

# ncjustice BRIEF

May 2016

## HB2'S GROWING ECONOMIC TOLL:

**Loss of federal funds could eliminate 53,000 jobs,  
\$2.4 billion in wages**

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**House Bill 2 is a creeping economic disaster for North Carolina.** By shrouding discrimination in the mantle of state authority, HB2 has thrust North Carolina into a global spotlight that grows more unflattering by the day, costing the state millions of dollars in business investment, conference cancellations, and lost tourism. More than 200 business leaders have come out in opposition, as the economic damage continues to mount.

Compounding business dismay, the United States Department of Justice has informed North Carolina leaders that HB2 violates various provisions of federal civil rights law, and as a result, may cost the state billions of dollars in federal support for a variety of public services, including education and public safety. Based on a conservative estimate, **nearly \$3 billion in yearly federal funds** could be lost if HB2 is not repealed, although the scope of threatened federal funds may be substantially larger.

Beyond the negative impact on the state's budgetary bottom line, losing these federal funds will cause significant damage to the state's overall economy. If North Carolina loses the nearly \$3 billion dollars clearly endangered by HB2, it could destroy **more than 53,000 jobs** and cost North Carolina workers **\$2.4 billion in wages**. To put that in context, losing \$3 billion in federal funding would have an economic impact that costs *more than half of all the jobs created in North Carolina in 2015*, which is equivalent to all workers in a city the size of Asheville, Greenville, or High Point getting pink slips.

The real economic cost of HB2 is doubtless much higher. This study does not address the loss of business investment that is already taking place, the conferences and events that will avoid our state, the talented people who will choose to make a home somewhere else, or the myriad ways that consigning a group of North Carolinians to the shadows undermines their lives and communities. This analysis applies only to the potential loss of federal funds, a devastating blow to be sure, but only a fraction of the ills that HB2 will visit on our state. While legislative leaders are hoping that litigation may save these funds, fiscally prudent policy making should motivate them to plan for the possible—even likely—loss of federal support, especially given the more than 50-year record of Federal court support for federal enforcement of the Civil Rights Act.

## HB2: A Summary

On March 23, 2016, the North Carolina General Assembly passed HB2, The Public Facilities Privacy & Security Act, which Governor McCrory signed later that same day. In the weeks since HB2 became law, the full scope of the discriminatory impacts permitted by the bill has become increasingly clear. First, the new law requires schools and public agencies to designate and restrict multiple occupancy bathrooms and changing facilities for use based on the user's "biological sex," as stated on a birth certificate. It also allows discrimination in public accommodations by permitting

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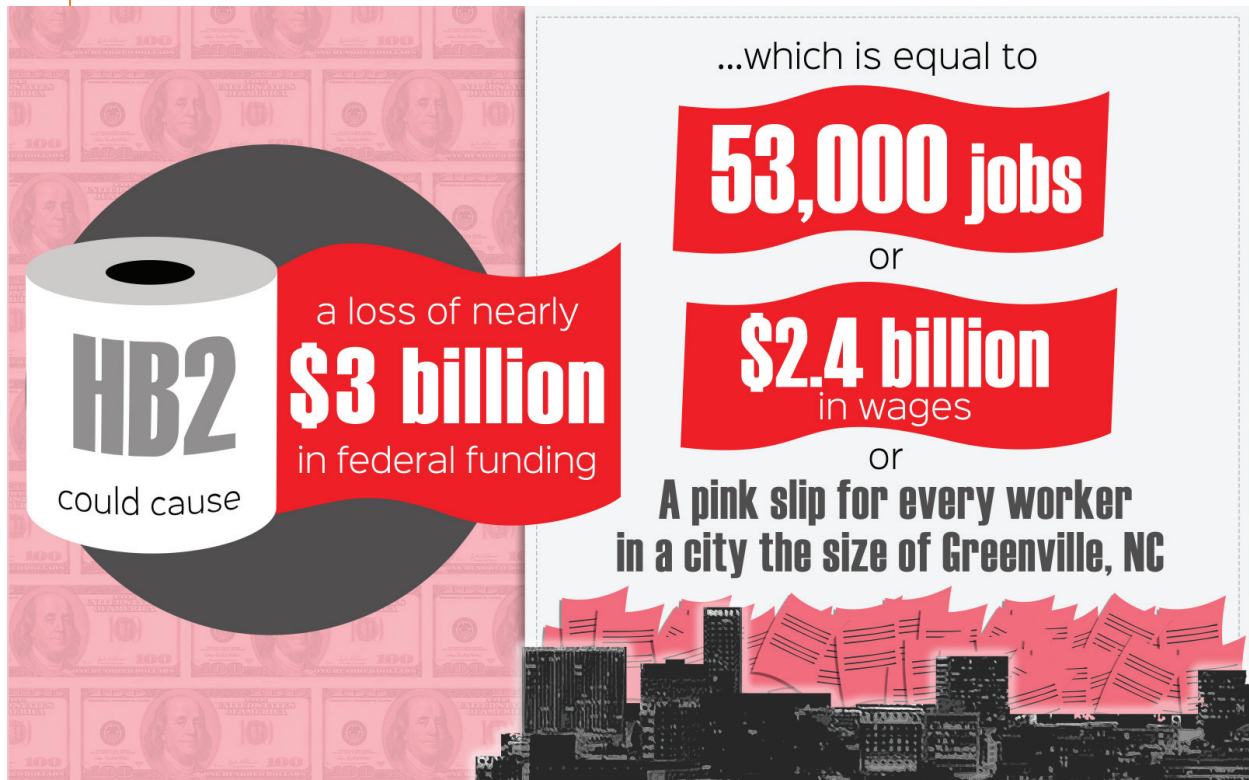
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businesses to discriminate against LGBTQ customers and banning local governments' ability to prohibit this kind of discrimination. In practice, this allows businesses to turn away customers simply because they are gay.

HB2 also bars City and County governments from enacting living wage ordinances that apply to private employers or to the businesses that provide goods and services to local government. This provision also prevents local governments from requiring contractors to not discriminate against LGBTQ workers in their hiring.

Lastly, HB2 returns North Carolina to an era when employers were allowed to discriminate against employees and potential employees based on their race, gender, age, sex, religion, or national origin. It prevents cities and counties from banning this kind of discrimination by private employers, and eliminates a worker's right to sue their employer in state court if they are fired for a discriminatory reason. Thanks to HB2, workers who are fired simply because they are gay, black, or a Christian have no remedy in state courts. North Carolina now joins Mississippi as the only state without these basic protections under state law.

### Why HB2 threatens federal funds

Last week, the U.S. Department of Justice (USDoJ) notified North Carolina that the so-called "bathroom" provisions of HB2 violated existing federal laws prohibiting discrimination against transgendered individuals. According to a legal analysis by the Williams Institute at UCLA, this places \$5 billion in federal funds for the state in jeopardy.

USDoJ has determined that HB2 contradicts Title IX of the Education Amendments Act of 1972, which prohibits discrimination based on sex in all federally funded education programs and applies to all public education activities in state, local, and private schools. In 2014, the US Department of Education issued rules clarifying that Title IX's prohibition on discrimination based on sex includes

discrimination based on gender identity, in effect requiring federally funded education programs to allow transgendered individuals to use the bathroom that conforms to their gender identity.

By restricting bathroom use to “biological sex,” HB2 runs afoul of Title IX and places North Carolina’s K-12 system at risk of losing the \$1.4 billion in federal funds provided through the US Department of Education. Losing these funds could reduce the North Carolina Department of Public Instruction’s budget by 11.5 percent and result in the loss of thousands of positions.

HB2 also has placed approximately \$1.4 billion of federal higher education funding in jeopardy under Title IX. This represents hundreds of research grants, program support, and staff positions at the UNC and NC Community College systems. Federal funding represents 14 percent of UNC’s budget and 2 percent of the community college budget. Given the tight state budget this year, it is uncertain how the state could fill this fiscal gap. In addition, HB2 may also threaten billions of dollars in federal aid that goes directly to students in the form of grants, work-study, and subsidized loans.

Two other programs are at risk of losing specific federal funds: NCWorks and the Violence Against Women Act. In 2014, Congress enacted the Workforce Innovation and Opportunity Act (WIOA), which provides federal support for North Carolina’s main job training and workforce development program, NCWorks. As with other federal programs, WIOA specifically prohibits discrimination against employees based on sex by the state and local governments that receive these funds. And, like other federal agencies, the US Department of Labor (which administers WIOA), interprets sex discrimination to include discrimination based on gender identity and sexual orientation. As a result, HB2 places at risk the WIOA funding that supports NCWorks — a total of \$80.3 million, which includes \$25 million in Youth Activities funding, \$24 million in Adult Basic Education funding, and \$31 million in funding that supports retraining workers who lose their jobs due to downsizing and layoffs (e.g., dislocated workers).

Additionally, HB2 has also placed at risk federal funding under the Violence Against Women Act, which supports state efforts to reduce domestic violence and sexual assault. VAWA explicitly prohibits recipients from discriminating on the basis of gender identity, language which HB2 clearly flouts. As a result, North Carolina may lose between \$5 million and \$5.6 million in federal aid to help domestic violence survivors and prevent domestic violence in the future.

Finally, HB2 may also violate anti-discrimination provisions in a range of other federal programs, driving the fiscal cost even higher. North Carolina may lose between \$35 million and \$65 million in federal contracts involving everything from military activities to health and human services delivery, thanks to a recent federal Executive Order (EO 13672) that explicitly prohibits contractors from discriminating based on gender identity. Additionally, programs in Housing and Urban Development, the Affordable Care Act, and Department of Transportation may also be at risk. The Charlotte Observer has reported that as much \$1 billion in federal transportation funding could be lost as a result of HB2.

## Methodology

This analysis was conducted using the IMPLAN model, an industry-standard tool for measuring the impact of policy decisions and economic shocks on regional economies. Like all models, IMPLAN has its limitations, and cannot perfectly predict how economic shocks will impact local economies. However, IMPLAN is well suited to estimate the general order of magnitude for events like a major reduction in education funding. The IMPLAN model is rooted in historical data on how different industries and public institutions impact the economy when they produce goods and deliver services, so it can provide a decently accurate picture of how many jobs will be impacted by increasing or decreasing a particular type of economic activity (here, providing post-secondary education), and which related economic sectors will see change in their sales. The General Assembly’s Fiscal Research Division has used this exact same methodology to assess the economic impacts of their tax cut proposals.

The analysis presented here is based on conservative estimates of the federal funds that could be endangered if HB2 remains in place, including:

- **K-12 education: \$1.44 billion**
- **Higher education: \$1.38 billion**
- **NCWorks: \$80.37 million**
- **Violence Against Women Act: \$5 million**

As noted above, other sources of federal funds may also be endangered by HB2 (e.g. transportation funds, Pell Grants, subsidized student loans), so the real cost could be substantially higher than what was modeled here. However, this analysis was designed to produce a conservative estimate, so only funds that are clearly at risk were included.

Using IMPLAN, each of the identified potential federal funding losses was modeled as a reduction in demand for the relevant type of economic activity. As there is currently no plan for how the lost federal funds could be replaced with state monies, this approach provides insight into the extent of the economic damage if the funds jeopardized by HB2 are lost.

The results presented here capture three types of economic effects that result from eliminating federal funding for the programs listed above. First, roughly two-thirds of the job losses would occur directly because the public employees whose salaries are supported by federal funds would be let go. Second, another 12 percent of the job losses would occur in firms that supply goods and services to public institutions. The remaining 21 percent of the job losses would take place in businesses that supply consumer goods and services to public employees that would be laid off.

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