

North Carolina Candidate Profile

Andrew Heath N.C. Court of Appeals

“We don’t need one,” said Heath, then McCrory’s budget director, of the possibility of a special session for disaster relief following Hurricane Matthew (Greensboro News & Record, 11/4/16)

Former Governor Pat McCrory’s budget director Andrew Heath landed a job as a judge during the final days of McCrory’s administration after the legislature used the December 2016 special session to add several Superior and District Court judge seats, so McCrory could appoint a few judges on his way out of office.

Heath is challenging incumbent judge John Arrowood for his seat on the N.C. Court of Appeals, the state’s second highest court. Arrowood was appointed to his seat in 2017 [after Judge Doug McCullough resigned to foil Republicans’ court packing plan](#). Arrowood also served on the court from 2007 to 2008. Meanwhile, Heath’s primary credentials include three jobs given to him by Former Governor McCrory.



Heath has a record of siding with business over people. He was chair of the Industrial Commission, his first (of three) McCrory appointments, and served on the board of a Koch-funded “workers’ education” nonprofit. Heath’s record on the Commission fundamentally altered its ability to protect North Carolina workers and decide workers’ compensation disputes; he stacked the deck against workers every time.

Heath’s three most recent jobs were appointments by McCrory. His inexperience showed in his role as McCrory’s budget director. Heath’s budget left teachers behind, saying it showed restraint for not “showering money” on teachers to “gain political points.” He also downplayed the significant economic impacts of discriminatory HB2.

Heath will be a close ally for Republicans on the court, placing partisanship ahead of the needs of some of the most vulnerable North Carolinians. He turned to Twitter just days after the election he took to Twitter, using questionable math to imply voter fraud should invalidate Roy Cooper’s defeat of McCrory. His willingness to use questionable data to defend his boss and political patron shows who he’ll stand up for on the state’s second highest court.

Continue reading for more about Judge Andrew Heath, candidate for the NC Court of Appeals.

Summary

Heath, a close ally of powerful and formerly powerful NC Republicans, will remain loyal to them on the court. He took to Twitter to claim voter fraud led to Roy Cooper's victory over Pat McCrory in 2016 but was caught using questionable math to back up his false allegations.

- Heath tweeted that Durham County has 231,000 residents over the age of 18 but 232,000 registered voters, implying fraud.
- In reality, Durham's 2015 voting age population was about 235,600 and the county had only 193,659 registered voters at the time of the 2016 election.
- Senate Leader Phil Berger attended a fundraiser for Heath's Court of Appeals Campaign.

Heath has a record of siding with businesses over people, choosing to side against workers with a Koch-funded agenda.

- Heath, a McCrory donor, was appointed Chair of the Industrial Commission by McCrory just seven years after he passed the Bar.
- Typically, the Industrial Commission stays out of legislative affairs, but Heath pushed for changes that made the commission less independent--putting workers' rights, including workers compensation disputes, in question.
- Heath stacked the deck against workers as Industrial Commission Chair, making sure panels that heard workers' compensation cases had two pro-business commissioners for every pro-labor commissioner.
- Heath was also a board member of a Florida non-profit that organized a \$200,000 Workers Education Conference in North Carolina. The group may have links to ALEC and the Koch Brothers.

Heath's three most recent jobs were all the result of appointments by Former Governor Pat McCrory.

- Heath was confirmed as a special Superior Court judge during the surprise December 2016 extra sessions, McCrory was able to appoint him thanks to two bills passed during the extra session.
- McCrory appointed Heath as his budget director even though he did not have the financial background to run an agency that affects tax policy, state employee pay, and the size of government.
- Heath's budget left teachers behind, but he said it showed restraint for not "showering money" on teachers to "gain political points."
- When Democrats called for quick legislative action on Hurricane relief, Budget Director Andrew Heath said "We are still very much in the midst of a disaster and to politicize this at this point and call for a special session when they know we don't need one is really kind of shameless."
- Andrew Heath had been a longtime supporter of Pat McCrory since 2008, having donated at least \$1,225 to McCrory's Gubernatorial campaigns before his Industrial Commission appointment.

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- The law cost the state a minimum of 1,400 jobs and \$630 million in lost revenue from sporting championships and other events.

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Heath tweeted that Durham County has 231,000 residents over 18, but 232,000 registered voters to imply voter fraud was at play. "Despite the utter lack of evidence to support allegations of fraud, McCrory's team has launched a misinformation campaign to cast a pall of suspicion over the results. His campaign spokesman asked, Why is Roy Cooper fighting to count the votes of dead people and felons? McCrory's close ally and current state budget director, Andrew T. Heath, also tweeted that Durham County has 231,000 residents over the age of 18 but 232,000 registered voters, implying fraud. (In reality, Durham's 2015 voting-age population was about 235,600, and the county has only 193,659 active registered voters; its Republican-controlled election board already unanimously rejected a complaint alleging malfeasance.)" (Slate, 11/21/16)

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Senate Leader Phil Berger, whose son is a Judge on the NC Court of Appeals, supported Heath's bid at a fundraiser.

Berger attended a fundraiser for Heath in April. (Twitter, [4/24/18](#))



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Heath received his NC law license in August 2006. (NCbar.gov, retrieved [10/9/18](#))

Heath has been a longtime supporter of Pat McCrory since 2008, having donated at least \$1,225 to McCrory's Gubernatorial campaigns before his Industrial Commission appointment in February of 2013. "Heath has contributed financially to McCrory in his gubernatorial bids. Campaign finance reports at the State Board of Elections show that Heath gave at least \$1,225 to McCrory, mostly between summer 2011 and fall 2012. McCrory appointed Heath to the Industrial Commission in February 2013, at which point Heath was barred from such political giving under the judicial code of conduct. He hasn't contributed to any candidate since. After Heath's announcement as budget director, some took to social media to portray him as a McCrory faithful with more political alliance than experience. A posted photo showed him wearing a McCrory campaign sticker as a Cape Fear Young Republicans organizer at a 2012 fundraiser. "I don't think it's a surprise that I'm a McCrory supporter," Heath said. "I was a McCrory supporter in 2008. I was a supporter in 2012. And of course I am now. I'm a fan of the governor, and I'm a fan of what he's doing." When asked why he sees Heath as qualified to be budget director, McCrory in a statement pointed to Heath's work at the commission. The governor said he was "confident that (Heath) will continue the high standards of excellence and leadership that have been set by his predecessors" -- Roberts and, before that, businessman Art Pope." (News & Observer, 1/30/16)

As Chairman of the Industrial Commission, Heath managed 160 employees, a \$15 million budget, and 22 deputy commissioners, who after a 2014 change by the General Assembly became political appointees instead of career civil servants. "The commission has about 160 employees and a \$15 million budget, with 22 deputy commissioners. Heath, as chairman, was in charge of appointing deputies, which generally were career positions until a 2014 law change made them political appointments. After he joined the commission as chairman, Heath said, he eyed deputies' travel expenses for cuts. Rather than send a deputy commissioner to the injured worker's locale for a hearing, he and his team planned out regional offices for deputies. He said the subsequent productivity gains, in addition to trimmed expenses on mileage and lodging, justified the elimination of two deputies, whose salaries were about \$100,000 each. Added up, the savings far eclipsed the roughly \$70,000 outlay for the regional office leases, he said." (News & Observer, 1/30/16)

Typically, the Industrial Commission stays out of legislative affairs, but Heath pushed for changes that made the commission less independent--putting workers' rights, including workers compensation disputes, in question.

Industrial Commission appointments by Governor Pat McCrory and changes by the General Assembly left the independence of a commission with the final say on workers' compensation disputes in question. "The North Carolina Industrial Commission is a vital judicial mechanism. Established in 1929 to adjudicate between companies and workers during an era of labor tumult, the six-commissioner body has the final word on workers' compensation disputes, wrongful conviction payouts and the distribution of the state eugenics compensation fund. But recent appointments by Governor McCrory and changes by the General Assembly have left the independence of the commission in question." (Indy Week, [10/29/14](#))

The final 2014 budget bill from the General Assembly reclassified the Industrial Commission's 22 deputy commissioners as political appointees to be replaced or reappointed. "This summer, a small note in the General Assembly's final budget bill reclassified the Industrial Commission's 22 deputy

commissioners, turning them from career civil servants into at-will employees who will either be reappointed or let go. The lives and careers of these administrative law judges were placed directly into the hands of the commission's chair, a young McCrory appointee named Andrew T. Heath. The first group of deputy commissioners will be let go on Feb.15, 2015, and have already begun to be replaced by more pro-business-minded Republicans." (Indy Week, [10/29/14](#))

"There's an effort being made on a state level to get conservative and pro-business people appointed to commissions and for the commissions to be an advocate for reduction of benefits," said Steve Embry, a workers compensation lawyer and President of the Workplace Injury Law and Advocacy Group. "There's an effort being made on a state level to get conservative and pro-business people appointed to commissions and for the commissions to be an advocate for reduction of benefits," says Steve Embry, a veteran workers' comp lawyer and president of the Workplace Injury Law and Advocacy Group." (Indy Week, [10/29/14](#))

Previous Chairs of the Industrial Commission avoided a legislative agenda, but under Andrew Heath the Commission worked with Senator Thom Goolsby on a bill that prevented undocumented immigrants from receiving workers' compensation benefits. "Under Heath, the Industrial Commission now also has a legislative agenda. Previous chairs of the commission such as Pam Young and Buck Lattimore avoided having a legislative agenda. Emails obtained by the *INDY* earlier this year showed Industrial Commission staffers—employees of an ostensibly impartial judicial body—working intimately with Sen. Thom Goolsby to craft HB369, a law sponsored by Goolsby to prevent undocumented immigrants from receiving worker's comp benefits. Heath's law clerk wrote to Goolsby that the proposed legislation "had been discussed with, and supported by the Governor's Office"—which would seem to indicate that the head of a judicial body was working with the Governor to get legislation passed. These records were sent to the *INDY* with a note from Department of Commerce media liasons that the information in the e-mail about the Governor supporting the legislation was not, in fact, correct. In a written response to questions, Heath denied any impropriety, saying the legislative work was done at Goolsby's request and that his law clerk had simply made a "misstatement" to Thom Goolsby about Governor McCrory's support of the controversial legislation." (Indy Week, [10/29/14](#))

Heath stacked the deck against workers as Industrial Commission Chair, making sure panels that heard workers' compensation cases had two pro-business commissioners for every one pro-labor commissioner.

While statute required the appointments of three pro-business and three pro-labor commissioners to the six-member commission, Heath stacked the three judge panels that heard cases to ensure there were two pro-business commissioners for every one that was pro-labor. "By statute, the Industrial Commission is supposed to be composed of three commissioners with a pro-business background and three with a pro-labor background. Governor McCrory and Chairman Heath have destroyed this delicate balance. Two sources close to the Commission told the *INDY* that Chairman Heath has been stacking his three-judge panels, making sure there are two Republican pro-business commissioners for every one that is pro-worker." (Indy Week, [10/29/14](#))

Heath was also a board member of a Florida non-profit that organized a \$200,000 Workers Education Conference in North Carolina. The group may have links to ALEC and the Koch Brothers.

As Chairman of the Industrial Commission, Heath was a board member of a Florida non-profit that put on a \$200,000 Workers Education Conference in North Carolina in which Heath's former law firm, which argues and appears before the commission, also hosted a cocktail reception. "The Industrial Commission's 19th annual Worker's Compensation Education Conference earlier this month also featured a cocktail reception put on by Heath's former law firm, which appears and argues

before him in court. One source said that the three-day conference was mostly attended by insurance people, adjusters, gun-for-hire doctors and somatic disease specialists-but very few lawyers representing injured workers. The conference was put on by a questionable Florida nonprofit, The International Worker's Compensation Foundation, of which Heath is on the board. Heath said he is not paid for his work on the IWCF. Tax documents obtained by the INDY show that the nonprofit was paid \$200,000 for the three-day North Carolina conference in 2013. Two veteran worker's comp lawyers told me they had never heard of the International Worker's Compensation Foundation. A visit to the Ormond Beach company's website shows a barebones, 1998-style interface with no contact information, background or funding transparency-a message to a BellSouth email address did not receive a reply as of press time. (Indy Week, [10/29/14](#))

“It's not uncommon for conservative money linked to ALEC and Koch Brothers to set up these kind of state level Astroturf organizations,” said Steve Embry, of Workplace Injury Law and Advocacy Group. “Steve Embry, of Workplace Injury Law and Advocacy Group, said that in their national fight against worker's comp, it's not uncommon for conservative money linked to ALEC and Koch Brothers to set up these kind of state level Astroturf organizations. (Indy Week, [10/29/14](#))

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Heath was confirmed as a special Superior Court judge during the surprise December 2016 extra sessions, McCrory was able to appoint him thanks to two bills passed during the extra session.

After they dissolved a special session on Hurricane relief, GOP legislative leaders entered a new session in which they filed a bill to confirm McCrory Budget Director Andrew Heath to a Superior Court judgeship. "North Carolina lawmakers finalized a \$201 million hurricane and wildfire relief package Wednesday, sought by Gov. Pat McCrory in a special session he called. But they didn't go home as fellow Republicans then called their own session to weigh legislation, some of which could threaten the incoming Democratic governor. Within 30 minutes of wrapping up their work on the final aid proposal, GOP legislative leaders had dissolved the two-day session on Hurricane Matthew and mountain fires and entered a new one. A bill filed by Senate Republicans would merge the State Board of Elections and State Ethics Commission when the new year begins, revive partisan elections for the state Supreme Court and Court of Appeals and let McCrory pick the next Industrial Commission chairman for the next four years. Another bill would confirm the nomination of McCrory state budget director Andrew Heath to a Superior Court judgeship." (Associated Press, 12/15/16)

"Partisan politics and shoddy lawmaking" took over in the special session after Hurricane relief, where lawmakers accepted a late nomination from McCrory of a special Superior Court judgeship for Budget Director Andrew Heath. "Unfortunately, good government ended there, replaced by partisan politics and shoddy lawmaking. Several bills were filed in the House, including 43 pages of regulatory reforms, some of them highly controversial. The Senate did worse, introducing a 25-page monstrosity that, among other things, effectively creates a new level of appeals before many cases can reach the state Supreme Court. This appears to have a partisan purpose, but its main effect would be to clog the wheels of justice. This bill also would enlarge the State Board of Elections and all county election boards to prevent Cooper from appointing Democratic majorities. Lawmakers also accepted two late nominations from McCrory of special Superior Court judges. One of them is Andrew Heath, his budget director." (News & Record, Editorial, 12/15/16)

Senate Bills 6 and 7 in the special session gave McCrory appointment power to appoint two insiders including Budget Director Andrew Heath to a special Superior Court judgeship. "Special Superior Court judges Appointments for McCrory insiders. Senate Bills 6 and 7 will give lame duck Governor Pat McCrory the power to appoint two Special Superior Court justices before he leaves office. One of the appointees, Andrew Heath, was Governor McCrory's budget director and has limited legal experience." (WGHP, 12/14/16)

McCrory appointed Heath as his budget director even though he did not have the financial background to run an agency that affects tax policy, state employee pay, and the size of government.

Unlike previous budget directors, Andrew Heath did not have the direct financial background for an agency that affects tax policy, state employee pay, and the size of government; his background was as a workers' compensation attorney. "A private attorney just out of law school in 2006 and chairman of the N.C. Industrial Commission by mid-2013, he's now Gov. Pat McCrory's state budget director, starting Monday. Heath, 34, is taking one of state government's most important jobs, translating the governor's priorities into numbers to recommend to the legislature. What he does can affect tax policy, state employees' pay, the size of government and more. Heath, with an annual salary of \$145,000, also will lead a state agency, the Office of State Budget and Management, which monitors revenue and expenses and is supposed to promote effective use of resources. And supporters say that's how Heath fits the job. Although he doesn't have the direct financial background of his

predecessors -- he was a workers' compensation attorney who applied that know-how at the Industrial Commission -- backers say he has packed government leadership and results into a brief career." (News & Observer, 1/30/16)

Heath's budget left teachers behind, but he said it showed restraint for not "showering money" on teachers to "gain political points."

According to Roy Cooper Spokesman Ford Porter, Heath's budget "leaves North Carolina noncompetitive with neighboring states who are actively recruiting our best teachers out of state. Meanwhile, the governor has repeatedly refused to even meet with teachers who just want a real plan to improve our schools." "A spokesperson for Attorney General and Democratic candidate for governor, Roy Cooper, said the budget does not do enough. "Today's press conference is vintage Pat McCrory: A campaign-style rally with a giant banner paid for with taxpayer money, touting a plan that makes big promises but doesn't actually get the job done," Ford Porter, spokesperson for Cooper, said. "This budget leaves North Carolina noncompetitive with neighboring states who are actively recruiting our best teachers out of state. Meanwhile, the governor has repeatedly refused to even meet with teachers who just want a real plan to improve our schools." (Associated Press, 7/14/16)

During an interview, Budget Director Andrew Heath said, "It would have been really great for the governor, politically, to just burn through that entire revenue surplus and gain political points by showering money on programs and employees and teachers," Heath said. "But he did the harder thing, which was show some fiscal restraint so he would be keeping the state in a good position." "Drew Heath, the state budget director, told me during an interview Monday that the administration embraced this budget because it combines what he called prudent spending increases with a continuing, pragmatic eye on planning for future downturns. North Carolina beat projections by finishing fiscal 2016, which ended June 30, with a surplus of \$425 million. Overall, the state now has \$1.6 billion in reserves and continues to invest more in a repair and renovation fund to maintain government-owned buildings. "It would have been really great for the governor, politically, to just burn through that entire revenue surplus and gain political points by showering money on programs and employees and teachers," Heath told me. "But he did the harder thing, which was show some fiscal restraint so he would be keeping the state in a good position." (Charlotte Business Journal, [7/19/16](#))

Heath felt shooting for the average on teacher pay in his budget was adequate because "there's only so much revenue we can spend," Heath said. "And you have to balance teacher pay with everything else in the state. These are huge investments being made." "But one area where North Carolina still lags behind is in teacher pay; the state ranked 47th in the nation for average teacher salaries in 2013 and 42nd in 2014, according to the National Education Association. A slight improvement to 41st was seen in 2016. Heath noted the 2016-2017 budget would address this issue by providing for teacher pay increases which would raise average salaries higher than \$50,000. McCrory in the past said the raises will be focused on mid-career teachers -- an 8.1 percent raise will be given to teachers once they reach 14 years of experience -- and should bring North Carolina's ranking to the mid-30s. Democrat opposition to the budget often criticized the raises as being not enough. Heath on Wednesday explained why he felt shooting for being average is adequate at this time. "There's only so much revenue we can spend," Heath said. "And you have to balance teacher pay with everything else in the state. These are huge investments being made." Heath said more than \$1 billion was budgeted to provide for the salary increases and said the raises were "the fastest growing and highest pay increase for teachers in the country." He added that slow, annual increases is more fiscally responsible than greatly increasing teacher pay all at once." (Sanford Herald, 7/21/16)

Legislators in both parties raised concerns over the pay proposal for teachers and state employees in Andrew Heath's budget. "Legislators in both parties voiced concerns Wednesday about the pay proposal for teachers and state employees in Gov. Pat McCrory's budget, but bigger raises could prove difficult under conservative spending levels. McCrory's budget director, Andrew

Heath, gave legislators the governor's full proposal Wednesday morning for the fiscal year that begins July 1. McCrory had released highlights Friday. The \$22.8 billion proposal doesn't include the income tax cuts sought by legislative leaders and would give state employees a one-time bonus averaging 3 percent. The budget would be a 2.8 percent spending increase over the current fiscal year; Senate leaders' target is 2 percent." (News & Observer, [4/27/16](#))

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When Democrats called for quick legislative action on Hurricane relief, Budget Director Andrew Heath said, "We are still very much in the midst of a disaster and to politicize this at this point and call for a special session when they know we don't need one is really kind of shameless," yet McCrory was the one "making campaign ads touting his leadership after the storm, so it's clear who's making political hay." "Gov. Pat McCrory says he'll call lawmakers to Raleigh in early December. They'll be a flock of lame ducks following the election, but action will be needed to make sure funds are provided to deal with the aftermath of Hurricane Matthew. Heavy rains and flooding devastated wide areas of eastern North Carolina. When Democrats urged a quick legislative response last month, they were slammed. "We are still very much in the midst of a disaster and to politicize this at this point and call for a special session when they know we don't need one is really kind of shameless," Andrew Heath, the state budget director, said then. McCrory is the one making campaign ads touting his leadership after the storm, so it's clear who's making political hay." (News & Record, Editorial, 11/4/16)

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gains, in addition to trimmed expenses on mileage and lodging, justified the elimination of two deputies, whose salaries were about \$100,000 each. Added up, the savings far eclipsed the roughly \$70,000 outlay for the regional office leases, he said.” (News & Observer, 1/30/16)

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At a John Locke Foundation event, Budget Director Andrew Heath downplayed the economic impact from HB2 and said opponents of the law are "folks who like to say the sky is falling because a sporting event is moved out of state." "State budget director Andrew Heath is downplaying the economic impact of job losses and event cancellations prompted by House Bill 2. Heath addressed the issue Monday during a lunch presentation to the conservative John Locke Foundation. He did not mention HB2 by name and instead referred to it as "a controversial policy." Heath, who was appointed by [Gov. Pat McCrory](#), described opponents of the law as "folks who like to say the sky is falling because a sporting event is moved out of state." The sporting event is the NBA All-Star Game, which recently announced it won't come to Charlotte in 2017 because it views the law as discriminatory toward LGBT people. Tourism experts had estimated the game could have had as much as \$100 million in economic impact in the Charlotte area, with tens of thousands of visitors spending money at hotels and restaurants. PayPal also dropped its plans to add 400 jobs in Charlotte because of its opposition to HB2." (News & Observer, 8/15/16)

Andrew Heath said some of the impact of HB2 was not borne out by the numbers and "compared the NBA's departure to the impact of a canceled soccer game on the economies of Poland and Austria." "But Heath said those losses aren't big enough to affect the state's overall economic growth, in part because North Carolina ranks as the 23rd largest economy in the world. He compared the NBA's departure to the impact of a canceled soccer game on the economies of Poland and Austria. "Some of the impact of some of that controversial legislation that you hear about is not borne out by the numbers," he said. Heath says the state's economy has added 300,000 new jobs since 2014. Even with additional corporate and personal income tax cuts set to take effect in January, the budget office is forecasting a 3.9 percent increase in state revenue for the current fiscal year. "It's projected to be moderate," he said. "It is continued growth, and that shouldn't be taken for granted. I don't know that other states will be faring quite as well." But like HB2, Heath said another McCrory initiative likely also won't have a big effect on the economy initially: The \$2 billion Connect N.C. bond package funding new construction at universities, parks and other state facilities. The bond spending, he said, is "probably not going to move the needle. I'm not sure that infrastructure is going to play a huge role in North Carolina." (News & Observer, 8/15/16)

HB2 cost the state at least 1,400 jobs and \$630 million in revenue.

HB2 cost the state at least 1,400 jobs and \$630 million in revenue. "The law is estimated to have cost the state a minimum of 1,400 jobs and up to \$630 million in lost revenue from sport championships and other events. Efforts to repeal it have floundered, even with an approaching deadline for the NCAA to pick sites for six years of championship events. Democrats and Republicans have failed to unite on a plan even within their own parties. With the ACC basketball tournament under way in Brooklyn the league is considering contingency plans to move its 2019 and 2020 tournaments out of North Carolina if HB2 isn't repealed. Commissioner John Swofford told The (Raleigh) News & Observer this week that he isn't optimistic." (Charlotte Observer, [3/8/17](#))

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