

## The Joint Effect of NC Republican's Abortion and Proposed Tenure Restrictions

The Republican controlled NC legislature has

- (i) passed [SB20](#) (effective July 1, 2023) which sharply restricts access to abortion;
- (ii) introduced legislation ([HB715](#)) to eliminate tenure for future UNC system faculty hiring; and
- (iii) the NC Senate has [proposed](#) in its version of the next state budget to provide \$1.425 billion to NCInnovation, mainly for non-R1 universities in NC, to encourage innovative university research.

(iii) would conflict with (i) and (ii) together. The joint effect of (i) and (ii) would be to gut NC universities' capacity to innovate. SB20 alone will have large effects on Duke and Wake Forest universities (and on NC colleges including Davidson College) as well as on all UNC system universities.

On the joint effect of (i) and (ii):

- Most female students will try to avoid those states restricting access to abortion as will parents with female children, and female faculty and their partners.<sup>1</sup> The quality of health care for women will diminish because residency programs in the relevant medical specialties will wither and researchers and other practitioners in those specialties will move to other states.<sup>2</sup> There are already shortages of nurses and elementary school teachers, each overwhelmingly female, and those shortages will deepen.<sup>3</sup> Only gay men without female children will not be directly affected by the restrictions on abortion.
  - Although abortion services will be available in other states, Canada and Mexico, accessing those services will be far more expensive and it is not yet clear that interstate travel for the purpose of obtaining an abortion cannot be criminalized by a woman's home state; extradition within the US for criminal offenses is typically quite easy.<sup>4</sup>

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1 According to a post-*Dobbs* Lumina Foundation and Gallup poll: 72% of college students say a state's level of access to reproductive care is important to whether they stay enrolled. 80% of college-enrolled Democrats, and 62% of enrolled Republicans, said reproductive health laws are at least somewhat important to whether they remain on their campuses. 60% of those who aren't enrolled in college and don't have a degree say laws governing abortion access are at least somewhat important to where they would attend. <https://news.gallup.com/poll/474365/reproductive-health-laws-factor-college-decisions.aspx> (Some women who say that they favor restricting access to abortion behave in ways inconsistent with what they say, so these percentages are likely to be underestimates.) See also <https://www.pewresearch.org/search/abortion> and Sumedha Gupta, et al, "Trends in Abortion- and Contraception-Related Internet Searches After the US Supreme Court Overturned Constitutional Abortion Rights How Much Do State Laws Matter?" *JAMA Health Forum* (April 28, 2023). doi:10.1001/jamahealthforum.2023.0518

2 Even those past reproductive age will be concerned, as will their partners. On the effects on medical care: <https://kffhealthnews.org/news/article/after-idahos-strict-abortion-ban-ob-gyns-stage-a-quick-exodus/>; see also: Erika Edwards, "Abortion bans could drive away young doctors, new survey finds: A majority of surveyed medical students said they would likely not apply for residency in states with strict abortion laws — both for their patients and themselves." 5/18/2023 <https://www.nbcnews.com/health/health-news/states-abortion-bans-young-doctors-survey-rcna84899>; and Sarah McNeilly et al, "How Overturning Roe v. Wade Changed Match Day 2023 - Abortion restrictions are a physician workforce issue," March 20, 2023, *MedPage Today*, <https://www.medpagetoday.com/opinion/second-opinions/103545>. A Google search on "doctors leaving red states" yields more.

3 Two of the ten most popular undergraduate majors in the UNC system are *nursing* and *elementary education*, with (for 2021-22) over 86% and 84%, resp., female majors. Those majors will also shrink, as will Psychology (82% female). [https://myinsight.northcarolina.edu/t/Public/views/db\\_degrees/BuildYourOwnReport?%3Aembed=y&%3Aiid=1&%3AisGuestRedirectFromVizportal=y](https://myinsight.northcarolina.edu/t/Public/views/db_degrees/BuildYourOwnReport?%3Aembed=y&%3Aiid=1&%3AisGuestRedirectFromVizportal=y)

4 David S. Cohen, Greer Donley & Rachel Rebouché, "The New Abortion Battleground," *Columbia Law Review* v123 n1 (January 2023). 74 pp. Alejandra Caraballo, Cynthia Conti-Cook, Yveka Pierre, Michelle McGrath, and Hillary Aarons, "Extradition in Post-Roe American," *CUNY Law Review* v26 n1 (Winter 2023) 40 pp. See also: Glenn Cohen., "Travel to Other States for Abortion after Dobbs," *The American Journal of Bioethics* v22 n8 (2022) 42-44 <https://doi.org/10.1080/15265161.2022.2089486>.

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- Because FERPA rather than HIPAA covers student medical records, female students cannot be assured by universities that their campus medical records will be private.<sup>5</sup>
- Tenure *is not* a guarantee of lifetime employment but instead a form of just cause (rather than “at will”) employment, often also enjoyed by other professionals such as physicians and attorneys.<sup>6</sup>
  - Tenure *is* primarily a way of compensating for the relatively low salaries offered to those who could make far more outside academia.<sup>7</sup> This is granted as obvious for the STEM disciplines, medicine, law and business and some social sciences. But it applies across the disciplines: anyone who earns a PhD from an adequate graduate program has demonstrated enormous stamina and excellent organizational abilities; graduates of top PhD programs – from which R1 and R2 universities tend strongly to recruit for tenure-track positions – typically have far more going for them. (HB715 with SB20 would also increase the rate of retirement. The mean and median age of tenured and tenure track UNC system faculty is about 50, and over 15% are 65 or older.)
- Consequently, many businesses will leave or avoid a state where finding and retaining well-trained employees will be more difficult.<sup>8</sup>
  - Some Republicans claimed that the later-repealed ‘Bathroom Bill’ cost NC a mere \$500 million, less than 0.1% of NC GDP for 2017; others placed the cost at \$3.2 billion or more. But the ‘Bathroom Bill’ most directly targeted less than 0.5% of the population. SB20 affects well over 50% of the NC population – over 100 times more. The cost associated with SB20 will surely be far larger than that resulting from the ‘Bathroom Bill,’ with HB715 as a very powerful amplifier.

Yet on 5/15/23, it was announced that the *NC Senate-proposed budget allocates \$1.425 billion to NCInnovation, a nonprofit created to advance and commercialize applied research at NC universities.* <https://ncinnovation.org/app/uploads/2023/05/230515-NCI-press-release.pdf>. On the very same webpage that links to the press release, NCInnovation also links to *Best Practices in State & Regional Innovation Initiatives: Competing in the 21<sup>st</sup> Century*, a 2013 National Resource Council report <https://ncinnovation.org/app/uploads/2023/02/National-Research-Council-on-State-Regional-Innovation.pdf> which says in part,

A key factor in the rise of the United States as a technological power has been a long tradition of close ties and frequent collaboration between companies and a network of first-rate universities<sup>1</sup>. Underlying the success of innovation clusters such as Silicon Valley, Route 128, **and the Research Triangle of North Carolina** are local universities with a longstanding mission of spurring economic development by developing

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5 Katie Rose Guest Pryal, “Abortion Bans Put Colleges in Legal Limbo: Post-‘Dobbs,’ weak medical privacy endangers students — and the rest of us,” 8/4/2022. <https://www.chronicle.com/article/abortion-bans-put-colleges-in-legal-limbo>

6 Deepa Das Acevedo, “In the Battle for Tenure, Words Matter,” *Inside Higher Ed*, 5/12/2023; and Deepa Das Acevedo, “The War on Tenure,” <https://ssrn.com/abstract=4183048>

7 H. Lorne Carmichael, “Incentives in Academics: Why is There Tenure?” *Journal of Political Economy*, Jun., 1988, Vol. 96, No. 3 (Jun., 1988), pp. 453- 472 <https://www.jstor.org/stable/1830355>. [cited by 459]; R. Kim Craft, Joe G. Baker, Michael G. Finn, “The Value of Tenure in Higher Education,” *The Journal of Business Inquiry* 2016, 15, Issue 2, 100-115. <http://www.uvu.edu/woodbury/jbi/articles>. Craft *et al* estimate that on average it would cost \$150,000 per year (in current dollars) per faculty member to ‘compensate’ for unavailability of tenure. There are now about 7700 tenured or tenure track faculty in the UNC system. \$150,000 x 7700 is about \$1.2 billion. Of course, there is no plan to offer such compensation.

8 To date, at least 912 businesses, some of the largest US corporations among them, have offered their employees reassurances about their health coverage and have promised to cover travel expenses incurred in obtaining abortion services. See: (a) *Don't Ban Equality* <https://dontbanequality.com/> a coalition of businesses said more than 350 companies had signed its letter opposing restrictions on abortion access an provides the list. (b) Boston College Center for Corporate Citizenship <https://ccc.bc.edu/content/ccc/blog-home/2022/06/companies-respond-to-abortion-ruling.html> June 30, 2022. (c) *NY Times* August 19 2022 <https://www.nytimes.com/article/abortion-companies-travel-expenses.html> (d) See also:

<https://rhiaventures.org/corporate-engagement/whatareyourreprobenefits/>

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technology with and transferring technology to local industry and stimulating the creation of new businesses in university-centered incubators and science parks. Technology-intensive companies commonly locate their operations near the best universities in particular fields of science and engineering in order to enable their internal research departments to work with "star" scientists and to recruit promising students. (Chapter 3, "Universities as Innovation Drivers," 49, **emphasis** added).

Why did the NC Senate pass (on 5/18/23) a budget proposal including \$1.425 billion for NCInnovation? Will the NC Senate reject the tenure-eliminating provisions of HB715?

Even if tenure is not ended for future faculty hires, the legislature-appointed UNC Board of Governors [BOG] is forcing the use of quality-indifferent standards. In April 2022, the UNC BOG voted to adopt [performance-weighted enrollment funding measures](#) that track "return on investment" (ROI) but are quality-indifferent. When [universities pointed this out](#) - "*Concern that metrics do not measure quality/institutional excellence*" - they received a non-reply in writing: the report on which the BOG vote was based duly recorded the point and then pointedly ignored it. (Not even a factory could survive on such quality-indifference.)

It is also clear that *students* are often not primarily concerned with crude ROI.<sup>9</sup> In the UNC system, there is an extremely weak correlation between popularity of undergraduate majors and median early career salaries in associated occupations.<sup>10</sup>

*[The above expresses my own opinions and should not be taken to express the views if any of my former department, college or university colleagues.*

*David Austin, Emeritus Associate Professor of Philosophy, NC State University.]*

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<sup>9</sup> Freddie deBoer, "Pick a Practical Major, Like French," *New York Magazine*, <https://nymag.com/intelligencer/2023/04/pick-a-practical-major-like-french.html> points out that it is often difficult to predict which majors will afford the best job prospects and that majors most wouldn't think of as good bets are in fact very promising.

<sup>10</sup> And there is a correlation around 0.8 between early and mid-career median salaries.