly accruing to minority students, students in poverty, and students learning English as a second language.

# State high court will consider New Bern eye surgeon's CON challenge

CJ STAFF

More than a year after a New Bern eye surgeon asked North Carolina's highest court to take up his challenge of the state's certificate-of-need law, the court has answered yes.

A Sept. 1 order confirmed that the North Carolina Supreme Court will hear Dr. Jay Singleton's challenge to state CON restrictions. Singleton had appealed to the high court in August 2022.

“Fifty years ago, the North Carolina Supreme Court held that the state's original certificate-of-need law was unconstitutional,” said attorney Joshua Windham in a statement for Carolina Journal. “It struck down the law because banning new healthcare providers from entering the market is irrational, harmful, and privileges entrenched businesses at the ex-



Dr. Jay Singleton of Singleton Vision Center

IMAGE COURTESY OF INSTITUTE FOR JUSTICE

pense of everybody else.”

“But the legislature didn't listen. It re-adopted a substantially similar law just a few years later,” added Windham, who represents Singleton on behalf of the Institute for Justice. “North Carolin-

ians have been suffering the consequences of that defiance ever since. The time has finally come for the Court to finish what it started a half-century ago.”

“The CON law is unconstitutional — it's always been uncon-

stitutional — and we're going to prove it,” Windham said.

Singleton's state Supreme Court appeal followed the state Court of Appeals' unanimous June 2022 decision dismissing his case.

The John Locke Foundation, which oversees Carolina Journal, participated in the case by filing a friend-of-the-court brief supporting Singleton.

“The CON law is a constitutional abomination,” Windham said at the time of the original appeal. “In North Carolina, laws are supposed to protect the public from harm, and monopolies are expressly forbidden. But the CON law thrives on violating these principles. It cripples competition, props up established players, bans innovators, and forces you — the patient — to pay more for less. The time has come for the North Carolina Supreme Court to take these issues up and to declare, once and

for all, that in our state, public power cannot be used for private gain.”

The CON case presents three issues for the NC Supreme Court's consideration, according to an August 2022 court filing from Windham and his colleagues.

“Whether the CON law, as applied, violates the law of the land clause (Art. I, § 19) of the North Carolina Constitution,” according to Singleton's lawyers. “This issue raises substantial questions about the importance of economic liberty, what test applies in substantive challenges under the clause, and whether facts matter under that test.”

“Whether the CON law, as applied, violates the anti-special privileges clause (Art. I, § 32) of the North Carolina Constitution,” the brief added. “This issue raises a substantial question about



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## What you need to know...

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er session for more discussion. Berger pointed to high “emotions” from certain lawmakers as the reason for the change.

Moore was very happy with the budget outcome.

“A lot of the conversation has been about where the differences of opinion are, but now is a good time to talk about what a good budget this is, what it does,” said Moore. “Absolutely record investment in rural infrastructure like water, sewer, tax relief for working families, more money for education, pay raises for our hard-working state employees — we have probably the greatest budget I’ve ever seen.”

Here’s what’s inside the budget:

### Taxes

**Personal income tax drops to 2.49%:** North Carolinians’ personal income tax could drop to as low as 2.49% in the next five years, but only if revenue triggers are hit each year. There will be a 0.50% PIT reduction each fiscal year revenue triggers are hit.

If there are years when North Carolina does not hit revenue goals, the PIT rate will remain the same, but no PIT cuts will be reversed once they occur. The soonest PIT could drop to 2.49% would be 2029, on the condition of revenue hitting the “trigger amount” every year. With large-scale gambling revenue not kicking in until the Senate figures out how to get its desired casinos and VLTs, North Carolina might not hit all revenue triggers every year.

For reference, North Carolina revenue for the 2022-23 fiscal year was \$33.535 billion.

**Franchise tax capped:** The franchise tax will be capped starting in 2025 and will affect corporate income tax filings

starting in 2024. For “C” corporations, for the first \$1 million of their tax base, they will pay a flat fee of \$500. For any amount of their tax base that exceeds \$1 million, they will pay \$1.50 for every \$1,000 of that excess amount. “S” corporations will pay \$200 for the first \$1 million of their tax base and \$1.50 for every \$1,000 of the excess amount. The budget sets minimum tax for all corporations at \$200 and a maximum of \$150,000.

**Privilege tax repealed:** The budget’s tax package includes a repeal of the privilege tax but keeps certain exceptions for financial and lending businesses.

**Extends sales tax exemptions:** Sales tax exemptions are extended from their previous expiration date from Jan. 1, 2024, to 2028. These exemptions include retail sales and use taxes on motorsports, senior care facilities, aviation, fuel for freight boats, and breast pumps.

**Vape tax:** The budget allows for vape products containing nicotine to be taxed similarly to other products. The budget also shifts the tax from being cost-based to weight-based.

**Rideshare service tax:** The General Assembly is implementing a new excise tax on Uber, Lyft, and other rideshare services of 1.5% for exclusive rides and 1% for shared rides.

### Economic development initiatives

**NCInnovation:** Lawmakers have settled on giving NCInnovation \$500 million, to be distributed as \$250 million a year for two years. It will still be set up as an endowment. NCInnovation is a private, nonprofit corporation that focuses on facilitating the commercialization of research from North Carolina universities. This decision contrasts with the Senate’s earlier proposal of a \$1.425 billion endowment, significantly diverging from the House’s \$50 million allocation.

The budget also includes stipulations to cap salaries funded by NCInnovation at \$140,000, introduces enhanced reporting requirements to the legislature’s Joint Committee on Governmental Operations, and mandates reporting on outcomes, regional hub expenditures, unaudited overhead reports, and more.

The State auditor gains explicit audit authority, while the General Assembly is granted the power to repeal NCInnovation’s charter and reclaim assets. Additionally, the budget outlines extensive functional and job description parameters for NCInnovation’s operations.

**Regional Economic Development Reserve:** The budget establishes a Regional Economic Development Reserve within the General Fund, allocating \$1.25 billion in nonrecurring funds for the 2023-24 fiscal year.

**Golden LEAF:** The budget increases Golden LEAF funding from \$17 million annually to \$25 million annually.

Golden LEAF is a nonprofit that works “to increase economic opportunity in North Carolina’s rural and tobacco-dependent communities through leadership in grantmaking, collaboration, innovation, and stewardship as an independent and perpetual foundation,” according to its website.

### Education

**Universal School Choice:** (turn to Page 4 for coverage)

**Free lunch and breakfast for more low-income students:** Mandates that the Department of Public Instruction expand public school participation in the federal Community Eligibility Provision program to increase the number of students with access to healthy, cost-free school breakfast and lunch.

**School safety:** The budget allocates \$3.2 million for New Hanover County and \$2 million for Davidson County for an artificial intelligence school-safety pilot program.

**Teacher pay raises:** The budget gives teachers an average increase in pay of about 7% over the next two years.

Increases in base salary are larger for early-in-career teachers than for more experienced teachers, with raises ranging from 3.6% to 10.8% depending on the number of years worked.

**Bus drivers:** Bus drivers will get an extra 2% more than most state employees, for a total of about a 9% raise over the next two years.

**UNC School of Civic Life and Leadership:** In Chapel Hill, the UNC School of Civic Life and Leadership will be established and will be run by the provost rather than being directly under the chancellor.

### Infrastructure

**Water and sewer:** Nearly \$2 billion is allocated to over 200 individual water- and sewer-related projects across the state.

**Highway Fund:** For the fiscal year 2023-24, the budget allocates almost \$3 billion. For 2024-25, the budget allocates almost \$3.2 billion.

**Prohibition on state or regional emissions standards for motor vehicles:** Prohibits any requirements on controlling emissions on new motor vehicles and reduces the number of vehicles currently subject to emissions inspections.

**Prohibit cap-and-trade requirements for carbon dioxide (CO2) emissions:** No state agency, governor, or the Department of Environmental Quality may require certain public utilities to engage in carbon-offset programs.

### Court/Justice system changes

(turn to Page 8 for coverage)

### Other policy measures

**COVID-19 discrimination:** State agencies and governments cannot discriminate against someone on the basis of their COVID-19 vaccination status or willingness to show proof of vaccination, meaning COVID-19 vaccination cannot be mandated either. This primarily extends to public colleges and private colleges receiving state funds.

**No local minimum wage:** Local governments will not be allowed to set their own wage policies, including establishing a minimum wage or mandating companies provide benefits such as paid parental leave or vacation time. Local jurisdictions will also not be allowed to cap the number of hours employees can work weekly. The budget makes this explicit.

**State Board of Community Colleges:** The General Assembly gains 10 seats on the Board of Community Colleges, moving from eight to 18 members and stripping the governor of his appointment powers. It is unclear whether the board will consist of 19 or 22 seats.

**SBE/prohibit ERIC membership:** The budget prohibits North Carolina from becoming a member of the Electronic Registration Information Center, Inc.

**Voter ID:** The budget provides funding for voter ID implementation.

**Lobbyist fees:** Lobbyists will have the option to buy what people have called “fast passes” for \$2,000 each session to not have to wait in security lines. Liaisons will be able to buy them for \$1,000.

Lobbyist registration fees are also being raised from \$250 to \$500 annually.

**Study to privatize the DMV:** In the budget, the General Assembly has commissioned a study to conduct an analysis as to whether the Department of Motor Vehicles could be privatized in an effort to “provide a more citizen-friendly service model for the taxpayers of the State.”

**YouTube @JOHNLOCKEFOUNDATION SEASON 2 SATURDAYS THIS FALL**



# POLICY PIZZA



STATE BUDGETS



EDUCATION

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YOUTUBE USER



# Robinson support drops in post-debate straw polls after no-shows

BY THERESA OPEKA

Mark Robinson has been leading significantly in the polls since he announced his 2024 run in the Republican primary for North Carolina governor. However, some attendees of two recent Republican primary events say they changed their minds about supporting the lieutenant governor after he was a no-show at both events.

Robinson was invited to a recent debate held by the Wake County GOP and to a Republican Women of Greater Charlotte candidate forum.

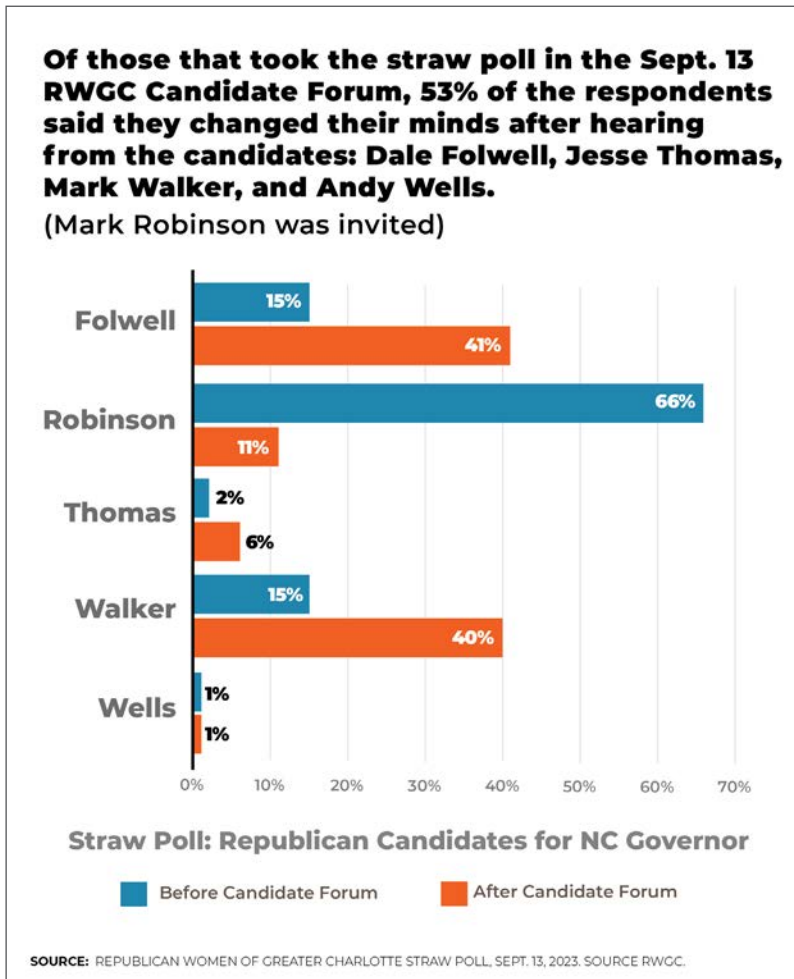
"A lot of people changed their minds at that panel because Dale Folwell told us many things that we did not have prior knowledge of, like, he [Robinson] doesn't come to a lot of the committee meetings," Carol Kuester, president of the Republican Women of Great Charlotte, told Carolina Journal in a telephone interview. "I think that's really what hit people was that he wasn't showing up for these committee meetings that he as a lieutenant governor is supposed to show up for."

State Treasurer Folwell, former congressman Mark Walker, businessman Jesse Thomas, and former state Sen. Andy Wells attended the Sept. 13 event at Maggiano's in Charlotte. About 130 people attended.

A straw poll conducted before and after the panel showed that 53% of respondents changed their minds, with Robinson losing support.

He had been in the lead with 66% of the vote before and fell to third place, with only 11% support.

Folwell and Walker gained the most, almost tying for the top spot. Folwell had 15% before the



event and 41% afterward. Walker tied with Folwell with 15% before and 40% after. Thomas and Wells rounded out the poll.

"I spoke to several people that said they had changed their vote," said Kuester. "Many of them said Dale Folwell, and many of them said Mark Walker, and they were going to switch from Mark Robinson. So, it changed people's minds, and it has changed from Mark Robinson being way ahead to, I think Mark Walker is closing the gap somewhat from what

I heard."

Similar results came from a straw poll taken at the Wake GOP debate held on Sept. 12 at the MacGregor Downs Country Club in Cary, with Folwell and Walker tied at 35%, followed by Robinson at 5%, Thomas at 2%, and Wells, who was also not in attendance at the Wake GOP event, with 0%.

Karyn Mulligan, first vice chair of the Wake GOP, told CJ in an emailed statement, "Obviously, we would have appreciated



CJ FILE PHOTO

Lt. Gov. Robinson's attendance, as well as Mr. Wells; however, we had a very lively discussion with the candidates who showed up. I am sure our audience would like to have heard from the other candidates, but we understand scheduling conflicts and hope to have the other candidates attend upcoming events so our Wake County Republicans can make an informed decision."

She said overall the debate went very well with a large crowd, including many voters from surrounding counties.

"I think this underscores the desire of Republicans to hear from all of the candidates," she said. "Over the next few months, I hope the Wake GOP will be able to provide additional forums, and all candidates will attend."

Kuester agrees with Mulligan about the importance of all candidates, including Robinson, appearing at these events so everyone can hear from them and ask questions.

"He should have come [to the RWGC event] because I think he could have spoken up for him-

self," she said. "Because you know how they're going to bring out the negative about someone that's not there. I think he needs to let people ask questions."

Kuester said that although she likes what Robinson has to say, she does question if he intends to do what he says he will do if elected governor.

"I really like the way he speaks, you know, he speaks his mind, and he comes out with a lot of things that we as conservatives are interested in, the schools, police," she said.

"There are all these major things that we are having trouble with. He just hits it between the eyes, I mean he talks about it and says how he's going to change it, but then when you hear if he's showing up (at meetings), you're just wondering if he is going to follow through on those promises, so I don't know."

*Carolina Journal reached out to the Robinson campaign for comment, but there was no response prior to publication of this article.*

# Cooper appeals ruling over COVID bar shutdowns to highest NC court

BY CJ STAFF

Gov. Roy Cooper is urging the state Supreme Court to take up a case of bar owners suing the state over government-enforced shutdowns during the COVID-19 pandemic.

A split state Court of Appeals panel ruled 2-1 in September that bar owners could move forward with their lawsuit against Cooper and the state.

"In their complaint, plaintiffs sought both injunctive relief and money damages. But over the course of this litigation, plaintiffs never moved for a temporary restraining order or a preliminary injunction to prevent these time-limited restrictions from being enforced against them," wrote lawyers from the NC Department of Justice. "Instead, plaintiffs pursued only damages. And because

the challenged executive orders expired more than two years ago, plaintiffs' claims for injunctive relief have long since become moot."

"Even though plaintiffs chose not to seek injunctive relief while the challenged executive orders were in effect, the Court of Appeals majority held that plaintiffs may now seek damages against the State for taking steps to protect public health during the worst pandemic in a century," the state's court filing added. "In reaching this conclusion, the Court of Appeals rejected defendants' argument that plaintiffs' damages claims are barred by sovereign immunity" under a precedent case from 1992 called *Corum v. University of North Carolina*.

"In that case, this Court held that plaintiffs pursuing direct constitutional claims must seek 'the least intrusive remedy available' to

address the alleged deprivation of their rights," state lawyers wrote. "Yet the Court of Appeals held that plaintiffs did not need to satisfy this requirement at the pleading stage. Thus, even though plaintiffs failed to seek injunctive relief — a less-intrusive remedy than money damages from the State's taxpayers — the Court of Appeals held that sovereign immunity is no bar to plaintiffs' claims."

"That decision warrants this Court's review. It departs from this Court's precedent in *Corum*, which holds that plaintiffs asserting direct constitutional claims for money damages must show that they are seeking the least-intrusive remedy for their alleged injury," state Justice Department lawyers argued. "If allowed to stand, the decision could expand the scope of damages that could be awarded against the State in future cases

while raising the very kind of separation-of-powers concerns that *Corum's* least-intrusive-remedy requirement was designed to prevent."

Judge April Wood wrote the majority decision in the Appeals Court's Sept. 5 ruling in the case, titled *Howell v. Cooper*.

"Plaintiffs' complaint alleged causes of action under N.C. Const. art. 1, §§ 1, 19, regarding North Carolinians' right to 'the enjoyment of the fruits of their own labor' and to substantive due process under 'the law of the land.' We hold sovereign immunity does not bar Plaintiffs' claims and Plaintiffs state colorable constitutional claims," Wood wrote.

A "colorable" claim means that a legal claim is strong enough to move forward in court.

Part of the suit already had been transferred to a three-judge

trial court panel. That panel will deal with the bar owners' claims that the state Emergency Management Act used to justify the governor's COVID shutdown was unconstitutional.

The Appeals Court affirmed a trial judge's February 2022 decision allowing the rest of the case to proceed.

"We conclude the Complaint sufficiently alleges state violations of Plaintiffs' constitutional rights because it coherently pleaded the Governor's orders violated their constitutional right to earn a living," Wood wrote.

Bar owners focused on the impact of the 2020 COVID shutdown on their constitutional rights to enjoy "the fruits of their own labor," Wood noted. "Plaintiffs have



# Judicial changes in store under new budget

BY THERESA OPEKA

The judicial system in North Carolina will see plenty of changes from the new state budget.

Under House Bill 259, the 2023 Appropriations Act, the retirement age for judges on the state Supreme Court and Court of Appeals climbs from 72 to 76. There is speculation by some that this is being done to help Supreme Court Chief Justice Paul Newby, who is 68 years old but will be 73 by the end of his term.

The legislature will also have some say regarding the Judicial Standards Commission, which investigates and disciplines judges. Under the budget, the State Bar Council's four appointments to the commission will be transferred to the legislature.

The commission has been the source of some controversy recently. State Supreme Court Justice Anita Earls filed a federal lawsuit against the commission on Aug. 29. She alleges the group wants to "chill her right to speak on matters of public concern."

The commission notified Earls on Aug. 15 that she is the subject of an investigation based on



CI FILE PHOTO

an interview published online in June. Earls is seeking an injunction, along with a declaration that the commission's investigation and potential reprimand violate her constitutional right to free speech.

Another change would allow

state Supreme Court justices and Court of Appeals judges to carry concealed weapons in court. State District and Superior Court judges already have that right.

The legislation drew criticism from Rep. Marcia Morey, D-Durham, on social media:

"Goodbye bailiffs and good luck to lawyers as justices twirl guns around their fingers during oral arguments," Morey said

Another change to the court system would be eliminating the right to appeal to the NC Supreme Court if there's a dissent at



**Goodbye bailiffs and good luck to lawyers as justices twirl guns around their fingers during oral arguments.**

- Rep. Marcia Morey, D-Durham

the Court of Appeals.

In addition, the State Bureau of Investigation will be removed from the Department of Public Safety and made a "single, unified, cabinet-level department under the governor." There is also language clarifying the SBI director's authority in the organization.

There will be new assistant district attorney roles added to Wake, Cumberland, Mecklenburg, Randolph, Forsyth, Cherokee, Clay, Graham, Haywood, Jackson, Macon, and Swain counties.

Similar to other state employees, judges and court administrators will receive pay raises over the next two years.

# Federal judge blocks two pieces of new North Carolina abortion law

BY CJ STAFF

A federal judge has issued an injunction against two pieces of North Carolina's new abortion law. One would require doctors to document a pregnancy's intrauterine location before administering abortion drugs. The other would require hospitalization for all abortions performed after 12 weeks of pregnancy.

US District Judge Catherine Eagles' 34-page order, issued Sept. 30, leaves the rest of the new law intact. The law restricts most abortions after 12 weeks.

"The plaintiffs are likely to succeed on the merits of their vagueness challenge to the requirement that providers determine and document the probable intrauterine location of a pregnancy before administering medication intended to terminate a pregnancy," Eagles wrote. "The Act does not provide a clear standard by which providers can make this determination, the provision is open to differing interpretations and does not provide reasonable notice of what is prohibited, and providers are subject to arbitrary accusations that they have violated the provision and to the penalties that accompany those accusations."

"The plaintiffs are also likely to succeed on the merits of their equal protection challenge to the Act's requirement that surgical abortions after 12 weeks of pregnancy must be performed in a hospital," Eagles continued. "The plaintiffs have offered uncontradicted evidence that the same medical procedures used for sur-



IMAGE FROM OSPAN

US District Judge Catherine Eagles testifies during her 2010 confirmation hearing on Capitol Hill.

gical abortions are used for miscarriage management and that the risks of those identical procedures are the same whatever their purpose."

"The legislature's maternal health reasons for requiring these procedures to be done in a hospital when a person who is pregnant as a result of rape or incest or with a life-limiting anomaly chooses to terminate a pregnancy apply equally to the same procedures when a person chooses those procedures to manage a miscarriage," the judge added. "The plaintiffs have shown the absence of any rational medical basis for distinguishing between these two classes of patients and the defendant-intervenors have not offered any evidence or rationale for that distinction."

Planned Parenthood and

Duke Health Dr. Beverly Gray are plaintiffs in the case. State Senate Leader Phil Berger, R-Rockingham, and House Speaker Tim Moore, R-Cleveland, are considered "defendant-intervenors."

Eagles had issued an earlier order temporarily blocking the abortion medication documentation requirement, also known as the IUP requirement. The hospitalization requirement for abortions performed after 12 weeks of pregnancy had been scheduled to take effect on Oct. 1, one day after her ruling.

Parties on both sides of the dispute submitted briefs to Eagles on Sept. 12.

"Plaintiffs' lawsuit is an overt attempt to circumvent the Supreme Court's decision in *Dobbs v. Jackson Women's Health Org.*, by seeking to create new consti-

tutional roadblocks to laws that protect women from unsafe abortion practices," wrote lawyers representing Berger and Moore. "But the Supreme Court instructed that '[a] law regulating abortion ... is entitled to a 'strong presumption of validity' and 'must be sustained if there is a rational basis on which the legislature could have thought that it would serve legitimate state interests,' including 'the protection of maternal health and safety.' North Carolina's abortion laws easily satisfy this test."

Lawmakers defended the challenged documentation requirement for doctors administering abortion drugs.

"As the leading cause of maternal mortality in the first trimester, ectopic pregnancies must be identified and treated before they rupture," lawmakers' lawyers argued. "The North Carolina General Assembly addressed this danger by requiring doctors to document an intrauterine pregnancy (IUP) prior to giving women drugs that can mask the symptoms of a life-threatening rupture. The U.S. Food and Drug Administration (FDA) has also addressed this risk by including a warning on mifepristone's label that a prescriber must 'exclude [an ectopic pregnancy] before treatment.' Codifying FDA's warning into law is rational."

The legislators' brief also made the case for the new law's hospitalization requirement for abortions that take place after 12 weeks of pregnancy.

"The General Assembly also sought to provide safe conditions for women who seek abor-



**The North Carolina General Assembly enacted straightforward, rational protections for women who seek certain types of abortions. And for Plaintiffs to ask the Court to grant their Motion for Preliminary Injunction is to ask the Court to impermissibly 'substitute [its] social and economic beliefs for the judgment of' these representatives.**

- Legislators' brief

tions beyond the first trimester," according to the brief. "As Plaintiffs have conceded, women who have post-12-week surgical abortions may experience life-threatening complications that require hospitalization. What's more, Planned Parenthood South Atlantic (PPSAT) admits that it has transferred women from its facilities to hospitals due to complications from post-12-week surgical abortions that it could not treat at its facilities."

"Simply put, the North Carolina legislature had rational reasons to require IUP documentation prior to a chemical abortion and hospitalization for post-12-week sur-



# New divide in NC Democratic Party?

## Democrats walk out on pro-Israel resolution

BY ALEX BALTZEGAR

Following October's brutal terror attacks by Hamas on Israeli civilians, the North Carolina House introduced a bipartisan resolution condemning the violence and vowing to support Israel. Rather than vote yes or no, 12 House Democrats walked out of the chamber. This has led to more questions over whether the NC Democratic Party is divided on supporting Israel.

The Carolina Journal captured a photo of two House Democrats waiting outside the chamber and witnessed several others walking around the Legislative Building during the vote.

The Democrats who remained in the chamber voted unanimously in favor of the resolution, as did all Republicans. House

Joint Resolution 897 ultimately passed, 104-0.

The official House record confirms each Democrat who walked out was marked as "not voting."

The 12 "no votes" came from Reps. John Autry, D-Mecklenburg; Amber Baker, D-Forsyth; Gloristine Brown, D-Pitt; Kanika Brown, D-Forsyth; Maria Cervania, D-Wake; Terence Everitt, D-Wake; Pricey Harrison, D-Guilford; Nasif Majeed, D-Mecklenburg; Marcia Morey, D-Durham; Renee Price, D-Orange; Diamond Staton-Williams, D-Cabarrus; and Julie von Haefen, D-Wake.

After facing significant backlash from constituents and fellow Democrats, some of the 12 released statements.

Autry and Majeed have not issued any public statements regarding their choice to walk out of the vote.

Baker, Gloristine Brown, Kanika Brown, Harrison, Price, and Staton-Williams only spoke to select media outlets regarding their decision to walk out for the vote.

Cervania, Everitt, Morey, and von Haefen issued public statements.

In Everitt's statement, he redirected attention to Republican Lt. Gov. Mark Robinson, accusing him of antisemitic comments in the past.

House Speaker Tim Moore's chief of staff said that one-quarter of the Democratic caucus walked out for the vote to support Israel. There are 48 Democratic members of the House, four of whom were absent on Oct. 10.

Moore decided to lower the Legislative Building flags to half-staff in honor of the over 1,200 people who died at the hands of Hamas over the prior weekend. He also called out his Democratic colleagues for walking out on the vote.

"For most of us, this was a simple choice: Denounce evil or walk away," Moore said. "Unfortunately, 12 of our members chose to take a walk. I chose to take a stand."

Earlier this year, the North Carolina House of Representatives passed a resolution celebrating



House Democrats are pictured talking outside the chambers during voting on a resolution supporting Israel.



Israel's 75th anniversary as a nation-state and "re-affirm[ing] its enduring support for Israel as Israel pursues peace with its neighbors."

One Democrat, Harrison, voted no, while two others, Everitt and Morey, abstained.

### Senate Democrats

The state Senate did not hold a vote but instead signed a letter condemning Hamas and supporting Israel. All present Sen-

ate Democrats signed the letter — with four notable exceptions.

The four Senate Democrats who refused to sign onto the senatorial statement condemning Hamas were Sens. Mujtaba Mohammad, D-Mecklenburg; Graig Meyer, D-Orange; Julie Mayfield, D-Buncombe; and Natalie Murdock, D-Durham.

Senate Republicans called them out for choosing to "hide behind silence as the terrorist group Hamas commits crimes against humanity," per a press



**Following October's brutal terror attacks by Hamas on Israeli civilians, the North Carolina House introduced a bipartisan resolution condemning the violence and vowing to support Israel. Rather than vote yes or no, 12 House Democrats walked out of the chamber.**

release.

Republican leaders also called on Gov. Roy Cooper, Attorney General Josh Stein, and Democratic Party Chair Anderson Clayton to "denounce their silence."

Senate Democrats issued a statement on Oct. 12 saying that Republicans' "attacks" were "politically motivated." However, the statement gave no explanation for why the four chose not to sign the letter.

The letter was signed by a bipartisan coalition of the other 45 present state senators, which included all Republicans and 15 out of 20 Democrats.

One senator, Mike Woodard, D-Durham, was absent and unable to sign.

### Lieutenant governor

Robinson called a press conference shortly after becoming active governor (since Cooper was overseas) to call for a "day of prayer" to support Israel.

However, fellow Republican and State Treasurer Dale Folwell, who is running against him in the gubernatorial primary, did not appreciate what he called a "stunt" by Robinson.

"You have regrettably seized the opportunity to engage in a stunt with dubious authority as acting governor during a brief interlude while Gov. Cooper is overseas conducting state business," Folwell said.

"How can you pretend to be governor when the record is clear that you haven't done your job as lieutenant governor? As a person who has shamefully denied the Holocaust and whose history is checkered with hateful anti-Semitic comments, you have no right to be commenting on this topic."

Gov. Cooper's office released a statement condemning Robinson's use of time as the active governor.

"It's tragically ironic that someone with a long history of hate speech against Jewish people would take advantage of death and destruction in Israel for his own political purposes," a Cooper spokesperson said.

Last year, North Carolina Jewish clergy leaders called out the North Carolina Democratic Party for anti-Israel resolutions that were considered at the party convention.



# 10 NC STATE FAIR

## THE 2023 STATE FAIR AND ITS ROAD TO POST-PANDEMIC RECOVERY

BY SHERMAN CRINER

The North Carolina State Fair, one of the state's most time-honored traditions will be held at the state fairgrounds from Oct. 12-22, according to the Department of Agriculture and Consumer Services.

The fair, which began as a small Agricultural Society gathering in 1853, has grown into a major state-sponsored event. As the fair has evolved, maintaining the agricultural heritage remains a priority, with Agriculture Commissioner Steve Troxler affirming that the fair is "in the entertainment business" but that "it's always going to be an agricultural fair."

Fortunately, the state's efforts to produce a revenue-generating celebration of North Carolina's agricultural history appear to be working. From about 1970 to 2020, the fair was profitable, drawing crowds of approximately 1 million visitors per year. During this streak of profitability, the fair generated anywhere from \$5.7 million to \$11.5 million annually from ticket sales, ultimately netting an annual profit in the \$1.5

million-\$2 million range.

Despite this relative string of good economic fortune for fair operators, the COVID-19 pandemic proved too great a hurdle to overcome, resulting in the 2020 fair's cancellation. This cancellation ultimately cost the state \$9.2 million in lost revenue and stands as the first such suspension of activities since World War II. Since the fair restarted in 2021, North Carolinians have flocked back to the fairgrounds in droves, illustrated by the 960,172 attendees in 2022.

The fair, which functions as an enterprise fund, needs this mas-

sive revenue stream and continued attendance growth because state appropriations do not support it. As part of this arrangement, the NC government enters into contracts with private entertainment companies like Power American Midways, which, since 2004, has agreed to put on the fair each year. This means the fair is facilitated yearly by a joint effort of public and private entities, much like the state's utilities and transportation services.

For the fair's 2023 event, both its public and private backers hope to witness a continuance of its re-

sounding post-pandemic comeback. As usual, the fair will have an assortment of events, highlighted by giant pumpkin displays, thrilling amusement rides, nightly fireworks shows, and a crash course in North Carolina cuisine.

"Last year was a strong fair, and we are expecting a strong fair for 2023," Heather Overton, the Department of Agriculture's assistant director for public affairs, told CJ.

Overton says the fair is "bringing in several new attractions and expecting over 30 new food vendors" as it continues to rebuild after the pandemic.



Over 30 new foods will be offered running the gamut from sweet to savory and including world-wide flavors from Africa, South America, Hungary, Jamaica, Mexico, the Mediterranean region, Korea and New Orleans. We'll keep you in suspense a little longer on the specifics, but several new dishes involve mac and cheese, BBQ pork, egg rolls, dill pickles, waffles, spiciness and bacon (of course).

- NC State Fair

You can check out the official NC State Fair website for more information and scheduling.

## DID YOU KNOW?

\* In 1853, the State Agricultural Society holds the first State Fair with 4,000 fairgoers.

\* From 1861 to 1868, the state fair was not held due to Civil War and Reconstruction period

\* Saturdays draw 100,000+ per day. Thursday's opening day is lightest attendance.

\* The NC State Fair is consistently ranked in the top 25 fairs in North America.

\* More than 900,000 people attended the State Fair in 2022.

\* 1910 saw the first airplane exhibit at the State Fair

\* 1950 The Village of Yesteryear opens.

\* Four new rides will debut in 2023: the Venetian Carousel and the high voltage thrills of Tesla AC, the Techno Jump and the surf-themed Wipeout.





# NC Symphony, NCDNCR being sued over COVID vaccine mandate

BY THERESA OPEKA

Three former members of the North Carolina Symphony are suing their past employer to reinstate their jobs after being fired for refusing to comply with a COVID-19 vaccine mandate because of their religious beliefs.

Chris Caudill, Rachel Nike-topoulos, and David Friedlander (also known as Dovid Friedlander) filed a federal lawsuit on Aug. 31 against the NC Symphony; the North Carolina Department of Natural and Cultural Resources, which oversees the Symphony; and Sandi Macdonald, symphony president and CEO.

In August 2021, the symphony instituted a COVID-19 vaccine mandate in order to return to work, but, according to Friedlander, as he stated on social media and Newsmax, their contract said an exemption based on medical and religious beliefs would be accepted as long as the required paperwork was submitted.

He said he is Jewish, and the vaccine went against his religious beliefs. Caudill and Niketopoulos, who are married, are both Buddhist and have the same beliefs on the vaccine.

The lawsuits also noted that the three also agreed to regular PCR testing, wearing masks, and social distancing as part of the protocol during the pandemic.

The trio sent in their paperwork but received a response from the symphony in September 2021 that not only denied their return to work but put them on unpaid leave with health benefits for a



PHOTO COURTESY OF NCDNCR

year. In June 2022, the symphony terminated their employment without further discussion.

The paperwork points out that during the 2021-22 season in which the three could not perform, the symphony allowed unvaccinated spectators to attend performances as long as they provided a negative COVID-19 test. Masking mandates were also relaxed during this time.

It also states that DnCR professes its commitment to equity and inclusion.

“One of the Department’s stated values is ‘an open-minded approach to understanding people,

regardless of their ... religion ... or other characteristics,’” the lawsuit says. “In addition, the Symphony professes to treat all employees the same ‘without regard to ... religion.’”

“Despite these commitments, Defendants chose to denigrate Plaintiffs’ religion and engage in religious discrimination against them by failing to accommodate their sincerely held religious beliefs.”

The suit claims that “Macdonald later admitted she wanted to promote a ‘culture’ of vaccination at the Symphony. Granting accommodations based on religious

beliefs — no matter how reasonable those accommodations were — was simply antithetical to the ‘culture’ Ms. Macdonald wanted to promote.”

The lawsuit also says that the symphony lifted its COVID-19 vaccine mandate in early August 2023 but hasn’t contacted the plaintiffs about reinstating their jobs, although Friedlander’s position has already been filled.

Details from a July 2023 email from Macdonald in the lawsuit said that although “[t]he health and safety of our musicians is our #1 priority,” she acknowledged that “mandates for [COVID-19

shots and boosters] do not exist” under federal and state law. Macdonald claimed that canceling the mandate was a move to bring the symphony in line with “industry standards.”

It also says the symphony’s “newfound flexibility was not the result of evolving science but the pursuit of \$4 million in taxpayer money from the North Carolina General Assembly.”

“The legislature is in the home stretch of their budget negotiations where they are considering +\$4M in financial recovery funding from the pandemic for the Symphony, and they are moving quickly behind the scenes,” Macdonald’s email continued. “If we are going to remove our mandate in the fall, it behooves us to do it now ... to limit jeopardizing our relationships with the legislature.”

“Since the pandemic began, our priority has been to protect the health and safety of our musicians and staff, consistent with federal and state health guidelines and informed by the policies of other symphonies,” Linda Charlton, the symphony’s vice president for marketing and audience engagement, said in an emailed statement to Carolina Journal. “That approach led us to implement a vaccination requirement and more recently to revisit and lift that requirement. Our policies and actions have been consistent with applicable law, and we look forward to responding at the appropriate time in court.”

Carolina Journal also reached out to NCDNCR for comment but didn’t hear back before the publication of this article.

# New test data show improvements from the worst of COVID pandemic

BY DAVID BASS

Test scores for public school students in North Carolina are showing some improvement since pandemic-era lows, according to data presented in September to the State Board of Education.

Learning outcomes continued to build on recent improvements, with reading proficiency taking a jump across the board.

The biggest gains came for fourth-graders with a 3.8% increase in proficiency for the 2022-23 school year compared to 2021-22. The smallest increase was seventh-graders at 0.3%.

The gains are even more pronounced in math.

Fourth-graders improved proficiency by 4.1% — the highest of all grades — and seventh-graders by 1.5% — the lowest of all grades.

“Am I surprised that North Carolina scores on standardized tests still lag pre-pandemic levels? No,” said Robert Luebke, director of the Center for Effective



PHOTO BY FLICKR USER BIOLOGY CORNER

Education at the John Locke Foundation.

“While the general trends point toward improved scores in recent years, the glacial pace of improvement is unacceptable, especially after North Carolina has spent nearly \$4.8 billion on COVID relief. Over half that money went to salaries and benefits, and very little to tutoring or spent on proven methods to address learning loss. When

North Carolina gets serious about addressing learning loss, test scores will improve. Until then, I wouldn’t expect any real improvement in test scores.”

The student achievement data are based on an analysis of all end-of-grade and end-of-course tests. The data show the percentage of students who scored at level 3 and above (grade-level proficiency), level 4 and above (college and career readiness), and at each

academic achievement level.

The previous batch of data showed improvements in test scores since students returned to in-person learning after the worst of the pandemic was over. These new results build on that progress.

As for standardized test scores, those figures ticked slightly down from the 2021-22 school year. The percentage of high schoolers scoring at least 19 on the ACT clocked in at 41.1% last school year, compared to 41.7% the previous school year.

The graduation rate was steady at 86.4%, down slightly from the 2020-21 school year, which was an even 87%.

The number of low-performing schools decreased from 864 in 2021-22 to 804 in 2022-23, while the number of low-performing districts decreased from 29 to 24.

Despite the good news, there are still negatives.

“We are in year two of COVID recovery,” said Superintendent of Public Instruction Catherine Truitt. “One of the indicators of that

is our levels of chronic absenteeism, which correlate to learning loss and make it harder for students to gain. Last year, we were still at a level of 31%. In other words, a third of kids in North Carolina are missing more than 10 days of school per year. This is, as compared to other states in the South, not a good number.”

“We can’t ignore the reality that we still have students in those schools who are not doing well — they can’t read, they can’t do math. We cannot lose sight of that,” said board member Olivia Oxendine.

Vice Chairman Alan Duncan noted that the achievement gaps concerned him the most.

“I remain extremely concerned about the achievement gaps that exist between the different groups. And I don’t see any meaningful improvement in that,” Duncan said.

An advisory panel has proposed a set of recommendations to overhaul the state’s performance grading system for public schools.



# 12 CONTINUED

## Judge blocks abortion law...

continued from PAGE 5

gical abortions. The Constitution affords the North Carolina General Assembly — not Plaintiffs — that choice,” lawmakers argued.

“The North Carolina General Assembly enacted straightforward, rational protections for women who seek certain types of abortions. And for Plaintiffs to ask the Court to grant their Motion for Preliminary Injunction is to ask the Court to impermissibly ‘substitute [its] social and economic beliefs for the judgment of’ these representatives,” the brief concluded.

Planned Parenthood and Gray offered the judge a contrasting argu-

ment. “[T]he record remains clear: the Hospitalization and IUP Documentation Requirements are not rationally related to patients’ health, and the IUP Documentation Requirement fails to give adequate notice of what it demands. The Requirements therefore violate the Fourteenth Amendment.”

The plaintiffs’ brief criticized lawmakers’ expert witnesses. “These witnesses’ opinions that abortion is unsafe, and that carrying a pregnancy to term and delivering a baby are safer than abortion, are not supported by credible evidence, and are contrary to every mainstream medical organization’s conclusion.”

Planned Parenthood labeled restrictions on abortion after 12 weeks “irrational.” “Here, the overwhelming evidence of abortion’s safety — both before and after the twelfth week of pregnancy — more

than rebuts any presumption that the General Assembly acted rationally in requiring hospitalization for abortion, a politically stigmatized type of medical care, but not for less-stigmatized procedures.”

The brief directly challenges the hospitalization requirement. “There is no medical reason to require that abortions be provided in hospitals when the need for hospital treatment is so extraordinarily rare, and rarer than for other outpatient procedures.”

“Nor does a hospital setting improve patient safety,” Planned Parenthood argued. “Research shows that second-trimester ... procedures can be both safer and more affordable in outpatient clinics than in hospitals. And by delaying survivors of rape or incest and patients with life-limiting anomalies, the Hospitalization Requirement forces these patients

to obtain abortions later than they otherwise would, when the risk (although still very low) has increased. The Hospitalization Requirement therefore undermines patient safety.”

Critics of the new law also target the IUP documentation requirement. “Plaintiffs argue that it is irrational to deny medication abortion to patients whose pregnancies are not yet visible by ultrasound and who are low risk for ectopic pregnancy,” according to the brief. “Because these patients have been screened and deemed low risk, they are considered patients with a pregnancy of unknown location, not patients with a ‘confirmed’ or ‘suspected’ ectopic pregnancy — distinct diagnostic categories.”

Planned Parenthood emphasized the impact of the 12-week threshold. “[B]anning medication abortion in the earliest weeks of

pregnancy is logically incompatible with the Act’s intent — that people obtain abortion as early in pregnancy as possible, and that abortion remain generally lawful through the twelfth week of pregnancy,” according to the brief. “As both the published research and Plaintiffs’ experts explain, there is no reason for the government to mandate that people wait to obtain a medication abortion until their pregnancy is visible by ultrasound, rather than allowing them to opt for a safe and effective medication abortion protocol with concurrent ectopic pregnancy screening.”

State Attorney General Josh Stein and Health and Human Services Secretary Kody Kinsley are named defendants in the case, along with local district attorneys and leaders of the NC medical and nursing boards.

## Cooper appeals

continued from PAGE 4

a fundamental right to earn a living from the operation of their respective bar businesses,” she wrote. “The constitutional right to produce a living from the income of one’s business is a protected right under the fruits of labor clause.”

“Where, as here, the complaint alleges that the blanket prohibition — rather than regulation — of an entire economic sector violates one’s right to earn a living, that complaint states a colorable constitutional claim,” Wood explained.

The lawsuit also survives under the “law of the land” clause, which Wood describes as “North Carolina’s version of the federal substantive due process clause.”

Bar owners also “adequately pleaded” at this point in the legal process that they had no other remedy than a lawsuit seeking payments from the state, Wood explained. “Plaintiffs pleaded they do not have an adequate state remedy: ‘The Emergency Management Act under which the Defendants are operating does not provide for a plain, speedy, or adequate remedy at law. The [Plaintiffs] therefore do not have an adequate state



CJ FILE PHOTO

remedy.’ We agree there is no other adequate state remedy now that any claim for injunction is moot as the executive orders are no longer in effect.”

Appellate judges took no stance on whether the COVID pandemic justified Cooper’s actions. “We do not address the validity of the Governor’s actions under the Emergency Management Act, as the constitutionality of those statutes

has yet to be determined,” Wood wrote.

Judge Fred Gore joined Wood’s opinion. Both are Republicans. Judge John Arrowood, a Democrat, dissented.

Arrowood wrote that the majority should have determined whether Cooper had a “rational basis” for issuing executive orders that shut down the bars involved in the lawsuit.

“Because there is no question that issuing the executive orders was rationally related to a legitimate government purpose — here, combatting the spread of the COVID-19 virus and protecting the public’s health and safety — Governor Cooper’s action under the statute clearly satisfies the rational basis standard,” Arrowood wrote. “Certainly, orders to combat a virus and protect the health and

safety of the public during a pandemic cannot be considered ‘arbitrary.’”

“I would hold Governor Cooper had the statutory authority to issue the executive orders in question and his actions during the pandemic easily meet the rational basis standard,” the dissent added. “Therefore, the complaint did not state a colorable claim.”

Arrowood also emphasized the “practical implications” of the majority’s decision.

“The COVID-19 pandemic was an unprecedented event that caused the death of over 29,000 North Carolina citizens,” he wrote. “It was a novel occurrence in modern times and put our national and state leaders in the position to have to make tough, effective choices to swiftly protect the health and safety of their constituents. Those actions are entitled to the presumption of validity.”

The dissent issued a warning about the future.

“If and when we face such a crisis again, the Governor must be able to make rationally related choices to stem the effects of that emergency quickly, without concern that those hard choices will subject them or the State to protracted litigation,” Arrowood wrote. “Curtailling the ability of our Governor to issue executive orders during a state of emergency sets a deadly precedent that will prove to have grave consequences in the future.”

## 'Urban doom loop'...

continued from PAGE 3

Charlotte has outpaced the state of North Carolina and even the entire nation in year-over-year employment growth.

“One area that has done much better than people expected was brick-and-mortar retail,” Vitner told CJ. “There’s very little brick-and-mortar retail spaces in Charlotte today because people didn’t build a whole lot before the pandemic. And since people are working remotely and working from their homes more, they have more time to go shop. So, while the revenues on office properties are likely to go down, some other areas are going to be more positive. Residential properties have been strong as well. Apartments have also done very well.”

As for a resolution to the office-space vacancy issue plaguing the 15th-largest city in the

**We go through a recession, and people will realize, ‘You know what, I’m probably going to fare better if I’m in the office and put in a little face time with the boss.’**

- Mark Vitner,  
Retired senior economist  
Wells Fargo

US, Vitner believes that a recession would make people more inclined to return to the office.

“I would think that the properties in Charlotte are going through a tough time in the office market because companies are having a hard time persuading workers to come back to work,” said Vitner. “What will fix that is a recession. We go through a recession, and people will realize, ‘You know what, I’m probably going to fare better if I’m in the office and put in a little face time with the boss.’”

## CON challenge

continued from PAGE 5

how the clause applies to special economic privileges.”

“Whether the CON law, as applied, violates the anti-monopoly clause (Art. I, § 34) of the North Carolina Constitution,” the filing listed as the third issue. “This issues raises a substantial question about how the clause applies when the government grants an exclusive right to provide a service.”

Singleton’s lawyers reminded the state’s highest court that it struck down CON restrictions once before, in 1973. Five years later, the General Assembly approved a new, “substantially similar” CON law. The state Court of Appeals then declared the original state Supreme Court ruling “moot,” and now there is “confusion” about the original decision’s status.

“The time has come for this Court to put that confusion to

rest,” according to IJ attorneys. “This case alleges that the current CON law, as applied to Dr. Singleton, violates the same three provisions the original CON law violated.”

The appeal labeled the case’s facts “simple.” “Dr. Singleton owns an operating room that he could use to expand patients’ access to safe, affordable eye surgeries,” according to the court filing. “But the CON law says that only operating rooms with a CON can be used. And Dr. Singleton cannot even apply for a CON unless the state first declares a ‘need’ for a new operating room in his area — which it has not done in well over a decade.”

“In fact, the only entity in Dr. Singleton’s area to ever own an operating room CON is CarolinaEast, a hospital located two miles down the road,” according to the surgeon’s lawyers. “Dr. Singleton could provide eye surgeries at his facility for thousands of dollars less than those same procedures cost at CarolinaEast. But the CON law bars him from doing so. As a result, patients suffer while CarolinaEast profits.”

For example, Singleton could

**Dr. Singleton could provide eye surgeries at his facility for thousands of dollars less than those same procedures cost at CarolinaEast. But the CON law bars him from doing so. As a result, patients suffer while CarolinaEast profits.**

- Dr. Jay Singleton’s lawyers

perform cataract surgeries for \$1,800, while the facility fee alone at CarolinaEast reaches almost \$6,000, according to the appeal.

Current law blocks Singleton from applying for a CON “until at least 2024 — and likely well beyond that,” according to the filing. “The market is closed.”

“If excluding Dr. Singleton from the market does not benefit real patients, what does it do? The obvious: It ‘protect[s] established healthcare providers’ — namely, CarolinaEast — ‘from competition.’”



# OPINION



## *Quick, disband the legislature: It's an emergency!*

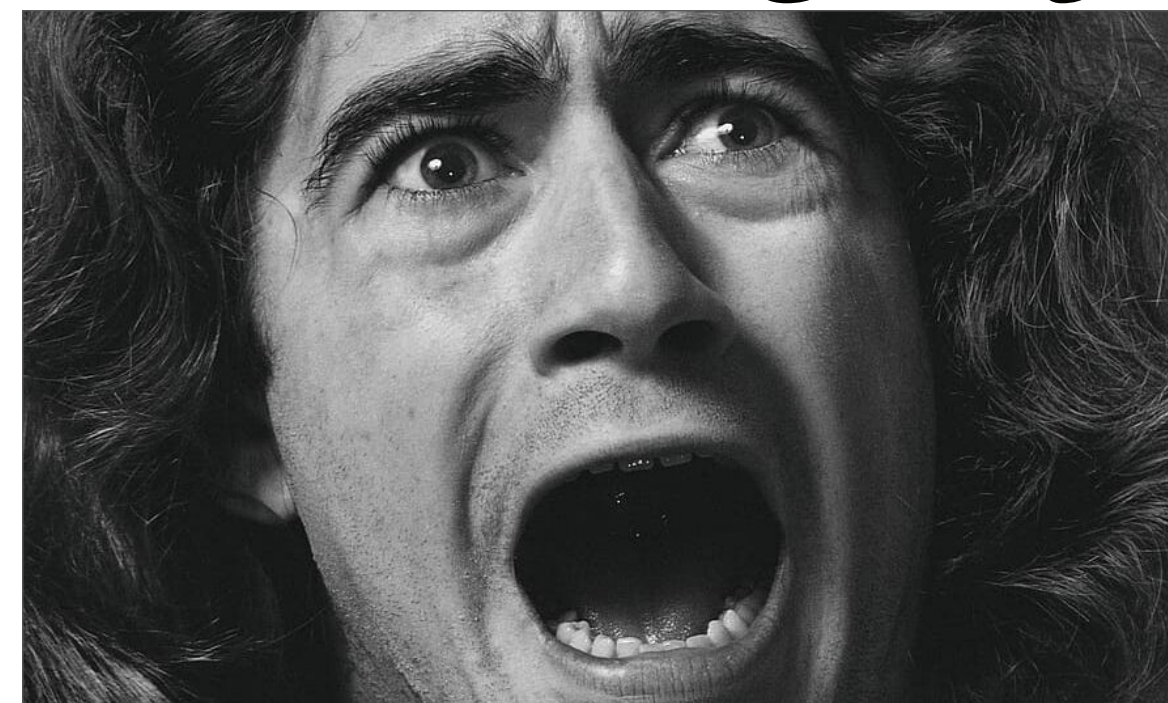
**DAVID LARSON**  
OPINION EDITOR



**WE ALL REMEMBER** Gov. Roy Cooper's 888-day state of emergency during the height of COVID. It allowed him to decide which businesses could open and when. It allowed him to decide if schools could be open and under what conditions. In short, it gave him a level of power that no single leader often enjoys in a free society.

Well, it seems some members of North Carolina's left-wing media are pining for the return of those days. Recently WRAL published a piece — which starts by saying, "The following is the opinion of Capitol Broadcasting Company" — that calls for Cooper to declare another emergency (and then to just implement all their policy preferences by fiat).

The editors say, "The North Carolina legislature isn't doing its job," citing the long budget process, and generally making "a



CREATIVE COMMONS VIA PFXUEL

mess of the state."

As evidence of the latter claim, they say, "There aren't bus drivers to take kids to school. ...

Public services and facilities — from prisons to parks — lack adequate staffing to serve the public while assuring security, safe-

ty, and necessary maintenance. Students are crowded into schools and classrooms that lack full-time and certified teach-

ers, not to mention shortages of nurses and counselors."

They're correct that many positions are going unfilled, and some, like corrections officers, deserve a significant pay bump, but this isn't just the case with government roles. There is a dire labor shortage across most sectors of the economy. These government positions are largely funded; there just aren't enough workers to go around.

They also cite gun violence and the lack of Medicaid expansion (which was included in the budget negotiations) as signs of an emergency.

All this leads them to conclude, "Their inability to get the job done means the governor should step in and declare a state of emergency."

Now, we might want to give them the benefit of the doubt and say they are being figurative, hyperbolic, rhetorical. But they quickly take that option from us,



# Budget achieves big conservative wins

**JOHN HOOD**  
CONTRIBUTOR



Now that the North Carolina General Assembly has finally passed a state budget for the 2023-25 biennium — and Gov. Roy Cooper has decided not to veto it, allowing it to become law without his signature — conservatives have a great deal to celebrate. The bill achieves major victories for fiscal restraint, tax and regulatory relief, and education reform, among other important causes.

To celebrate these wins, however, requires that we reverse the now-familiar aphorism: It has to be about the destination, not the journey.

What does that destination look like? Here are some key elements of the new state budget:

## Tax relief

North Carolina's flat rate on personal income will drop to 3.99% by 2026, down from the current 4.75%. There may be additional rate reductions after 2026, depending on how fast General Fund revenues are growing. The state's tax rate on corporate income remains on a steady course to zero by the end of the decade. The bill also reduces the state franchise tax and repeals most privilege taxes, both welcome reforms.

## Infrastructure

The budget provides nearly \$2 billion in water and sewer grants to local governments and puts \$4.6 billion into the State Capital and Infrastructure Fund, which



CJ FILE PHOTO

finances the construction, renovation, and repair of government buildings and other assets.

## Regulatory reform

The bill clarifies that local governments have no legal authority to impose minimum wages on private firms and that state agencies have no legal authority to impose cap-and-trade programs or new rules on auto emissions. It also strengthens the Joint Legislative Commission on Governmental Operations, which provides crucial oversight on both fiscal and regulatory matters.

## Educational freedom

As you've probably heard by now, the budget contains a dramatic expansion of North Carolina's Opportunity Scholarship

Program. All parents in the state will now be eligible for vouchers they can use to purchase private education, though the amounts will vary by income — ranging from 100% of the state per-pupil allotment (roughly \$7,200 last year) for low-income families to 45% of the allotment for upper-income families (such as families of four earning \$250,000 or more).

## Education reform

The General Assembly also made progress on how North Carolina trains, deploys, and compensates public school teachers. All instructors will get pay raises, but lawmakers wisely focused on the front end of the pay schedule. Salaries for starting teachers will rise 11% over two years, to \$41,000. The bill also supple-

ments the pay of teachers who take on additional responsibilities.

These are just some of the praiseworthy provisions in the new budget. It also contains a number of objectionable provisions, in my view, such as Medicaid expansion, corporate welfare schemes, and a measure that will limit access to public records created by the legislators themselves as they conduct the public's business.

Still, on balance, the 2023 budget bill represents a good outcome. Alas, the process that yielded it was confusing, frustrating, and on several occasions infuriating.

Whatever you think of the idea of (selectively) legalizing casinos, for example, lawmakers should never have tried to stuff it into the final budget. No cas-



**Why care about process? Because when you don't follow it, you often end up with embarrassing messes like the one that nearly derailed this year's budget negotiations.**

no bill was ever aired and passed by a committee, then debated and enacted on the floor. When budget conferees meet to negotiate a compromise, they should be considering only the issues actually in dispute — provisions already contained in the House or Senate budgets, or at the very least other bills already passed by one chamber.

Why care about process? Because when you don't follow it, you often end up with embarrassing messes like the one that nearly derailed this year's budget negotiations.

More generally, the final outcome took far too long to accomplish. The General Assembly clearly needs real guardrails and deadlines, including caps on the length of legislative sessions. If the legislatures of Florida, Texas, Georgia, Virginia, Tennessee, and — God help us — South Carolina can get all their important work done in a fixed amount of time, why should we think North Carolina lawmakers are incapable of doing the same?

*John Hood is a John Locke Foundation board member. His latest books, "Mountain Folk" and "Forest Folk," combine epic fantasy with early American history.*

# Earls has right to free speech, even when it's off-base

**MITCH KOKAI**  
CONTRIBUTOR



**FANS OF THE FIRST** Amendment should welcome state Supreme Court Justice Anita Earls' pursuit of a legal ruling affirming her right to speak on matters of public interest.

Yet endorsement of Earls' free-speech rights does not mean support for the content of her speech. One recent court case reminds us that Earls' commentary can provoke legitimate criticism. A colleague labeled her assessment of that case as "hyperbolic," "toxic," and even "a bit unhinged."

Earls attracted a significant amount of attention for her Aug. 29 federal lawsuit against the state Judicial Standards Commission. The suit contends that a formal investigation into Earls' comments in an online interview attempts to "chill" her speech.

Regardless of whether she wins in court, Earls should not have to fear that her words will lead to undue harassment or punishment from the state court system.

Much less attention has surrounded an action that took place at the state Supreme Court three days after Earls filed suit. Without fanfare, the court announced on Sept. 1 the dismissal of Walk-



IMAGE OF ANITA EARLS SPEAKING VIA NC COURTS.GOV

er v. Wake County Sheriff's Department. The case had been scheduled for oral arguments on Nov. 7.

The Walker dispute involved the "fair report privilege." That's a defense media outlets use against defamation lawsuits.

The plaintiff and the media outlet reached a settlement in the case in mid-August. Earls and Justice Michael Morgan, a fellow Democrat, agreed with Republican colleagues that the case should be dismissed. But Earls and Morgan objected to the court's additional decision to throw out a state Court of Appeals ruling endorsing the media's legal arguments.

Morgan wrote a one-page dissent noting his concerns. Earls

took eight pages to make the same point.

"Today, this Court — without legal authority and without the benefit of argument, deliberation, or an opinion — reaches out and changes the law," Earls wrote. "Whatever the merits of the Court of Appeals decision in this case, it is improper for this Court to act to modify or vacate the Court of Appeals decision in these circumstances. To do so flouts basic principles of the judicial process, and it signals to North Carolinians that '[p]ower, not reason, is the new currency of this Court's decision-making.'"

Earls accused Republican colleagues of "injecting yet more con-

fusion, arbitrariness, and partisanship into North Carolina's legal system. This radical approach allows the Court to brazenly warp the law to its policy preferences unconstrained by the need to have a live controversy to decide through careful deliberation; this is at the cost of the integrity of our justice system and our citizens' faith in it."

The critical commentary prompted a rebuke from Justice Richard Dietz.

"Once again, this Court enters a routine order that draws an exaggerated, hyperbolic dissent from one of my colleagues," Dietz wrote. "And, as is the case with so many of my colleague's dissents, one could be forgiven for thinking that doom is upon us."

"My colleague accuses the majority of seeking 'power' over reason, of engaging in a 'radically destabilizing shift,' of attempting to 'brazenly warp the law,' and on and on," Dietz added. "Like so many of my colleague's dissents, this one has portions that read more like pulp fiction than a legal opinion."

Dietz argued that vacating the Appeals Court decision was "consistent with precedent." He reminded readers that justices already had discussed the Walker case. "As is often the case, my dissenting colleague did not agree with the outcome of the Court's deliberations and therefore discredits them. But that does not mean they never occurred," he wrote.

"Rather than force the parties here to endure further, costly litigation, we chose — after much debate — to vacate the lower court opinion," Dietz wrote. "This permits the Court of Appeals to refine its holding in future cases and perhaps avoid the issues that led us to review this case in the first place. One can reasonably disagree with our approach, but to claim that our decision comes 'at the cost of the integrity of our justice system and our citizens' faith in it' is a bit unhinged."

"[T]he reasonable differences of opinion that are present in this case do not warrant my dissenting colleague's angry rhetoric; the needless, toxic disparagement; and the worn-out insistence that every routine disagreement at this Court portends the end of the public's faith in our justice system," he added.

While critiquing Earls' dissent, Dietz never suggested that his colleague should be blocked from offering her comments — even if "so many of my colleague's dissents" feature the same unfounded arguments.

Earls spoke. Dietz responded. Now the public can decide which comments deserve attention and support. That's how free speech should work.

*Mitch Kokai is senior political analyst for the John Locke Foundation.*



# Vetoed bill will make North Carolina elections more secure

**ANDY JACKSON**  
CONTRIBUTOR



**THE 2020 ELECTION** exposed problems with how elections are conducted in North Carolina.

My colleague Jim Stirling and I cataloged many of those problems in a report published by the John Locke Foundation last year titled “What Happened in 2020? How 2020 Altered North Carolina Elections and What We Can Do to Fix It.” The problems include civilian mail ballots accepted after Election Day, private funds sent to election officials, and election officials accepting ballots from same-day registrants even though those officials could not confirm that the purported voters lived where they claimed to live.

The General Assembly responded to the problems of the 2020 election by passing several election reforms, all of which Gov. Roy Cooper vetoed.

Legislators have bundled many of those same reforms and others into Senate Bill 747, “An Act to Make Various Changes Regarding Elections Law.” Cooper blasted the bill, claiming it to be based on the “Big Lie of election fraud” and that legislators want to “block voters” from voting. As expected, he vetoed the bill on Aug. 24.

Despite Cooper’s bluster, what would the bill actually do?



CJ FILE PHOTO

Among other reforms, it bans so-called “Zuck bucks,” private money sent to election boards. The Center for Tech and Civic Life, funded by Mark Zuckerberg and led by Democratic Party operatives, funneled millions of dollars to election administration efforts in about a third of North Carolina’s counties. Those counties disproportionately supported Democratic candidates.

The bill makes Election Day the deadline for county boards of elections to receive mail ballots. The current deadline is three

days after Election Day. That creates confusion for election officials about postmarks and when a ballot was “in the mail stream.” It also deceives voters into thinking their ballot will always be counted if they put it in the mailbox by Election Day. Despite a court ordering the deadline extended to nine days after Election Day in 2020, 1,084 mail ballots were not counted due to being “returned after deadline.”

The bill clarifies what election observers can and cannot do at voting places. Current law is mad-

deningly vague, stating that observers may “make such observation and take such notes as the observer may desire” as long as they don’t impede the voting process, communicate with voters, or conduct electioneering. The bill provides clearer rules on observer conduct and specifies a procedure for removing observers who violate those rules.

Finally, it requires that county election boards hire officials at early voting sites on a bipartisan basis. That is already required at Election Day polling places.

Although those and other reforms in the bill are needed to make our elections better run and more secure, Cooper continues to claim without evidence that the legislation is “an all-out assault on the right to vote.”

We have seen this play before.

Georgia legislators responded to problems exposed in the 2020 election by passing sweeping election reforms in 2021, the “Election Integrity Act of 2021.” The response from the left was predictable. They called it “modern-day Jim Crow” and “an assault on our democracy” that would suppress votes.

Then a funny thing happened. Despite those claims of doom, Georgia’s 2022 election went smoothly. They had the highest turnout of any state in the South. So much for “voter suppression.” The left fared no better in the courtroom. In response to a lawsuit based on voter suppression claims, a federal court upheld almost all of Georgia’s election reforms on Aug. 18.

We can expect a similar result if the General Assembly overrides Cooper’s veto: much gnashing of teeth over supposed voter suppression followed by largely unsuccessful lawsuits.

In the meantime, North Carolinians will enjoy better-run and more secure elections.

*Andy Jackson is the director of the Civitas Center for Public Integrity at the John Locke Foundation.*

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THE CAROLINA JOURNAL





# The meaning of Oliver Anthony

DAVID LARSON  
OPINION EDITOR



**AN UNSIGNED** Virginia artist named Oliver Anthony recently performed his original song “Rich Men North of Richmond” at a farmers market in rural Currituck County, North Carolina. Days earlier, only a few close family and friends had likely heard the song. But videos show those in attendance, some who had traveled many hours to be there, singing along as if they’d grown up playing it every morning on the drive to school.

Much of Anthony’s story takes place in western North Carolina, according to a social media post introducing himself: “I have a GED from Spruce Pine, NC. I worked multiple plant jobs in Western NC, my last being at the paper mill in McDowell county. I worked 3rd shift, 6 days a week for \$14.50 an hour in a living hell. In 2013, I had a bad fall at work and fractured my skull. It forced me to move back home to Virginia.”

Oliver had been invited to record the song in the woods — his dog and camping chair visible — and didn’t expect to get much of a reaction when it was posted online. But a week later, after some major accounts on Twitter repeatedly shared and discussed it, the song approached 20 million views on YouTube and was No. 1 on iTunes.

I was one of the millions of Americans who stumbled on



IMAGE VIA RADIOJW

the song. Scrolling on Twitter, somebody had shared a video of a red-bearded man holding his guitar. I kept scrolling. But then I saw the same video shared a couple more times, then many more. So I clicked.

Part of the song’s power is that it feels like an amateur everyman pouring his heart out in a home video. It’s not a slick, overproduced song filtered through corporate approvals and rewrites focused on maximizing profitability. It’s just one man’s raw emotion direct to your screen.

But after something goes viral and is analyzed by every critic and magazine — musically, politically, culturally, and in any other possible way — it loses some of that initial impact. You begin to miss the forest for the trees, expecting the song and its blue-collar creator to share every

point on your political agenda or to be artistically flawless.

Critics on both the left and right have begun to move against Anthony, seeing nationalist, populist, racist, and other undertones in the song, real or imagined. An article from conservative publication National Review criticized Anthony for not appreciating the greatness of America and for not fully taking advantage of its economic opportunities.

## A lament

But reading sophisticated economic analysis into the song is probably not fair. Anthony says he wishes politicians would “look after miners,” complains of people abusing welfare, says the dollar is no longer worth what it was, says taxes are too high, and grumbles about having to work

overtime without much to show for it.

These are complaints you’ll hear from many blue-collar workers, and many workers in general. They are also mostly conservative in impulse. The National Review author advises him to get a better job if he’s not making enough and tells him his struggles with alcohol are due to his own decisions.

This, like many critiques, is tone-deaf. It’s the wrong level of analysis when approaching a song that, as the article’s title admits, is a lament. When someone is in lament, you should suffer alongside them and try to understand, not immediately rationalize it away.

## The path to success is riddled with traps

It’s true that the largest share of responsibility for one’s financial and personal troubles should be laid at one’s own feet. That is core element of the conservative creed. But beneath Anthony’s complaining about his state in life are two complaints about facts beyond his control.

- Those who play by the rules are not winning

- There are pitfalls and traps along the way

For many in this country, they are able to find a good job in a big city, or in a small one, and make ends meet, or even thrive, without much trouble. But for

many others, like Anthony, they feel that they are playing by the rules, not abusing welfare, working overtime, paying their taxes, but getting nowhere.

They fall into a number of traps set along the way by “the rich men north of Richmond” (a euphemism for the politicians and those who pull their strings in Washington, DC) and by other powerful people. It’s hard to deny that this is the case.

One trap is **college debt**. Young people are told that the path to success goes through a college campus. So they go. But the degree they get does not immediately yield a job. The hundreds of thousands of dollars, in some cases, of debt leaves them financially crippled.

Another trap is **medical debt**. As state Treasurer Dale Folwell talks about, hospital systems that are meant to operate as nonprofits frequently create surprise charges and then send debt collectors after their patients, who may spend many years paying off these bills.

Another trap is **spiking housing costs**. Many are stuck paying rent, when they’d rather be paying a mortgage, because housing prices have escalated far past their means. With limited supplies, those who should be buying larger homes are scooping up all the “starter homes,” leaving young professionals and young families with no options but to continue paying rent.

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# NCInnovation looks a lot like 'Bidenomics,' has strong ties to Dems

BRIAN BALFOUR  
CONTRIBUTOR



A recent Economist magazine article examined President Joe Biden’s industrial policy approach, describing it as “place-based industrial policy.”

The article describes such policies as directing tens of billions of taxpayer dollars to specific “struggling regions” in order to boost manufacturing capacity and hopefully incentivize private investment. Specific examples the article cites include \$10 billion to create 20 regional “tech hubs” outside of current tech investment hotspots as well as \$9.6 billion in “regional innovation centers.” Reading this description of a key plank of Bidenomics rang eerily similar to NCInnovation.

While smaller than the \$1.4 billion the Senate initially requested for the new nonprofit, the \$500 million over two years included in this year’s state budget would constitute one of the largest taxpayer allotments to a nonstate entity in North Carolina state budget history. The organization’s goals to leverage taxpayer money to turn



IMAGE VIA WHITE HOUSE COMMUNICATIONS.

President Joe Biden during Investing in America Tour.

North Carolina into “the Innovation State” and stated desire to engage in targeted “research commercialization” in regions deemed to be lacking in such resources closely resembles the goals of Biden’s “place-based industrial policy.”

No matter how you dress it up, such measures amount to further government intervention and control of the economy, at taxpayer expense.

As if the close resemblance to Bidenomics doesn’t raise enough red flags for conservatives, NCIn-

novation’s staffing and close ties to left-leaning organizations should invite closer scrutiny.

For instance, three members of NCInnovation’s leadership team have experience with Gov. Roy Cooper’s administration, the Biden administration, or North Carolina’s old Democratic Party establishment infrastructure.

Senior vice president and senior strategy officer Jeff Sural’s most recent government experience includes several years with the Biden and Cooper administrations. He

spent 15 months as senior broadband policy adviser in Biden’s Department of Treasury and prior to that nearly seven years in the North Carolina Department of Information Technology — most of which were under the Cooper administration. Sural also served as a “co-leader” of the US Treasury’s Capital Projects Fund, helping to distribute billions in taxpayer dollars via Biden’s American Rescue Plan Act.

NCInnovation’s chief of staff, Carly Hemminger, has served since 2015 as the campaign manager for her mother Pam Hemminger, the progressive Democrat mayor of Chapel Hill. And Michelle Bolas, chief innovation officer and senior VP for university partnerships, spent nearly six years working for the Institute for Emerging Issues at NC State, an organization founded by former Gov. Jim Hunt.

The sources of research NCInnovation relies on for its justification are also concerning. A claim that North Carolina ranks “20th in innovation” among the states is prominently displayed on the group’s site. This ranking appears to come from a December 2021 report produced by Cooper’s Department of Commerce, led by Cooper appointee Machel Baker Sand-

ers. Indeed, the report is labeled as “a call to action” by Sanders, no doubt referring to taxpayer-funded activities.

NCInnovation also cites a 256-page report by the National Research Council of the National Academies, funded by grants from the federal government. The council’s work appears geared toward generating government involvement in more aspects of society, and its website touts a commitment to diversity, equity, and inclusion. Chapter 1 of the report explores — you guessed it — “place-based economic development,” the very same policy touted by the Biden administration.

There are numerous reasons to oppose sending taxpayer dollars to NCInnovation. Foremost among them is that your tax dollars should not be used to finance politically favored businesses. We can add to this list the fact that NCInnovation would look a lot like a key component of “Bidenomics” and is inspired and led by partisan actors. It’s a shame that North Carolina taxpayers will be forced to finance this scheme.

Brian Balfour is senior vice president of research for the John Locke Foundation.



# Progressives may scoff, but data back 'two-parent privilege'

DAVID BASS  
CONTRIBUTOR



The political left loves to highlight the increasing rates of income inequality and declining rates of social mobility in recent decades. But progressives conveniently ignore one of the top drivers of these trends: a drop in the percentage of stable, two-parent households.

Progressives struggle with this reality because it's much easier — and more politically expedient — to blame something like systemic racism or sexism. They also struggle because it's a domain that doesn't really negatively affect the cultural elites: Marriage rates for college-educated, higher-income individuals are stable. Meanwhile, the bottom has fallen out of the marriage trends for lower-earning, noncollege-educated Americans.

In other words, the benefits of marriage increasingly go to the top slice of the economic pie, while the poor are left behind.

Entering this hot topic is Brookings Institution economist Melissa Kearney and her new book "The Two-Parent Privilege: How Americans Stopped Getting Married and Started Falling Behind." Kearney provides a refreshing, cleared-eye assessment: "The decline in the share of US children living in a two-parent family over the past 40 years has not been good — for children, for families, or for the United States."

Kearney puts the book title



IMAGE IS CREATIVE COMMONS VIA STOCK SNAP

in terms the political left is better able to understand by using the term "privilege." But that's precisely what two-parent households afford children across a spectrum of metrics, ranging from educational outcomes to behavioral tendencies to rates of incarceration to the likelihood of achieving the American Dream.

Consider that 40% of Millennials who grew up in two-parent homes graduated from college by their mid-20s, compared to 17% for Millennials from nonintact homes. Relatedly, 77% of Millennials who grew up with the two-parent privilege attained a middle-class or higher lifestyle by their mid-30s, compared to 57% from nonintact families.

The topic is understandably sensitive. No one wants to further stigmatize single mothers who heroically struggle each and ev-

ery day to provide for their children and undergo the challenging journey of solo parenting. But that doesn't mean realities should be ignored. One reason the United States finds itself in a scenario with 25% of parents unmarried is because we refuse to acknowledge the reality around this issue.

Not surprisingly, the blowback to Kearney's book has been swift and red-faced. Much of the left's criticism of her arguments is founded on the belief that single-parent households struggle because they don't receive enough government support. To these critics, two-member families are important, but the two members are — in most cases — the mother and the government. Fathers are not needed.

This, of course, relies on the false assumption that economics is the only factor at play here. While

greater financial resources obviously help a single-parent household better succeed, there are a thousand less tangible benefits that two-parent households bring. Time alone is a huge factor, not to mention the added emotional energy that two parents typically bring.

As Kearney writes, "The absence of a father from a child's home appears to have direct effects on children's outcomes — and not only because of the loss of parental income. Nonfinancial engagement by a father has been found to have beneficial effects on children's outcomes."

The impact of a father's presence in the home is particularly important for boys. "Boys and young men are faring worse than girls and young women on a host of behavioral, educational, and economic dimensions. This gender gap in outcomes has been linked to the heightened disadvantage boys face when growing up without a father figure in their home."

This also creates a vicious cycle: Boys growing up without their fathers have a higher likelihood of themselves falling into traps of poverty. "The more boys struggle and fall behind, the less prepared they will be as adults to be reliable economic providers as husbands and dads," Kearney writes.

On this topic, one of Kearney's strongest takeaways is the need to solve our country's crisis of masculinity. Simply put, declining rates of participation in the labor force by prime-age men has contributed to the marriage problem. Recent changes have "stripped many men of their traditional role as

breadwinner for the family and, in simple terms, made them less desirable marriage partners," Kearney writes.

Kearney suggests making additional investments in public universities and community colleges in vocational education and apprenticeship programs. Implementing criminal justice reforms to help with the mass incarceration issue is another suggestion, as is addressing the pandemic of untreated mental illness among men and the opioid epidemic.

These are important goals, but we could add to the list the need to expand school choice so that impoverished children stuck in failing public school districts have an opportunity to achieve a good education. Add to this the need to eliminate marriage penalties in programs like Medicaid and public housing — penalties that punish marriage and encourage single parenthood.

Perhaps the most important goal of all, however, is to have a frank national discussion about the importance of two-parent families "without coming across as shaming or blaming single mothers," as Kearney writes. "By being honest about the benefits that a two-parent family home confers to children, we can break the pattern in which social agnosticism treats all households as the same in terms of the benefits they deliver children."

David Bass is a journalist and communications professional with nearly two decades of experience in the world of PR, marketing, and publications.

# Living in North Carolina still a bargain

JOHN HOOD  
CONTRIBUTOR



DECADES AGO, when I moved back to North Carolina from the nation's capital, my rent dropped by half — for a new apartment that was larger and better furnished than the one I rented just outside Washington, DC.

Today, my native state remains less expensive to live in than the average state. And even our fastest-growing metropolitan areas remain more affordable than most of the metros with which they compete for people, jobs, and business investment. But these differences are shrinking.

Take the Charlotte metro, for example, which encompasses not only the Queen City but also Concord, Gastonia, and dozens of other nearby jurisdictions. According to data released from the US Bureau of Economic Analysis, the cost of housing, food, transportation, and other goods and services in the Charlotte metro is roughly 3.4% lower than the national average.

The Tax Foundation offers a handy website for compar-



IMAGE VIA WIKICOMMONS USER STEVEN PAVLOV

ing living costs across the country, translating the BEA data into dollar values. In other words, if you had \$100 to spend on a standard bundle of household goods and services, it would buy you quite a bit more in Charlotte (\$103.52) than in, say, Denver, Colorado (\$91.61), but only slightly more than in Colorado Springs (\$103.26).

All of North Carolina's metros fare better than average here. You'd get \$102.48 worth of goods and services in the Raleigh area, \$102.49 in Wilmington, \$104.18

in Durham, \$105.60 in Asheville, \$107.73 in Greensboro, \$109.03 in Winston-Salem, \$109.07 in Fayetteville, \$109.60 in New Bern, \$110.95 in Goldsboro, \$111.48 in Jacksonville, \$111.58 in Greenville, \$111.65 in Burlington, and \$112.04 in Hickory.

The BEA data aren't as granular for small towns and rural counties. Very roughly, North Carolinians outside of metropolitan areas get about \$114 worth of value per \$100 spent.

These are real differences, to be sure. And they're driven large-

ly by differences in the costs of housing, which in turn reflect a combination of geography and land-use policies. But if I were writing this column 30 years ago, or even 15, the differences would look far more dramatic.

The fact is that while North Carolina remains a relative bargain, our cost of living has been rising toward the national average for quite a while. Some of this is just the market at work. As people move here from other states — be it because of job opportunities, climate, quality of life, or some other attraction — they tend to bid up the price of housing and other services purchased here. When more buyers chase a fixed quantity of a good or service, its price rises.

Of course, when a price goes up in a given location, that also serves as a signal to prospective sellers that they can prosper by selling more of the good or service in that location. As they respond, supply catches up with demand. Prices moderate.

There is some evidence that, over time, the costs and benefits of living in various locations across the United States have been converging. The most expensive metro is, not surprisingly, San Francisco. The real value

of a hundred dollars spent there is about \$83. By comparison, it's worth about \$119 in Anniston, Alabama. A big difference? Sure, though some might argue that the intangible but deeply valued benefits of living in the Bay area — though presumably not next to an abandoned store or rowdy park — are worth the tangible cost.

What's really striking to me, though, is that this gap isn't really so large anymore. As North Carolina policymakers continue their efforts to make our state a great place to live, work, play, and invest, they need to pay close attention to our rising costs, especially for housing.

To the extent state and local regulations obstruct the ability of homebuilders, developers, and agents to add more inventory to our housing stock, that keeps prices and rents artificially high. North Carolina is still a good buy for most individuals, households, and businesses. Let's keep it that way.

John Hood is a John Locke Foundation board member. His latest books, "Mountain Folk" and "Forest Folk," combine epic fantasy with early American history.



# Redistricting again!

## What to watch for in 2023

DALLAS WOODHOUSE  
CONTRIBUTOR



The leaves are turning across North Carolina, altering our landscapes into kaleidoscopes of vibrant colors. It's a wonderful time, enjoyed annually, and it is beautiful to watch.

Unfortunately, North Carolina now has another annual tradition: redistricting.

The resetting of political boundaries to adjust for population changes should happen only once a decade. However, North Carolina redistricting is almost becoming an annual rite of passage.

As the mapmaking crayons come out, here is where we stand, with redistricting and beyond.

As noted by John Hood, “now that the North Carolina General Assembly has finally passed a state budget for the 2023-25 biennium — and Gov. Roy Cooper has decided not to veto it, allowing it to become law without his signature — conservatives have a great deal to celebrate. The bill achieves major victories for fiscal restraint, tax and regulatory relief, and education reform, among other important causes.”

Hood, others at the John Locke Foundation, and scores of voices on the left have criticized the long, drawn-out session and attempts to legalize casino gambling to nontribal lands through the budget process, an attempt that was dropped.

However, the latest John Locke Civitas Poll shows voters giving Republican legislators relatively high marks, compared to



A state lawmaker examines the NC Senate proposal of state Senate districts on Nov. 2, 2021.

their Democrat counterparts.

Republicans lead Democrats 47% to 42% when NC respondents were asked how they would vote in state legislative races in 2024.

The poll has President Biden more than 20 points under water, with only 35% of NC voters approving of the job Biden is doing. A recent Meredith College poll was similar, with Biden 17 points under water.

Recent public polls show various Republican candidates beating Biden by 3 or more points. Put simply, Biden is not doing himself or fellow Democrats any favors in North Carolina.

Five public polls conducted this year show Republican Lt. Gov. Mark Robinson leading Democrat Attorney General Josh Stein in the race for governor.

North Carolina will be closely

contested in 2024. However, as we move into redistricting and the last quarter of 2023, Republicans have a measurable, however slight, edge.

Democrats and left-leaning interest groups are already seething over the redistricting session. They are angry that they no longer have a heavily partisan Democrat court to invent provisions in the state constitution against political considerations in map drawing, leaving the Democrats few options to block GOP-created maps.

Redistricting will occur mostly as it has since North Carolina's founding, with the majority party developing maps and the opposition party objecting.

There are reasonable arguments for a different process, but North Carolina Republicans are not breaking new ground

here. They must draw districts of roughly equal population that are also congruent and compact. The legislative districts must follow the state constitution's whole county provision, a key safeguard against gerrymandering.

Expect the Republican legislature to attempt to turn the 14-seat congressional map — currently split with seven Democrats and seven Republicans — to at worst a 10-4 map for the GOP.

Democrats Kathy Manning (Guilford), Jeff Jackson (Mecklenburg), and Wiley Nickel (Wake) are all expected to see their districts reconfigured to GOP-leaning seats. It appears Jackson is planning to run for state attorney general if this happens.

Less clear is what happens to the Democratic-leaning north-



**While Democrats will scream, the legislative districts will not change drastically. The legislature captured large majorities in both chambers under maps heavily influenced by a Democrat-majority state Supreme Court.**

east seat held by Democrat Don Davis. A recent racial gerrymandering decision from the US Supreme Court might offer Davis some protection.

In a pretty good GOP year, Davis defeated Republican Sandy Smith, 52% to 47%. This district will be tough to capture for the GOP in 2024 anyway, and the legislature might leave it — as it is hoping to avoid a fight in federal court — and hope the district grows more GOP-friendly in the coming years.

While Democrats will scream, the legislative districts will not change drastically. The legislature captured large majorities in both chambers under maps heavily influenced by a Democrat-majority state Supreme Court. To make any real gains in legislative seats, Republicans would have to find a way to make a few seats competitive in the state's major urban areas of Wake, Guilford, and/or Mecklenburg, if this is even possible.

*Dallas Woodhouse is the NC executive director for American Majority.*

THE CAROLINA JOURNAL

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Oliver  
Anthony

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Another trap is **inflation**. Anthony talks about the dollar not being worth anything more than once. Inflation hurts those who follow the rules in more than one way. If you're working hard and saving what you can, it'll decrease the value of that hard-earned investment. But it will also drive up prices, causing you to have to more frequently dip into and deplete your savings.

Lastly, **substance abuse** is a trap. Anthony told various media that he was stuck in a cycle of nightly drinking and smoking marijuana that he couldn't break out of. He wasn't religious, but he prayed that God would take away his addiction and in exchange he would put everything he had into the musical talents he'd been given. It seems that God agreed to the deal.

Addiction is a scourge that is hitting every corner of our culture right now. There have always been opioids, but right now there is a super-opioid in fentanyl that is nearly impossible to kick. There's also a super-meth and even super-potent marijuana. Some rich

men south of the border are getting rich off this particular trap. These new powerful drugs, combined with screen addiction (whether to video games, pornography, social media, or whatever else), are a recipe for a fairly pervasive trap of addiction in modern life.

Our American system is indeed the greatest ever devised, but it is not operating as it should for everyone. Rather than seeing Anthony's protest song as an indictment of our core principles, we can see it as a call to renew them.

Our nation, founded in ordered liberty, can fix the broken university system, which creates degrees that are often both unaf-

fordable and of little use. It can fix the healthcare system by lowering costs, increasing choices, and providing more transparency. It can lower the cost of homes by increasing supply through reduced zoning, building regulations, and land restrictions. And it can pull back from the record levels of addiction and drug deaths with strict punishments on dealers, generous treatment options for users, and a culture that doesn't encourage self-abuse.

Oliver Anthony might not be an economics scholar or policy expert, and probably shouldn't be treated as such, but his lament should inspire those who are to create a game that can be won by



**Our American system is indeed the greatest ever devised, but it is not operating as it should for everyone. Rather than seeing Anthony's protest song as an indictment of our core principles, we can see it as a call to renew them.**

those who play by the rules and to block those who would lay traps along their way.



## It's an Emergency!

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by clarifying that they were calling for “Not the figurative [emergency Cooper] announced in May concerning the legislature’s neglect of our public schools, but a literal one. This is no exercise in hyperbole or rhetoric.”

So, North Carolina, the state that people are flocking to from all over the country, that just won CNBC’s top state for business for the second year in a row, is apparently spiraling into chaos because of some longer-than-usual budget negotiations, which have since resolved.

Someone should reassure Capitol Broadcasting by pointing

out that, due to a recent change in law, if North Carolina doesn’t pass a budget, the government is simply funded at the levels of the past budget. So even if we hadn’t passed a budget, we’d still have a budget, just without the salary increases and policy changes (like Medicaid expansion and universal Opportunity Scholarships) that many had hoped for.

So, what would this literal, totally not hyperbolic or rhetorical emergency declaration mean for the state? Their plan is for Cooper to use this authority to order his cabinet agencies to expand Medicaid, give teachers and school administrators large pay raises, and fully fund the Leandro plan for NC schools — basically all of Democrats’ top agenda items. They can dream, can’t they?

Calling these items “emergencies” seems a bit disingenuous, though. North Carolina has not

elected to expand Medicaid in the years since Obamacare was implemented, but now that the Republican General Assembly is poised to expand it, any slight delay has become an emergency worthy of imposing a statewide dictatorship?

The editorial goes on to say, “If legislators or other obstinate state officials want to go to court to stop Cooper, he should welcome the challenge.”

I wonder if those at Capitol Broadcasting also need to be reminded that the legislature passed a law, which went into effect at the beginning of this year, requiring that a governor get approval from the legislature and Council of State for emergency declarations that go beyond 30 days.

Implementing things as complex as the Leandro plan and Medicaid expansion would like-

ly take longer a month. Even if Cooper would “welcome the challenge” of being taken to court by Republicans, the NC Supreme Court is no longer the Democrat-majority body it once was. The whole idea then appears not only unhinged but also very unlikely to work out as the editorial board envisions.

### A wider trend

Putting this totalitarian editorial aside, there is a wider trend at play here. Many on the left are using the language of “emergency” and “public health crisis” to get around clear checks and balances in how power is legally distributed.

The CDC declared a public health crisis around racism after the George Floyd protests (and riots) in 2020. Politicians frequently cite a “climate emergency” to

spur immediate action on global warming. The governor of New Mexico even announced a gun violence emergency recently that, supposedly, justified her suspending the Second Amendment of the US Constitution.

But any fair-minded person can see this is just lawlessness — just like the district attorneys who choose not to enforce certain laws or the “living document” justices who create convenient new interpretations of plain words. The fact that their policy preferences, regardless of how noble or urgent they believe them to be, are not being immediately implemented doesn’t give them the right to suspend the normal rule of law.

This may just be one goofy editorial from one left-wing publisher, but it’ll be worth keeping an eye on this wider trend of declaring emergencies to grab power.

## More access, not less...

continued from PAGE 2

mentation is why.

On the other hand, lawmakers are saying their own records face a different test, hence the reason for our opposition. Their records require just as much scrutiny. North Carolinians have the right to know.

Public records law already allows some exemptions, but now the records could be destroyed, denying citizens the right to public scrutiny of their government. The budget provision applies to

state lawmakers, but public records are critical to governmental transparency at all levels.

In September’s decision in the dispute between WBTV in Charlotte and city officials over public records, a three-judge panel on the state Court of Appeals was unanimous in support of WBTV. Judge Allison Riggs, the new Cooper appointee to the NC Supreme Court, wrote that Charlotte’s decision to keep its records with a private third party did not shield them from the Public Records Act. City council members filled out surveys, and WBTV wanted to see them. The city waited more than 16 months to produce survey results. The station’s owner not only gets the surveys, but they can also now collect legal fees from the city as

well.

The Carolina Journal still has countless records requests in to agencies across state government. Requested information is tied to pandemic shutdowns, methodology for state COVID dashboard numbers, and other issues that are many news cycles past. Government custodians of public records seem to believe that the public records request process is a waiting game. They often don’t respond or respond so late and so inadequately that journalists are forced to move on to newer stories.

That strategy has worked. Most requests are followed up with a threat of legal action. Public records consultants sell their advice to journalists who hit a bureaucratic brick wall. Now

custodians won’t even have to wait if they are members of the General Assembly. They can respond right away that a document was destroyed because its custodian didn’t consider it a “public record.”

The documents held by members of the General Assembly are literally the public record of what happens in North Carolinians’ government. Allowing that information to be shielded from public view perpetuates the skepticism of government that has been building in recent years.

In the coming legislative session, we urge state lawmakers to open public access to records by enshrining the public’s “right to know” through a state constitutional amendment. We need more transparency, not less.



**The documents held by members of the General Assembly are literally the public record of what happens in North Carolinians’ government. Allowing that information to be shielded from public view perpetuates the skepticism of government that has been building in recent years.**

## Sunsetting the JDIG program

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in-person job creation requirement impractical.

As a result, the state’s Economic Investment Committee agreed to end the incentives agreement with Allstate. This case highlights the unpredictability of the business landscape and the challenges of holding companies to strict performance targets.

Similarly, VinFast’s foray into NC has raised concerns. While the Vietnamese automaker promised

to create 7,500 jobs and invest \$4 billion in the state, it has faced delays and procedural issues, pushing back the start of its operations until 2025. The promised benefits are substantial, but the uncertainties surrounding VinFast’s timeline and the use of state funds to support the project underscore the risks associated with JDIG agreements.

First, Merry Oaks Baptist Church, a 135-year-old institution, faces displacement due to a new access road planned for VinFast’s factory. This situation highlights the ethical dilemma of using the state’s power of eminent domain to make way for a private company’s convenience, adding a moral dimension to the controversy.

Furthermore, the recent dip in VinFast’s stock price, falling be-

low its initial valuation of \$10 per share and losing nearly 22% of its market value in a single day, is another red flag. This volatility in the company’s stock market performance suggests uncertainty and may undermine the promised economic benefits for North Carolina, casting doubts on the viability of the JDIG agreement with VinFast.

These combined issues underscore the risks and drawbacks of relying on such agreements to drive economic development in the state.

The 2014 case of Toyota’s decision to choose Texas over North Carolina for a North American headquarters highlights the challenges our state faces in attracting major corporations due to differences in public policies. The sig-

nificant difference in incentive offers, with North Carolina offering \$100 million compared to the \$42 million offered by Texas, was mainly that the Lone Star State has no corporate or personal income tax.

Continuing the path of tax reform, including the phase-out of the North Carolina corporate income tax, and a future move to repeal the franchise tax, would be a more appropriate policy direction. Such reforms can stimulate economic growth, create jobs, and enhance the state’s overall business climate, without relying solely on costly incentive packages that may not guarantee success in the highly competitive landscape of corporate relocations.

NC’s standing as a top state for business is not dependent on cor-

porate incentives. The state offers a skilled workforce, access to capital, a competitive tax environment, and a robust infrastructure that naturally attracts businesses. In this context, JDIG may be more of a gamble than a necessity. The Old North State doesn’t need such incentives to attract and retain companies. It is time for state lawmakers to sunset the JDIG program and reallocate staff time resources to areas that will significantly and sustainably impact the state’s economic growth and prosperity.

If it’s simply a matter of politicians needing to cut ribbons, then the John Locke Foundation will be willing to make a significant in-kind donation to state lawmakers in the form of a delivery of scissors and ribbons.

**THE THURSDAYS @ 7:30PM**

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