



N.C. CENTER FOR
PUBLIC POLICY
RESEARCH

From The Center Out

The Newsletter of the North Carolina Center for Public Policy Research

Your source for nonpartisan research and analysis on state policy issues

July-August-September 2014

FORMER LEGISLATORS QUICKLY WIELD INFLUENCE AS LOBBYISTS

Eleven former legislators now rank among the most influential lobbyists in the North Carolina General Assembly in the latest rankings released today by the N.C. Center for Public Policy Research. Harold Brubaker, former Speaker of the N.C. House of Representatives, ranks as the most influential lobbyist. A Republican from Randolph County, he served 18 terms in the House, including two terms as House Speaker in 1995-98. Brubaker represents 21 clients as a contract lobbyist, including health care companies such as GlaxoSmithKline Inc. and Blue Cross Blue Shield, as well as associations such as the N.C. Association of Realtors and the N.C. Beer and Wine Wholesalers. The rankings of the most influential lobbyists are compiled from a survey of all state legislators, registered lobbyists based in North Carolina, and capital news media.

In addition to Brubaker, four other former Republican legislators who left the N.C. General Assembly in 2011 or 2012 are ranked among the most influential lobbyists. Jeff Barnhart, who served 5½ terms in the N.C. House, ranks 13th; Richard Stevens, who served five terms in the N.C. Senate, ranks 20th; Debbie Clary, who served seven terms in the N.C. House and 1½ terms in the Senate, ranks 31st; and Fred Steen, who served 4½ terms in the N.C. House and who now represents the office of the Governor, ranks 37th. Also new to being ranked among the most influential lobbyists is Patrick Ballantine at 22nd, a state Senator from 1994-2004 and Republican candidate for Governor in 2004.

The other legislators-turned-lobbyists who have been ranked in previous years and are ranked again this year are Jim Harrell (8th), Steve Metcalf (14th), Chuck Neely (15th), Connie Wilson (25th), and Sandy Sands (38th). “The high number of former legislators who are now influential lobbyists shows that these individuals continue to have an impact on policy even after leaving elected office,” says Paige Worsham, policy analyst with the Center. “They draw on their knowledge of both the people and the legislative process.”

According to the National Conference of State Legislatures, 35 states, including North Carolina, have a statutory “cooling off” period before a legislator can register as a lobbyist. These cooling off periods can range from the remainder of their term as a legislator up to two years after leaving office. Under North Carolina law, a legislator may not register as a lobbyist until six months after leaving office.

The Ripple Effect of a New Republican Majority in the Legislature

After Republicans gained a majority in the state House and Senate in the 2010 elections, lobbyists with Republican ties gained influence in the legislature. Former Republican legislators, former Republican Party Chairman Tom Fetzter, and a former staffer for U.S. Sen. Jesse Helms, Jimmy Broughton, all entered the ranks of influential lobbyists in 2012.



Harold Brubaker



Jim Harrell

This year, former N.C. House Speaker Harold Brubaker takes the top spot as the most influential lobbyist after resigning his seat at the end of the 2012 session to open his own lobbying firm, Brubaker & Associates. Brubaker says, “As a former legislator, I appreciate brevity and know how important it is for a lobbyist to explain the issue in five to ten minutes. I tell a legislator that I need five minutes of their time and get right to the point. And, I couldn’t do this work without my team.”

Dana Simpson, a contract lobbyist and partner with the law firm of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, ranks 2nd in this session’s rankings. He also shares a link to top-ranked Brubaker – Simpson served as Special Assistant for Communications and Policy for former Speaker Brubaker in the late 1990s. This is Simpson’s fifth consecutive session in the lobbyist rankings.

Tom Fetzer, former Mayor of Raleigh and former N.C. Republican Party Chairman, also finished in the top echelon at 3rd. Fetzer opened his lobbying firm, Fetzer Strategic Partners, in 2010 and lobbied for 22 clients during the 2013 session, including the N.C. League of Municipalities, Wake County Government, and the City of Salisbury.

New Names Among the Most Influential

A record number of 25 lobbyists and legislative liaisons are ranked among the most influential for the first time. The previous record was 22, set in 2011. In addition to the six former Republican legislators ranked for the first time are three lobbyists representing the N.C. Chamber of Commerce. These three are Gary Salamido, Vice President of Government Affairs, who ranks 10th; Jake Cashion, Director of Government Affairs, who ranks 53rd; and Nathan Babcock, Political Director, who ranks 57th. The Chamber’s advocacy platform includes a variety of issues – from reducing regulations on business to teacher pay raises to cutting corporate income taxes.

Other lobbyists and liaisons ranked for the first time are Chris McClure (24th), Tommy Sevier (33rd), Dave Simpson (34th), Joy Hicks (40th), Kim Crouch (42nd), Julia Adams (44th), Paula Page (46th), Chris Hollis (47th), Cady Thomas (49th), Tami Fitzgerald (50th), Thomas Moore (55th), Jon Carr (56th), Jake Parker (58th), Philip Isley (59th), and Betty Doster (60th). Also new to the list at 32nd is John Metcalf, who is the son of former Democratic state senator Steve Metcalf, who himself ranks as the 14th most influential lobbyist this year.

McClure, Sevier, Hollis, Moore, Carr, and Isley work for Raleigh law firms and serve as contract lobbyists for multiple clients. Dave Simpson represents Carolinas Associated General Contractors, Crouch represents the N.C. Bar Association, Julia Adams represents The Arc of North Carolina, Cady Thomas represents the N.C. Association of Realtors, and Tami Fitzgerald represents The N.C. Values Coalition. Page and Parker represent the N.C. Farm Bureau, and Hicks and Doster serve as legislative liaisons for the N.C. Department of Agriculture and Consumer Services and for UNC-Charlotte, respectively.

Record Number of Women Rank as Influential Lobbyists

The list of most influential lobbyists includes 16 women, also a record-breaking number. Theresa Kostrezewa (6th), Kathy Hawkins (7th), Lori Ann Harris (11th), Connie Wilson (25th), Debbie Clary (31st), Laura DeVivo (35th), Joy Hicks (40th), Lisa Martin (41st), Kim Crouch (42nd), Julia Adams (44th), Paula Page (46th), Cady Thomas (49th), Tami Fitzgerald (50th), Estherine Davis (52nd), Susan Valauri (54th), and Betty Doster (60th) were among the top 60. The previous record was 12 women in 2011.

A Record Number of Contract Lobbyists

Contract lobbyists work for a law firm or lobbying firm and are hired on contract by multiple clients. Contract lobbyists differ from in-house lobbyists, who are employed by the client they represent. Contract lobbyists make up a record 37 of the top 60 influential lobbyists and hold 12 of the top 15 spots. The previous record was in 2011, when 34 of the top 60 spots were held by contract lobbyists. The Center’s Paige Worsham says, “This is the fourth consecutive legislative session that contract lobbyists have set a new record for influence.”

N.C. CENTER FOR PUBLIC POLICY RESEARCH WINS 3 NATIONAL AWARDS

The N.C. Center for Public Policy Research won three prestigious national awards for high-quality policy research from the national Governmental Research Association (GRA). The Center won the awards for Most Distinguished Research and Outstanding Policy Achievement for its work in evaluating telepsychiatry as a way to deliver mental health services and for its research on fraud committed against the elderly, respectively. Center director Ran Coble won the Frederick P. Gruenberg Award for lifetime achievement. The Association is a group of 33 public policy organizations in 22 states.

A. The Award for Most Distinguished Research

The Center won the top award for Most Distinguished Research for our research evaluating the use of telepsychiatry as a way to deliver mental health care in rural areas. The criteria used by the GRA for this award are that the research must address a subject of critical national concern, be useful to other states, incorporate innovative research methods, and be groundbreaking in nature.

The Center's 30-page report was published in the Center's journal *N.C. Insight*. Our research showed 28 counties in North Carolina do not have a single psychiatrist, and an additional 18 counties have only one psychiatrist. Seventy counties do not have a child psychiatrist, and only 13 have physicians specializing in addiction and chemical dependency. Federal data also show that 58 of our 100 counties are designated as Health Professional Shortage Areas because they lack enough mental health providers.

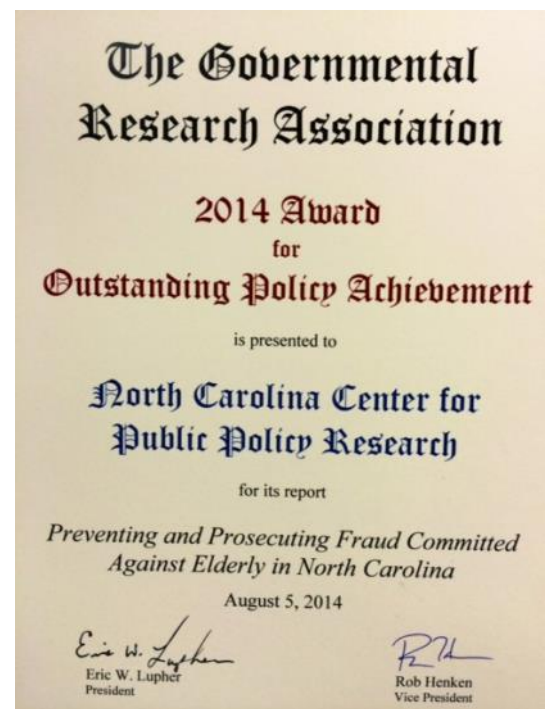
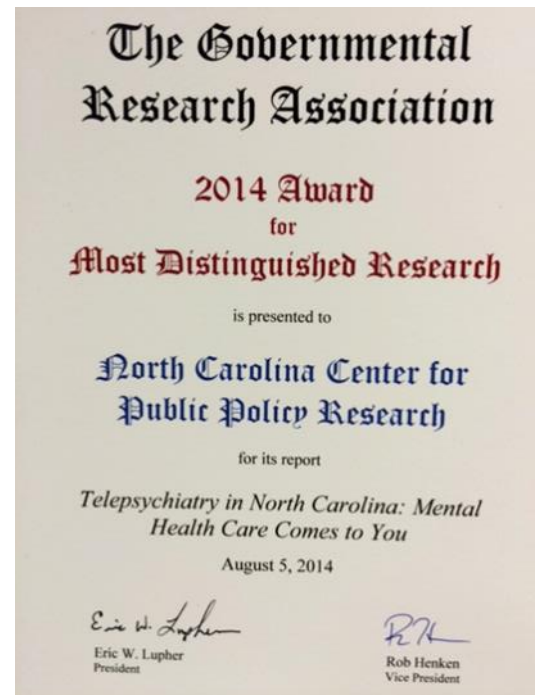
Ten of those 28 counties without a single psychiatrist are in Northeastern NC. In 2010, the Albemarle Hospital Foundation in Elizabeth City partnered with psychiatrists in Jacksonville to develop a hospital-based telepsychiatry program for Northeastern NC. The Center found that this program in Northeast NC improved patient outcomes. We also found high levels of patient satisfaction.

North Carolina's new statewide telepsychiatry system was established by the N.C. General Assembly in July 2013 and launched in January 2014. The legislature appropriated \$2 million for Fiscal Year 2014-15.

B. The Award for Outstanding Policy Achievement

The Center also won the top award for Outstanding Policy Achievement for our research and resulting legislation on fraud committed against the elderly. This award goes to the policy group whose research leads to "tangible improvements in public policy."

The Center conducted research on fraud committed against the elderly in *North Carolina Insight* in 2010. In 2011, we presented our research and recommendations to the Legislative Study Commission on Aging. The legislature then created a new Task Force on Older Adults, specifically mentioning the Center's research and recommendations.



The Task Force met throughout 2012. Co-chaired by Sen. Stan Bingham (R-Davidson) and Rep. Hugh Blackwell (R-Burke), it included representatives from the financial industry such as the NC Bankers Association, State Employees Credit Union, and Commissioner of Banks; from state agencies such as the Division of Aging and the State Treasurer’s Office; from advocacy groups such as AARP and the Senior Tar Heel Legislature; from law enforcement groups such as the FBI, NC Conference of District Attorneys, and NC Chiefs of Police; and two staff from the Center – Mebane Rash, Director of Law and Policy, and Ran Coble, the Center’s Executive Director.

Sen. Bingham used the Task Force’s recommendations to sponsor Senate Bill 140 in 2013 to protect older adults from financial exploitation. It passed the Senate 47-0, and Rep. Blackwell shepherded it through the House with a 111-1 vote. Gov. Pat McCrory then signed it into law.

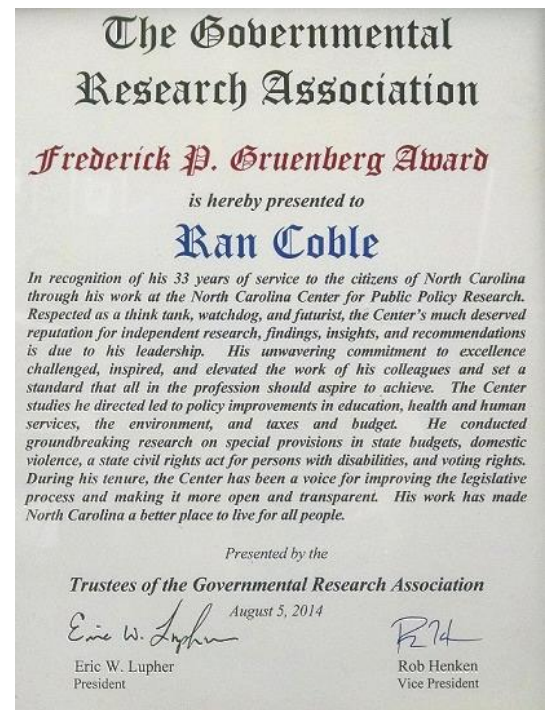
This new legislation is designed (1) to prevent fraud on the front end with the help of the banking, savings and loan, and credit union community; (2) to increase reporting on fraud by local government agencies; and (3) to step up prosecution of fraud on the back end with the help of the NC Conference of District Attorneys and Attorney General’s office. It also continues the work of the Task Force on Fraud Against Older Adults.

C. **The Frederick P. Gruenberg Award for Lifetime Achievement**

The national Governmental Research Association presented the Gruenberg Award to Ran Coble for his outstanding contributions to the field of governmental research during his 33 years as Executive Director of the N.C. Center for Public Policy Research. He retired on September 10th.

The GRA citation says, “Respected as a think tank, watchdog, and futurist, the Center’s much-deserved reputation for independent research, findings, insights, and recommendations is due to his leadership. His unwavering commitment to excellence challenged, inspired, and elevated the work of his colleagues and set a standard that all in the profession should aspire to achieve. The Center studies he directed led to policy improvements in education, health and human services, the environment, and taxes and the budget.... During his tenure, the Center has been a voice for improving the legislative process and making it more open and transparent. His work has made North Carolina a better place to live for all people.”

For 10 consecutive years, the Center was won awards for distinguished research, educating the public, and achieving changes in public policy from the national Governmental Research Association – a total of 16 awards in all. It also has been featured on the cover of the national *Nonprofit World* magazine in one of its “Profiles in Excellence.” Organizations modeled after the Center have been established in Massachusetts, New Mexico, and several other states.



REVIEW OF IMPORTANT ACTIONS IN THE 2014 LEGISLATIVE SHORT SESSION
May 14-August 20, 2014

An Outline Summarizing and Analyzing Policy Issues Before the 2014 N.C. General Assembly, prepared especially for the Center's members

I. EDUCATION

A. Public Schools

1. **Teacher Pay Increase** – The 2014 budget bill (Senate Bill 744, signed into law as Session Law 2014-100) appropriates \$282 million for teacher pay raises that average 7%, the first significant pay raise since 2008-09.
 - a. Teacher pay raises under the new six-step salary schedule range from a 0.3% increase for teachers with 30 years of experience, to 7% for new teachers with 1-4 years of experience (from \$30,800 to \$33,000), to an 18.5% increase for teachers with 5 to 6 years of experience.
 - b. **Longevity pay supplements**, previously a separate benefit to reward teachers with 10 or more years of experience, are now built into the overall teacher salary schedule. The supplement was eliminated for teachers who hadn't previously received a supplement.
 - c. **How the legislature paid for the pay increase:** By cutting the budget in other places, such as reductions to state agencies and to Medicaid payment rates to health care providers.
 - d. **Most other state employees** will receive a \$1,000 annual raise and 5 additional vacation days.
2. **Salary Supplement for Teachers with Advanced Degrees** – The budget restores a salary boost for teachers with masters and other advanced degrees who took at least one course toward these degrees by 8/1/13. This salary supplement had been limited in the 2013 budget.
3. **Change in Public School Enrollment Formula** – A special provision in the budget also changes the continuation budget process so that the state will no longer budget for growth in public school enrollment. Since 1933, the state had a law that built student enrollment estimates – including growth or declines – into the foundation of state education budgets. The chief financial officer for the Dept. of Public Instruction says this is “the largest change in the budget in my lifetime.”
4. **Reduction in Department of Public Instruction General Fund budget** by 10% (\$5 mil.)
5. **Teacher Assistants (TAs)** – The budget does not directly eliminate teacher assistant (TA) positions, but it reduced funding for TAs by \$105 million, with the result that many local school districts cut TA positions. A fix to this problem failed in the final hours of the session.
6. **Not in the Budget: Changes to Teacher Tenure** – The 2013 legislature had moved to abolish teacher tenure, or “career status” granted to teachers who successfully complete their first 4 years of teaching. This is not really tenure, but means a teacher can't be fired without a hearing. The Senate Republican merit pay approach was to have administrators designate the top-performing 25% of a school's teachers. Those teachers with career status would have the option to maintain their career status or to accept 4-year contracts with \$500 raises each year if they forfeit their tenure rights. The 2013 legislature set aside \$10 million for this.

A Superior Court judge ruled in May 2014 that this 2013 law was unconstitutional. The 2014 Senate budget would have revived the idea of abolishing tenure by conditioning a teacher's pay raise upon the relinquishment of career status, but this is not included in the final 2014 budget.
7. **New Education Endowment** – The budget bill did include a special provision that creates a new NC Education Endowment Fund to supplement teacher pay. A new license plate will be created with the words, “I support teachers,” with proceeds going to the Endowment. Also, individuals and corporations that receive a tax refund can designate all or part of the refund to the Endowment.
8. **Common Core** – These standards were developed in 2010 in a bipartisan effort by the National Governors Assn. and the Council of Chief State School Officers. The federal government has tied adoption of the standards to awards of Race to the Top grants. The standards were initially adopted by 45 states, including NC in 2010.

Proponents: The standards are aimed at providing a roadmap for what students should learn in math and English language arts from K-12, and the goal is to compare performance from state to state and gradually ratchet up the difficulty level so that the U.S. can compete globally.

Opponents: Tea Party leaders (U.S. Senators Ted Cruz, Rand Paul, and Marco Rubio) and other conservatives, such as radio talk show host Glenn Beck, oppose the standards, saying they:

- represent a federal takeover of state schools,
- will lead to standardization of the curriculum, which is the opposite of what’s needed now, and
- will increase testing.

Some Republican Governors changed their positions and now oppose the Common Core standards (Jindal in LA, Pence in IN, and Walker in WI), while other Republicans leaders support them (Governors Christie in NJ and Haslam in TN and former Gov. Jeb Bush in FL) Four states (IN, OK, SC, and MO) have now repealed or rewritten their standards.

In NC, Republican Lt-Gov. Dan Forest and Senate Education Committee Chair Jerry Tillman oppose them while Republican Chair of the State Board of Education Bill Cobey, many business leaders (CEOs of SAS, Red Hat, and the NC Chamber of Commerce), and Democratic Superintendent of Public Instruction June Atkinson support them. Gov. McCrory had previously endorsed them.

2014 Action: The 2014 legislature passed a bill (Senate Bill 812, Session Law 2014-78) to review and perhaps replace the Common Core standards. The law creates an 11-member advisory commission to study the state’s reading and math standards and make recommendations to the State Board of Education. The commission can choose to integrate parts of the Common Core standards into a new curriculum or replace it. Common Core standards would remain in place until the new standards are completed, possibly for the 2015-16 school year.

9. **State Vouchers To Attend Private Schools** – (a) Last year, the 2013 budget bill provided \$10 million to fund vouchers, or “opportunity scholarships” of \$4,200/year for 2,400 students in families that meet income guidelines to use public money for private school tuition, beginning with the 2014-15 school year.

In August 2014, Wake County Superior Court Judge Robert Hobgood declared this law unconstitutional and halted the distribution of state money set aside for vouchers. Attorneys representing Republican legislative leaders have appealed.

(b) Last year, the legislature also passed HB 269, S.L. 2013-364, which provides \$3 million to fund state vouchers worth \$6,000/year for children with disabilities to attend private schools.

The 2014 legislature passed HB 712, S.L. 2014-49, which revises the voucher program for children with disabilities.

- B. **Community Colleges** – The 2014 budget bill increases tuition by 50¢ per credit hour to \$72 for state residents and to \$264 for non-residents.

C. **University of North Carolina System**

1. **Strategic Directions** – The 2014 budget authorizes the UNC System to spend an additional \$5 million to implement parts of the UNC System’s Strategic Directions Plan, conditioned on UNC reducing funds for centers and institutes and nonacademic activities by \$15 million. The Plan includes a goal of increasing the percentage of NC residents with a college degree from 28% to 32%. The budget also adds \$3 million for another strategic goal of investing in “game-changing research” in data sciences, military and defense, energy, marine science, and pharmaco-engineering.
2. **Research Campus** – The budget requires UNC General Administration and seven different campuses to allot \$29 million to the NC Research Campus in Kannapolis.
3. **Enrollment Funding** – The budget reduces the amount budgeted for student enrollment by \$1.8 million as student enrollment has declined.
4. **Budget Cut** – The budget increases the “management flexibility reduction” (a mandated cut, but UNC decides where) in funding by \$2.4 million to a total reduction of \$76 million for Fiscal Year 2014-15.
5. **UNC Board of Governors Approves New Tuition Plan, Limits Financial Aid** – At its August 1st meeting, the UNC Board of Governors approved a new four-year tuition increase plan. UNC tuition already has increased in 24 of the last 26 years. The Board capped in-state undergraduate tuition

increases at 5% per year and fee hikes at 5% per year. The Board also approved a controversial policy that will limit UNC's 16 college campuses from allocating more than 15% of the total tuition increase revenue to need-based financial aid. Board members who supported the new policy said they don't like the practice of charging middle-income families and using part of that money to subsidize lower-income students. Six campuses already meet or exceed that 15% threshold – UNC-CH, NC State, NC Central, Elizabeth City State, Fayetteville State, and Winston-Salem State – so tuition-funded financial aid dollars at those campuses will be frozen. Officials at UNC-CH warned that student indebtedness could double.

The UNC Need-Based Grant program peaked in FY 2010-11 at \$162 million but was cut to \$126 million by FY 2013-14. During the same four-year period, tuition and fees at UNC schools have increased 25% from \$4,956 to \$6,210.

7. **Study** – The 2014 budget mandates that the Joint Legislative Education Oversight Committee study “the increasing cost of attendance for resident and nonresident students.” That study is to compare tuition increases to inflation rates, examine tuition cost controls used in other states, and look at whether the system should encourage students to enroll first in community college for two years. The budget also clarifies a 2013 provision asking the State Education Assistance Authority to study ways to encourage students to complete their degrees faster.
8. **Stabilizing the Escheat Fund and Scholarships for Financially-Needy Students** – The Escheat Fund is composed of unclaimed and abandoned property, and the interest from the Fund is earmarked for scholarships for worthy and needy students enrolled at public UNC campuses. In the Center's 2010 research on financial aid and tuition policy, we recommended that the legislature stop raiding the Escheat Fund and using these funds for other purposes.

House Bill 27/S.L. 2014-93 takes an important step toward growing the available aid for these scholarships by authorizing the State Treasurer to dedicate the interest from unclaimed U.S. Savings Bonds into a new trust fund to be used for scholarships for financially-needy students.

II. DEPARTMENT OF HEALTH & HUMAN SERVICES (DHHS)

- A. **Medicaid Provider Rates** – The 2014 budget reduces Medicaid reimbursement rates paid to health care providers by 1%. These reductions raise concerns that providers will be less willing to serve Medicaid patients.
- B. **Special Assistance** – The budget also changes the income eligibility for the State-County Special Assistance Program to de-couple eligibility for Medicaid from eligibility for Special Assistance.
- C. **Child Care Subsidies** – The budget changes eligibility criteria for child subsidies and sets the co-payments at 10% instead of a tiered 8-10%. The legislature's Fiscal Research Division estimates that almost 12,000 children who would normally be served over the course of a year will no longer qualify for subsidies.
- D. **Psychiatric Residential Treatment Facilities** – The legislature provided \$3.2 million in new funding to educate children in Psychiatric Residential Treatment Facilities. This will help implement recommendations by the NC Center for Public Policy Research to fill gaps in services for these children and adolescents.
- E. **Child Protective Services** – The budget increases funding for Child Protective Services by \$7.4 million.
- F. **Improving Mental Health** – A special provision in the budget bill requires the N.C. Department of Health and Human Services to prepare a “Report on Strategies for Improving Mental Health, Developmental Disabilities, and Substance Abuse Services” by November 1, 2014. This report is to contain the following:
 - (1) A strategy to address shortages and deficiencies identified in the State Medical Facilities Plan;
 - (2) A plan for stabilization and treatment of patients in settings other than local hospital emergency departments and state psychiatric hospitals;
 - (3) A plan to ensure that a comprehensive array of outpatient treatment and crisis prevention and intervention services are available to children, adolescents, and adults in every region;
 - (4) Recommendations for increasing the inventory of inpatient psychiatric and substance abuse services within the state; and
 - (5) An inventory of inpatient behavioral health beds for children ages 6-12 and for adolescents over 12.The budget bill also requires the Department to make a second report by March 1, 2015 on:
 - (6) A strategy to address the lack of licensed child and adolescent inpatient psychiatric beds.

The 2014 legislative session is also important for **what did not happen** in health and human services.

- G.** The legislature did not revive the effort to establish a new 4th **state psychiatric hospital**.
- H. ADATCs** – The 2014 legislature did not close the 3 state Alcohol and Drug Abuse Treatment Centers (ADATCs), as they had considered during 2013 budget discussions. Instead, the budget bill requires a report on “recommendations for meaningful outcome measures to be implemented by State-operated alcohol and drug treatment centers to assess the impact of inpatient treatment.”
- I. Changes in the Medicaid Program** – The Senate and House could not agree, so the legislature did not pass the Governor’s proposed changes to the Medicaid program. Gov. Pat McCrory and Secretary of Health and Human Services Aldona Wos proposed major changes in the state’s Medicaid program, which funds health care for poor, long-term care for the elderly in nursing homes, and the majority of funding for mental health services. Their plan has 3 components – physical health, mental health, and long-term care.

For physical health, the Governor’s plan proposed coordinating services through Accountable Care Organizations, which would include primary care doctors, specialists, hospitals, and other medical providers.

For mental health, the plan would consolidate the current nine local mental health management entities/ managed care organizations down to four.

The Governor says this will make Medicaid spending more predictable, as Medicaid has run over budget the last 4 years. He says it will create incentives to coordinate physical health with mental health for the first time. It also will help prevent mental health patients ending up in hospital emergency rooms and local jails. And, it is projected to spend \$987 million less on Medicaid in state and federal funds over five years. The plan is supported by the NC Hospital Association, NC Medical Society, NC Pediatric Society, and NC Academy of Family Physicians.

The main differences between the 2014 Senate and House proposals are:

Senate Medicaid Proposal:

- Medicaid would move to a new Dept. of Medical Benefits overseen by a seven-person board appointed by the legislature and the Governor. No health care providers that accept Medicaid payments or consumers would serve on the board.
- Coverage would be provided by a mix of private, managed care companies or by provider-led organizations competing for enrollment. The Medical Society and Hospital Association object to inviting managed care companies into NC.
- The state would be divided into regions in which at least one of the plans offered would be a provider-led Medicaid plan, unless no provider-led plan applies.
- Provider-led networks would be fully capitated and responsible for budget overruns by 2018.

House Medicaid Proposal, endorsed by Gov. McCrory:

- Medicaid would remain within DHHS.
- Provider-led organizations would manage and coordinate services for most Medicaid recipients.
- Provider networks would have until 2020 before they’re fully responsible for budget overruns.

Initially, the legislature planned to resolve these differences in a special session on Nov. 17 after the elections, but leaders now say this will wait until 2015.

- J. Reserve for Medicaid Budget Overruns** – The 2014 budget appropriates \$136.5 million for Medicaid budget shortfalls in Fiscal Year 2013-14 (which is primarily due to the impact of enrollment and claims backlogs) and puts \$186 million in a reserve to handle possible overruns in FY 2014-15.

III. ENERGY, THE ENVIRONMENT, AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR)

- A. Fracking, or Hydraulic Fracturing for Natural Gas** – Senate Bill 786/Session Law 2014-4 clears the way to legalize fracking for natural gas in NC next year. Fracking, or hydraulic fracturing, involves drilling down and then sideways underground and injecting water, sand, and chemicals at high pressure to release the gas in shale rock. The bill creates the NC Oil and Gas Commission and authorizes the issuance of permits 61 days after safety rules for fracking are in place. Permits could be issued as early as March 2015 and almost certainly by the fall of 2015. The bill also establishes a severance tax on oil and gas extraction. Finally, the bill requires studies of how oil and gas development will affect property tax revenues of local governments

and the feasibility of a liquefied natural gas export terminal in NC. State-sponsored drilling will get underway this fall to assess the potential for shale gas.

The NC Mining and Energy Commission conducted 4 public hearings across the state on its proposed rules in August and September and will send the rules to the Rules Review Commission in November or December, with the final rules to go to the legislature in January 2015. The rules include regulations on well construction and maintenance, baseline water testing, water supply contamination, waste management, chemical disclosure and trade secrets, and setback distances from homes, drinking water, and waterways.

B. Coal Ash Management

Background: On February 2, 2014, a Duke Energy plant in Eden (in Senate President Pro Tem Phil Berger's district) leaked 39,000 tons of coal ash into the Dan River. Coal ash is left over after coal is burned for electric power. It can contain heavy metals and other harmful toxins, such as arsenic and selenium. About 104 million tons of ash is stored at 33 open-air ponds or pits at 14 active and retired coal-fired Duke Energy power plants in NC. Gov. McCrory was an employee of Duke Energy for almost 29 years.

The 2014 legislature passed Senate Bill 729 as one of its final actions before adjourning. The Governor has until September 19th to sign the bill. The bill does the following:

1. By 12/31/15, the NC Dept. of Environment and Natural Resources (DENR) is to designate the coal ash sites as high, intermediate, or low risk categories, with closure required by 2019, 2024, or 2029, respectively. Under the bill, 4 sites are already designated as **high risk** – the Dan River, Asheville, Riverbend (near Charlotte), and Sutton (near Wilmington) plants must be excavated and placed in industrial lined landfills by 8/1/19. The same must be done for the **intermediate sites** by 12/31/24. Ash can remain at **low-risk sites** and can be “capped in place,” which means plant operators have to keep water from carrying the ash into the water supply.
2. Beginning in January 2015, Duke Energy must test private wells and eventually replace contaminated drinking water supplies for residents.
3. The construction or expansion of coal ash impoundments is banned, effective 10/1/14.
4. By 12/31/18, Duke Energy must convert to “dry” fly ash rather than liquids or sludge. The same rule applies to “bottom ash” by 12/31/19.
5. Coal ash facility owners can request a delay in the closure deadlines of up to 3 years per project, subject to state approval.
6. The bill creates a new Coal Ash Management Commission which will be housed in the NC Department of Public Safety. Gov. McCrory says the provision giving House and Senate leaders 3 appointments each to the 9-member Commission violates state constitutional separation of powers by giving legislative leaders control over core executive branch functions. McCrory said he might sue.
7. The bill leaves the question of who will pay for the coal ash cleanup – the public or Duke Energy's shareholders – to the NC Utilities Commission as part of its normal ratemaking process. The bill includes a moratorium on Duke Energy being able to go to the Utilities Commission to recover any costs of coal ash cleanup until 1/15/15.
8. The bill overturns Wake County Superior Court Judge Paul Ridgeway's ruling in a suit by the Southern Environmental Law Center that groundwater pollution at nearly all coal ash sites must be fixed immediately. A clause in the bill has permit holders instead submit a “plan and proposed schedule” to the state.
9. **Actions by Other Key Actors:** Meanwhile, the **Southern Environmental Law Center** has filed lawsuits to enforce the dam safety act and federal Clean Water Act at three additional coal ash plants – the Buck power plant in Rowan County, the Cape Fear plant in Chatham County, and the Lee plant in Wayne County. The suits ask the court to remove ash from ponds and clean up groundwater and nearby rivers and lakes.

The **U.S. Environmental Protection Agency** also is weighing in, saying that DENR was too lenient in a proposed 2013 settlement with Duke Energy over ash plant violations of the Clean Water Act.

And, the **U.S. Justice Dept.** has opened a criminal investigation of the NC Dept. of Environment and Natural Resources and its oversight of pollution in the state.

Total fines levied for water quality violations have dropped from a high of \$1.965 million in 2006 to \$518,000 in 2013. The legislature has cut 255 positions in DENR since 2009.

- C. **2014 Regulatory Reform** – Senate Bill 734 makes a number of changes to existing state rules and regulations. The Governor has until September 19th to sign the bill. The bill:
1. Makes changes to the Residential Property Disclosure Act concerning mineral and oil and gas rights.
 2. Reduces the ratio which developers must pay to restore wetlands from 2-to-1 to 1-to-1.
 3. Raises the threshold beyond which a permit is required to fill isolated wetlands from 1/3 acre east of Interstate Highway 95 and 1/10 acre west of I-95 to 1 acre statewide. This removes protection for 94% of the wetlands in the eastern part of the state.
- D. **Legislative Rewrite of Stream Protection Rules** – Senate Bill 883/Session Law 2014-95 rewrites rules previously adopted by the Environmental Management Commission (EMC) to protect streams with buffers of trees to keep the water clean, reduce downstream flooding, and keep the riverbanks from washing away. The EMC had originally adopted streamside buffer rules in May 2013, and the Rules Review Commission approved them in July 2013. However, under the 2013 Regulatory Reform Act, if at least 10 objections are filed, the General Assembly must vote on the rules. A sufficient number of objections were raised when 4 DENR staffers, writing as private citizens, objected. DENR leaders then formed a new stakeholder group with mitigation banking firms and DENR staff and rewrote the rules. The new legislatively-ordered rules reduce the amount of buffer that has to be provided, eliminate a preference that lost buffers be replaced with similar buffers, allow credit for creating buffers along ditches, and delete annual reporting requirements.
- E. **Water Lawsuits Can Proceed** – SB 574/S.L. 2014-17 clarifies that it was not the legislature’s intent to put a 10-year deadline (called the statute of repose) on suing over harm from exposure to groundwater pollution. The original law was written to apply to product liability lawsuits. The bill counters a U.S. Supreme Court decision that could have prevented people from suing over groundwater contamination in Asheville and at Camp Lejeune. On June 9, the Supreme Court had ruled that a lawsuit by residents of an Asheville subdivision (where an electronics manufacturing plant polluted well water) couldn’t proceed because of the 10-year state limit.

IV. ECONOMIC DEVELOPMENT AND THE DEPARTMENT OF COMMERCE

- A. **Privatization of Part of the Dept. of Commerce** – House Bill 1031/Session Law 2014-18 moves the recruiting, international trade, marketing, and tourism functions of the NC Dept. of Commerce to a new 501(c)(3) nonprofit called the Economic Development Partnership of North Carolina. About 60 of the Department’s 2,000 employees were laid off, and some were offered positions in the new nonprofit. The nonprofit is required to raise \$250,000 in seed money from private funds, then raise \$750,000 in its first year of operation, and \$1.25 million each additional year of the initial 5-year contract. The legislation requires a conflict of interest policy, has restrictions on gifts and travel, and prohibits the commingling of state and private funds. Projects generated by the nonprofit could be subject to public disclosure if they receive state money. The nonprofit is required to be audited by the state and to disclose the names of individual and corporate donors. The 16 regional economic development partnerships were defunded by the 2013 legislature and are replaced by 8 new Collaboration for Prosperity Zones. Some regional partnerships in wealthier, urban areas may be able to survive without state funding, but the ones in more rural areas probably cannot. *Proponents* say this approach will provide a more nimble and more coordinated approach to recruiting new businesses, help existing businesses to expand, boost exports, and lead to higher wages. *Opponents* say it will hurt rural areas, be less accountable than a public agency, and that it will be hard to sustain private donations to the nonprofit over time because it will be associated with one governor. *Evaluation of This in Other States:* A Washington-based group called Good Jobs First has evaluated such arrangements in other states (12 states, including Arizona, Florida, Indiana, Michigan, Ohio, Rhode Island, Texas, and Wisconsin) and found a mixed record. The group says the structure leads to:
- a lack of transparency and accountability in that a nonprofit is not subject to public records laws and public audits, which also makes it difficult to know who the corporate donors are (Ohio);
 - an inability to raise significant private funds (Arizona);
 - conflicts of interest by board members or companies who also do business with the state (Ohio and Wisconsin);

- projects going to companies with investors or officers who made campaign contributions to the Governor (Texas);
- excessive executive pay (Arizona); and
- exaggeration of the number of jobs created (Indiana).

B. Film Incentives – Current state law gives film companies a 25% refundable tax credit – up to a ceiling of \$20 million – on productions spending more than \$250,000 on certain expenses in NC. The incentive, which originated in 2005, expires at the end of 2014. The state gave out \$61.2 million in credits in 2013. More than 60 productions were registered with the state in 2013; the movies “The Hunger Games” and “Iron Man 3,” as well as the TV series “Homeland,” “Banshee,” and “Under the Dome” were shot in NC. ***Status in Other States:*** About 40 states and 30 countries have film incentives. Four states – Iowa, Kansas, Missouri, and Wisconsin – have terminated their film incentive programs.

2014 Action: The 2014 budget bill replaces the tax credits (which will expire on 12/31/14) with a grant program. The legislature appropriated \$10 million for grants for the program beginning 1/1/15 and expiring 7/1/20.

C. Historic Rehabilitation Tax Credits – All 3 of NC’s 3 tax credits for rehabilitating historic homes and buildings – for commercial, residential, and mill buildings – also will expire on 12/31/14. Attempts to save the credits in a separate bill (SB 763) or as part of the state budget bill failed. The NC Dept. of Commerce said the credits cost the state \$14.2 million a year in revenue but generated \$124 million in investments.

D. Job Catalyst “Closing Fund” To Recruit Businesses – Legislation (HB 1224) to provide up to \$20 million in cash incentives to recruit new businesses to NC, help existing businesses expand, or keep existing jobs from leaving failed in the final days of the session. The closing fund would have been under the sole control of Commerce Dept. Secretary Sharon Decker.

HB 1224 also contained a provision that would have permitted 4 counties (Forsyth, Guilford, Mecklenburg, and Wake) to levy a 2.75% local sales tax rate, provided a referendum was held before 1/1/15. That bill was also tied to a second bill (HB 189) that would have given Wake County another 2 years (until 12/31/16) to hold a referendum to increase the local sales tax by a quarter-cent.

And, HB 1224 was linked to a third bill that would have clarified a budget provision to allow local school districts to convert teacher positions into teacher assistant funding and avoid cuts in teacher assistant jobs.

Because they were linked together, all 3 bills failed.

Gov. McCrory may call a special session of the legislature in the fall to deal with this.

V. MORE CHANGES IN TAX LAWS – HB 1050/Session Law 2014-3, repeals local governments’ authority to levy privilege license taxes on businesses, effective 7/1/15. The state’s municipalities and counties are estimated to lose a total of \$62 million in revenue. Gov. McCrory and Republican leaders pledged to find ways to offset that loss in the 2015 session.

Background: About 300 of the state’s 540 municipalities levy a privilege license tax on many businesses, and 37 counties levy such a tax. The tax is called that because it is viewed by some as a tax on the privilege of doing business in that area. Others call it a business income tax. The tax was sometimes levied as a flat fee on all businesses, sometimes levied on a graduated scale based on population in the area, and sometimes levied based on the gross receipts of the business. The old law restricted the number of businesses subject to the law and capped the amount that could be levied on certain businesses. For example, cities could not apply the tax to banks, medical practices, and law firms, and the tax on auto dealers and building contractors was capped at less than \$100.

The 2014 bill also adjusted the occupancy taxes on rental property in advance of U.S. Open golf tournament in Pinehurst in June. And, it levies a new tax on e-cigarettes.

VI. OTHER KEY SPECIAL PROVISIONS INCLUDED IN THE BUDGET BILL

The NC Center for Public Policy Research has a long history of opposing the use of special provisions in the budget that change laws unrelated to the budget, saying these changes in law should be handled as separate bills and considered on their own merits. However, this practice has continued, and the 2014 budget contains these special provisions, in addition to others noted above.

A. Special 3-Judge Panels Created To Rule on Constitutional Challenges to State Laws – Section 18.16 (a) of the 2014 budget bill creates a new 3-judge panel to handle all lawsuits challenging the constitutional validity of laws passed by the General Assembly after September 1, 2014. The panel consists of 3 judges appointed by the Chief Justice of the state Supreme Court and drawn from different regions of the state. This takes those cases out of the hands of individual Superior Court judges across the state. Under the provision, appeals go directly to the NC Supreme Court, bypassing the NC Court of Appeals.

The Republican majority in the legislature has seen laws taking away teacher tenure, establishing vouchers for private school tuition, and imposing new restrictions on abortion all declared unconstitutional in the last few years. Still other lawsuits are pending that challenge the 2011 redistricting of Congressional and legislative districts, changes in voting laws, the ban on gay marriage, repeal of the Racial Justice Act, and transfers of the Asheville water system and Charlotte airport to regional authorities.

The National Center for State Courts says no other state has such a law for constitutional challenges.

Legislation in 2013 already had given the Speaker of the House and the President Pro Tem of the Senate standing to intervene in any judicial proceeding challenging a state law or provision in the state Constitution.

B. Transfer of the SBI and Alcohol Law Enforcement Section out of the Dept. of Justice and into the Dept. of Public Safety – Section 17.1(a) of the 2014 budget bill transfers the State Bureau of Investigation (SBI) and the Alcohol Law Enforcement Section from the Dept. of Justice, headed by Democrat Attorney General Roy Cooper, into the Dept. of Public Safety, headed by Frank Perry, an appointee of Republican Gov. Pat McCrory. The Alcoholic Beverage Control Commission also was transferred to the Dept. of Public Safety.

The SBI has been under the Attorney General since its inception in 1937. It currently is in the midst of a criminal investigation into campaign contributions from the video sweepstakes industry to 70 political candidates from 2010 to 2013, with the largest recipients being the Speaker, the Governor, and the President Pro Tem. So far, there is no evidence of any wrongdoing by those 3 officials.

C. Regulation of Unmanned Aircraft Systems (Drones) – Section 34.30(a) of the 2014 budget bill authorizes and regulates the use of drones by government agencies. If they get warrants, state and local law enforcement agencies would be able to use drones for surveillance:

- to counter possible terrorist attacks;
- to prevent “imminent danger to life or serious damage to property”;
- to prevent the escape of a suspect or the destruction of evidence;
- to search for a missing person; or
- to photograph public gatherings on public or private land.

The special provision makes it illegal to use a drone to conduct surveillance or photograph someone without their consent unless the photos are taken at newsworthy events to which the public is invited.

ACTIONS TAKEN BY THE 2014 LEGISLATURE THAT IMPLEMENT CENTER RECOMMENDATIONS

1. Legislature Appropriates \$2 Million to Expand Telepsychiatry – In April, the Center released research showing that both patient outcomes and patient satisfaction were high in North Carolina and other states that use telepsychiatry as a way to deliver mental health services in rural areas, especially in the 28 rural counties in NC that do not have a single psychiatrist. The 2014 General Assembly appropriated \$2 million for Fiscal Year 2014-15 to continue expanding the program so that it will become available in emergency rooms at all 108 hospitals in N.C. by July 2015.

2. Educating Children in Psychiatric Residential Treatment Facilities – The legislature provided \$3.2 million in new funding to educate children in Psychiatric Residential Treatment Facilities. This will help implement recommendations by the Center to fill gaps in services for these children and adolescents needing mental health services.

3. Improving Mental Health – A special provision in the 2014 budget bill requires the N.C. Department of Health and Human Services to prepare a “Report on Strategies for Improving Mental Health, Developmental Disabilities, and Substance Abuse Services” by November 1, 2014. This report is to contain the following:

- (1) A strategy to address shortages and deficiencies identified in the State Medical Facilities Plan;
 - (2) A plan for stabilization and treatment of patients in settings other than local hospital emergency departments and state psychiatric hospitals;
 - (3) A plan to ensure that a comprehensive array of outpatient treatment and crisis prevention and intervention services are available to children, adolescents, and adults in every region;
 - (4) Recommendations for increasing the inventory of inpatient psychiatric and substance abuse services within the state; and
 - (5) An inventory of inpatient behavioral health beds for children ages 6-12 and for adolescents over 12
- The budget bill also requires the Department to make a second report by March 1, 2015 on:
- (6) A strategy to address the lack of licensed child and adolescent inpatient psychiatric beds.

4. Stabilizing the Escheat Fund and Scholarships for Financially-Needy Students – The Escheat Fund is composed of unclaimed and abandoned property, and the interest from the Fund is earmarked for scholarships for worthy and needy students enrolled at public UNC campuses. In the Center’s 2010 research on financial aid and tuition policy, we recommended that the legislature stop raiding the Escheat Fund and using these funds for other purposes.

House Bill 27/Session Law 2014-93 takes an important step toward growing the available aid for these scholarships by authorizing the State Treasurer to dedicate the interest from unclaimed U.S. Savings Bonds into a new trust fund to be used for scholarships for financially-needy students.

5. A Legislative Study of Rising Tuition in the Public University System – The UNC Board of Governors approved a new four-year tuition increase plan under which tuition and fees each could be increased by as much as 5% per year for the next four years. UNC tuition already has increased in 24 of the last 26 years. The Center’s previous research has said that this invites a lawsuit since the state Constitution mandates that “the benefits of the University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.”

In the 2014 budget bill, the N.C. General Assembly charges the Joint Legislative Education Oversight Committee to study “the increasing cost of attendance for resident and nonresident students.” That study is to compare tuition increases to inflation rates, examine tuition cost controls used in other states, and look at whether the system should encourage students to enroll first in community colleges for two years.

A NEW WAY TO SUPPORT THE CENTER

The Center has been the go-to resource for nonpartisan, fact-based research on the most important issues facing North Carolina. We've worked hard to educate policymakers, the media, and the public. We are proud that our research has improved state policies and the lives of the people of North Carolina. Through the life of the Center, we have been lucky to have the support of an incredible group of Individual Donors and Center Members like you, and we thank you for your gifts of time, talent, and treasure.

Now, we are excited to announce another way that you can continue to invest your support for the future work of the Center. The Center is launching a new Planned Giving Initiative. Because of life's uncertainties, many of us will make our largest charitable contributions through our wills or estates as a Planned Gift. We now ask you to consider supporting the Center in this way.

As part of this effort, we are also creating a new legacy society (the name of which we will reveal soon) to honor those dedicated North Carolinians who notify us that they have included the Center in their estate plans. The Center's retiring director, Ran Coble, has done this because he believes in the importance of nonpartisan, independent, fact-based research to improve our state government. We would be honored to know that you have decided to support the Center's work in this way. With your permission, we would recognize you by including your name along with his as members of the Center's legacy society.

You will not need to tell us the amount of your gift, but if you are willing to do that, it would be helpful for our planning. Any of us would be pleased to discuss the Center's work and future and our legacy society with you in more detail. If you would like more information, please call us at (919) 832-2839 or email Nancy Rose, our Director of Finance and Operations, at rosebud@nccppr.org. We can arrange for you to speak with Center staff or with a volunteer member of the Center's Board of Directors. Thanks so much for your support over the years, and thank you for considering this.

Ways To Give to the Legacy Society

Securities

You can use securities – stocks, bonds, or mutual fund shares – to make a gift to the Center.

Life Insurance Policy

A life insurance policy – perhaps one that you no longer need – can also provide support for our vital work.

Retirement Plan

Your retirement plan can likewise provide the means to make a future gift to the Center.

Bequest

Through a gift to the Center in your will or living trust, you can make a significant gift without giving up control of your assets during your lifetime. Your gift will have no impact on your current cash flow, and you can modify your gift at any point by a codicil to your will or with an amendment to your trust.

To name the **N.C. Center for Public Policy Research** as your beneficiary, we recommend using language similar to the following:

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Please consider making one of these special gifts to perpetuate your commitment to the mission of the N.C. Center for Public Policy Research. *You should consult with your attorney, accountant, or financial planner to assure that your gift fits your unique situation and to review any specific tax rules that apply to you and your situation.* Because we are a Section 501(c)(3) charity, gifts to the Center are tax-deductible to the extent allowed by law.

Special Thanks to Our Foundation and Corporate Contributors May 2014 – August 2014

The Center greatly appreciates the generous support we receive from foundations. We would like to express our gratitude to the **Cone Health Foundation** for \$30,000 in support of our Project Evaluating North Carolina's Mental Health Reform Efforts. We are also grateful to the **Mary Norris Preyer Fund** for their grant of \$5,000 in precious general operating support. We express our deep appreciation to these foundations.

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