



The Capital Report

September 16, 2016

This Week in Raleigh

The news that both the NCAA and ACC have canceled this week planned tournaments in North Carolina during the 2016-2017 academic year in protest of House Bill 2 has caused shockwaves across the state's political landscape.

College sports in North Carolina are a “civic religion.” The perennial dominance of the state's teams in public and private universities is a point of pride for Tar Heel natives. The news of the withdrawal by both college athletic conferences, even after the NBA decided earlier this year to

cancel its All-Star Game in the state, came as a shock.

North Carolina Republican Sens. Tamara Barringer of Wake County and Rick Gunn of Alamance County and Republican Rep. Gary Pendleton of Wake County – all of whom are up for re-election this fall – have called on their GOP colleagues to consider repealing the legislation. Republican leaders, however, remain firm their decision to keep the controversial as it currently stands.

Here is a list of what's leaving North Carolina:

ACC championships

- Women's soccer, WakeMed Soccer Park, Cary, Nov. 4 and 6
- Football, Bank of America Stadium, Charlotte, Dec. 3
- Women's swimming & and diving and men's Diving, Greensboro Aquatic Center, Feb. 15-18
- Women's basketball, Greensboro Coliseum, March 1-5
- Women's golf, Sedgefield Country Club, Greensboro, April 21-23
- Men's golf, Old North State Club, New London, April 21-23
- Men's & and women's tennis, Cary Tennis Park, Cary, April 26-30
- Baseball, Durham Bulls Athletic Park, Durham, May 23-28

NCAA

- 2016 Division I women's soccer championship, WakeMedSoccer Park, Dec. 2 and 4

- 2016 Division III men's and women's soccer championships, Greensboro, Dec. 2 and 3
- 2017 Division I men's basketball tournament first and second round games, Greensboro Coliseum, March 17 and 19
- 2017 Division I women's golf championships regional, Greenville, May 8-10
- 2017 Division III men's and women's tennis championships, Cary, May 22-27
- 2017 Division I women's lacrosse championship, Cary, May 26 and 28
- 2017 Division II baseball championship, Cary, May 27-June 3

Below are summaries of news accounts of the decision and their potential political and economic impacts:

NCAA

The NCAA's decision to pull seven championships out of North Carolina ratchets up the pressure on this college sports-crazy state to repeal its law on bathroom use by transgender people, according to Gary Robertson and Jonathan Drew, writing for the Associated Press.

Robertson and Drew reported:

“Unlike the recent one-time cancellations by the NBA and various rock stars, the move by college sports' governing body could make moderate and conservative voters question whether the price tag for the law has finally become too high.

Economic development officials said the effect of the NCAA's action goes well beyond the projected \$20 million in lost revenue from the cancellation of the 2016-17 basketball, baseball, soccer, tennis, lacrosse and golf events.

‘College sports is part of the fabric of North Carolina. It's part of the culture. I can say with confidence that there's no other state in the country that loves its college sports more than North Carolina. That's why it hits so hard and feels so personal,’ said Scott Dupree, executive director of the Greater Raleigh Sports Alliance, which was coordinating four of the events being moved.

The law passed in March requires transgender people to use restrooms in schools and state government buildings that correspond to the gender on their birth certificate. It also excludes gender identity and sexual orientation from statewide anti-discrimination protections. The Obama administration is suing the state over the measure, calling it discriminatory. Gov. Pat McCrory and GOP leaders are defending it as a means of protecting the privacy and safety of women and girls.

On Tuesday, Democratic lawmakers urged McCrory and leaders of the GOP-controlled legislature to call a special session to repeal the law.

‘This General Assembly and its extremist leadership are playing with people's livelihoods and the well-being of communities all across our state,’ said Sen. Mike Woodard, of Durham.

But with weeks to go before Election Day, legislators in campaign mode and no regularly

scheduled session until January, chances are slim the Republicans will act. GOP legislative leaders, who have veto-proof majorities in both chambers, are committed to costly court fights over the law and contend passing it was the right thing to do.

McCrory, who is locked in a tight race for re-election, issued a statement decrying the NCAA decision and saying the legal system will ultimately decide the issue.

‘The issue of redefining gender and basic norms of privacy will be resolved in the near future in the United States court system for not only North Carolina, but the entire nation,’ he said.

But in the meantime, Michael Bitzer, a political scientist at Catawba College, said it will be hard for moderate voters who are passionate about sports to ignore the law's repercussions.

‘The blowback may be building up even more with this decision,’ he said.

Mac McCorkle, a Duke University professor and former Democratic consultant, said the NCAA's announcement reinforces the idea that McCrory has allowed the situation to get out of control.

‘Put aside the liberal and conservative arguments about the pros and cons,’ McCorkle said. ‘It's a mess.’

McCorkle said the removal of men's basketball tournament games from Greensboro hits hard

because college basketball is the 'civic religion' in the state that's home to UNC, Duke, N.C. State and Wake Forest.

The Greensboro area was expected to receive a \$14.5 million infusion from the tournament, as well as \$1.6 million from the soccer championships in December that are being moved, said Henri Fourrier, CEO of the Greensboro Area Convention & Visitors Bureau.

The soccer, baseball, lacrosse and tennis events taken from Cary will deprive the area of about \$2 million, Dupree said. Greensboro, Cary, Raleigh and other North Carolina cities are seeking to host scores of other NCAA events over the next six years that could be worth tens of millions of dollars.

The NCAA hasn't decided what to do about any North Carolina events beyond the current academic year. But NCAA President Mark Emmert said Tuesday.

'It would have been impossible to conduct championship events in the state with that law in place that lived up to the values and expectations of the member universities and colleges...'

Lt. Gov. Dan Forest, a Christian conservative and strong defender of the law, called the NCAA's decision 'shameful extortion.'

Previously, musicians including Bruce Springsteen and Pearl Jam canceled concerts, while the

NBA decided to move next year's All-Star Game out of Charlotte. The game was expected to generate \$100 million.

‘Everybody should be concerned about lost revenue, but I don't put a price tag on our women and girls of any kind,’ Forest said.

He added: ‘It's just unbelievable to me to think that these entities would think that it's OK to invade the privacy or security of a woman or a girl in a shower or a locker room.’

ACC

ACC sports are as much a part of North Carolina culture as beach music, barbeque and bluegrass, but the college sports conference on Wednesday became the latest in a growing line of organizations to turn its back on the state in protest of North Carolina's controversial House Bill 2.

Andrew Carter of the *News & Observer* reported:

“Two days after the NCAA pulled its championships out of North Carolina because of HB2, the ACC followed and announced it would move the 10 neutral-site championships it had scheduled in the state during the 2016-17 academic year. That includes the football championship game, which had been scheduled for Dec. 3 in Charlotte. It was unclear on Wednesday where that game and other affected championships would be played.

The ACC announced the decision after its Council of Presidents concluded previously-scheduled meetings in Clemson, S.C. ACC Commissioner John Swofford said earlier this week that HB2 would be on the agenda during the presidents' meeting.

‘The ACC Council of Presidents made it clear that the core values of this league are of the utmost importance, and the opposition to any form of discrimination is paramount,’ Swofford said in a statement on Wednesday.

In addition to football, the other ACC championships that are being relocated are women's basketball, women's soccer, men's and women's swimming and diving, men's and women's tennis, women's golf, men's golf and baseball. Three of those had been scheduled for venues in the Triangle: the women's soccer championship and men's and women's tennis championships in Cary, and the baseball tournament at Durham Bulls Athletic Park.

The ACC's decision affects all neutral-site championship events that had been scheduled in North Carolina. Championships that had been scheduled to take place at a North Carolina ACC school aren't affected.

In explaining the rationale, the ACC Council of Presidents in a statement reiterated the conference's ‘collective commitment to uphold the values of equality, diversity, inclusion and non-discrimination.’

‘Every one of our 15 universities is strongly committed to these values,’ the council said in a statement, ‘and therefore, we will continue to host ACC Championships at campus sites.’

All four ACC schools in North Carolina will host championships that had been scheduled for their campuses: Field hockey at Wake Forest, men's and women's fencing at Duke, wrestling at N.C. State and softball at UNC-Chapel Hill.

For months, Swofford and league officials had criticized HB2. Before Wednesday, though, they had remained non-committal about its potential effect on the ACC, and its ability to schedule events in North Carolina.”

ACC Political Reactions

The *Charlotte Observer* compiled a list of responses from interested political candidates, parties and organizations to the ACC decision to pull this year’s football title game from Charlotte. They are as follows:

- **N.C. House Speaker Tim Moore:** "It is very unfortunate that the NCAA and ACC have decided to move their scheduled events out of North Carolina. No one ever wants to lose events under any circumstances, but these organizations are certainly entitled to host their events wherever they choose. The truth remains that this law was never about and does not promote discrimination. We will continue to advocate that North Carolina is a great place

to live, do business, hold events and to visit."

- **Gov. Pat McCrory:** "The issue of redefining gender and basic norms of privacy will be resolved in the near future in the United States court system for not only North Carolina, but the entire nation. I strongly encourage all public and private institutions to both respect and allow our nation's judicial system to proceed without economic threats or political retaliation toward the 22 states that are currently challenging government overreach."
- **Attorney General Roy Cooper:** "It's clear we cannot wait until November to repeal House Bill 2. This is not just about sports. This is about communities in North Carolina suffering real economic blows. ... Unfortunately we've seen no leadership from our governor on this issue. He has doubled down on this bad law as our state has taken hit after hit. ... The solution is simple. Repeal House Bill 2, and do it now."
- **N.C. Family Policy Council:** "Insanity of today's decision: ACC presidents unaware? 28 states have similar laws to NC & 25 states suing Obama admin over bathroom policy!"
- **Equality NC Executive Director Chris Sgro:** "On Monday it was the NCAA. Last month it was the NBA. Today, the ACC -- home conference to many of our beloved teams -- will take their marquis events out of North Carolina. It has never been more clear than it is right now -- HB2 is hurting our state every minute that it remains law. ... I'm calling on Pat McCrory today -- accept responsibility for the legislation you signed. It's crystal clear that HB2 is bad for us."
- **NC Democratic Party Executive Director Kimberly Reynolds:** "This is another loss for North Carolina that could have been easily avoided – another disappointing day for the state. How much more money and how many more jobs does North Carolina have to lose

before Governor McCrory stops pointing fingers and fixes his mistake? It is way past time to repeal this disastrous law."

- **Tami Fitzgerald, Executive Director of NC Values Coalition:** "The ACC and NCAA announcements are an attempt to force the State of North Carolina to sacrifice our children's safety on the altar of political correctness, and legislators who voted to stop this trend should think twice before they abandon our children."
- **Carolina Panthers:** "As we stated last summer, after more than 20 years of operations, we undoubtedly have had transgender persons attend events here and, presumably, they have used the restroom of the gender with which they identify. Our organization is against discrimination and has a long history of treating all of our patrons at Bank of America Stadium with dignity and respect."

Three GOP State Lawmakers Call for HB 2 Repeal

Republican State Sens. Tamara Barringer of Wake County and Rick Gunn of Alamance County and Republican State Rep. Gary Pendleton of Wake County called this week on their GOP colleagues to consider repealing House Bill 2. All are up for re-election.

The following story is a compilation of news reports from: Colin Campbell and Craig Jarvis, *The News & Observer*; Patrick Gannon, *The Insider*; Jim Morrill, *The Charlotte Observer*; and the Associated Press.

“Barringer said Tuesday that ‘if we want to preserve the proud heritage of North Carolina, it is

time for our leadership to consider a substantial and immediate repeal of HB2.’

She'd voted for HB2 in March. But she said she still doesn't want boys or men to be able to use women's locker rooms or bathrooms.

‘Whenever legislative bodies rush to judgment on important public policy decisions, there are unintended consequences,’ she said in an emailed statement. ‘With the most recent announcements impacting our state, there are simply too many examples of very sad and unfortunate ramifications and unintended effects of HB2.’

Barringer represents Cary and southwestern Wake County, which was scheduled to host several NCAA sporting events that were canceled Monday in response to HB2. Barringer has a well-funded election challenge this year from Wake County school board member Susan Evans, a Democrat.

Evans' campaign spokesman, Dustin Ingalls, said Barringer's shift on HB2 won't help her chances of re-election.

‘When she voted for HB2 in March, Sen. Barringer knew what she was doing,’ Ingalls said. ‘She knew the legal and economic consequences her constituents would experience. Only now that she's in danger of losing her seat does she waffle.’

Gunn said late Wednesday he's concerned about the effect House Bill 2 is having on the state and the region he represents.

For more than 60 years, ACC headquarters have been located in nearby Greensboro, which is also where early rounds of the NCAA men's basketball tournament would have been held in March before the decision...

'I think it is time we give serious consideration to modifying, or possibly repealing the law,' Gunn said in a statement."

Pendleton was the third Republican legislator to call for repealing parts of House Bill 2, saying he'd like to see a special legislative session within weeks to address the issue.

"Pendleton spoke to The News & Observer Thursday, days after the NCAA and ACC announced they'd be moving sporting events out of North Carolina in response to the controversial LGBT law.

'I think we ought to go back into session for a day or two and definitely revisit it,' he said, adding that any changes still must prevent men from entering women's bathrooms. 'I wouldn't vote to repeal it unless we passed a law that covered the safety of bathrooms and showers and all that.'

Pendleton says he's talked to other Republican lawmakers who'd support revising HB2, but he's not sure they'd form a majority of the legislature.

‘Even if it doesn't pass, at least the people will know that a certain group of people tried,’ he said, adding that some Republicans likely would still vote against any changes. ‘Some people are so far out there on the right that they don't care.’

Pendleton didn't vote for HB2 in March, but he also didn't vote against it, instead getting an excused absence from the special session along with two other Republicans.

‘When I saw it was coming up, I didn't go to the session,’ he said, adding that he instead wanted state leaders to sue the city of Charlotte for overstepping its authority in passing a nondiscrimination ordinance that allowed transgender people to use the bathroom of their choice.

‘I wasn't going to go down there and get harassed and harassed and harassed to vote for something I just didn't want to vote for.’

Pendleton said most Republicans thought HB2 would only address the bathroom issue.

‘When they got there, here was this thing with about 15 other things tacked on it,’ he said. He said he joined other lawmakers in the short session to seek a compromise revising HB2. But Democrats refused to support anything other than a full repeal, and some Republicans also wouldn't back the compromise.

Pendleton says no one expected the level of economic losses HB2 has brought to North Carolina.

‘I think it's gone further than most people would have dreamed it would,’ he said. He says he thinks HB2 will cost him some votes in November's election, when he faces Democrat Cynthia Ball. She issued a news release earlier Thursday calling for Pendleton to back a full repeal of the law, which she says he ‘has always been a dedicated supporter of.’

This is the first time Republican lawmakers have publicly called for a full repeal of House Bill 2. Many legislators didn't return calls and emails seeking comment on Tuesday, including other Wake County Republicans up for re-election in November: Sen. Chad Barefoot, Sen. John Alexander, Rep. Marilyn Avila, Rep. Nelson Dollar, Rep. Chris Malone and Rep. Gary Pendleton. Legislators from more rural areas, however, said they still support the law despite the NCAA's decision.

Rep. Leo Daughtry, a Smithfield Republican who's not seeking re-election, said Republicans still support HB2. The chances of a repeal are ‘very remote,’ he said.

Rep. Julia Howard, a Mocksville Republican, said she thought the GOP House members were still firm on it. She noted there was a lot of talk of revising it at the end of the session but that fizzled – legislators only agreed to make a minor tweak to a provision involving employment discrimination lawsuits. House Speaker Tim Moore and Senate leader Phil Berger were silent Tuesday on the NCAA decision.

But House and Senate Democrats on Tuesday called for a special legislative session to immediately repeal HB2. Democratic Rep. Grier Martin of Raleigh said he was under no illusion that he could convince GOP legislative leaders and Gov. Pat McCrory that they are responsible for economic damage caused by HB2.

‘The good news is in order to fix the problem, we don't have to agree who caused the problem,’ he said. ‘We just have to agree on a solution.’

Daughtry said there may be a price for his party to pay for supporting HB2.

‘I think it will hurt the Republican ticket,’ he said. ‘That includes the governor. I think, unfortunately, it will hurt him.’

Rep. Mike Hager, a Republican from Rutherfordton who resigned from the General Assembly last month, said McCrory's stand on HB2 plays better in most rural parts of the state than it does in urban centers populated by newcomers. As a result, McCrory will do well in those areas, he said. ‘We're not willing to subjugate our moral values or philosophy just for the sake of getting another sporting event,’ Hager said. ‘We all love the NCAA, the NBA, but we have priorities.’

Counting Costs of HB 2

The ACC's decision to move its championship games out of North Carolina might be the biggest blow to the state since the passage of House Bill 2.

Richard Craver of the *Winston-Salem Journal* reported:

“The foremost loss is the ACC title football game, which was to be held at Bank of America Stadium in Charlotte in December -- by far the most successful host site for the game. A leading replacement site could be Orlando, Fla., according to ESPN.

‘The latest moves by the NCAA and ACC really move the costs of the intransigence in solving the HB2 issue to a new level,’ said Mark Vitner, a senior economist with Wells Fargo Securities. ‘Up until recently, the losses have primarily been bad public relations and missed opportunities. Now, we are looking at substantial losses and a significantly larger hit to the state's prestige.’

Revenue losses from the 12 lost championship events are likely to exceed \$40 million.

Tom Murray, the chief executive of the Charlotte Regional Visitors Authority, said in a statement that losing the ACC football championship ‘is a blow to Charlotte's visitor economy and is irreplaceable at this late date.’

The 2015 title game added \$32 million to the local economy, the authority said. Also leaving are four events set for Greensboro: men's and women's swimming and diving at the Greensboro Aquatic Center; women's basketball at the Greensboro Coliseum; and women's golf at Sedgefield Country Club.

Michael Walden, an economics professor at N.C. State University in Raleigh, cautioned that 'there is legitimate reason to worry about long-run impacts from a potential adverse hit to the state's business reputation.' "

'With states now in such close competition for business location,' Walden said, 'any negative factor may be enough to tip the scales to a competing state. HB2 will clearly be an issue in the statewide elections, especially with the losses being focused on sports.'

John Sweeney, a marketing professor at UNC Chapel Hill with a focus on sports, said part of the collateral damage from the NCAA and ACC decisions, as well as the NBA pulling the 2017 All-Star Game from Charlotte, is that they 'do not represent political organizations.'

'These are organizations making business decisions,' Sweeney said. 'The HB2 law is clearly viewed as extremist and discriminatory by mainstream organizations in sports and traditional business.'

Roger Beahm, the executive director of the Center for Retail Innovation at Wake Forest University, said one ripple effect from the HB2 fallout is a reminder that 'our state is a brand in and of itself.' "

'Over time, North Carolina has come to stand for different things in people's minds,' Beahm said. 'Sometimes, when you change what your brand stands for -- as HB2 has done -- it can have a polarizing effect among customers in the marketplace. When the judgments and feelings toward

the brand don't align with some of those customers, we know what happens ... they switch brands.'

Beahm said it's time for state officials 'to practice some good brand management principles, more clearly defining the brand's marketing objectives, and deciding/testing which strategies are going to best accomplish them.'

'Doing nothing is the fastest way for a brand on the decline to lose further share in the marketplace. And the loss of these ... events shows that, from a marketing standpoint, share is going in the wrong direction,' he said.'"

Election 2016

Western North Carolina Races

Mark Barrett of the *Asheville Citizen-Times* gave a run-down this week of the region's most important races.

Barrett reported:

Close observers of North Carolina legislative races typically list two mountain contests among those where the chances of a change in control of a state House seat between the political parties are the highest.

People who contribute money to campaigns seem to have come to the same conclusions – and yes, those are sometimes the same people – as the two races have attracted the most donations among House contests in the region so far.

One is the 114th House District race between incumbent Democrat John Ager and Republican Dr. Frank Moretz, both of Fairview. The other is the 118th District contest between Rep. Michele Presnell, a Burnsville Republican, and Democrat Rhonda Cole Schandavel of Canton.

Campaign finance reports filed with the State Board of Elections say Ager had gotten \$107,979 in contributions in 2015 and the first half of 2016 and had \$81,764 in the bank as of June 30. Moretz reported \$89,629 in revenue for the same period and his campaign had \$35,911 on hand as of June 30.

The race has the potential to be close partly because voting tendencies in the 114th don't strongly favor one party or the other. The district takes in eastern and northern Buncombe County, running in an arc from Fairview through Black Mountain to part of Leicester.

The 118th covers Madison and Yancey counties and most of Haywood. It tends to vote Republican but, as Presnell's previous races suggest, not overwhelmingly. Schandavel's campaign war chest was not as large as Presnell's as of June 30, but it was certainly large enough to suggest that the Haywood County Board of Education member will be able to run a competitive campaign.

Schandavel reported \$100,526 in contributions and \$33,177 in cash on hand. Presnell has raised less this campaign cycle at \$37,312, but she has also spent relatively little and had nearly \$14,000 left over from her 2014 run. As of the end of June, she had \$42,273 in the bank.

The amount of campaign money raised and spent in other contested House races in the mountains are:

- In the 113th House District (Polk and Transylvania counties and part of Henderson County), Democrat Maureen Mahan Copelof had raised \$33,212 and had \$26,171 in hand. Republican Cody Henson had raised \$10,538 and had \$4,130 in the bank. Rep. Chris Whitmire, R-Transylvania, is not seeking another term in the Republican-leaning district.
- In the 119th House (Jackson and Swain counties and part of Haywood County) incumbent Rep. Joe Sam Queen, D-Haywood, had raised \$4,957 and had \$28,417 in the bank. Loans Queen has made to his campaign account for much of the funds in his campaign bank account. Republican opponent Mike Clampitt of Swain County reported \$1,890 in contributions and \$1,074 in the bank.
- In the 120th House (Cherokee, Clay, Graham and Macon counties) Republican Kevin

Corbin, currently a Macon County commissioner, had raised \$15,477 and had \$198 in the bank. Democrat Randy Hogsed had raised \$125 and his report says he hasn't spent any of it.

Lieutenant Governor Debate

House Bill 2 loomed large this week in the only debate between Lieutenant Governor candidates.

Colin Campbell of the *News & Observer* has the story:

“Lt. Gov. Dan Forest and his Democratic opponent, Linda Coleman, offered drastically different views on House Bill 2 Tuesday night as the controversial LGBT law became a major issue in the often overshadowed race.

The candidates for lieutenant governor held their only scheduled debate at Barton College in Wilson, the first of several debates that will highlight different Council of State races. Forest and Coleman faced several questions about HB2 at the forum, which came one day after the NCAA announced it won't hold sporting events in North Carolina because it opposes the law.

In his role as president of the state Senate, Forest initiated the special legislative session that passed HB2. He's continued to defend the law, which requires transgender people to use the bathroom that corresponds to their birth certificate when in government facilities or schools.

‘It’s hard for me to imagine that my wife would have to walk into a bathroom anywhere in North Carolina and have a man follow her into that bathroom,’ Forest said.

He blamed the Charlotte City Council for prompting HB2 when it passed a nondiscrimination ordinance that allowed transgender people to use the bathroom of the gender with which they identify.

‘They said that in the city of Charlotte, you have to take the (gender) signs off your bathrooms,’ he said. ‘They’re actually a test lab for a radical sexual revolution experiment.’

The Charlotte ordinance did not require the removal of gender-specific bathrooms, nor did its provisions involve signage.

Coleman, a former N.C. House legislator and Wake County commissioner, said HB2 needs to be repealed.

‘HB2 has cost the state of North Carolina millions of dollars,’ she said. ‘The NCAA will cost even more. The cost is going to be too tremendous for the state of North Carolina to bear.’

While Forest said there have been numerous cases around the country in which men attempted to enter women’s bathrooms, Coleman disputed his claim.

‘There is not one documented case where we have had women in bathrooms where men came in to assault them,’ she said. ‘The protection of women is yet another disguise for promoting a bill that has no place in North Carolina. It is making North Carolina a test laboratory for state-sponsored discrimination.’

Tuesday's debate also featured sharp divides between Forest and Coleman on voter ID, private school ‘opportunity scholarship’ vouchers and nonpartisan redistricting.

‘The parent should have the choice for the education of their students,’ Forest said of the voucher program. ‘The government should not be the decider for that.’

Coleman disagreed. ‘I believe that people should be able to send their children to any school they want,’ she said. ‘I don't think it should be paid for with taxpayer dollars.’

Coleman voiced support for a nonpartisan system to draw legislative and congressional districts, but Forest argued that ‘there's no such thing as impartial’ and that current GOP-drawn districts are ‘not gerrymandered at all.’

Forest also defended the state's voter ID law, which was recently struck down by a federal court.

‘You need an ID to do just about anything to participate in society,’ he said. ‘In other states where

they've done this, they've actually seen minority participation go up.'

Coleman strongly opposed the law. 'Voter ID was a bad, monstrous bill,' she said. 'It denied participation in democracy.'

State Treasurer's Race

Mark Binker of WRAL news reported this week on the North Carolina Treasurer's race.

Voters will choose a new state treasurer this fall to replace Janet Cowell, a Democrat, who did not to seek re-election.

Binker reported:

“Republican Dale Folwell and Democrat Dan Blue III talked about why they should be the state's next top financial executive during this week's episode of ‘On the Record.’

Folwell is a former state lawmaker and served as an assistant commerce secretary overseeing the state's unemployment compensation system. Blue is a former Wake County Democratic Party chairman and currently practices business law with his family's law firm.

North Carolina's state treasurer oversees a pension fund currently worth about \$87 billion and helps run the health plan that serves teachers, state workers and retirees.

The next treasurer will have to navigate how to keep health care costs down without alienating workers as well as how to produce expected returns on pension plan investments. Along with the governor and the attorney general, the state treasurer is one of 10 independently-elected statewide offices.”

Ripped from the Headlines

McCrory's First Term

Gov. Pat McCrory has had a tumultuous first term, filled with high-highs (improving economy, increasing teacher pay and progress on substance abuse reforms) and low-lows (fights with the legislature, legal battles and House Bill 2).

Veteran political reporter Jim Morrill of the *Charlotte Observer* wrote about McCrory's first term and the status of his efforts to gain a second one.

Below is the story:

“With a growing economy, rising teacher pay and falling taxes, Republican Gov. Pat McCrory should be riding high in his bid for a second term.

The former Charlotte mayor has guided North Carolina to its lowest unemployment rate in nearly a decade while redefining transportation strategy and repaying a \$2.5 billion federal loan.

But for many voters, including some who know him best, such accomplishments are overshadowed by the issue that thrust him into the national spotlight: House Bill 2. McCrory is an ardent defender of the law, which bars transgender people from using the bathroom of the gender they identify with in government buildings and prevents cities from passing their own LGBT ordinances.

He blames the ensuing controversy on the ‘political left’ and spurns critics as part of the cultural or corporate ‘elite.’ All of that sounds alien to those who remember him as a Charlotte moderate.

‘The Mayor Pat McCrory that I came to know and respect and work with does not exist today,’ says former Matthews Mayor Lee Myers, a Democrat who twice voted for McCrory for governor.

In addition to HB2, critics point to other bills he signed that were passed by a conservative General Assembly, including measures involving abortion, voting and taxes.

McCrory, a self-styled Eisenhower Republican, insists he hasn't changed. He defends what he calls his ‘moderate’ response to what he views as a very liberal Charlotte ordinance that opened the transgender issue and led to HB2.

‘The Charlotte political system has become much more liberal since I left,’ he says, sitting in his Charlotte campaign office. ‘I haven't changed my political philosophy. The Charlotte political

system has gone very far left.’

But facing a tough re-election race against Democratic Attorney General Roy Cooper, McCrory, who supports Donald Trump for president, is fighting perceptions that he's no longer the political moderate who led Charlotte for 14 years and won the 2012 governor's race with help from Democrats and independents in the state's largest counties. McCrory won Mecklenburg County for example, despite the fact that President Barack Obama carried it by 100,000 votes. Real Clear Politics shows Cooper with an average lead of 6 points in recent polls.

Other critics say McCrory began shifting right in 2012 in his second campaign for governor, when he advocated policies such as ‘fracking’ and spoke on behalf of Americans for Prosperity, a group tied to the libertarian Koch brothers.

Democratic candidate Walter Dalton said McCrory had embraced ‘the tea party agenda.’ But supporters say McCrory hasn't changed.

‘I always thought Pat was a conservative council member and mayor,’ says former GOP Mayor Richard Vinroot. ‘He had a conservative view of the world when he got there and hasn't changed.’

What has changed, they say, are the issues he faces and the political environment around him. He now has a broader constituency than the city voters who elected him 10 times.

‘Who he's trying to attract as voters has changed and he's adjusted accordingly,’ says former Republican Rep. Charles Jeter of Huntersville.

In Charlotte, McCrory dealt with city councils that, while dominated by Democrats, generally tackled issues in a bipartisan way. As mayor, McCrory championed the Blue Line, the state's first light rail project. He led the fight to get and later to keep the sales tax hike that helped pay for it.

He pushed for public funding for the NASCAR Hall of Fame, an uptown arena and campus known as the Levine Center for the Arts. He advocated ‘smart’ growth and pushed for coordinated planning along the light rail and other transportation corridors.

Republican conservatives were among his strongest critics. But waiting for him in Raleigh was a highly partisan General Assembly with its own agendas, constituencies and hard-charging personalities. After Republicans took over the General Assembly in 2010 for the first time in 140 years, they had ambitious plans. That included drawing voting districts that led to the veto-proof majorities they've enjoyed since McCrory took office in 2013.

While cutting taxes and rolling back regulations, they blocked Medicaid expansion, cut jobless benefits, eliminated the earned income tax credit and repealed the Racial Justice Act that had put a de facto moratorium on executions.

Before HB2, they approved controversial measures on abortion, guns and voting. McCrory has

signed 727 bills. Critics say it was the legislature, not him, who set the agenda.

‘I think when he got up to Raleigh he got steamrolled by the legislature,’ says Mark Erwin, a Charlotte Democrat who has supported McCrory but now backs Cooper.

McCrory's relationship has been particularly choppy with the Senate. He feuded with powerful GOP Sens. Bob Rucho of Matthews and Tom Apodaca of Hendersonville. Sen. Tommy Tucker of Waxhaw once said the governor seemed to have ‘real animosity’ toward Senate leaders. A pundit described it as ‘a political death match.’

‘Other governors go through very similar dynamics,’ McCrory says. ‘It's usually a balance of power issue. Some legislators wanted to replicate the old Democratic machine.’

In 2014, McCrory actually sued the General Assembly. The landmark separation-of-powers case ended in January when the state Supreme Court ruled in his favor.

‘That was a pretty risky move as far as possibly eroding my relationship with the legislative leaders, but it was a move I think we had to make,’ McCrory says.

Though the governor vetoed six bills, lawmakers overrode four. One was Senate GOP Leader Phil Berger's measure allowing magistrates to recuse themselves on religious grounds from performing same-sex marriages. Berger disputes critics who say the legislature has had the upper hand. He

said most bills reflect a compromise.

‘They don't understand what's going on,’ Berger says of critics. ‘I just don't know that the characterization that the legislature ‘ran over him’ is a fair characterization... Unless you want to say he ran over us several times.’

HB2 has exacted a cost around the state. The NBA moved its 2017 All-Star Game from Charlotte, an economic loss of up to \$100 million. PayPal canceled plans for a new operations center and 400 jobs. Bruce Springsteen and other entertainers canceled in protest.

For McCrory, that has obscured a long list of accomplishments. He touts the fact that taxes are down by \$4.4 billion since he took office in 2013, even as officials predict a \$428 million revenue surplus. Last year Forbes ranked the state the nation's second-best for business.

And notwithstanding HB2, officials say in the first six months of the year the state saw 66 business expansions with a capital investment of \$1.5 billion – twice as much as a year before. Charlotte Republican Edwin Peacock says while McCrory can boast of accomplishments, ‘the ‘Carolina Comeback’ has been swallowed by HB2.’

For that, McCrory blames the media. ‘It was being overshadowed long before HB2,’ he says. ‘Frankly none of this stuff was getting covered ... I was trying to focus on issues that really made a difference to the people of North Carolina.’”

ACA in North Carolina

Karen Garloch of the *Charlotte Observer* reported this week on the status of health insurance in North Carolina through the Affordable Care Act.

It doesn't look pretty.

Garloch wrote:

“North Carolinians will know in the next two weeks whether they will have only one company offering insurance through the Affordable Care Act's online marketplace -- or none.

Brad Wilson, CEO of Blue Cross and Blue Shield of North Carolina, said Friday that his company will decide this month whether to continue participating in the marketplace now that its major competitors, UnitedHealthcare and Aetna, have pulled out.

If Blue Cross should drop out too, that would mean 600,000 to 700,000 North Carolinians, who have insurance through the marketplace now, would have almost no options. The uninsured will ‘continue to need and to get health care services. (But) nothing is free,’ he said. ‘Uncompensated care is paid for somehow, some way. It will show up in health care premiums ultimately.’

Wilson said Blue Cross is weighing whether it could effectively handle the additional customers

that would come from the departure of both UnitedHealthcare and Aetna, which announced its decision about three weeks ago. He said UnitedHealthcare had about 145,000 customers in the state, and Aetna had 200,000.

He said it takes six months to hire and train customer service representatives, and there isn't enough time to staff up to handle enrollment of so many more people before open enrollment starts Nov. 1. The federal deadline for a decision is Sept. 23.

'We're working very hard trying to figure out how to make this work,' he said.

Overall, Wilson said the ACA has been good and bad. It's good because 500,000 to 600,000 more North Carolinians are insured today than before the law was passed.

'Think of all the money that brings into the economy, (and) they are getting their (health care) needs attended to,' he said. But despite the federal requirement to have insurance, too few young, healthy people are buying policies, and that means their premiums are not balancing out the high cost of caring for sicker, older people.

'Costs are much higher, and quite frankly there is no end in sight,' Wilson said.

In the past two years, Wilson said Blue Cross lost \$405 million on its 450,000 customers who bought insurance through the online marketplace. That's a fraction of the company's total 3.9

million customers statewide.

Both UnitedHealthcare and Aetna, which are much larger, for-profit, national companies, also reported losses on marketplace business and announced they won't participate in multiple states next year. That leaves Blue Cross as virtually the only marketplace option in six states, including North Carolina. Cigna has said it intends to offer marketplace plans in five counties in the Raleigh area.

Blue Cross, the state's largest insurer, is seeking an 18.8 percent rate increase on average for 2017, and says it under-priced its ACA products in North Carolina because it underestimated the volumes of sick people who would enroll.

The state insurance department won't announce the approved rates until Oct. 28. For 2016, Blue Cross was approved an average 32.5 percent rate increase. Instead of calling for repeal of the ACA, as Republicans in Congress have done many times, Wilson said the health reform law should continue, with changes to make it work better.

He outlined several suggestions, including a reduction the number of special enrollment periods. As it is, he said, people can 'jump in and jump out' at too many times, allowing them to get insurance when they need it and drop it when they don't.

Carolinas HealthCare

Carolinas Health Care has had an interesting week – first a class action suit and then a closed-

door meeting with the new CEO.

Karen Garloch of the *Charlotte Observer* reported:

“Three months after the state and federal and government sued Carolinas HealthCare System over alleged antitrust violations, a San Francisco law firm has filed a class action lawsuit alleging the hospital system engaged in illegal and anti-competitive actions.

The suit named Mecklenburg County resident Christopher DiCesare as its lead plaintiff, but gave no specifics about how he was damaged, except to say he's a customer of Cigna Healthcare of North Carolina, one of four large companies that provide 85 percent of the commercial insurance in the Charlotte area. In its June antitrust suit, the federal Department of Justice and the state attorney general claimed Carolinas HealthCare has driven up health care costs through illegal efforts to prevent competition.

Carolinas HealthCare has denied the allegations and asked the federal court to dismiss the complaint. In a recent statement, the hospital system said the government's complaint is baseless.

Before filing the class-action suit late last week, the 65-lawyer California firm of Lief Cabraser Heimann & Bernstein had advertised on its web page that it was looking for people who might have been harmed – by paying higher prices for insurance or having limited health care options – because of Carolinas HealthCare's alleged anti-competitive actions.

Charlotte-based Carolinas HealthCare is the region's largest hospital system, a public nonprofit with \$9 billion in annual revenue and more than 60,000 employees at more than 40 hospitals and 900 medical offices.

Both the governments' suit and the class-action suit allege that Carolinas HealthCare uses its dominance to persuade insurers to include language in its contracts that encourages consumers to use Carolinas HealthCare and discourages or forbids consumers from choosing Charlotte-area competitors, such as Novant Health and CaroMont Health.”

In related news, Garloch also reported:

“With a new chief executive and primed for a fresh start, the Carolinas HealthCare System board of commissioners met behind closed doors for about five hours Tuesday to discuss plans for the \$9 billion public nonprofit health care system.

Board chairman Edward Brown declared the day's intention to take a ‘deep dive into our competitive strategies for the future.’

Brown cautioned the 37 board members and staff in attendance that the information shared ‘is going to be highly confidential, not to be shared outside this room.’

An Observer reporter, who regularly attends the public system's board meetings, had objected in writing to the board's plans to hold the meeting in private. But she agreed to leave after Keith Smith, the system's general counsel, read a list of North Carolina laws that permit the public body to hold private meetings to discuss privileged, confidential and competitive health care information and to consult with attorneys.

‘There are statutory bases for going into closed session,’ Smith said.

The board met from 10 a.m. to 5 p.m., with portions of the meeting open to the public, but most of it closed. Agenda topics included ‘Assessing CHS's Current Competitive Situation and Activities’ and ‘Small Group Discussions on Competitive Strategies and Models.’

Gene Woods, who replaced Michael Tarwater as CEO in May, told the Observer recently that he looked forward to the special board meeting to talk about the system's future. After more than 120 days on the job, Woods said: ‘I think we're at a point of reinvention.’”

Blue Cross Blue Shield Fine

The N.C. Department of Insurance has levied a record \$3.6 million fine against Blue Cross and Blue Shield of North Carolina for widespread problems that led to billing and enrollment errors for Blue Cross customers since January.

John Murawski of the *News & Observer* reported:

“The Insurance Department and Blue Cross, the state's largest health insurer, agreed to the fine amount Thursday, ending a six-month agency investigation in a voluntary settlement agreement. Blue Cross paid the fine Thursday for over-billing, double-billing, failing to confirm coverage, canceling coverage customers wanted, and signing customers up for policies they didn't want.

Nearly 3,500 customers and medical providers lodged complaints with the agency through the end of August. The doctors and other providers said Blue Cross insurance reimbursements were delayed by weeks and even months. The Insurance Department intervened on behalf of patients in immediate need of medical attention and in other dire circumstances.

‘As your insurance commissioner and an advocate for consumers across North Carolina, Blue Cross and Blue Shield had to be held accountable,’ Insurance Commissioner Wayne Goodwin said in a statement.

The fine is twice the amount of the previous record fine, which had also been levied against Blue Cross in 2003, for failing to provide coverage for emergency care. The funds will be drawn from Blue Cross's reserves and will not affect rates, according to the Department of Insurance.

Blue Cross began experiencing problems in early January while enrolling customers through the Affordable Care Act and other individual policies. The company blamed its software platform for crashing and preventing the transfer of some 400,000 customer accounts into a new technology system.”

Rodney Ellis Death

Political insiders expressed shock on Saturday upon hearing of the death of Rodney Ellis, the immediate past president of the N.C. Association of Educators.

Dan Kane of the *News & Observer* reported:

“For eight years, Rodney Ellis led the N.C. Association of Educators as vice president and president during difficult times.

He began in 2008 just as the Great Recession forced teacher furloughs and severe budget cuts, and served well into the next decade when Republicans took over state government and tried to eliminate tenure. He stepped down from the teacher advocacy group in July after serving the maximum two, two-year terms as president.

He told friends he looked forward to spending more time with his family, and returning to a Winston-Salem classroom to teach language arts to eighth-graders at a school that served a high number of lower-income families.

But early Saturday morning, Ellis awoke in sudden physical distress and never recovered, his family said. He died at age 49, leaving many shocked and saddened at the loss of a powerful voice for public schools.

Several state and federal officials and education advocates expressed their condolences over the weekend. Gov. Pat McCrory said Ellis' devotion to education was a 'labor of love,' while U.S. Rep. Alma Adams called him a 'true fighter for equality.'

Those who worked closely with him said that while he represented teachers, the kids came first.

'I think his lasting legacy is whether you agreed with him or not, Rodney Ellis always stood up for kids, especially the most vulnerable kids,' said Brian Lewis, who was the association's lobbyist for much of Ellis' tenure. 'He made his decisions based on what was best for kids.'

It was a mindset drawn from his upbringing, the oldest of five children raised by a single mom. A Mocksville native, he spent much of his school years in Cleveland, Ohio, before returning to North Carolina to enroll at Winston-Salem State University. While there, he joined the student association affiliated with the NCAE and served as its president. He became an active NCAE member as a teacher in Forsyth County schools. He was elected to the NCAE's state leadership ranks after serving as the Forsyth chapter's president.

The NCAE often collided with the state's Republican leaders. In 2013, the House and Senate agreed upon a budget that eliminated teacher tenure and added money for private school vouchers. In response, Ellis joined hundreds of 'Moral Monday' protesters being arrested for civil disobedience at the legislature.

Tripp Jeffers, a Forsyth teacher on the National Education Association's executive board, said Ellis had lobbied hard to persuade lawmakers to drop those proposals, and thought he had won those battles.

‘That's when we realized we were clearly not on the inside; we were on the outside throwing rocks at the castle,’ Jeffers said. ‘That's when (Ellis) got arrested.’

The NCAE successfully sued to turn back the tenure elimination for those teachers who had earned it, as well as shoot down a law that would have prevented the association from collecting dues from members who chose to pay through an automatic payroll deduction. Lewis, the former NCAE lobbyist, said Ellis was a voracious reader. He also enjoyed basketball, golf and step-dancing.