

NCGA eyes school funding based on number of students/3



CAROLINA JOURNAL

A MONTHLY JOURNAL OF NEWS, ANALYSIS, AND OPINION FROM THE JOHN LOCKE FOUNDATION

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STATEWIDE EDITION

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Experts seek to avert future election chaos

Tightening voter registration, appeals rules could help

BY BARRY SMITH
Associate Editor

A tight race for a high-profile elected position, such as governor, can amplify even small election problems. Such is the case in North Carolina, which saw Democratic challenger Roy Cooper declare victory following a thin 5,000-vote lead election night.

Incumbent GOP Gov. Pat McCrory, seeking a second term in office, refused to concede and contended tens of thousands of absentee and provisional votes had yet to be counted.

"You have no control over a close race," said former Supreme Court Justice Bob Orr, who now practices law in Raleigh. "To that extent, problems are always magnified in a close race, particularly in an important race like governor."

Cooper's lead more than doubled as additional absentee and provisional ballots trickled in, slowly approach-



Gov. Pat McCrory, seen with his wife Ann on right, tells an election-night crowd at the Republican Party's election-night headquarters that the election was too close at that point and that he would not concede to his opponent, Democratic Attorney General Roy Cooper, left. Cooper's lead has increased since election day, but the race for governor had not been decided as of Nov. 30. (Left photo courtesy of the Cooper campaign; right photo by CJ's Don Carrington)

ing the 10,000-vote margin threshold needed to deny McCrory an automatic right to a recount. At press time, the race remained undecided as McCrory weighed the option of a recount unless the final state canvass put Cooper's

lead outside the 10,000-vote margin.

State election laws allow candidates and voters to file challenges and protests to ballots they think are improperly or illegally cast. The process of investigating complaints can be

labor-intensive and time-consuming, causing elections officials to delay the tabulation of final results and the certification of winners for weeks. In the case of the governor's race, such a delay also can affect the transition process of one administration to another.

Often when races aren't close, such complaints garner little attention because the number of questionable ballots won't affect the outcome of an election. But as Orr points out, close elections bring potential irregularities more into focus.

The governor's race is a prime example. Suggestions for improving — or strengthening — the elections process have included creating a greater evidence threshold for filing complaints and tightening voter registration and voting rules.

Hans von Spakovsky, senior legal fellow at the conservative Heritage Foundation, noted that post-election standards vary by state. He said best practices should show that the number of votes in question would affect the result of an election, or that election improprieties would cause the public to lose trust in the process.

State Rep. David Lewis, R-Har-

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Council of State flips to Republican control

Folwell, Johnson, Causey win offices held by Democrats

BY DAN WAY
Associate Editor

While the battles for governor and auditor remain unresolved at press time, the recent election saw several Council of State races swing from Democratic to GOP control, giving Republicans a majority on the Council of State — the statewide elected officers of the executive branch — for the first time in mod-



ern history.

For the rest of the year, Democrats hold a 6-4 advantage on the Council of State. Many pre-election polls and much of the analysis suggested that Republicans might pick up the open treasurer's seat being vacated by Democrat Janet Cowell, and former state legislator Dale Folwell delivered.

Folwell defeated Democrat Dan Blue III, winning 52 percent of the vote to 48 percent.

But if the unofficial returns hold up, the Council of State would wind up with a 6-4 Republican majority, notwithstanding Democratic leads in the races for governor between incumbent Republican Pat McCrory and Democratic Attorney General Roy Cooper and between incumbent Democratic Auditor Beth Wood and GOP challenger Chuck Stuber. At press time, Cooper led McCrory by roughly 9,600 votes, and Wood led Stuber by 5,000 votes. Both trailing candidates said they would file requests for recounts after the ballots were certified, which is

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Analysts: Cooper would have little leverage with NCGA

By DAN WAY
Associate Editor

RALEIGH

If Attorney General Roy Cooper's election-day lead over incumbent Republican Gov. Pat McCrory eventually becomes a victory, the incoming Democrat will face an incredibly difficult challenge in pushing any of his agenda through a GOP-dominated General Assembly, election analysts say.

"I think he will be one of the highest-paid ribbon cutters in America," said Chris Cooper, head of the political science department at Western Carolina University. He is not related to Roy Cooper. "I think he's going to be among the least powerful governors in the country."

Conversely, if McCrory gets embroiled in a lengthy legal challenge over contested election results in an attempt to save his governorship, that could backfire, Cooper said.

"It's one thing to say, 'Hey, I want to get the official count,' but I think if this drags on too long, [McCrory] risks damaging the party brand a little bit," Cooper said. That also would contrast with the resolution of the presidential race.

Despite reports that some left-wing activists have discussed challenging the election results in several states that Trump won narrowly, Cooper said "at least nationally the Democrats have accepted defeat." Republican President-elect Donald Trump is "putting on a good face," and unsuccessful Democratic nominee Hillary Clinton isn't challenging the results.

"North Carolinians, like any Americans, want to think that their processes work and want to see government officials get to work. I think if [McCrory] challenges this too much, it's going to continue to erode faith in the system," Cooper said.

The reason for Chris Cooper's gloomy forecast of Roy Cooper's prospects is that North Carolina's governor holds a comparatively weak position among the states in the governing structure. On top of that, Republicans maintained their veto-proof majorities in both the House and Senate.

If the results stand, the 2017-18 session of the General Assembly will see Republicans holding 35 of the 50 Senate seats and 74 of the 120 House seats.

In the Senate, Republican challenger J.R. Britt easily defeated incumbent Democrat Jane Smith in District 13, 55 percent to 45 percent. In other closely watched races, incumbent Republicans eked out wins in Wake County Districts 15 (John Alexander) and 17 (Tamara Barringer). GOP Sens. Chad Barefoot (District 18), Wesley Meredith (District 19), and Trudy Wade (District 27) won difficult re-election bids with relative comfort. No other incumbents were defeated, and no open seats changed party affiliations.

The GOP lost two House seats in both of the state's most populous counties, Wake and Mecklenburg. In Wake County, Democrat Joe John defeated incumbent Republican Marilyn Avila in District 40 by slightly more than 400 votes, 50.4 percent to 49.6 percent; and in District 49, Democrat Cynthia Ball bested incumbent Rep. Gary Pendleton 48.7 percent to 47.2 percent (with Libertarian Gary Ulmer receiving 4.1 percent).

In Mecklenburg County, Democrats won District 88, in which Mary Belk defeated incumbent Republican Rob Bryan by 50.6 percent to 49.4 percent. In District 92, where Democrat Chaz Beazley defeated Republican Beth Danae Caulfield, 55 percent to 45 percent, in the seat vacated by retiring incumbent Republican Charles Jeter.

Those losses were offset by pickups in districts that spanned the state. In the northeastern corner of the state,

Republican Beverly Boswell narrowly defeated Democrat Tess Judge (appointed by local Democrats to take the place of her husband Warren Judge, who died shortly before the election) in House District 6 by a 51.8-48.2 percent margin. The district was represented by Democrat-turned-Unaffiliated Rep. Paul Tine, who chose not to seek another term. Boswell's win gave Republicans control of a seat Tine had won for Democrats in 2014.

The GOP flipped three other seats. In House District 46 (Bladen, Columbus, and Robeson counties), Republican Brenden Jones beat Democrat Tim Benton, 60-36, in the race to replace Democratic incumbent Ken Waddell.

In House District 51 (Harnett and Lee counties), former GOP state Rep. John Sauls defeated Democratic incumbent Brad Salmon, 56-44. In District 119 in the southwestern mountain counties, Republican Mike Clampitt defeated incumbent Democratic Rep. Joe Sam Queen by roughly 300 votes.

"Facing a supermajority essentially takes away the veto" because Republicans hold the power to override a gubernatorial rejection of legislation, Chris Cooper said.

"[Roy] Cooper, assuming he's going to pull it out, is going to have the bully pulpit. He's going to have the power to persuade. But at the same time, legislatively I just don't see any way he's going to get much of an agenda through with facing a supermajority," Chris Cooper said.

That dynamic is likely to produce tension, even acrimony.

"The only way Cooper is going to be able to get much of anything done is through his informal power, which, if you're the governor, is the bully pulpit, going directly to the people, and trying to activate public opinion," Chris Cooper said. "That is an inherently contentious process," but the most powerful tool the Democratic governor would have in shaping opinion and votes.

Having a state Supreme Court with a Democratic majority "will clearly help him, but I don't think that is enough to tip the scales in his favor" in blocking GOP legislation, Cooper said.

Another piece in sorting out this election's dynamics is the win by Democrat Josh Stein over Republican Buck Newton for the attorney general seat being vacated by Roy Cooper. That could benefit Cooper politically if his successor follows his practice of not defending some GOP-passed bills against lawsuits or refusing to oppose federal overreach.

"If the last year and a half has taught us anything it is that the attorney general is an important position in North Carolina, and probably a more important position than most voters think," Chris Cooper said.

Andy Taylor, a political science professor at N.C. State University, has as many questions as answers about how the election results might play out in practical application.

When sticky legislative issues arise, "Do the parties stick together?" he asked. "If they do, which is unlikely on every vote, can the Republicans override a Cooper veto?" Moreover, if there are defections within the GOP caucus, Taylor wondered whether those independent Republicans would affect future votes.

"What does Cooper do, because even if he is governor, he's going to bring an incredibly small mandate. Does that affect him?" Taylor asked.

"Some of the Republicans who survived in suburban districts, are they chastened by the experience? Some of them lost. Some of them won very narrowly," and they might have to take the changing demographics and party registrations in their districts into account when casting votes that could impact their re-election prospects, Taylor said.

NCGA may fund schools based on number of students

By KARI TRAVIS
Associate Editor

RALEIGH

North Carolina's current method for funding public schools favors wealthy counties over low-income areas, according to a new study from the state legislature's Program Evaluation Division. The study recommends shifting the state's funding formula toward one that puts students first.

The 135-page report, which was commissioned during the 2016 legislative session by Rep. Craig Horn, R-Union, chairman of the House Committee on Education Appropriations, looked at how the Department of Public Instruction distributes dollars to Local Education Agencies, aka school districts. The report was discussed at a Nov. 16 meeting of the Joint Legislative Program Evaluation Oversight Committee.

In addition to finding imbalances in allotments between wealthy and low-income counties, researchers discovered that funding for children with disabilities is largely directed away from those areas with the highest number of students who would qualify for that assistance.

Allocations for students with limited English proficiency are also illogically and unevenly distributed, re-

searchers found.

Given the findings, the PED recommended the state overhaul its system and allocate funds per student — instead of assigning dollar amounts to each LEA, or paying LEAs according to the number of job positions within a district.

The concept of basing funding on the number of students a district enrolls rather than the number of teachers and staff members it employs, also called “student-based budgeting,” has been used by several large metropolitan school districts dating back to the 1990s. Under this model, students with disabilities, language issues, or other special needs would get a bigger, “weighted” allocation, and districts with large bureaucracies may lose funding or have to spend more money in classrooms.

The PED study is not the first of its kind to be commissioned by the legislature. In 2010, a similar report was completed by Augenblick, Palaich and Associates Inc., a private company with experience in analyzing educa-

tion systems.

That study cost \$500,000 but largely was overlooked when Republicans took over the General Assembly in 2010 and began their work in 2011.

“We had the Great Recession, so funding was way down, and no one wanted to talk about changing the funding system. Lawmakers were struggling with the amount of revenue the state was receiving in the first place,” said Terry Stoops, director of research and education studies at the John Locke Foundation.

“Their priorities were to raise teacher pay and work on literacy in the early grades, as well as to promote charter schools and school choice,” Stoops added. “The design of the school funding system did not make the cut.”

The lawmakers’ oversight was not intentional, but is still inexcusable given the costs of the APA study and the serious problems that exist within the school funding process, said Horn, who wasn’t made aware of the APA report until 2013.

Legislators must form a task force that will take a “deeper dive” into the PED’s findings, he continued, adding that he would like to see the General Assembly tackle the issue during the 2017 legislative session.

“The student-based model — as I understood it based on the presentation by the PED — seems to make fundamental sense. But like a lot of things in life, that has to be put into perspective,” Horn said.

“Some of the things that PED pointed out, such as low-wealth counties, have been a fight since I’ve been involved in education appropriations,” he continued. “Legislators have been out to protect their jurisdictions, and when their counties are for some reason or another moved out of specific categories and are therefore no longer eligible for certain funds, those legislators fight to keep those funds.”

That political reality will make revamping the state’s school funding system difficult, said Horn, also noting that there is a limited amount of money to work with, and that not all districts would be happy about a funding shuffle.

“The major metropolitan areas are going to be screaming — you can bet on it,” he said.

“Because of the complexity of this, it would take a task force or advisory board a significant amount of time to come up with a system that corrects the problems of the allotment method,” Stoops said.

Any discussion about changing public school funding formulas also will affect charter school finances, though those impacts are hard to predict, Stoops added.

Horn agreed, pointing to findings within the PED study indicating that the state’s current funding process complicates the distribution of money to charter schools.

“We need a better way to ensure that the kids are being funded fairly,” Horn said. “Kids are not being funded fairly — no matter which school they go to.”

“This issue is going to be hard on the legislators,” he concluded. “We’re going to be pulled in multiple directions at the same time. But that’s the job. And I’m looking forward to it.” CJ



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Morgan win could shift N.C. Supreme Court to the left

By JOHN TRUMP
Managing Editor

RALEIGH

A victory by Wake County Superior Court Judge Mike Morgan is likely to tilt the balance of the N.C. Supreme Court to the left — unless the General Assembly makes a move to expand the number of justices on the high court.

Morgan defeated incumbent Bob Edmunds, 54 percent to 46 percent, in the general election on Nov. 8.

"I thought this would be closer. This was a very interesting result," Joe Stewart, executive director of the North Carolina FreeEnterprise Foundation, said during a post-election briefing.

The race is technically nonpartisan, though Morgan's win and Edmunds' loss changes the makeup of the court to 4-3, Democrats over Republicans.

"This could have all sorts of consequences for the fate of voter ID measures, redistricting plans, and school-choice programs passed by the Republican-controlled legislature," says John Dinan, a politics professor at Wake Forest University.

"The win, and particularly the size of the win, is surprising because it is somewhat out of step with other results this election," Dinan says. "Morgan will have won his race by close to 10 percentage points in the same election where Republicans won reasonable-size victories for president and Senate and where the gubernatorial candidates battled to a near tie."

Morgan, who has served as a judge in varying roles since 1989, gained attention during the campaign when he garnered an endorsement from President Obama.

But the incumbent, Edmunds, who has served on the high court since 2001, was respected by all sides as well.

Was he simply unlucky?

Gerry Cohen, a Raleigh attorney and a former special counsel to the North Carolina General Assembly, suggests just that.

Republicans appeared first on the state's 2016 general election ballot, which reflects the party of the governor. A change in the law added party affiliation to nonpartisan Appeals Court races, too. People voting Republican down the ballot simply became accustomed to filling in the top line, Cohen said, and, as a result, voted for Morgan. They voted "the same line," he said. In this instance, Morgan got top billing over Edmunds.

A District Court case in North Carolina roughly 20 years ago jumbled the alphabet for nonpartisan contests, including those for the Supreme Court.

It's not fair to list candidates going A to Z every time, the decision

said, so every two years the Board of Elections, in a random draw, starts the alphabet somewhere other than A. In this scenario, with the alphabet starting somewhere after E, Morgan got first billing.

Candidates know about the process, as does the state Board of Elections and elections supervisors.

"The average person? Why would they know about it?" asks Cohen.

Of six black candidates on the November ballot, Morgan was the lone winner, Cohen says. It's possible Morgan's visibility in the black community was higher than that of Edmunds, in part because of a June primary after the state's high court ruled the so-called retention election unconstitutional.

Under the retention-election law, Edmunds would have appeared alone on the ballot and voters would have decided either to give him another term or reject him, which would have left the seat open until the governor appointed a replacement. The Supreme Court said that the law violated the state constitution's provision requiring elections to be a contest and that other candidates must have an opportunity to challenge Edmunds.

Edmunds won the primary, but Morgan finished a strong second in a three-candidate field.

"I think the Democrats were more observant of the race. I think that high visibility in the black community was important," Cohen said, "and I think being first on the ballot."

Cohen said Edmunds was "in the wrong place at the wrong time, and part of being in the wrong place was the wrong line on the ballot."

A possibility exists — albeit tiny — that state lawmakers could vote to expand North Carolina's Supreme Court by up to two additional members, according to the N.C. Constitution.

Article IV, Section 6 of the N.C. Constitution spells out membership of the state's highest court.

Expansion beyond eight associate justices would require a state constitutional amendment.

If Republicans hope to expand the high court in order to add Repub-

lican justices, their time might be limited. The governor appoints members to vacant court positions, as spelled out in Article IV, Section 19.

No plan exists for the General Assembly to return to Raleigh before Jan. 11, 2017. But Gov. Pat McCrory has said he expects to call lawmakers back to town before the end of the year to address issues related to Hurricane Matthew recovery.

GOP sweeps Court of Appeals

N.C. Court of Appeals races reverted to the election-night norm. All five races — including one for a vacant seat — were won by Republicans.

Phil Berger Jr., former Rocking-

ham County district attorney, son of the Senate leader, narrowly defeated incumbent Linda Stephens, originally appointed to the court by Gov. Mike Easley. Berger ran unsuccessfully for a congressional seat in 2014.

Berger won by fewer than 27,000 votes in what was a Republican sweep of the appellate races. Hunter Murphy, a Republican, won the seat formerly held by Martha Geer, who was elected to the court in 2002 but stepped down in 2016 to practice law. Her term would

have expired in 2018. Murphy beat Margaret Eagles, the Democrat, and unaffiliated Donald Ray Buie.

Murphy got 49 percent of the vote; Eagles, 45 percent, and Buie, 6 percent.

Three incumbents kept their seats on the court. Republican Bob Hunter, who first was elected to the court in 2008, defeated Democrat Abe Jones, 54 percent to 46 percent. Hunter was appointed to the Supreme Court by Gov. Pat McCrory in 2014 to fill a temporary vacancy, but he lost in that November's election to current Justice Sam Ervin IV. McCrory then appointed Hunter to the Court of Appeals to fill the vacancy left by Ervin.

Richard Dietz, the Republican, defeated Vince Rozier, a Democrat. Dietz, who actually replaced Hunter when he moved to the Supreme Court, was appointed by Gov. Pat McCrory in 2014. Dietz got 54 percent of the vote to Rozier's 46 percent.

Republican incumbent Valerie Zachary, appointed by McCrory in 2015, beat Rickye McKoy-Mitchell, the Democrat, 54 percent to 46 percent.

The N.C. Court of Appeals is made up of 15 judges who sit on three-judge rotating panels. The panels review errors in legal procedures or in judicial interpretation of the law. The court hears civil and criminal appeals from the lower courts and makes decision based on law, not fact. Judges serve eight-year terms. A 2015 state law added party affiliation to the ballot for candidates vying for a seat on the state's appellate court. CJ

Associate editors Barry Smith and Dan Way contributed reporting to this story.



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Carson pitches market-oriented replacement for Obamacare

Former GOP hopeful highlights similarities with Trump proposals

BY DAN WAY
Associate Editor

HIGH POINT

President-elect Donald Trump is pushing a health care plan similar to a proposal Dr. Ben Carson floated during his run in the Republican primary.

"He very much likes the kind of plan that I've been talking about," Carson told *Carolina Journal*.

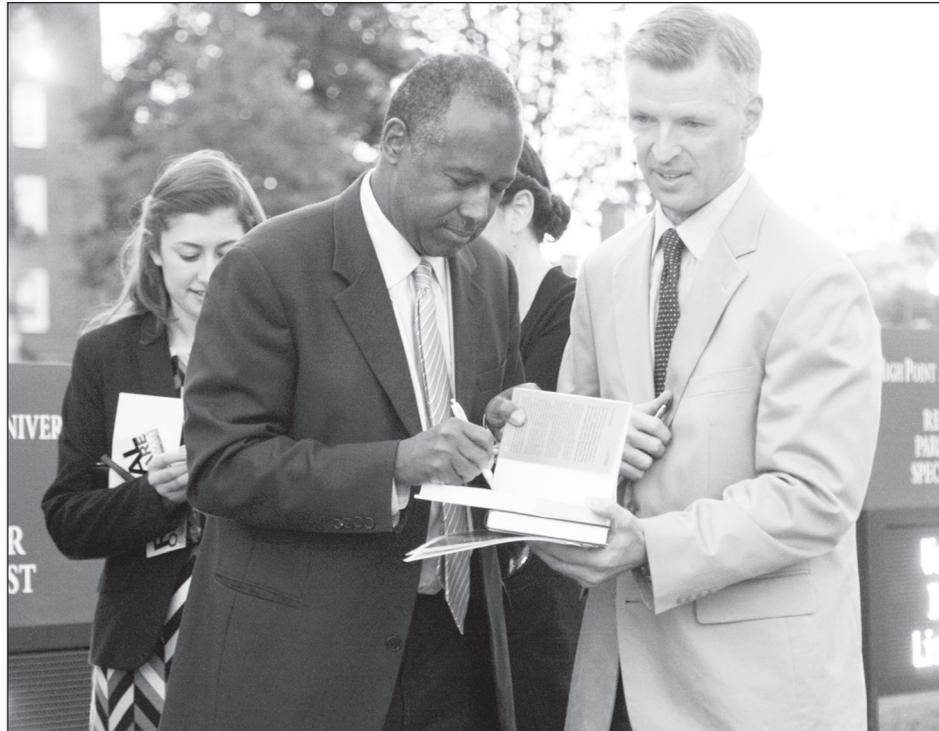
Carson, a world-renowned pediatric neurosurgeon who advises Trump on medical policy, discussed his proposal with *CJ* after a pre-election town hall at High Point University. The forum, called "A Time to Choose," focused on health-care reform.

Trump is looking to, if not eliminate, then drastically reform the Affordable Care Act.

Carson's plan, which would replace Obamacare, features free-market-oriented individual health-empowerment accounts and is designed to spur competition, which would drive down costs. The plan would shift responsibility for health care decisions to the individual — instead of third-party payers — remove providers from the suffocating tangle of regulations, and pair the empowerment accounts with catastrophic illness insurance.

Carson said he's already talked with "a large number of medical economists, and they can't poke any holes in it. So I don't think it's going to be a hard sale at all."

"But I do think you have to have it ready to roll, because I feel like it's cruel and unusual punishment to kick people out of the Affordable Care plan," he said. "But I also believe when they compare that to the program we're going to be offering, you're go-



Dr. Ben Carson autographs a book for Durham family practitioner Dr. David Fisher following a Nov. 2 town hall event at High Point University. Carson says his Obamacare replacement plan would expand consumer choice and reduce costs. (CJ photo by Dan Way)

ing to have to be pretty stupid to want to stay with the Affordable Care plan."

Carson faults Republicans for waiting too long to talk about ways to repeal and replace Obamacare, which he has discussed for years. Some Republicans say it's too late to kill the failing system, but Carson doesn't believe the nation is stuck with it.

"It's never too late, particularly when you have something that's easy to explain, easy to understand, and it wouldn't take that much to implement," he said of his plan.

"I think the key thing that we could do is utilize the same or less money and put the responsibility back in the hands of patients" to buy health insurance, he said.

Carson said he has explained his plan to audiences filled with Medicaid recipients, and they've embraced it.

"They particularly like the idea that they have a say over how the

dollars are spent, and if they don't spend them, they continue to accumulate," Carson said. "In many of their cases this is the first thing that they ever sort of had ownership of, and it's amazing how responsible people become when they feel ownership in something."

Carson's plan envisions families transferring money from individual health-empowerment accounts — similar to a health savings account but with less bureaucracy, he said — to parents, spouses, and siblings, for example.

The town hall panel featured Carson; Robert Moffit, a senior fellow at the Heritage Foundation and former senior official in the Reagan administration; Dr. C.L. Gray, founder and president of Physicians for Reform; and Dr. Rosemary Stein, who owns the International Family Clinic in Burlington with her husband.

During the town hall, Carson discussed former President Bill Clinton's recent comments that Obamacare is "a crazy system," with dwindling coverage and a national surge in premiums — as much as 25 percent.

"In a candid moment, President Clinton was telling the truth. It's a rare thing," Carson quipped. He said Obamacare policies have become expensive "to the point you might as well not have insurance, because you're probably not going to meet that deductible each year anyway."

Moffit said repealing Obamacare isn't enough to cure longstanding problems in the American health care system.

But the debate will continue as Trump adjusts to the presidency.

"We've got to address the most dysfunctional features of our system, and first and foremost what Congress has got to do is address the thing that shapes, and drives, and directs the entire health insurance market, and that is the federal tax treatment of health insurance," Moffit said.

There are many ways to accomplish that, but the "common thread that runs through all of the proposals that have been offered on Capitol Hill to reform the system" involves the provision of individual tax relief for the purchase of health insurance, which "would open up the system to different types of insurance."

As long as the tax code is neutral, the government would refrain from picking winners and losers, Moffit said. Consumers could enjoy tax relief for health insurance, whether using an indemnity plan, a managed-care plan, or a health savings account plan. The tax change, he said, would promote portability in health insurance, allowing it not only to go from job to job but also to be modified through different stages of life.

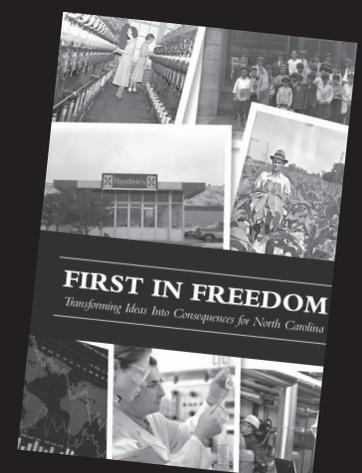
"Americans," Moffit said, "will start getting economic efficiency in the system." CJ

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Van der Vaart: Trump likely to scrap excessive green regs

By DAN WAY
Associate Editor

RALEIGH

President-elect Donald Trump is likely to reshape the U.S. Environmental Protection Agency and alter some of its most burdensome regulations, which will benefit North Carolina farmers, businesses, and utility ratepayers, state Department of Environmental Quality Secretary Donald van der Vaart says.

Two of President Obama's signature regulations, the Clean Power Plan and Waters of the United States, whose harshest critics include U.S. Rep. David Rouzer, R-7th District, would be a focus of the new administration, van der Vaart says.

Rouzer introduced legislation to kill WOTUS, which he has said would classify most of his district as a wetland and have "very dire consequences" for homebuilding, construction, and agriculture. The rule would expand federal control over inland streams and wetlands, reputedly to protect them.

"We're anticipating a significant change in the direction that the EPA may go under the Trump administration judging by all of the factors that we can judge something like that by, including the things that candidate Trump has said," and by tapping Myron Ebell to head up his transition team to find a new EPA administrator, van der Vaart told *Carolina Journal*.

Ebell is director of energy and environment at the libertarian Competitive Enterprise Institute and a critic of climate alarmism who is skeptical of whether human activity has much of an impact on global warming.

Van der Vaart himself might be under consideration for a position in the Trump administration.

When asked if he had been contacted by the transition team, he re-



N.C. Department of Environmental Quality Secretary Donald van der Vaart says Trump's election will mean a "significant change of direction" in the Environmental Protection Agency.

sponded, "All I've been instructed to say is you need to ask the Trump campaign that question." Requests for comment from the Trump transition team, Gov. Pat McCrory's office, and Ebell were not returned.

The Clean Power Plan and WOTUS "are the top of the list for whoever is going to take over the EPA," van der Vaart said. "It is my belief that neither of those rules are going to go anywhere now that President Trump has been elected."

The McCrory administration opposed both of those rules and joined other states in successfully challenging them in court. The U.S. Supreme Court issued a stay in February to halt implementation of the Clean Power Plan. The 6th U.S. Circuit Court of Appeals issued a stay in October 2015 on the WOTUS rule.

While the McCrory administration challenged those rules in court, "in both cases the attorney general [Roy Cooper] refused to participate in those

lawsuits, so it's been a political issue clearly," van der Vaart said. "From our standpoint [at DEQ], it's an environmental and economic issue as well."

The "ultimate disposition" of the Clean Power Plan depends on Trump's pick for the Supreme Court seat vacated when Justice Antonin Scalia died, or actions by the new EPA, van der Vaart said. The federal rule was enacted to combat climate change by reducing carbon emissions. Critics contend it is a war on fossil fuels and power plants that use them.

Given Ebell's positions on the issue, "I would be very surprised if the new EPA would support that rule in the form that it's in right now," van der Vaart said. It could be amended, repealed, or be dealt with through some other mechanism. He expects the same outcome for WOTUS.

"I think that the Trump administration has a very real understanding of the kind of costs that both of these rules incur with no environmental benefit," van der Vaart said.

He contends the Clean Power Plan is illegal and would impose an average \$400 annual cost on every ratepayer.

"It's an incredibly invasive rule" and was written by the EPA despite Congress telling the Obama administration it would not pass legislation to limit so-called greenhouse gases," he said.

"The Obama administration took it upon themselves to distort the Clean Air Act in such a way that led to this power plan," van der Vaart said, calling that "a cynical way to try to achieve something that Congress would not allow them to do."

In the case of WOTUS, "in North Carolina our farmers would be greatly impacted," he said. "Their land-use decisions would be shifted from local government control to a federal bu-

reaucracy. It would severely hamper their expansion. It's a disaster."

Unless changes are made at the federal level, North Carolina is likely to experience "continued cannibalization of our power grid, of our power generation," by replacing lower-cost nuclear and coal-fired power plants with more expensive renewable energy sources, van der Vaart said.

Utilities are forced under the federal Public Utility Regulatory Policies Act to buy renewable power generation, which is "starting to affect the viability of other sources of electricity," van der Vaart said.

North Carolina is approaching the point that Germany has reached, he said. Because German law requires the purchase of solar and wind power, the country sometimes has to pay France or another neighboring nation to take some of its excess power generation.

The federal law mandating utilities buy renewable energy when produced should be eliminated to allow states to control their power-mix decisions, van der Vaart said.

Obama has controlled environmental policy through executive orders and "essentially ignored what states wanted," van der Vaart said. "That's one of the problems that led to the WOTUS rule, and in fact they haven't even listened to some of their own regional offices. They've been very autocratic, very centralized in their decision making."

That led van der Vaart to join Alabama, Nebraska, North Dakota, and Virginia in signing a letter asking Trump to return environmental leadership to the states, put a moratorium on proposed and new federal regulations, work with governors and state environmental directors to eliminate federal overreach, and end secret policymaking by Washington insiders. *CJ*

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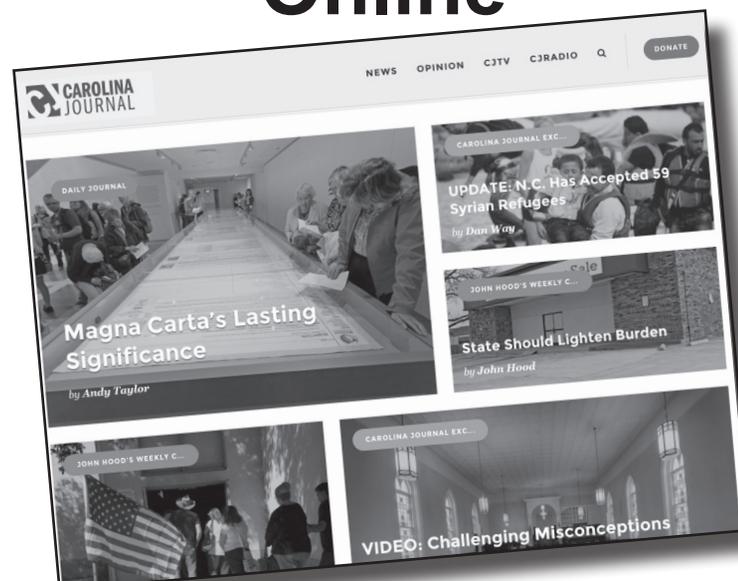
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JLF: State alcohol laws stifle entrepreneurs, hurt consumers

By CJ STAFF

Overregulation of alcoholic beverages in North Carolina stifles entrepreneurs hoping to expand a growing industry across the state. That's one of the key findings of "Hard to Swallow," a new John Locke Foundation Spotlight report.

The state requires 43 different types of permits and licenses for different activities linked to alcohol sales, said report author Jon Guze, JLF director of legal studies. (Read the report at <http://bit.ly/2fKQMY1>.)

"A new permit is required for every change of ownership of premises licensed to sell alcohol," Guze said. "A rule forbids the owner of multiple premises from moving alcoholic beverages from one location to another. There is a rule restricting happy hours and forbidding some kinds of drink specials, while another forbids distilleries that offer tours from selling any specific visitor more than one bottle of alcohol per year. Rules govern the size of alcoholic beverages in hotel minibars and the number of bottles or cans of beer in a case. The list goes on and on."

Enforcement of these rules extends beyond the Alcoholic Beverage Control Commission and state Alcohol Law Enforcement Branch of the N.C. Department of Public Safety. "Various state and local police forces also have authority, and they exercise a good deal of discretion in how they interpret and enforce the rules, which makes consistency impossible, compliance confusing, and abuse inevitable," Guze said.

Large producers, distributors, and sellers have the resources to deal

with North Carolina's complex regulatory scheme, Guze said.

"For small-time entrepreneurs who want to enter the market for the first time, however, the regulatory regime constitutes a huge barrier," he said. "It's very difficult for them to become familiar with the entire body of laws and rules, let alone acquire the expertise and contacts that are needed to deal effectively with all of the relevant agencies. Some try and fail. Some never try at all."

Along with entrepreneurs, North Carolina's alcohol regulations harm consumers and the state's economy. Guze's report explains how the regulations hold back the state's improvement in national freedom rankings.

North Carolina's overall ranking has jumped from No. 26 to No. 19 since 2010 in the "Freedom in the 50 States" report compiled by the libertarian Cato Institute. But the state lags behind at No. 35 in the category labeled "alcohol freedom."

"If we truly want North Carolina to be 'first in freedom,' we need to reduce the burden that excessive regulation places on the production, distribution, and sale of alcoholic beverages," Guze said.

Guze focuses particular attention on the state's monopoly of liquor sales and its rules governing wholesale distribution of beer and wine. These represent just the most "egregious elements of a vast regulatory regime," he

said.

"The chapter of the N.C. General Statutes dealing specifically with regulation of alcoholic beverages consists of 123 densely packed pages, and many other alcoholic beverage regulations are buried in other parts of the statute book," Guze said. "Chapters of the N.C. Administrative Code dealing with alcohol law enforcement and the Alcoholic Beverage Control Commission take up 143 pages. Again, there are other alcoholic beverage regulations buried in



other chapters of the Code."

Guze labels the state government's monopoly on liquor sales as the "most extreme" alcoholic beverage regulation. With a few minor exceptions, liquor may be sold only in stores operated under the authority of the Alcoholic Beverage Control Commission.

"If it weren't for this state monopoly, entrepreneurs would be operating hundreds of private liquor stores in North Carolina, and they would be competing for business with each other and with entrepreneurs operating thousands of grocery stores and other retail outlets," he said. "As it is, a limited number of ABC stores keep the same limited hours and charge the same artificially high prices for the same limited selection of products."

A mandatory system of wholesale distribution creates a different set of challenges for beer and wine producers, Guze said. "Once producers hit a certain threshold of product, they

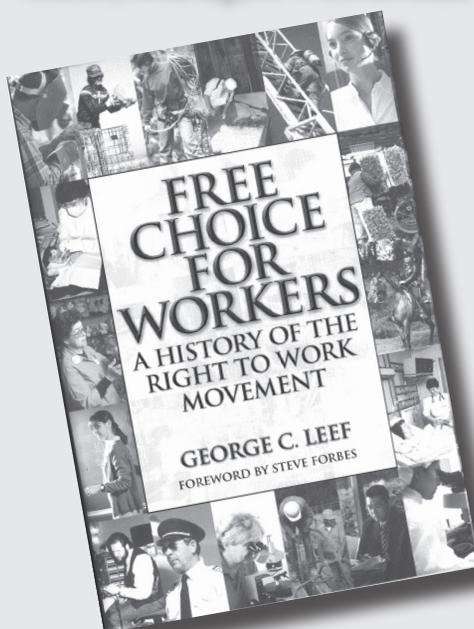
are no longer allowed to sell directly to retailers," he explained. "Instead they must deal with a limited number of licensed wholesale distributors who enjoy a profitable oligopoly on this trade. In addition to enriching distributors at the expense of retailers and consumers, the system protects big producers by giving small producers a powerful incentive to stay small."

The current system offers a great example of a "bootleggers and Baptists" scenario, Guze said. "Economists came up with that term to describe a situation in which the Baptists — in this case, concerned citizens — support regulations because they believe those regulations will minimize the harms associated with alcohol abuse, while bootleggers — in this case, wholesale distributors and large brewers and distillers — continue to support regulations that protect their jobs, their investments, their power, and their profits."

Despite ongoing support for regulation among "bootlegger" and "Baptist" groups, Guze identifies reasons for optimism about reform. "A new generation of sophisticated consumers is demanding more variety and more quality when it comes to alcoholic beverages, and a new generation of entrepreneurs has emerged to serve them," he said. "The entrepreneurs are well aware that the existing regulatory regime protects the big companies at their expense, and they are starting to push back politically. Many consumers are becoming aware as well."

"There appears to be an emerging coalition of consumers and entrepreneurs ready and able to oppose the longstanding alliance of established interests opposing alcohol freedom." CJ

Free Choice for Workers: A History of the Right to Work Movement



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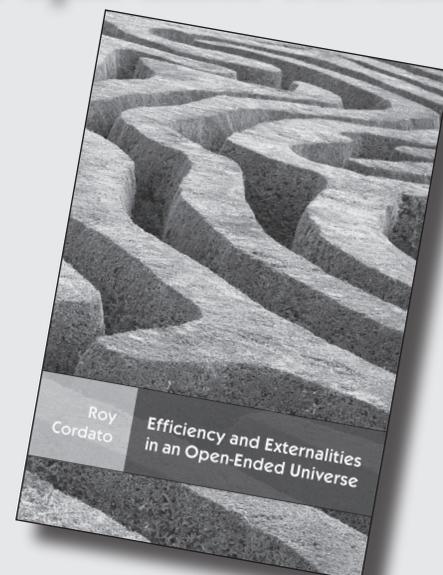
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Efficiency and Externalities in an Open-Ended Universe



Alcohol and bond measures fared well in local elections

BY BARRY SMITH
Associate Editor

RALEIGH

Nov. 8 was a good day for alcohol proponents and supporters of bond measures, though it was not a particularly good day for people hoping to get additional local sales taxes. And it was a bad day for Tobaccolville Mayor Billy McHone.

Overall, 80 local measures were on city or county ballots statewide — 33 referendums on alcohol sales; 27 bond issues covering schools, parks and recreation, or infrastructure; 15 sales-tax and two property tax issues; two referendums dealing with the structure of county commissions; and the recall election in the Forsyth County town of Tobaccolville.

Voters in 14 counties — Bladen, Carteret, Clay, Cleveland, Graham, Henderson, Jones, Mitchell, Pasquotank, Rockingham, Rutherford, Stanly, Stokes, and Swain — defeated referendums that would have raised their local sales tax by 0.25 percent.

However, Wake County did approve a 0.5 percent local sales tax to be used for transit. A supplemental school tax passed in Halifax County.

Gates County voters defeated a school construction property tax.

“It shows that voters across the state are rightly skeptical about increases in taxes,” said Julie Tisdale, city and county policy analyst at the John Locke Foundation. “Sales taxes affect everything that we all buy, pretty much.”

Voters could be thinking that local governments may not be spending the money they already have as effectively as possible, Tisdale said. She also said she wasn’t surprised the school tax passed in Halifax County since voters are sympathetic to schools.

“In Wake County, No. 1, there was a very specific purpose,” Tisdale said. “And No. 2, Wake County voters are just a little bit more left-leaning than voters in most parts of the state. They’re a little bit more likely to vote for these sorts of tax increases than many voters in other parts of the state.”

Voters approved 33 local alcohol referendums.

Countywide measures passed in Alexander, Bertie, Davidson, Haywood, Johnston, and Vance



counties. Other alcohol ballot measures were approved in Taylorsville, Glen Alpine, Waco, Casar, Mocksville, Stanley, Clayton, Grantsboro, and Badin.

“It’s not surprising that people just want the freedom to make these choices for themselves and to see local business grow,” Tisdale said. She noted that the state is seeing a lot of craft breweries and an interest in alcohol in the state.

Voters across the state didn’t hesitate to approve bond measures.

“I do wonder if people really understand how bonds work,” Tisdale said. “Bonds are loans. They have to be paid back. They almost always involve

new taxation or increased taxation.” The tax component usually isn’t clear on the ballot, she said.

Brunswick County approved school bonds. Asheville approved transportation, housing, and parks and recreation bonds. Woodfin also approved parks and recreation bonds.

Durham County approved community college, library, museum, and school bonds. Forsyth County approved school, community college, and parks and recreation bonds.

Guilford County approved housing, community and economic development, parks and recreation, and transportation bonds. Mecklenburg County approved transportation, housing, and neighborhood improvement bonds.

Wilmington approved parks and recreation bonds. Orange County approved school and low- and moderate-income housing bonds.

Union County approved community college, library, and school bonds. Goldsboro approved parks and recreation and infrastructure bonds.

Tobaccolville residents voted to recall McHone, who’d resigned in January but rescinded his resignation before the village council could accept it. McHone’s resignation and reversal came during the council’s discussion of two proposed ordinances. One would have restricted the discharge of firearms within 1,000 feet of an occupied building. The other would have banned the use of exploding targets, which detonate when hit by high-velocity bullets.

McHone backed the ordinances, but submitted his resignation after property owners, speaking at the meeting, pushed back. He then rescinded his resignation before the next scheduled council meeting.

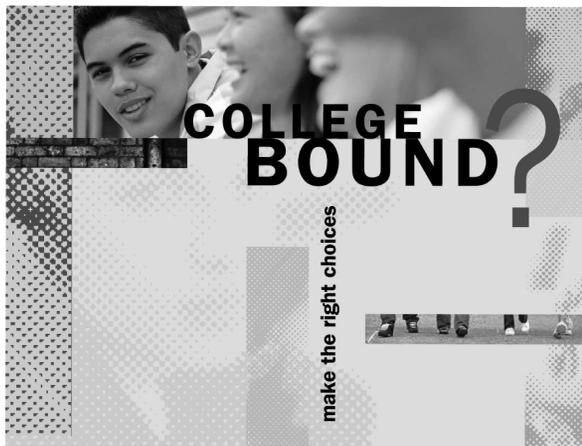
This summer, the General Assembly passed a bill allowing the residents to petition for a recall of their mayor or village council member. To place a recall measure on the ballot, the petition needed the signatures of at least 20 percent of the registered voters in the village.

The petition needed 343 verified signatures, and it received nearly 400.

The Nov. 8 recall vote wasn’t close — 69 percent to 31 percent.

CJ

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COMMENTARY

Unbelievable economic impacts

Economic development is a game, and it's played by its own special set of rules. At its core, it involves taking public money and spending it on private companies, which is also presented as a gain for the public as a whole. That's especially true for stadiums and other facilities built for sports teams, where the public expenditure often is quite large and the number of people employed is rather small.

Persuading the public to fund these facilities can be a hard sell, but project backers always have what they see as an ace in the hole: studies claiming to show exactly how much economic impact a new facility will generate. The numbers are invariably large — \$61.8 million a year in economic impact from the NASCAR Hall of Fame or \$7.2 million a year for a minor league baseball team in Fayetteville.

There's good reason, though, to question such impact figures. The estimates suffer from false precision, project costs are ignored, and other alternative uses aren't considered.

Economic development projections are generated from input-output models: Increasing inputs (spending) with a certain industry will result in a predictable increase in outputs. The models assume indirect effects — multipliers — so that the spending at the stadium, for instance, will result in additional spending throughout the broader local economy. IMPLAN, the company that makes the most commonly used software to generate such estimates, is based in Huntersville.

Such IMPLAN estimates are overly precise. In the Fayetteville study, a baseball team was projected to generate \$7,186,000 in economic activity each year. Yes, you read that right — exactly \$7,186,000 and not \$7,185,000 or \$7,187,000. The precision suggests certainty and frames the terms of the debate.

Behind the \$7,186,000 are a whole host of assumptions, including but not limited to how many people will attend, whether they live in the immediate area or would come from out of town to see a game, average ticket prices,

parking revenue, advertising revenue, spending on concessions and novelties, and the size of local multipliers.

In the real world, your mileage — or a facility's actual performance and the multipliers involved — may vary. Indeed, as the Fayetteville report states: "It is important to note that because events and circumstances may not occur as expected, there may be significant differences between actual results and those estimated in this analysis, and those differences may be material."



MICHAEL LOWREY

That certainly happened in Charlotte, where the NASCAR Hall of Fame's actual attendance came in at about half of what had been projected. Good luck getting project backers to acknowledge any downside risk before a project is approved.

IMPLAN studies are not a cost/benefit analysis. Stadiums, arenas, and the like

don't arise magically overnight on what had been little-used parcels of land. They require resources to build — and those resources have alternative uses.

If a local government raises taxes to build a new stadium, it is taking money out of residents' pockets, and much of it might have been spent locally. There are indirect (multiplier) effects here, too. IMPLAN models don't take these costs into account. If they did, the net economic impact from a project would be lower and, in some cases, negative.

Nor do input-output models consider whether alternative uses of those dollars might have created a greater economic impact. Ultimately, that is the most critical issue — limited resources. Throwing money at second-best or third-best uses doesn't benefit society as a whole. So while building a new ballpark could be a "good" use of money that generates some level of economic activity, it's possible that some other use might generate a greater economic return.

Economic development figures need to be taken with a big grain of salt. If the impact claimed seems unbelievably large, it probably is, in fact, unbelievable. *CJ*

Michael Lowrey is a contributor to Carolina Journal.

Republicans extend majorities on N.C. county commissions

BY BARRY SMITH
Associate Editor

RALEIGH

The 2016 election marks the most county commission majorities that Republicans have held in more than a century.

The partisan majorities on five boards of county commissioners switched during the Nov. 8 general election, with Republicans picking up a net gain of one county board statewide.

Republicans continue to hold a majority of the county commission seats across North Carolina as the party expands its representation in county governments.

The GOP picked up majorities in three counties — Alleghany, Jackson, and Nash — that previously had Democratic majorities. Democrats flipped two county boards — Montgomery and Watauga — from Republican control.

Republicans now hold majorities on 54 county boards, while Democrats claim majorities on 45, according to the North Carolina Association of County Commissioners. One county, Perquimans, is split with three Democratic members and three Republicans.

Previously, Republicans held a 53-46 majority, with Perquimans County evenly divided.

The 2016 election marks the most county commission majorities that Republicans have held in more than a century.

Democrats have lost ground in each election since 2008, when the party rode a wave led by Barack Obama's successful presidential bid. Following the 2008 election, Democrats held a 64-36 advantage on county commission majorities in North Carolina.

The subsequent turnaround has been dramatic. Two years later, in 2010, Republicans rode a Tea Party-fueled surge that nearly eclipsed the Democrats, who held onto a 50-49 advantage in county board majorities. (One board split evenly.) From the 2012 election onward, Republicans have held more majorities than Democrats on North Carolina boards of commissioners.

Statewide, a record 323 Republicans (55.4 percent of all members) and 256 Democrats (43.9 percent) will serve on county commission boards. Five commissioners were listed as "other." Democrats held 350 of the seats during the 2008-10 term but have not held more than 300 seats since the 2010 election.

In 1976, in the first presidential election after Richard Nixon resigned from office, Republicans had majorities on only 14 county boards and held only 46 of the 484 commission posts statewide, or 9.5 percent. Republicans did not elect more than 200 county commissioners until the 1994 election and remained in the minority of total

commission members until 2012.

Figures tallied by the county commissioners association show that 96 new commissioners were elected this fall, the first time fewer than 100 new commissioners have been elected since at least 1974, the earliest election cycle reported by the NCACC. New commissioners will make up 16.5 percent of the 584 county commissioners statewide.

In addition, 110 of the commissioners will be African-American, with African-Americans holding majorities on eight boards — Anson, Edgecombe, Hertford, Hoke, Northampton, Vance, Warren, and Washington.

Five American Indians will serve on county boards, three of them in Robeson County.

Women will hold 92 of the county board seats statewide and have majorities in four counties — Avery, Cabarrus, Catawba, and Durham.

Female representation has grown gradually, from 17 members in 1974 before reaching a peak of 96 in 2008.

African-American representation peaked in 2012 at 112 members, though membership has risen steadily from 1974, when 13 county commission members were black. *CJ*

N.C. County Commission Members by Election Cycle

Year	Republican	Democrat
2016	323	256
2014	304	275
2012	303	271
2010	277	295
2008	221	350
2006	231	338
2004	254	316
2002	245	322
2000	227	337
1998	221	342
1996	238	326
1994	217	343
1992	161	390
1990	171	367
1988	157	364
1986	141	360
1984	100	392
1982	63	431
1980	94	398
1978	65	428
1976	46	437
1974	80	396

Source: N.C. Association of County Commissioners

Experts seek to prevent future election chaos in N.C.

Continued from Page 1

nett, who chairs the House Rules Committee, said the General Assembly will use events from the November election to further fine-tune the state's election laws. Lewis was one of the primary authors of a broad 2013 election reform law.

"Concerns about same-day registration have been validated," Lewis said, and a lawsuit filed in federal court by the conservative Civitas Institute — which had its initial hearing after press time — challenged the process for verifying same-day registrants' eligibility to vote.

Lewis said that difficulties in verifying such voters have contributed to the delays in finalizing election totals. In addition, voters cast ballots that cannot be verified, he said.

McCrorry's campaign has sought a hand recount of more than 90,000 ballots — from five early voting tabulators and one election day precinct tabulator — in Durham County, where late election returns blamed on malfunctioning tabulators helped lift Cooper into the lead. The Durham County Board of Elections has denied GOP requests to hand-count the ballots, expressing confidence in their equipment.

The McCrorry camp and his supporters filed protests in dozens of other counties, claiming an impropriety in mail-in absentee ballots. The protests spread to 50 counties, with the McCrorry campaign saying dead people and felons cast votes. It also said some people had voted more than once.

Regardless, Cooper's campaign encouraged McCrorry to concede. The campaign says the GOP governor's election claims are "frivolous," and he's attempting to "undermine the results of this election."

The State Board of Elections has dismissed many of the GOP complaints.

"I don't know how a system can be prepared for such a volume of protests, which have to be evaluated," said Raleigh attorney Gerry Cohen, who previously was general counsel to the General Assembly and a longtime bill drafting director. "The system would have worked better if the people filing these protests had checked them first."

"Counties are having to spend a huge amount of resources," Cohen said. "Part of the problem is that the system got slammed by so many protests that weren't well-researched."

Bob Phillips, executive director of Common Cause North Carolina — which promotes open government — echoed Cohen. He suggested setting certain conditions that must be met before a protest can be filed claiming a



Republicans celebrate the call by Fox News at 10:45 p.m. on Nov. 8 that Donald Trump had won North Carolina's 15 electoral votes. (CJ photo by Don Carrington)

fraudulent vote.

"I know that we'd never want to handcuff or make it more difficult for a candidate who feels that there are issues to be raised to not have that opportunity to do so," Phillips said. "But given what we've seen in the last couple of weeks, perhaps there does need to be some scrutiny in making sure that when protests and actual voters' names are being submitted, that there might be a little bit more of a threshold that you would have to meet before doing this."

Phillips said he's concerned about complaints in which voters were identified mistakenly as felons.

"There has been some damage to them," Phillips said. "You hate to see that."

Cohen said another inaccuracy occurred when a voter was accused wrongly of voting twice. The voter cast a primary ballot in Maryland earlier this year, then moved to North Carolina, legally registered, and voted here, Cohen said.

Equipment and technology are issues, too.

Technical glitches in tabulators used in early voting and one used on election day resulted in tens of thousands of Durham County's returns coming late in the night. Durham County is heavily Democratic, which helped to flip the advantage in the governor's race from McCrorry to Cooper as votes were tallied statewide.

"One thing that would help would be for Durham to replace all their voting equipment," Cohen said.

Durham County, Cohen said, should have granted McCrorry's request to hand count their ballots.

"Asking for a hand-count in Durham, I think that's fair," Cohen said, adding that counting the ballots by hand could be done expeditiously and fairly.

Pat Gannon, a spokesman for the State Board of Elections, said that state law already gives the Durham County board discretionary authority to conduct such recounts.

"The county board of elections or the State Board of Elections may order a recount when necessary to complete the canvass in an election," state law says.

"They could do it if they wanted," Gannon said.

Hand-counting ballots, said Orr, would add certainty to the election process.

"There's a growing lack of confidence, correctly or incorrectly, in the electoral system," Orr said.

Phillips suggested pushing back the vote canvassing from 10 days after the election to 15 or 18 days after election day. That would give local boards more breathing room in verifying people who registered and voted on the same day during the last days of early voting, Phillips said.

Orr suggested tightening the voter registration process.

"To me there needs to be a better review of what's an appropriate process to register," Orr said. For example, when people are registering to vote at the Division of Motor Vehicles workers aren't asking whether the address is a temporary residence.

"Having a slack approach may not make much difference in a race that isn't close," Orr said, but, in a close race, small problems are placed under the proverbial microscope. CJ

Governor's election timeline

Tuesday, Nov. 8

- Election night leaves the N.C. governor's race too close to call with Democrat Roy Cooper holding a slim 3,700-vote lead over incumbent GOP Gov. Pat McCrorry.

Wednesday, Nov. 9

- Democrat Roy Cooper claims victory in the early morning hours in one of the most competitive governor's races in the nation.
- Pat McCrorry, saying that tens of thousands of absentee and provisional ballots have yet to be counted, refuses to concede the race.

Thursday, Nov. 10

- The Pat McCrorry campaign committee announces it is establishing a legal defense fund to help pay for the GOP governor's expenses related to the post-election contest. The campaign cites voting equipment problems in Durham County.
- Roy Cooper's campaign sends out a news release referring to the Democratic candidate as the "governor-elect."
- The State Board of Elections advises all local boards to make sure they secure all ballots and records.

Friday, Nov. 11

- Thomas Stark, a Durham County voter and GOP counsel, files an election protest with the Durham County Board of Elections seeking a hand recount of approximately 90,000 ballots. The protest claims data from tabulation machines were faulty.
- Both campaigns ask supporters for more donations to fight the legal battles associated with the vote counting.

Monday, Nov. 14

- Cooper's campaign, in another fundraising blast, says the McCrorry campaign is "attempting to undermine the results of this election."

Tuesday, Nov. 15

- Bladen County voter and soil and water conservation supervisor candidate McCrae Dowless files a formal protest with the county elections board saying an absentee ballot mill was run in the county by the Bladen County Improvement Association PAC.

Wednesday, Nov. 16

- The McCrorry campaign expands its fraudulent absentee ballot protests to 11 additional counties — Halifax, Durham, Edgecombe, Franklin, Guilford, Nash, Northampton, Robeson, Vance, Wake, and Warren.
- The Durham County Board of Elections agrees to hold an evidentiary hearing on whether to recount ballots.

Thursday, Nov. 17

- The State Board of Elections announces that many county boards may not have their canvass completed by Friday, Nov. 18.
- The McCrorry campaign announces that protests are being filed in 50 counties, protesting votes by "dead people, felons, or individuals who voted more than once."

Friday, Nov. 18

- The Durham County Board of Elections votes unanimously to reject the Stark protest and refuses to order a hand recount.
- As more absentee and provisional ballots are counted, Cooper's unofficial lead grows to 6,600.

Saturday, Nov. 19

- The Cooper campaign calls the McCrorry complaints "frivolous," saying, "Governor McCrorry has no path to victory."

Sunday, Nov. 20

- The State Board of Elections meets by teleconference and agrees to take over the Bladen County protest, but declines to intervene in other protests.

Tuesday, Nov. 22

- McCrorry files a request for a statewide recount, which is allowed under state law if the second-place finisher is within 10,000 votes of the winner.
- The State Board of Elections instructs county boards to continue counting ballots and determine as many winners as possible. It also tells the local boards to flag and forward ballots that appear to be illegal.

Saturday, Nov. 26

- Stark appeals the Durham County protest to the State Board of Elections. In a press release, the McCrorry campaign says if a county recount yielded the same results as had been previously posted, the campaign was prepared to withdraw its statewide recount request.

Sunday, Nov. 27

- The State Board of Elections meets by conference call to take up the McCrorry-Stark appeal, but says it needs more documents from the Durham County board before deciding how to proceed.

Tuesday, Nov. 28

- As more counties complete their ballot counting, Cooper's unofficial lead increases to 9,806, nearing the 10,000-vote threshold needed to avert an automatic recount if requested by the second-place candidate.



Spellings discusses challenges after first year

BY KARI TRAVIS
Associate Editor

CHAPEL HILL

UNC President Margaret Spellings in an exclusive interview told *Carolina Journal* her inaugural year largely has involved crisis management — a skill she learned during her time as secretary of education in the George W. Bush administration.

But crisis hasn't prevented Spellings from devising a plan to make a UNC education more accessible, affordable, and accountable for students, she said.

Those goals are a reflection of her time at the U.S. Department of Education. In 2005 she organized the Spellings Commission on the Future of Higher Education, an effort to "elevate the issues in higher education — where we were doing well, and where we were falling back," said Spellings, elected to her seat by the university's Board of Governors just more than one year ago.

"I see some analogies between using that platform to talk about those things and using this platform. And, frankly, there's a hell of a lot of similarity between that work 10 years ago

and now. Those same things are still resonant."

Many parallels exist between her time at Education and her experience at UNC thus far, though Spellings said there are days when it feels as if her job is solely focused on putting out fires across the system.

"This job is a lot more like being at the White House [than the Department of Education] in some ways," Spellings said. "Trying to stay focused on what you're trying to do, your own agenda, your own priorities, while also dealing with the NCAA, and murders, and students, and hurricanes. ... Sometimes it feels like you hardly have time to think about education because we're dealing with just about everything else."

Spellings' start at UNC began amid controversy Oct. 23, 2015, when she accepted the university's job offer. Faculty and student bodies from several UNC campuses reacted by staging a series of protests against her election, which, they said, lacked transparency and inclusion.

Such outcries have subsided, but other events have continued to demand tenacious leadership, Spellings said.

Among the toughest obstacles Spellings must tackle is the university's ongoing defense in a federal lawsuit over House Bill 2, the state legislature's so-called "bathroom bill," which says individuals in public buildings must use the restroom matching the gender on their birth certificate.

The U.S. Department of Justice brought its lawsuit against the UNC system in May 2016, two months after Spellings had taken up official residence in her Spangler Center office in Chapel Hill.

The university, which is not actively enforcing the law, is locked in an expensive battle with the DOJ; the case is set to go to trial in May, Spellings said.

(Editor's note: *CJ* interviewed Spellings before the Nov. 8 election of Donald Trump. Trump's running mate, Vice President-elect Mike Pence, has suggested the new administration may withdraw a letter from the Obama Department of Education saying LGBT protections apply at campuses that receive federal funding. This letter was used by the 4th U.S. Circuit Court of Appeals to force a Virginia public school to "treat

transgender students consistent with their gender identity," also placing enforcement of H.B. 2 in limbo while the lawsuits continue. The U.S. Supreme Court has agreed to hear a challenge to the 4th Circuit decision in its current term, but if the Trump administration withdraws the letter, then transgender students may not have a legal justification to demand access to public accommodations based on gender identity, and the litigation between UNC and DOJ could end, undermining other legal challenges to H.B. 2.)

Despite the complications, Spellings has her sights set on moving UNC forward and allowing all 16 schools to play to their strengths.

The system's Historically Black Colleges and Universities will continue to be important for North Carolina, Spellings said. Those institutions are critical to UNC's mission, she said, and she won't consolidate campuses.

"If we're trying to find places where first-generation students can feel comfortable, feel supported, be successful, see themselves fit in, find opportunity, and find people that look

Continued as "Spellings," Page 13

Spellings: Goal to optimize strengths of each campus

Continued from Page 12

like them, then those are the exact places they're going to find that," she said.

Tuition cuts enacted by the state legislature for three campuses, including low-performing Elizabeth City State University, are a first step toward improving student achievement, but much more must be done, Spellings said.

ECSU has in recent years suffered declining enrollment, a budgetary crisis, program cuts, and job eliminations. But it's the only HBCU that is truly struggling, she added, pointing to North Carolina Central University and North Carolina A&T State University as institutions that are performing well and "killing it."

Still, she said, optimizing strengths of each university will be a key to greater success, especially for ECSU.

"What is our niche? What is our place of strength in those institutions? ECSU has an amazing aviation program. They're sitting there on top of the Coast Guard. They're [at] one of the most valued estuaries in the nation. They've got a lot of assets.

"I think that we need to get off this HBCU, 'yes or no' question," she said. "We're asking the wrong question. We need to ask, 'What do we need, where do we need it, at what price, for whom, and who's doing it?'"

Research programs at all 16 universities will play a key role in helping schools develop their particular strengths, but, she said, North Carolina State University and the University of North Carolina at Chapel Hill will continue as the only flagship doctoral schools in the system.

Those universities, registered by the Carnegie Classification of Institutions of Higher Education as R1 schools — which are among 115 institutions with the highest research activity in the United States — have the ability to draw federal funding to the system. That capacity makes N.C. State and UNC-Chapel Hill great assets, but it doesn't dictate a need to transform any of UNC's other schools into R1 universities, Spellings said.

"What we need to do, instead of thinking that we need to be all things to all people everywhere, is, 'What can we uniquely do, each of us, very, very well?'"

That said, lower-level research programs at all universities in the UNC system are critical to attracting and retaining accomplished faculty who will help students excel.

"We know that students who have research and other undergraduate experiences tend to stay engaged in college and complete their degrees. That's an evidence-based practice. So we don't want research to be happening just in particular places while every other university is a teachers' college."

Development of online learn-



UNC President Margaret Spellings speaks with UNC Board of Governors Chairman Lou Bissette during a meeting of the board in March. (CJ photo by Kari Travis)

ing will also play a key role in UNC's growth and student success, Spellings said, noting that her technology task force will deliver an assessment by the end of this year.

"Right now we have kind of 'a thousand flowers blooming' approach to technology. If I'm a faculty member and I decide I want to develop something that's an online product, [I can], and there's a lot of ... proliferation of online courses."

However, Spellings said UNC online is an unorganized smorgasbord of classes and lacks a system for tracking student activity or outcomes.

Even for students familiar with online learning platforms, UNC's is confusing and must be fixed, she said.

"Get on the damn [website], see if you can figure it out. I certainly can't," she joked. "So we've got to be a lot more deliberate about what we're putting out there, and for whom, and that's why I've developed this task force, because there are a whole lot of unanswered questions."

UNC's online learning program must target an audience that can thrive through distance learning, Spellings said. That audience likely would be made up of returning students, vet-

erans, and others who have the motivation and skill to propel themselves with less supervision.

"The issue is: Who are those students who can use technology effectively and efficiently in a cost-affordable way? We need to parse out those connections," she said.

Efficiency and affordability are continuing points of emphasis for Spellings, who says UNC must boost transparency and trim the red tape that has created a tangle of administrative compliance rules.

"Let's just say what we want our CEOs to do, and what our expectations are, and get out of their hair. The idea that I sit up here and sign approval after approval after approval, you know, 'Mother may I?' If we discontinued that process on all manner of things, [our leadership] would be thrilled."

University compliance measures add unreasonable costs to an already massive bill for public higher education, Spellings said.

The president's ultimate goal is to toss out as many unnecessary rules as possible.

"It's going to be a good value for the taxpayers because we're spending an enormous amount of money on higher education," she said.

"We're so command and control. That's the way we think around here," she concluded. "We need to be more transparent, have more consumer information, and then we need to provide incentives, whatever they look like," including deregulation. "It doesn't even have to cost money." CJ



UNC President Margaret Spellings was greeted by LGBT protesters at her first UNC Board of Governors meeting in January. (CJ photo by Kari Travis)

Council of State makes historic switch to Republican control

Continued from Page 1

allowed when the difference between the top two candidates in a statewide race is fewer than 10,000 votes.

Though the governor's and auditor's contests were close, in all the other races, the winning candidate had at least a 24,000-vote cushion.

Two-term Insurance Commissioner Wayne Goodwin and three-term Superintendent of Public Instruction June Atkinson, both Democrats, lost in the unofficial returns.

Republican Mike Causey led Goodwin by 45,000 votes, and GOP candidate Mark Johnson — who, at age 33, was not born when Atkinson started working for the Department of Public Instruction in 1976, had a 55,000-vote lead over the incumbent.

David McLennan, a political science professor at Meredith College, said the majority swing on the Council of State was unexpected.

"A lot of times people don't know the Council of State members, and to see someone like June Atkinson go down was kind of surprising," McLennan said. "To see the treasurer's office flip to Republican — I know Cowell wasn't on the ballot — was kind of interesting."

An oddity is that, he said, "You normally think that the governor is the one who has the coattails down the ballot, but it didn't appear that way" with Cooper's potential victory.

The flip might have something to do with the General Assembly's elimination of straight-ticket party voting in 2013. "That's why I think straight-ticket voting was popular in North Carolina," McLennan said, because unknown candidates for unfamiliar positions automatically would receive their party members' votes.

Eliminating that provision "forced more people to go race by race. It appears to have hurt some incumbents," McLennan said.

"It was a good night for Republicans," said N.C. State University political science professor Andy Taylor. But it's "really interesting down ballot."

Democrats are poised to win the two biggest statewide races in governor and attorney general, while Republican U.S. Sen. Richard Burr and GOP presidential nominee Donald Trump outperformed McCrory in their wins.

"It's unclear to me what this message means for state politics. It's pretty



Republican Dale Folwell, left, defeated Democrat Dan Blue III in the race for insurance commissioner.



Republican Mike Causey, left, defeated two-term Democrat Wayne Goodwin in the insurance commissioner race.



Republican Mark Johnson, left, defeated three-term Democrat June Atkinson in the race for state superintendent of public instruction.



clear what it means nationally," Taylor said.

A rematch of the 2012 battle for lieutenant governor, in which Republican Dan Forest defeated Democrat Linda Coleman by 7,000 votes, was not much of a contest. Forest won a second term by a 300,000 vote margin, 52 percent to 45 percent, with Libertarian Jacki Cole getting 3 percent.

Incumbent Republicans Steve Troxler and Cherie Berry easily won new terms for agriculture commissioner and commissioner of labor, respectively.

Troxler, who has been in office since 2005, received 56 percent of the vote against Democrat Walter Smith. Berry outpolled Democrat Charles Meeker 55 percent to 45 percent to win her fifth term.

Incumbent Democrat Elaine Marshall won a sixth term as secretary of state. Marshall had 52 percent of the vote against 48 percent for Republican Michael LaPaglia.

In the race to replace Cooper as attorney general, Democrat Josh Stein led Republican Buck Newton by 24,000 votes, 50.2 percent to 49.8 percent

"I'm excited for the opportunity to go make a change," Johnson said at Burr's victory party in Winston-Salem. "More of the same is not the only option, and North Carolinians spoke

loud and clear."

Johnson said he was "humbled and honored by their choice, and I'm excited to get to work. I thank June Atkinson for all the work she's done, and I'm ready to go to Raleigh and go to work."

Joe Stewart, executive director of the N.C. FreeEnterprise Foundation, said some analysts attributed Atkinson's loss to a backlash against incumbents coupled, ironically, with rhetoric from the Left. "The Democratic strategy that talked so insistently that public education was so poor in the state" actually may have "cost Atkinson her job," he said.

"[P]eople understood that they need someone to attack problems, and my reputation is to attack problems," said Folwell, who also was at Burr's election-night celebration at the Forsyth Country Club.

"The next state treasurer's going to make a generational difference in North Carolina, and it's not because of politics, it's because of mathematics," Folwell said.

"The state treasurer is the keeper of the public purse, and inside that purse is the health care and the pension for almost a million North Caro-

linians, and it really highly impacts the rest of the taxpayers in North Carolina," he said.

"The mood of the people was that they didn't realize that there were tens of billions of dollars' worth of IOUs in a can that had been kicked down the road regarding these pension and health care liabilities, and I brought sunshine to that issue," Folwell said.

While noting that the last time a Republican was elected treasurer was in 1876, Folwell downplayed party affiliation. The state treasury belongs to all people regardless of political party, he said.

He said when he assumes office he will keep a campaign promise to meet immediately with investment managers responsible for large portions of the pension and health plan portfolios "to find out where the money is, who's managing it, how good they are at what they do, and how much they get paid. These are all going to be open meetings."

Folwell said another priority will be to determine how to make the State Health Plan more affordable, especially for young families.

He intends to strengthen the Local Government Commission with resources to work with cities and counties to "look at their ability to issue and repay debt." That is vital in an environment with interest rates at or near zero percent, Folwell said. "You've got to be very cautious about what you're doing, and we want to preserve and strengthen that."

Folwell also plans to increase transparency by holding a formal press conference once a month, hoping to establish an open dialogue with reporters.

Elimination of straight-ticket voting on the statewide ballot may have contributed to the GOP switch

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Legislature may allow cities to expand municipal broadband

BY BARRY SMITH
Associate Editor

Municipal broadband supporters are gearing up to change a law passed in 2011 that restricts how cities and towns in North Carolina can provide cable and internet services, even though the law recently was upheld by a federal appeals court.

The law limits the ability of municipalities to operate broadband service in direct competition with private providers. Its regulations include requirements that cities make payments in lieu of taxes that would be equal to the amount a private provider would have had to pay. It also forbids municipalities from subsidizing their broadband operations from general tax revenue or other sources and requires the municipality to get the approval of voters via referendum before it can begin offering broadband service.

The Federal Communications Commission issued a rule last year that pre-empted the North Carolina law and a similar one in Tennessee, but the 6th U.S. Circuit Court of Appeals ruled in August that the FCC lacked the authority to issue the rule. Now, state lawmakers want to change the law and let municipalities in small towns and rural areas compete with private providers.

Rep. Susan Martin, R-Wilson,

who says the law should be modified to allow rural areas to be more competitive, said the legislature's focus would be two-pronged. The first would deal with the expansion of Wilson's Greenlight service outside of Wilson County — a move that was invalidated by the federal court's decision.

The second, broader change would seek to bring private providers to the table with municipal providers and state officials to forge an agreement to provide high-speed broadband in areas lacking the service, Martin said.

"There are people who were immediately added to the network who are now, according to North Carolina law, required to be taken off the network," Martin said. "We don't want to disconnect people."

The 2011 state law set geographic restrictions for the municipal broadband systems and made provisions for systems such as Wilson's Greenlight to continue operating.

After the FCC adopted the rule pre-empting North Carolina's law, Greenlight started service to nearby Pinetops in Edgecombe County and

some other areas outside of Wilson County, violating the portion of the law that prohibits towns from offering broadband service outside their corporate limits.

The 6th Circuit's ruling barred Greenlight from charging for service it provides outside the territorial limits of Wilson County. But it didn't stop Wilson from offering the service to Pinetops residents for free, which it has.

"The city has worked on a short-term solution of not charging, so they are in compliance with the law," Martin said. "So when we get back in session we'll try to do something that just addresses those impacted areas."

Steve Brewer, a lobbyist for CenturyLink, which provides DSL service in the area, said his concern is having a level playing field.

"It's difficult to face a competitor who does not have some of the same costs," Brewer said. "One troubling thing about this particular Pinetops situation is we were already providing a service. Here we've created a government provider for what the market was already providing."

Brewer said that while Greenlight was offering some higher internet speeds, most people weren't paying for the faster service.

"We are offering speeds that already exceed what the market is purchasing," Brewer said.

The second prong of the plan will be to bring together affected parties — including telecom providers in the private sector and the public sector — and develop a state broadband plan, Martin said.

"We need to have the technology available all across our state for all our citizens in the most cost-effective way that we can," Martin said.

Martin called broadband critical infrastructure.

"This type of broadband technology is becoming critical to the competitiveness of rural communities to provide high-quality education and not have a disparity," Martin said.

Brewer said private providers, such as CenturyLink, will continue to stress a level playing field.

"The devil is in the details," Brewer said, noting that a federal broadband program focusing on rural North Carolina is under way that is set to provide internet service to 75,000 to 80,000 households in areas with minimal or no service. The program is funded by grants from the U.S. Department of Agriculture to local telecom providers. *CJ*



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Opinion

UNC leaders should monitor underperforming degree programs

An unlikely champion of additional university oversight emerged during a meeting of the University of North Carolina system's Board of Governors.

During a discussion Oct. 13 about the board's long-term strategic goals, Fayetteville State University Chancellor James Anderson urged board members to increase scrutiny of degree programs that fail to attract and keep graduate students.

"You as the Board of Governors allow campuses to say, 'We have low-performing programs, but give us another two years to work on it.' If over the last several years you've had one major with one graduate, what makes you think that all of a sudden it's going to be in high demand and produce more graduates?" asked Anderson.

The chancellor says he's taking a bolder approach at FSU. "We're not going to fool around with this. Low-productivity programs have to go. I'm not putting resources into the low-productivity programs when I can put [them] into high-productivity courses," he said.

Anderson was referring to the biennial academic program review, which tasks the UNC system's General Administration with evaluating the efficiency of every degree program offered at the system's 16 schools. In



STEPHANIE KEAVENEY

total, the UNC system offers nearly 1,000 bachelor's degree programs, 700 master's programs, and 200 doctoral programs. The administration conducted its most recent review in 2014 and will initiate the new cycle soon.

Such reviews are designed to produce a list of "low-productive" degree programs.

Currently, the General Administration flags bachelor's programs that have produced fewer than 11 graduates in the past year, have a current upper-division enrollment of fewer than 26 students, and had fewer than 21 graduates in the past two years. The thresholds used to evaluate master's and doctoral programs are similar.

The board then has the authority to eliminate those programs, more closely monitor them, or allow them to continue if they are deemed vital to the mission of the university, of "high societal need," or necessary to deliver "access and opportunity" to minority students. As the Pope Center reported in 2014:

[Two hundred forty-seven] UNC system programs (undergraduate and graduate) were flagged as low-producing, but 200



of those were retained because the universities either had "plans to increase enrollment" or because the programs were related to the "core mission" of their respective university. Of the remaining 47 programs, 25 were flagged for a Board of Governors vote on discontinuation, and 22 were merged with other programs.

State law grants the board authority to "withdraw approval of any existing program if it appears the program is unproductive, excessively costly, or unnecessarily duplicative." In practice, however, the board has adopted a relatively loose oversight process, one in which individual campuses handle most of the decision-making.

When campus officials argue that some of their low-productive programs are critical to the success of their universities and to the state, the board often makes exemptions without debating the legitimacy of those claims. As such, it has become more difficult to eliminate some underperforming programs, and taxpayers remain on the hook.

Unfortunately, it doesn't appear the board is poised to make meaningful changes to the review process.

It recently approved a plan to pilot new thresholds that consider only the number of degrees awarded over five years, rather than the three-pronged approach using two years' worth of data. According to system leaders, this will result in roughly the same number of programs flagged for review.

Of course, giving some latitude to campuses makes sense, since department heads and other university leaders presumably have more intimate knowledge of the minutiae and the short- and long-term viability of their various offerings. But by granting too much leeway to university officials, system leaders have in some instances neglected their duty to the public — they've failed to curb the self-interest of faculty who control curricula and may sometimes have goals that don't align with those of their respective universities or with the system.

History shows that, in terms of its degree-review process, the UNC system's Board of Governors has at times been willing to yield to pressure from campuses. While the efforts of Chancellor Anderson should be commended, it doesn't follow that other chancellors in the system will adopt such a bold, reform-minded stance any time soon. As such, board members would do well to take greater ownership of the review process and ensure degree offerings are more efficient, and a more transparent accounting of their costs and benefits exists. CJ

Stephanie Keaveney is a policy associate at the John W. Pope Center for Higher Education Policy.

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COMMENTARY

New college rankings challenge status quo

Higher education reformers long have argued that colleges' selectivity in the admissions process reveals little about their educational quality and how well they prepare students for the work force and civic life. The *U.S. News & World Report* rankings, which have dominated the field for more than 30 years, are based heavily on schools' acceptance rates and students' standardized test scores. In this rankings paradigm, it's entirely possible for universities with robust curricula and/or high completion rates to remain unranked or otherwise receive limited mainstream recognition.

Fortunately, the conventional thinking about college rankings appears to be changing. In late September, *The Wall Street Journal* and *Times Higher Education* published a new ranking system which, while flawed in some ways, represents an improvement over the *U.S. News* framework. It shifts focus to students' post-graduation success, something which could help to provide more useful information to prospective students and their families.

The new rankings weigh factors in four broad categories: student outcomes, school resources, student engagement, and campus environment. Student outcomes — which in this system include graduation rates, "value added" to graduates' salaries, and students' ability to repay tuition loan debt — account for 40 percent of a school's total score.

Missing from the student outcomes category, unfortunately, are student learning outcomes. Currently, there is no widely accepted learning assessment in place, which perhaps isn't surprising given that the assessments and surveys that have been experimented with have revealed that many students are graduating unprepared for the white-collar work force, ignorant about basic science, and woefully uninformed about the elementary mechanics of American government. Universities may not be very eager to share such results with the public.

The remaining 60 percent of a school's *WSJ/THE* score is divided into three categories: resources, engagement, and environment.

The resources category includes factors such as student-to-faculty ratio, dollars spent per student, and faculty research productivity. The engagement score is based on a survey intended to gauge students' perception of faculty involvement, how well the school improves critical thinking skills, and whether students would recommend the school to their peers. The environment category measures the "diversity" of the student body.

Some of these metrics — student-to-faculty ratio and instructional spending, for instance — are more welcome additions than others, such as student diversity and faculty research productivity. Those metrics are, at best, tangentially related to student success and educational quality.

That caveat aside, let's delve into the new rankings.

Among North Carolina universities, Duke

University ranks seventh, UNC-Chapel Hill ranks 30th, and Wake Forest University, 54th. (For Duke and other traditionally "Top 20" universities, there isn't much variance between the *WSJ/THE* rankings and those of *U.S. News*. There are, however, significant changes in lower-ranked schools.) Only one other school, Davidson College, cracked the top 100. Nine other universities landed in the top 500.

Several notable universities rank significantly lower in the *WSJ/THE* rankings than in those of *U.S. News*. UNC-Charlotte, for example, fell 285 places in the new ranking, and East Carolina University landed 226 places behind its *U.S. News* rank. Wake Forest, UNC-Greensboro, and North Carolina State University also placed significantly lower in the *WSJ/THE* system.

While there is room for improvement in the *WSJ/THE* rankings, the renewed focus on student outcomes is an important step toward holding universities accountable for things that truly matter. Ultimately, though, these rankings' staying power, or lack thereof, will be determined by students, parents, and employers. CJ

Stephanie Keaveney is a policy associate at the John W. Pope Center for Higher Education Policy.



STEPHANIE KEAVENEY

COMMENTARY

Radical changes unlikely under new superintendent

The election of Donald Trump and the drama surrounding North Carolina's gubernatorial race have overshadowed down-ballot, comparatively low-profile Council of State contests.

Last month, Republican Mark Johnson narrowly defeated Democrat June Atkinson in the race for superintendent of public instruction. Johnson is an attorney, a member of the Winston-Salem/Forsyth school board, and a former public school educator. Atkinson worked for the N.C. Department of Public Instruction since 1976 and has served as state superintendent for the past 11 years.

Given the longstanding Democratic hold on the office, some conservatives have called on Johnson to overhaul North Carolina education policy unilaterally. But like other Council of State offices, the North Carolina Constitution places numerous constraints on the authority of the officeholder.

Indeed, the state constitution grants the State Board of Education — not the superintendent of public instruction — the power to "supervise and administer the free public school system and the educational funds provided for its support" and "make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly."

The lieutenant governor, state treasurer, and 11 appointed members of the State Board of Education, who are nominated by the governor and confirmed by the General Assembly, are voting members. The state superintendent is not. As the "secretary and chief administrative officer of the State Board of Education," the superintendent acts primarily as a liaison between public schools and members of the state board.

Currently, eight of the 11 appointed members of the State Board of Education, including the chairman and vice chairman, were appointed by Gov. Pat McCrory. The terms of the remaining three members will expire in March 2017. Lt. Gov. Dan Forest will continue to serve on the board, while Treasurer Dale Folwell will be seated in January. As such, Republican-supported members will retain a 10-3 advantage unless resignations occur or the legislature delays confirmation of

one or more gubernatorial nominations.

Additionally, large Republican majorities in the General Assembly ensure that the state will continue to advance common-sense education reforms, such as raising teacher pay, strengthening accountability, increasing educational options, granting school districts budgetary and operational flexibility, and boosting literacy in the early grades. Johnson and members of the state board generally support these efforts.

Aside from addressing mandates from the state board and the legislature, one of the more daunting responsibilities for the superintendent is leading DPI. It is no small task.

DPI is a complex department with several hundred employees who perform a wide variety of functions. The department oversees the state testing program, district and school finances, teacher licensure, digital learning, student information management, residential schools for the deaf and blind, research and reporting, academic standards and curricula, management of federal funds and grants, assistance to charter schools and the Achievement School District, and other tasks assigned by the state board and the General Assembly.

While state law dictates that the department is "[s]ubject to the direction, control, and approval of the State Board of Education," the board traditionally defers to the superintendent in staffing, budgetary, and organizational matters.

Constitutional and statutory handcuffs aside, state superintendents have a card up their sleeve — the power of the soapbox. In recent years, Atkinson has used her soapbox to criticize the expansion of private school choice for low-income and special-needs children, state spending on public schools, and other legislative decisions. Johnson is likely to use his soapbox much more prudently.

Without a doubt, Mark Johnson will bring a fresh perspective to the office of superintendent of public instruction. Just do not expect that perspective to translate into immediate, large scale changes to North Carolina education policy. CJ

Dr. Terry Stoops is director of research and education studies at the John Locke Foundation.



TERRY STOOPS

Ashley Smith exemplified 19th-century black entrepreneurship

Born into slavery either in 1850 or 1853 (census records differ), Ashley Smith remained in Smithfield after the Civil War. By the early 1900s, Smith was one of Smithfield's wealthiest property owners. He died Jan. 11, 1928. Smith called Johnston County home his entire life.

He married Eveline, also known as Lina, on Jan. 9, 1880. Ashley was approximately 27 years old and Lina, 20. From this union, Charles, known as "Charlie," was born in 1883. Charles later married Ella, and together they had two children.

Ashley Smith overcame pre-Civil War slavery and postwar segregation to become a local leader and man of considerable wealth. Throughout his life, Ashley Smith embodied the values of thrift and hard work and evidenced an entrepreneurial spirit.

Born a slave, he started working as a farmer and a laborer soon after the war's end and saved what he

could. (The 1870 census taker recorded Smith as illiterate.) In 1875, Smith bought his first town lot. Sometime before 1880, he bought a small farm outside Smithfield. He later acquired some town lots when he married Eveline in 1880. By 1885, Ashley Smith owned 36 acres and three town lots.

Smith continued tilling the land and managing a successful farm. In the late 1880s or early 1890s, he also constructed a two-story building in town. It served as the offices for numerous African-American businesses. According to *The Smithfield Herald*, a "lucrative profit" was made. Smith meanwhile opened a store in one of his buildings.

Johnston County residents admired Smith's "pluck, energy, perseverance, and close application to business." Others considered Ashley Smith's accumulation of property as evidence of good citizenship.

Possibly for these reasons, Smithfield residents during the 1890s

chose Smith to represent them on the Board of Town Commissioners. In an age of disruptive and contentious Fusion politics, Smith was one of nine commissioners (three black and six white) who requested federal inspectors to ensure that an honest election was held. This request angered many who feared African-American political influence.

Although some reports indicate that the Smiths fell on hard times, the evidence is not conclusive. Some accounts said the family's bad financial circumstances forced them to move to Harlem in New York City briefly. Charlie enlisted in the Army, perhaps to help make ends meet. Another account mentions that if Lina, a seamstress, had not opened a shop, the Smiths would have lost their home.

But a look at the General Index to Real Estate Conveyances of Johnston County mentions Smith's name in 975 transactions, with most occurring in the early years of the 20th

century. By the 1920s, the number decreased significantly, as Ashley Smith had sold \$31,840 of his property.

The 1915 Tax List mentions that Smith had \$14,800 in real and personal property and that he paid a total of \$19,592 in taxes, a significant amount even for today. So while it appears that Smith's financial situation was less stable, he remained successful overall in finding ways to make money.

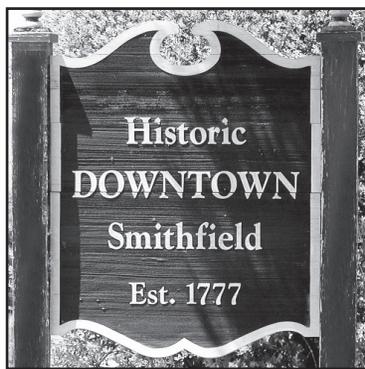
Although never famous by modern-day standards, Smith led an eventful and industrious life that his fellow Johnston County residents admired. His greatest accomplishment may have been providing an example of what a black property owner could achieve in a small town during a segregated late 1800s and early 1900s.

For more on Ashley Smith and post-Civil War African-American entrepreneurship, see Robert Kenzer, *Enterprising Southerners: Black Economic Success in North Carolina, 1865-1915* (Charlottesville, 1997), and *Ashley W. Smith File*, The Heritage Center, Smithfield. CJ

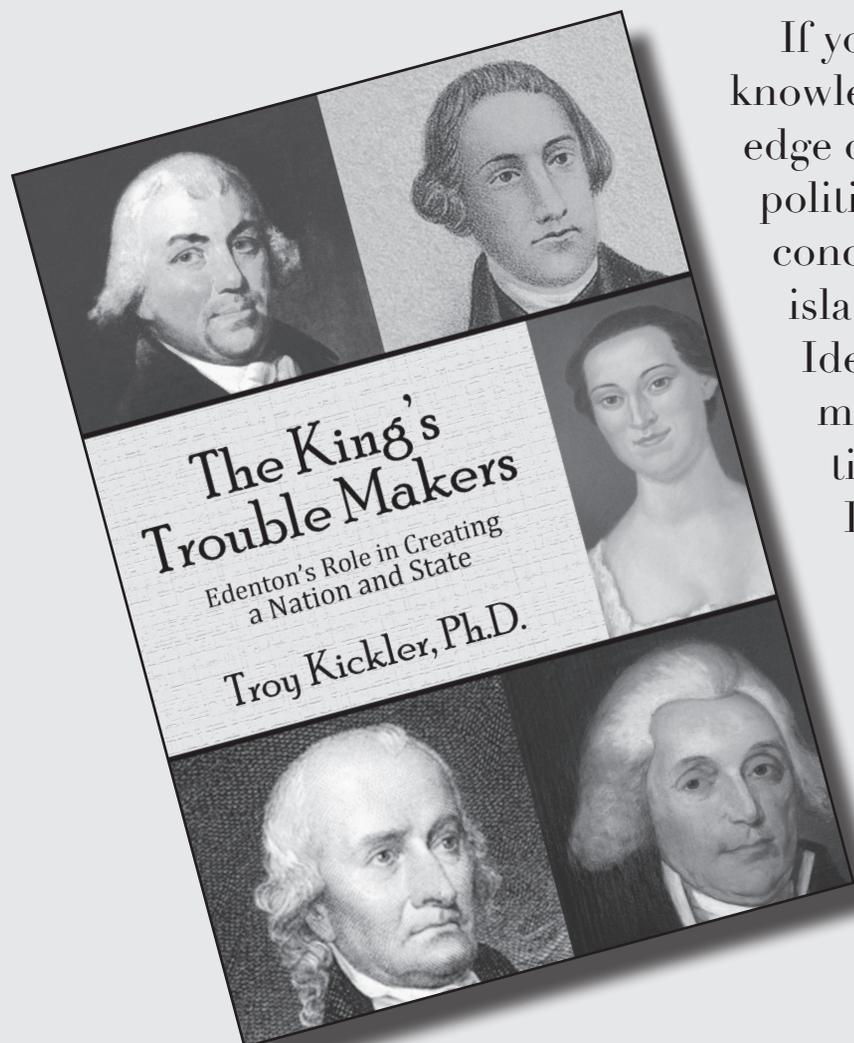
Dr. Troy Kickler is the founding director of the North Carolina History Project (northcarolinahistory.org).



TROY KICKLER



BOOKS BY JOHN LOCKE FOUNDATION AUTHORS



If you don't know about Edenton, North Carolina, your knowledge of U.S. history is incomplete and your knowledge of North Carolina insufficient. Organized women's political activity in America was born in Edenton. The concept of judicial review—that courts can declare legislative acts unconstitutional—was championed here. Ideas for a national navy and defense were implemented here. Many passages of the N.C. Constitution (1776) and the U.S. Constitution originated here. Leading proponents of the U.S. Constitution (a.k.a. Federalists) lived in this small place, and so did nationally known jurists and politicians.

Dr. Troy Kickler, founding director of the North Carolina History Project, brings Edenton, its people, and its actions into proper and full focus in his book, *The King's Trouble Makers*.

Go to northcarolinahistory.org for more information.

Lincicome: Political climate for free trade worst in several decades

By CJ STAFF

RALEIGH
Free trade took a big hit during the 2016 presidential election campaign. President-elect Donald Trump and Democratic candidates Bernie Sanders and Hillary Clinton all took aim at the impact of trade on the American economy. International trade attorney Scott Lincicome offers a different perspective. A visiting lecturer at Duke University and adjunct scholar at the Cato Institute, Lincicome touted free trade's benefits during a speech earlier this year for the John Locke Foundation. He discussed the issue with Mitch Kokai for Carolina Journal Radio. (Head to <http://www.carolinajournal.com/radio/> to find recent CJ Radio episodes.)

Kokai: We've been hearing quite a bit more about trade, and the impact of trade, than we have in recent campaigns ... probably more for the wrong reasons than you'd want to hear.

Lincicome: Yes. Unfortunately, we're not hearing about free trade because all of the presidential candidates are out there cheering it. It is, without a doubt, the worst political climate for free trade in the last few decades. That has demonstrated kind of the collapse of what we call "the pro-trade consensus," in American politics at least, in favor of open trade and free-trade agreements.

Kokai: And, in fact, if people haven't been following this very closely, you could look back just a couple of decades ago, and both major parties supported free trade. Now both major parties have major people who have questions or outright concerns or hostility to trade.

Lincicome: Yeah. And it's not even a few decades. I mean, really, the pro-trade consensus goes all the way back to the 1940s. You know, the establishment of the global trading system — through the General Agreement on Tariffs and Trade, what we now call the World Trade Organization — was begun by Secretary of State Cordell Hull as part of the FDR administration. The WTO was created to foment a global stability in the trading system, to avoid the kind of trade wars, and tit-for-tat protectionism, that led to real wars.

So, you know, looking back through the last few decades, you saw not just Democrats, but also Republicans. President Kennedy was a huge free trader, to President Reagan, obviously. And then, of course, lately, both Presidents Bush, President Bill Clinton, and even President Obama has come around on trade, now supporting the Trans-Pacific Partnership free-trade agreement.

Kokai: Now, with all of the discussion about free trade, what

"[W]hen you impose protectionist trade barriers, and you raise the price of goods — and typically, that's the result of lobbying by well-connected industries and their lobbyists in Washington, D.C. ... When those prices go up, who gets hurt the most? Well, again, it's the poor and middle-class consumer. These are American families."

Scott Lincicome
Adjunct Scholar
Cato Institute



should people know about trade and its impact?

Lincicome: Sure. I think the thing that we miss in today's debate is a very simple understanding of what trade really is. Political candidates, in particular, talk about trade as if it is this zero-sum battle between countries. So China is doing this to America, and we're losing. You hear that a lot, especially from Donald Trump. We're losing at trade. Well, this actually fundamentally misunderstands what trade is.

The fact is that trade is simply a voluntary economic transaction between individuals, not between countries. And it's done on that individual basis. Protectionism, on the other hand, is when the government gets in the way of that transaction. That can be, whether it be between us here in Raleigh and someone in Durham, or someone in Washington, D.C., or someone in China. The only thing that changes there is the border you're crossing.

We lose sight of that because instead of talking about this very basic thing — you know, individuals entering into voluntary, mutually beneficial transactions — we talk about it in terms that are obfuscating that very simple reality.

Kokai: One of the things that seems to be a problem in the discussion about trade is a move away from the focus on the consumer. When we have free trade, the ultimate beneficiary tends to be the consumer, doesn't it?

Lincicome: Yeah, dating back to [18th-century classical economist] Adam Smith. That's another fundamental misunderstanding about trade. Really, the blame falls on free traders — at least free traders in politics and in the business community. They always have tried to sell trade through

an obsessive focus on exports and on opening foreign markets through reciprocal free-trade agreements. Well, that paints trade as, again, kind of a zero-sum mercantilist game, in which our big corporations are trying to export lots of goods and services to other countries.

But like you said, the biggest beneficiaries of trade are consumers. In fact, a recent study showed that about 90 percent of the consumer gains to trade go not to big multinational corporations, but to poor and middle-class consumers. You know, again, if you step back and stop talking about the numbers, and you think about this, it makes good sense.

Poor and middle-class consumers have very tight budgets, and they shop at places like Walmart and Target, and buy imported goods. So when the price of that good goes down, they have more money, more wealth, really, because they can stretch their budget further.

So when you impose protectionist trade barriers, and you raise the price of goods — and typically, that's the result of lobbying by well-connected industries and their lobbyists in Washington, D.C. — the result is higher prices. When those prices go up, who gets hurt the most? Well, again, it's the poor and middle-class consumer. These are American families.

The other thing that we miss is consumers also mean businesses. About half of everything we import are things used by American manufacturers to produce other goods and remain globally competitive doing so.

So when you raise the price of things like steel, well, that means refrigerators and automobiles get more expensive. It also means that those refrigerator producers or auto producers might look to move offshore, where they can get cheaper inputs ... or, of course, better tax or regulatory policy.

Kokai: You mentioned earlier that for years and years, decades in fact, major players in both major parties saw the benefits of trade. What happened, and how do we get back to the right situation?

Lincicome: How we get back is a very difficult thing. But we can really pinpoint how it happened. It started in the late '90s with the Democratic Party. You really saw the party of Bill Clinton move sharply away from support for free trade. And if you look at the Democratic Party platform, in fact, from about '96 to 2008, it went from support of free trade to, basically, parroting the anti-globalization movement.

They certainly deserve some of the blame, as does President Obama, really. Although he's pushing the TPP today, for his first six years or so, the president condoned discreet protectionism, imposed a little bit of his own on Chinese tires and other things, and really never spent any political capital defending free trade.

It's only been recently. The president is kind of the guy for that job because he represents the nation as a whole. And so, by abdicating that, you saw a vacuum that no one really filled.

But then, finally, there really needs to be blame placed on pro-trade advocates in Congress and in the business community that failed to explain the full picture of trade — about the benefits of imports, not just exports; about the morality of trade and the immorality of protectionism.

By leaving these things out, they essentially sow the seeds of their own destruction. Trade, I joke, is the only issue I've ever heard of where the good guys, the free traders, not only concede the bad guy's arguments, but actually implicitly support them through their own rhetoric — talking about trade surpluses and export promotions and so forth. So when you do that, it really makes it difficult to win the rhetorical battle.

COMMENTARY

An accurate picture of minimum wage debate

In modern-day America, labor unions always support increases in the minimum wage. And the minimum wage increases always have one effect: They price their competition out of the labor market.

Now, of course, the unions' stated motives are benevolent, even altruistic. They typically argue out of a "concern" for the downtrodden. They claim that no one should have to work for less than "a living wage" and that workers in the lower-paid trades and services are being exploited by greedy employers.

But regardless of stated motives, minimum wage laws, in fields where lower-skilled workers compete with higher-skilled workers, price lower-skilled workers out of the market.

Imagine a contractor needs to have a house painted. I choose house painting because this is an area where one might find a significant difference in the skill level among workers. It's also an occupation that is often unionized. (This also could be true of restaurant, grocery, or department store workers.)

So imagine that the contractor is faced with two options. One is to turn to the local painters union and hire two skilled and experienced union painters who can do the job

in two days. If the union scale is \$25 per hour, it will cost the contractor \$50 an hour to hire the union painters. Let's call this option A.

Now assume that this contractor has an alternative, option B. A group of four recent high school graduates, working together, are trying to earn a living painting houses. Because these neophytes are less experienced and less efficient than the union painters, it will take all four of them to do the same job in the same amount of time, two days, as the union painters. But because they are not as skilled as the union workers, they are charging \$12 each per hour for their services.

Given that the contractor must pay either \$50 an hour for the union workers or \$48 an hour for the less experienced nonunion painters, his

choice is clear. He will save \$2 an hour by choosing option B. In other words, the lower-skilled painters are competing successfully with the higher-skilled union painters by charging less, an amount commensurate with their lower skills. They are less efficient, but they are offering the contractor what economists call a compensating difference in their wage.

Assume that the painters' union notices that this is happening frequently, and union painters decide they have to do something about it — something that doesn't include lowering their pay scale by a couple bucks to be more competitive.

The union leaders contact their lobbyists in Washington, D.C., the state capital, or at city hall and explain what's going on. They begin a lobbying and public opinion campaign, which includes picketing contractors decrying the exploitation of these poor workers and proclaiming the injustice of paying anyone less than \$15 an hour.

After all, everyone deserves a living wage. And heck, some contractors join the effort because they are hiring the \$25 per hour workers and find themselves being outbid by contractors who are choosing option B.

So the unions succeed in their altruistic cause and get the minimum wage raised to \$15. What would happen? Not only would the young upstart painters be priced out of the market — at the \$15 minimum option B is now \$60 an hour — but also the union can (coincidentally, of course) raise its wage as high as \$30 an hour. Even better, the union ends up being patted on the back by progressive nonprofits and self-styled advocates for the poor who care about social justice.

One last point I forgot to mention — these nonprofits, again coincidentally, receive large contributions from the painters union. CJ

Dr. Roy Cordato is vice president for research and resident scholar at the John Locke Foundation.



**ROY
CORDATO**



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EDITORIAL

'Court-packing' fact check

When it comes to plans to pack the N.C. Supreme Court with new members, the John Locke Foundation instigated nothing. Yet frenzied left-of-center partisans and even some mainstream media outlets fingered JLF as the source of an idea that circulated within the political chattering class in the wake of the Nov. 8 election.

Here are the facts: Shortly after Superior Court Judge Mike Morgan's upset victory over incumbent Associate Justice Bob Edmunds, rumors of a Supreme Court expansion started swirling through N.C. political circles.

Edmunds is a Republican. Morgan is a Democrat. Morgan's win ensured that a nominally nonpartisan Supreme Court would shift from a 4-3 GOP majority to a 4-3 majority favoring Democrats.

On the morning of Nov. 10, a JLF and *Carolina Journal* staffer spoke with a television reporter who mentioned a rumor that legislative Republicans might want to expand the Supreme Court to help shift its majority back toward the GOP. A newspaper reporter involved in the same conversation also had heard the rumor.

Shortly after noon that day, a reporter from one of the state's largest newspapers emailed the JLF staffer. The reporter asked whether lawmakers would need a constitutional amendment to expand the Supreme Court. The message concluded: "Sounds like that is being considered as a possibility for any Hurricane Matthew relief special session to take away left-leaning 4-3 advantage on the court."

Perusing the N.C. Constitution, the JLF staffer was surprised to learn that Article IV, Section 6 specifically authorizes lawmakers to expand the Supreme Court by up to two additional justices.

After answering the newspaper reporter's email, the JLF staffer assumed anyone else who had heard the rumor would like to know the facts. He posted the information at *CarolinaJournal.com*, noting "speculation about such a move."

The online item offered no hint of any concrete plans to expand the high court. More important, the piece said nothing about the John Locke Foundation's stance on the issue.

A handful of media outlets contacted the staffer and asked about JLF's position. They learned that the organization had taken no stance. They also learned that the JLF staffer responsible for the online news item thought court expansion was an idea that "would create more problems than it would solve."

Other media outlets and left-leaning advocacy groups weren't as diligent in their investigations. In their reports, the John Locke Foundation became the initial source of the court-expansion idea. Some said JLF had instigated the plan, actively arguing in favor of adding two justices to the Supreme Court.

This characterization was false.

Whether the initial court-expansion rumors lead to any substantive action or not, the incident reminds us of an important lesson: A reporter who refuses to check his sources is liable to get the story wrong. CJ

EDITORIALS

States keep control

Trump could be boon for federalism

As we go to press, it looks as if Roy Cooper's slim election-night lead over Pat McCrory could be confirmed. But we can tell you who lost the election: liberals hoping that a Gov. Cooper would resolve several key issues in their favor.

Consider Medicaid expansion. For years, the Left demanded that McCrory and the Republican-controlled legislature implement the largest and most expensive part of the Affordable Care Act: expanding Medicaid to hundreds of thousands of North Carolinians, many with incomes well above the poverty line.

But a President Donald Trump and a Republican Congress are likely to write a new and quite different health care bill next year. For example, if the bill turns all or part of Medicaid into a block grant — capping its cost over time while allowing states to use the money in a variety of ways — that will transform the Medicaid debate in North Carolina.

Now consider House Bill 2. Whatever you think of its merits, both its legal context and its political context have been changed by the election results.

The most extreme position on transgender access to bathrooms, showers, and locker rooms in gov-

ernment buildings was neither the Charlotte ordinance nor House Bill 2. It was the Obama Justice Department's bizarre directive to school systems across the country based on its reading of the sex-discrimination protections of existing federal law, particularly Title IX. Obama's position outlawed the reasonable accommodations that many schools had worked out to balance the privacy interests of all their students, faculty, and visitors.

We doubt that the Trump administration will interpret Title IX the same way. They could withdraw the previous "guidance" letter and issue a new one. That, in turn, would either render moot or change dramatically the legal arguments being made in challenges to House Bill 2 and other state policies on the subject. The previous assumption that all or part of H.B. 2 was destined for destruction in federal court is dissipating.

Regardless of the final resolution of the gubernatorial contest, North Carolinians will work out our own approaches to medical assistance for the poor and to reasonable accommodations of sex and gender differences in government facilities. Washington won't be dictating the answers to these questions. *CJ*

New voice for students

Mark Johnson offers a fresh perspective

In a real shocker, three-term Democratic state school Superintendent June Atkinson lost her re-election bid to Winston-Salem/Forsyth school board member Mark Johnson by more than 50,000 votes.

At age 33, Johnson had not been born when Atkinson began working for the Department of Public Instruction four decades ago. Indeed, Atkinson made light of the age difference in a somewhat bitter post-election interview with WRAL.

"He doesn't have a background," Atkinson said. "So, it's like, how do I teach or how do I help a person who is an infant in public education to become an adult overnight to help public education in this state?"

Perhaps that condescending attitude gave voters a reason to pick Johnson. The early signs are favorable, as Johnson promises to offer welcome relief to those students, teachers, parents, and local officials who have been frustrated by DPI's top-down policymaking. He is much friendlier

than his predecessor to parental choice options such as charter schools and opportunity scholarships. He favors devolving more control to local school districts. And as a veteran of the Teach for America program, he has fresh classroom experience and should understand contemporary challenges in public schools.

While the policymaking duties of the superintendent are limited — North Carolina's Constitution invests those powers in the State Board of Education — the superintendent oversees hundreds of employees and administers the state testing program, academic standards and curricula, assistance to charter schools, and other crucial matters.

The superintendent also has the bully pulpit for North Carolina's public schools. For the first time in decades, that voice will belong to someone who's not beholden to bureaucrats in Raleigh. Here's hoping Mark Johnson will use that voice wisely. *CJ*

COMMENTARY

Voters send clear tax message

When North Carolina voters in 17 counties cast their ballots this year, they had the option of voting "yes" or "no" for proposed increases in local sales or property taxes. In effect, however, voters in all 100 counties got their say on tax policy. The message most sent was unmistakable: Don't raise taxes.

First things first. There were 17 tax-hike referendums on county ballots. In 14 counties — Bladen, Carteret, Clay, Cleveland, Graham, Henderson, Jones, Mitchell, Pasquotank, Rockingham, Rutherford, Stanly, Stokes, and Swain — voters were asked to raise the sales tax by a quarter-point. In all 14 counties, voters said no, often by large margins. In Gates County, voters also said no to a supplemental property tax for school construction.

In the final two cases, the trend went the other way. In Halifax County, voters approved a supplemental property tax for schools. And in Wake County, voters approved a half-cent hike in the sales tax for public transportation. But neither margin was overwhelming. In fact, in populous and Democratic-trending Wake — where 57 percent opted for Hillary Clinton and 60 percent picked Roy Cooper — the transit tax passed with only 53 percent of the vote.

Speaking of Clinton and Cooper, taxes weren't just on the ballot as local referendums. The races for president, governor, lieutenant governor, U.S. Senate, and state legislature all featured lots of advertising, debate, and media coverage about the issue. In dozens of state legislative races, for instance, Democratic challengers attacked Republican incumbents for slashing taxes too much over the past six years and promised to rescind at least some of the tax cuts to pay for more state spending on education, health care, or unemployment benefits.

In the vast majority of contested races, North Carolinians opted for the candidate least likely to raise their taxes or most likely to cut them.

But what about Cooper? He

significantly outpolled most of the Democratic ticket, essentially tying with Pat McCrory in the race for governor despite the general Republican tilt of the election. Does that constitute a contrary signal about public opinion on taxes?

No. Cooper did not promise to rescind any of McCrory's cuts in personal, corporate, or payroll taxes. Indeed, he pointedly refused to endorse any increase in state tax rates, even when asked repeatedly about the question by debate moderators and reporters. If he had, I would submit, Cooper would have lost lots of votes from among the suburban and rural voters who split their tickets between him and GOP candidates for other offices.

Fiscal liberals often accuse fiscal conservatives of an unjustified fixation on the tax issue. They are mistaken. Elections are about bestowing the government's coercive power to tax, spend, and regulate on particular leaders. At stake are the core questions of how much to use those powers and to what ends.

Since 2010, state Republicans have chosen to shrink the size and scope of government. They've cut taxes by billions of dollars. They've kept budget growth at a modest pace, which has reduced the size of state government relative to the state's economy to a projected 5 percent of gross domestic product next year, down from an average of about 6 percent of GDP when Democrats ran the legislature. Republicans also have won control of most of North Carolina's county commissions and put a similar check on local taxes and spending.

In 2016, voters defeated almost all tax hikes on the ballot. And when there was a clear contrast between candidates on taxes and spending, the fiscal conservatives usually won.

Of course, North Carolinians believe in spending money on core services. But most favor doing so by setting priorities, not raising taxes. *CJ*



JOHN HOOD

John Hood is chairman of the John Locke Foundation.

MEDIA MANGLE

*Use discerning eye
consuming media*

President-elect Donald Trump is right. Reporters, as he often intimated throughout his successful campaign, are biased. But not in the ways you may think. Or in ways in which politicians and pundits have led you to believe are true.

News organizations lean one way or the other because they're a reflection of their readers and communities, so to speak. Reporters and editors are, at their cores, inherently flawed humans yet free-thinking individuals. Editors and reporters decide which stories to write and which angles to pursue. They'll decide which sources to use and which sources to quote. One reads *The New York Times* because he expects certain insights and perspectives. Same goes for readers of *The Washington Times* or people who rely on Fox News.

That said, the goals for any news organization or group should be fairness and truth. But that isn't always the case, and it's a problem.

Politicians, and many Americans, in general, refer to this eclectic collection of reporting and opinion as the media, an imagined entity.

No such media collective exists.

Sure, national papers and network and cable news outlets dominate the airwaves and the myriad avenues for social media, and most people have unlimited access to an incessant cacophony of news, opinion, and speculation. At *Carolina Journal*, we cover government from a fair and honest perspective, and we appeal to people who believe in liberty and free markets.

During the campaign, Trump and Hillary Clinton got continuous coverage, although one study says Trump got much more. And that coverage isn't what one would call good.

The right-leaning Media Research Center found that, since July, Trump had received "significantly more broadcast network news coverage than his Democratic rival ... but nearly all of that coverage (91 percent) has been hostile," the group's website says.

Trump was undoubtedly the focus of what the study's authors classify as negative coverage, but did it sway individual perceptions about the candidates? Of course not.

It's my hope people continue to wade through the clutter, separating and categorizing as they go. Problem is, some of these news groups hoisting guidons promoting a commitment to finding the truth through fair and accurate coverage allow reporters to flash personal agendas and take sides.

Considering the Trump victory, the hand-wringing is audible and incessant. The angst is palpable. People alleging or detecting bias would do well first to consider the proverbial source and, if warranted, throw that information in a specially marked trash heap.

The news barrage will continue. Says Greg Wallace, an associate professor of law at Campbell University: "They're going to scrutinize every single thing that he does." CJ

John Trump is managing editor of Carolina Journal.



JOHN TRUMP



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Slow growth and demographics

A big issue during this election year has been slow economic growth. The economy has improved since the depths of the recession seven years ago, but the gains have been modest compared with previous recoveries.

Many people are looking to the federal government for policies to spur economic growth, although some researchers say the answer to slow growth may not be in government programs and plans. Indeed, they say there is no answer, because the reason for slow economic gains is not in economics but rather in demographics.

Two distinct demographic trends are occurring in the nation and much of the world. First is aging. The large "baby boom" generation, which has dominated our country for the past six decades, is aging and moving rapidly into retirement. In 1960 only 9 percent of the population was age 65 or older. In 2010 this proportion had risen to 13 percent, and in 2050 it will be 21 percent.

The second big demographic trend is a declining birthrate. Today's birthrate is 50 percent lower than it was in 1960 and is close to the rate needed simply to replace deaths. Several countries — Japan and Italy are two — currently have birthrates below replacement levels, and there are forecasts that many others — China is one — are headed in that direction.

Our country's demographic profile is expanding at older ages and contracting at younger ages, and economists say this may be the biggest reason economic growth has slowed. Here's why. Older people tend to shift their focus away from spending now and to preservation of their resources for the future. A major concern of folks 65 and older is running out of money over their lifetime. Downsizing lifestyles, avoiding debt, and spending cautiously are paths followed by people — like me — with lots of gray hair.

Retirement from working also increases with aging. This means experienced workers who know the ins and outs of their occupations and fields are replaced by young hires lacking the background and knowledge base of those they've replaced. As a result, productivity in the workplace suffers, and economic growth sputters.

A lower birthrate means fewer young people

are entering the economy, and this also has implications for spending and working. Once they finish school and enter the work force, young people generate an enormous amount of spending — on places to live, furniture and appliances, vehicles to buy or lease, and all the other products and services that go with setting up a new household. Much of this spending is fueled by borrowing, which has the effect of deploying the savings of older households back into the economy. But if fewer young people are entering the economy, spending that generates jobs and economic expansion takes a hit.

Two new studies from the Federal Reserve and academic economists show these demographic changes can account for all of the reduction in economic growth experienced in recent decades. The studies also see slower economic growth in the future as the demographic trends continue.

Other byproducts of these demographic shifts emerge. One is for price inflation. With a larger older population controlling their spending and a smaller younger population failing to drive an expansion of spending, the buying of products and services is weaker. Conse-

quently, weaker sales of products and services result in more modest price increases.

There's a similar effect on interest rates. With businesses facing subdued buying and relatively fewer young households buying big-ticket items, businesses aren't borrowing as much to build factories and install equipment, and households aren't borrowing as much to equip and furnish their homes. Less borrowing translates into lower interest rates.

If the demographic explanation of slow economic growth is accurate, then the debates about policies to increase economic growth — while interesting — are sideshows to the real forces setting the pace of economic activity. Relatively slow economic growth, low inflation, and low interest rates may very well be the inevitable "new normal" of the new demography. CJ

Michael Walden is a Reynolds Distinguished Professor at N.C. State University. He does not speak for the university.



MICHAEL WALDEN

New president will be expected to deliver change

I admit it. I was wrong. I thought Donald Trump would lose the election. I can take some comfort in the fact that nearly all of my fellow so-called “experts” were, too, including most in the Trump campaign and, apparently, the candidate himself.

I ask for your forgiveness. Let me redeem myself.

Let me explain what I thought happened. I am, I assure you, much better at analyzing the past than predicting the future.

First, we should address what didn't happen. Trump was criticized continually throughout the campaign for fomenting racial and ethnic tensions. Van Jones, a CNN commentator and political activist, described the result on election night as “whitelash,” that ugly racial sentiments were at work. Setting aside the argument that presumably such deep resentment would have revealed itself more dramatically in 2012 when President Obama was on the ballot, the exit polls of 2016 are not consistent with Jones' thesis. Trump essentially won the same proportion of white and Hispanic votes as Mitt Romney did four years



**ANDY
TAYLOR**

earlier. He actually won slightly more of the African-American vote. The big falloff in the Republican minority vote in recent years came between 2004 and 2008, when John McCain won less than three-fourths of the Hispanic votes George W. Bush did. No one accused McCain of being virulently hostile to Latinos.

Moreover, despite the tremendous polarization of the electorate, 17 percent of Trump voters said they approved of the job Obama was doing. That's actually a good 5 or 6 percentage points more than Republicans have tended to support Obama during 2016.

Hillary Clinton's defeat can't really be attributed to age or sex either. Voting patterns by age were not particularly different from 2012. Indeed, if anything, Trump did slightly worse among older voters than Romney. The gender gap did expand, but it was a function of Trump winning a greater proportion of the male vote, not seeing the female Republican vote fall away.

It was rural residents and those without a college education who gave Trump his victory. Trump won the rural voter by about 30 percentage points. Not only did this better Romney's 2012 share by 8 percentage points, but preliminary analyses suggest turnout in the countryside increased as well. As for education,

Romney won whites without a college degree by 25 percentage points in 2012. Trump won them by roughly 40. Of those with degrees, Trump did 10 percentage points worse than the Republican candidate of four years ago.

It cannot be said that Trump enthused the electorate, however. He lost the national popular contest by about 1.7 million votes and received only a million more than did Romney in his losing cause — there were also about 10 million fewer eligible voters in 2012. There was a gubernatorial or U.S. Senate race in 14 states where the number of voters exceeded that for the presidential contest. In fact, Trump concerned many Americans who supported him. Exit polls revealed about 60 percent of respondents felt the New York businessman did not have the right temperament to be president. Of them, one-fifth voted for him.

Trump was the candidate of change, and that is what people craved. As a political outsider who saw a rigged and corrupt system, he fit the bill perfectly. Clinton, on the other hand, was viewed as insincere, manipulative, and technocratic. When asked whether they wanted a president who “cares about people like me,” with “good judgment,” has the “right experience,” or will “bring about needed change,” a healthy plurality chose the last option. Among them, Trump won by about 70 per-

centage points.

Trade and immigration seemed foremost in their minds. Trump talked about a “forgotten man” who had lost the game of globalization — he resided in states such as Michigan, Pennsylvania (neither had been won by a Republican since 1988), Wisconsin (last captured by the GOP in 1984), and Iowa (which experienced the biggest swing to the Republicans from 2012 of any state in the Union).

Let's just hope that in 2020 candidates aren't talking about the “forgotten man” as the social scientist William Graham Sumner conceived of him in the late 19th century. This was the productive citizen and wealth creator whose only real demand on the state was to be left alone. If Trump reduces taxes and regulations and makes strategic public investments in value propositions, that man will not be forgotten.

But if we get an authoritarian Trump and one who stokes global insecurity and undermines the international economy, then the number of those forgotten will grow. They might even be mad and large enough to elect a President Elizabeth Warren. *CJ*

Andy Taylor is a professor of political science at the School of International and Public Affairs at N.C. State University. He does not speak for the university.

Trump shined light on murky federal government

The outcome of the presidential election puzzled many people. How could such a brash, offensive personality — who didn't understand the nuances of conservatism, who spoke in politically incorrect tweets — win election to lead the world's greatest nation? How could such a dark campaign bring us this?

It started with a light bulb. In 2007, the federal government enacted the Energy Independence and Security Act, which required standards to make incandescent light bulbs more energy-efficient by effectually banning their manufacture and importation.

Most Americans didn't realize their light bulbs were a problem, but the replacements most definitely were. The light they emit is cold, flat, and unnatural. They contain mercury; when broken they pose a danger to health and the environment, and thus require special disposal. When they

burn out, they require special recycling, and they cost a lot more.

People, outraged over the feds outlawing incandescent bulbs, experienced firsthand the meaning of “government overreach.”

In 2009, we saw the rise of the TEA (Taxed Enough Already) party movement. Americans said, “Enough.” They objected to bailouts for homeowners who bought houses they couldn't afford and a stimulus package that extended already bloated entitlements. They yearned for a return to the Constitution and the principles set forth by the Founding Fathers. They rose against a government they saw as too big and too costly. They organized rallies and town halls, and elected candidates to city councils, state houses, and Congress. Their message began to resonate.

Then came the Boston Marathon bombing. Terrorism on U.S. soil once again was real. Our security was threatened. We remembered the souls lost that day, and a decade earlier on 9/11, and we cried for the soul of our nation. We came together in horror and sadness but with a renewed pride in the strength and greatness of America. We were hopeful.

But promises of hope and

change were broken and thus brought disappointment and divisiveness.

Health-care costs escalated. Turns out you can't keep your doctor or health plan, after all.

The government couldn't balance a budget and added trillions in new debt while asking more from hardworking taxpayers. The economy slowed, additional regulations were imposed, and businesses struggled to survive. Manufacturing, the backbone of our economy, was gone. Jobs were lost, and the dignity that comes with work was denied to hardworking Americans. Millions more were condemned to government dependency, entitlements, and welfare programs.

A bureaucracy-driven education system gave us Common Core, imposed a one-size-fits-all system that failed students, frustrated parents, and offered little to no choice. Low graduation rates and a meaningless diploma created workers without needed skills and businesses handicapped to meet market demands, consequently missing opportunities provided by technology. College graduates had huge debt loads, worthless degrees, and no jobs.

Government defined sex, which was no longer “man” and “woman”

but now included a whole range of orientation and identification. Deeply held religious beliefs and liberties were pushed aside.

Law enforcement officers faced off against communities they were protecting. Racial tensions mounted, and riots ensued. Historic monuments were defaced, buildings renamed. A government that should have found common ground and aided healing seemed to pit citizens against one another, driving divisions deeper. Accusations of racism grew rawer.

Taxes, debt, national security, immigration, health care, jobs, education, racism, entitlements, religious liberty. No longer about light bulbs, it was now about the size and scope of government, about opportunity and freedom, American exceptionalism, and respecting and protecting our rights.

By 2016, Americans had had enough. People were tired of a government that broke promises. Darkness cast a long shadow on the American dream.

Donald Trump turned on the light. *CJ*

Becki Gray is senior vice president at the John Locke Foundation.



**BECKI
GRAY**

Radical overhaul proposed for Council of State races (a *CJ* parody)

BY JOHN Q. PUBLIC
Elections Correspondent

RALEIGH

In an effort to prevent a repeat of the chaos and delays that ensued in this year's governor's race, General Assembly leaders plan to introduce a constitutional amendment that would allow Council of State candidates to choose, in order of their vote totals, which one of the 10 positions they prefer, *Carolina Journal* has learned.

The proposed constitutional amendment, to be introduced as House Bill 3, would let the top vote-getter choose his or her preferred position first, the second-highest vote-getter to then choose his or her preferred office second, and so on, a member of the General Assembly who wished to remain anonymous told *CJ*.

Under the plan, any political party with ballot status would hold primary campaigns to select the 10 nominees for Council of State who would appear on the general election ballot, but those primary candidates would not run for a specific office. Meantime, anyone who wanted to run as an unaffiliated candidate could pay filing fees and circulate petitions to get on the ballot.

Voters would select up to 10 names, and the top 10 vote-getters statewide would be allowed to choose from the seats on the Council of State: governor, lieutenant governor, attorney general, treasurer, auditor, superintendent of public instruction, insurance commissioner, labor commissioner, agriculture commissioner, or secretary of state.

The candidate receiving the most votes would choose first, likely choosing governor, but being free to choose any other office should the responsibilities of the state's chief executive be too daunting. Others would follow, choosing in order of their electoral totals, until all seats are filled.



A sticking point is in what order to print candidates' names on the ballot. One idea is to give each candidate a number and then pull numbered balls, just like a lottery, to decide ballot order. (CJ spoof photo)

"We didn't want to force the top vote-getter to become governor unless he really wanted the job," the anonymous lawmaker said. "It's possible somebody might want a position that doesn't require much work, like secretary of state, where basically all you do is register lobbyists and preside over the Electoral College. Commissioner of agriculture isn't

that bad, because you get to run the State Fair and eat all that food. If we can attract people who want to get in public service but not be expected to do very much, we might get a better class of candidate," the lawmaker added.

It remains unclear how candidates would appear on the ballot, the lawmaker said. "One idea was to have all the candidates from each party appear together, but it's not clear which party would get top billing. You could do it alphabetically, or list them at random. One of my colleagues thought we could give each candidate a number and draw numbered ping pong balls like they do with the lottery to decide how the ballot will be printed. There's still a lot of stuff to work out," the lawmaker said.

Even though many details remain unresolved, the lawmaker said the proposal was worth pursuing if it would prevent contested Council of State elections from dragging on well past election day. The lawmaker cited the 2004 election cycle in which Bill Fletcher, the Republican nominee for state superintendent, led Democrat June Atkinson on election night only to see her take a lead after absentee and provisional ballots were counted.

Fletcher challenged the results, and the outcome was not resolved until August 2005, when the General Assembly (then led by Democrats) selected Atkinson to head the Department of Public Instruction.

Gov. Pat McCrory's continuing challenge in his re-election bid against Democratic Attorney General Roy Cooper prodded the legislature to seek alternatives.

"We might not be able to inaugurate the governor on Jan. 7, as planned, and we're getting angry phone calls every day from Junior League members who can't reschedule hair and manicure appointments on short notice for the inaugural ball," the lawmaker said. "It's getting testy out there." *CJ*

E.A. MORRIS

FELLOWSHIP FOR EMERGING LEADERS

The E.A. Morris Fellowship is seeking principled, energetic applicants for the 2017 Fellowship class. Applications available online or at the John Locke Foundation. Application deadline is December 10, 2016.

Please visit the E.A. Morris Fellowship Web site (www.EAMorrisFellows.org) for more information, including eligibility, program overview and application materials.

Eligibility

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- *Must be willing to attend all program events associated with the fellowship*
- *Must not be the spouse of a current or past Fellow.*

Important dates to remember

The application period opened Sept. 19, 2016, and the deadline for applications is Dec. 10, 2016.



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