STATE OF NORTH CAROLINA	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 95-CVS-1158
HOKE COUNTY BOARD OF EDUCATION; et al., Plaintiffs, and CHARLOTTE-MECKLENBURG BOARD OF EDUCATION, Plaintiff-Intervenor, and RAFAEL PENN, et al., Plaintiff-Intervenors, v. STATE OF NORTH CAROLINA and the STATE BOARD OF EDUCATION, Defendants, and CHARLOTTE-MECKLENBURG BOARD OF EDUCATION, Realigned Defendant, and PHILIP E. BERGER, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and TIMOTHY K. MOORE, in his official capacity as Speaker of the North Carolina House of Representatives, Intervenor-Defendants.	**PLAINTIFFS' RESPONSE TO THE STATE OF NORTH CAROLINA'S ACCOUNTING FILED ON DECEMBER 19, 2022**

Plaintiffs Cumberland County Board of Education, Halifax County Board of Education, Hoke County Board of Education, Robeson County Board of Education, and Vance County Board of Education ("Plaintiffs") hereby submit, pursuant to the

Electronically Filed Date: 3/15/2023 11:28 AM Wake County Clerk of Superior Court

Court's March 13, 2023 Order, a response to Defendant State of North Carolina's accounting dated December 19, 2022.

The Remanded Issue Before This Court

1. The Supreme Court issued its decision on November 4, 2022. *See Hoke County Bd. of Educ. v. State*, 382 N.C. 386, 2022-NCSC-108 ("*Leandro IV*").

2. In *Leandro IV,* the Supreme Court held that Defendant State of North Carolina was constitutionally obligated to fully implement the Comprehensive Remedial Plan for *Leandro* compliance.

3. The Supreme Court also "narrowly" remanded the case on specific matters including the following issue: "On remand, we narrowly direct the trial court to recalculate the appropriate distributions in light of the State's 2022 Budget." *See Leandro IV* at ¶ 240.

4. That is the issue before this Court now. *See* March 13, 2023 Order.

The Purpose of the "Narrow" Remand

5. The Comprehensive Remedial Plan (or, the "CRP") was developed by Defendant State of North Carolina. *See Leandro IV* at ¶¶ 197, 229.

6. The State's CRP is a comprehensive set of specific action items to be implemented by the State over an eight-year period. The State refers to the years of its CRP as "Year 1", Year 2", "Year 3", ... "Year 8."

7. The State's CRP identifies the specific state agencies and/or departments (*e.g.*, Department of Health and Human Services, Department of Public

Instruction, and University of North Carolina System) charged with implementing each component of CRP and for each of the eight years. *Leandro IV* at ¶ 65.

8. The CRP also identifies the amount of distributions, as determined by the State, required to implement each component and for each of the eight years. *Id.*

9. Years 2 and 3 of the CRP are at issue here.

10. On April 26, 2022, Judge Michael Robinson, to whom this case was previously assigned, concluded that the State had underfunded the distributions required by the CRP in the following amounts:

- $142,900,000 for CRP components administered through the Department of Health and Human Services ("DHHS");
- $608,006,248 for CPR components administered through the Department of Public Instruction ("DPI"); and
- $34,200,000 for CPR components administered through the University of North Carolina System.

Judge Robinson's April 26, 2022 Order is attached as **Exhibit A**.

11. While this case was on appeal to the Supreme Court, however, the State passed its short-session 2022-2023 Budget (the "Short-Session Budget").[1]

12. The Supreme Court recognized that the Short-Session Budget may have adjusted the distributions for Year 3, which would not have been accounted for in Judge Robinson's previous April 26, 2022 Order.

13. Thus, the Supreme Court "narrowly" remanded the case to determine if the above-referenced distributions should be recalculated by this Court in light of the Short-Session Budget.

[1] The Supreme Court refers to this as the "2022 Budget." *Leandro IV* at ¶¶ 92, 240.

State of North Carolina's December 19, 2022 Accounting On the Remanded Issue

14. On December 19, 2022, the State of North Carolina submitted its accounting on the remanded issue. For ease of reference, Plaintiffs attach a copy of the State's accounting as **Exhibit B**.

15. The State's accounting was accompanied by an affidavit from its Chief Deputy Director of State Budget for the North Carolina Office of State Budget and Management (the "State Affidavit").

16. The State Affidavit first sets out the amount of funds required to implement each of the applicable action items in the CRP (for Years 2 & 3).

17. The State Affidavit also sets out, among other things, the amount of funds received through the Short-Session Budget for each item required by the CRP.

18. And, most critical to the issue on remand, the State Affidavit contains an accounting of the recalculations required in light of the State's Short-Session Budget and for each of the three applicable State agencies: DHHS, DPI, and the UNC System.

19. Specifically, the State Affidavit identifies the following recalculations to the distribution amounts set out in Judge Robinson's April 2022 Order:

- ~~$142,900,000~~ **[recalculated to $133,900,000]** for CRP components administered through the Department of Health and Human Services ("DHHS");
- ~~$608,006,248~~ **[recalculated to $509,701,707]** for CPR components administered through the Department of Public Instruction ("DPI"); and
- $34,200,000 **[no recalculation required]** for CPR components administered through the University of North Carolina System.

Plaintiffs' Position on the State of North Carolina's Accounting

20. On January 20, 2023, Plaintiffs filed their response to the State's accounting. In that filing, Plaintiffs explained that they were in agreement with—and did not dispute—the facts set forth in the State Affidavit. Plaintiffs also indicated that they did not dispute the accuracy of the State's accounting.

21. This remains Plaintiffs' position today. The State's accounting is largely a straightforward mathematical exercise, which Plaintiffs do not, and in good faith cannot, dispute.

22. Indeed, the State's accounting applies the findings and conclusions that Judge Robinson made in his April 26, 2022 Order, which the Supreme Court found to be "diligent and precise." *Leandro IV* at ¶ 211.

23. With regard to the DHHS recalculation, Plaintiffs do not dispute that the amount should be reduced from $142,900,000 to $133,900,000. At the time Judge Robinson entered the April 26, 2022 Order, component VI.A.ii.1 of the CRP ("Expand NC Pre-K through incremental rate and slot increases") was then underfunded by $41,900,000.00.[2] The Short-Session Budget, however, provided increased funding for that specific component by $9,000,000.[3] That was the only change to the funding amounts for the DHHS CRP components. Thus, the amount of total underfunding for the DHHS components is $9,000,000 less (or, $142,900,000 *minus* $9,000,000 = $133,900,000).

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[2] State Affidavit Ex. 3, page 1, row 4, column "Amount Underfunded in 2021-2023 State Budget."

[3] *See* State Affidavit Ex. 3, page 1, row 4, column "2022-2023 State Budget Requirements." This is the Short-Session Budget, which the Supreme Court refers to as the "2022 Budget."

24. With regard to the DPI recalculation, Plaintiffs do not dispute that the amount should be reduced from $608,006,248 to $509,701,707. The Short-Session Budget provided increased funding (after Judge Robinson's April 26, 2022 Order) for three applicable CRP components. These are as follows: (a) reduction of the amount of underfunding for component III.E.ii.2 in Year 3 by $87,595,175;[4] (b) reduction of the amount of underfunding for component III.E.ii.3 in Year 3 by $6,809,366;[5] and, (c) it reduced the amount of underfunding for component III.C.iii.1 in Year 3 by $3,900,000.[6] These amounts total $98,304,541. Thus, the amount of total underfunding for the DPI components is $98,304,541 less (or, $608,006,248 *minus* $98,304,541 = $509,701,707).

25. With regard to the UNC System, Plaintiffs do not dispute that no recalculation is required. The Short-Session Budget made no funding changes that impact the applicable CRP components for which the UNC System is responsible.[7]

Conclusion

Accordingly, the following amounts are the appropriate recalculated distributions in light of the State's Short-Session Budget:

(a) Department of Health and Human Services: $133,900,000;

(b) Department of Public Instruction: $509,701,707; and

(c) University of North Carolina System: $34,200,000.

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[4] *See* State Affidavit, Ex. 2 at row 26.

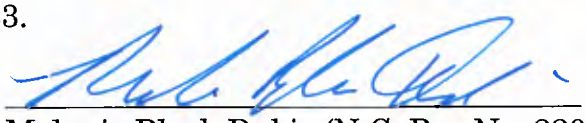
[5] *See* State Affidavit, Ex. 2 at row 27 ($11,773,421 *minus* $4,964,055 = $6,809,366).

[6] *See* State Affidavit Ex. 2 at row 30.

[7] *See* State Affidavit Ex. 4.

Because the fundamental constitutional rights of children are at stake, the Supreme Court has held that time is of the essence. Specifically, the Court recognized that the judiciary "can no longer patiently wait" for the established constitutional violations to be remedied, *Leandro IV* at ¶ 4, and the courts can no longer "condone delay and evasion" by State actors, *see id.* at ¶ 239. Accordingly, Plaintiffs respectfully request that the Court enter an order on the remanded issue which "recalculate[s] the appropriate distributions" in the above-referenced amounts.

This the 15th day of March, 2023.



Melanie Black Dubis (N.C. Bar No. 22027)
Scott E. Bayzle (N.C. Bar No. 33811)
Catherine G. Clodfelter (N.C. Bar No. 47653)
PARKER POE ADAMS & BERNSTEIN LLP
P.O. Box 389
Raleigh, North Carolina 27602-0389
Telephone: (919) 828-0564
melaniedubis@parkerpoe.com
scottbayzle@parkerpoe.com
catherineclodfelter@parkerpoe.com

H. Lawrence Armstrong
ARMSTRONG LAW, PLLC
P.O. Box 187
119 Whitfield Street
Enfield, North Carolina 27823
Telephone: (252) 445-5656
hla@hlalaw.net

Attorneys for Plaintiffs Hoke County Board of Education, et al.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed with the Clerk of Court's electronic system and a copy was served upon counsel for all parties to this action by e-mail and U.S. Mail, first class postage prepaid, addressed as follows:

Amar Majmundar
Senior Deputy Attorney General
North Carolina Department of Justice
P.O. Box 629
Raleigh, North Carolina 27602
AMajmundar@ncdoj.gov

Thomas J. Ziko
Legal Specialist
State Board of Education
6302 Mail Service Center
Raleigh, North Carolina 27699-6302
Thomas.Ziko@dpi.nc.gov

Matthew Tulchin
Tiffany Lucas
North Carolina Department of Justice
114 W. Edenton Street
Raleigh, North Carolina 27603
MTulchin@ncdoj.gov
TLucas@ncdoj.gov

Robert N. Hunter, Jr.
Higgins Benjamin, PLLC
301 North Elm Street, Suite 800
Greensboro, NC 27401
rnhunterjr@greensborolaw.com

Neal Ramee
David Noland
Tharrington Smith, LLP
P.O. Box 1151
Raleigh, North Carolina 27602
nramee@tharringtonsmith.com
dnoland@tharringtonsmith.com

Matthew Tilley
Russ Ferguson
W. Clark Goodman
Michael Ingersoll
Womble Bond Dickinson
301 S. College Street, Suite 3500
Charlotte, NC 28202-6037
Matthew.Tilley@wbd-us.com
Russ.Ferguson@wbd-us.com
Clark.Goodman@wbd-us.com
Mike.Ingersoll@wbd-us.com

David Hinojosa
Lawyers' Committee for Civil Rights Under Law
1500 K Street NW, Suite 900
Washington, DC 20005
202.662.8307
dhinojosa@lawyerscommittee.org

Michael P. Robotti*
New York State Bar No. 4718532
Ballard Spahr
1675 Broadway, 19th Floor
New York, NY 10019
(646) 346.8020
robottim@ballardspahr.com
*Admitted pro hac vice

Christopher A. Brook
NC State Bar No. 33838
Patterson Harkavay LLP
100 Europa Dr., Suite 420
Chapel Hill 27517
(919) 942-5200
cbrook@pathlaw.com

Counsel for Penn-Intervenors, et al.

Michael P. Robotti*
New York State Bar No. 4718532
Ballard Spahr
1675 Broadway, 19th Floor
New York, NY 10019
(646) 346.8020
robottim@ballardspahr.com
*Admitted pro hac vice

Counsel for Penn-Intervenors, et al.

This 15th day of March, 2023.

Melanie Black Dubis
N.C. Bar No. 22027
PARKER POE ADAMS & BERNSTEIN LLP
301 Fayetteville Street, Suite 1400
P.O. Box 389
Raleigh, North Carolina 27602-0389
Telephone: (919) 828-0564
Facsimile: (919) 834-4564

EXHIBIT A

STATE OF NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
95 CVS 1158

HOKE COUNTY BOARD OF EDUCATION, et al.,

Plaintiffs,

and

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION,

Plaintiff-Intervenor

and

RAFAEL PENN, et al.,

Plaintiff-Intervenors

v.

STATE OF NORTH CAROLINA and the STATE BOARD OF EDUCATION,

Defendant

and

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION,

Realigned Defendant

and

PHILIP E. BERGER, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and TIMOTHY K. MOORE, in his official capacity as Speaker of the North Carolina House of Representatives,

Intervenor-Defendants.

ORDER FOLLOWING REMAND

1. **THIS MATTER** is before the Court following the issuance by the Superior Court on 10 November 2021 of an order (hereinafter the "10 November Order")

directing the Office of State Budget and Management and the current State Budget Director, the Office of the State Controller and the current State Comptroller, and the Office of the State Treasurer and the current State Treasurer to transfer a total of $1,753,153,000.00 in three separate payments: (1) to the Department of Health and Human Services ("DHHS") ($189,800,000.00), (2) to the Department of Public Instruction ("DPI") ($1,522,053,000.00), and (3) to the University of North Carolina System ("UNC System") ($41,300,000.00). (*See* Or. 19, ECF No. 23.4. ["10 Nov. Or."].)

I.

PROCEDURAL BACKGROUND

2. This case has a history spanning nearly 27 years. Because the 10 November Order details much of the extensive procedural history of this case, the Court recites here only the factual and procedural background which may provide helpful context for this Order.

3. On 15 March 2021, the State Defendants submitted to the Court a Comprehensive Remedial Plan and Appendix (hereinafter the "CRP"). (Comprehensive Remedial Plan, ECF No. 20.2 ["CRP"].) The CRP was developed by experts retained to assist certain of the parties to determine what concrete steps were necessary and advisable to ensure that children in the State's K-12 grades obtain a "sound basic education" as mandated by the North Carolina State Constitution. The CRP was agreed to by the Plaintiffs and the State Defendants.[1]

[1] While elemental to our system of government, this case demonstrates the fact that there are three co-equal branches of government — the judicial branch, the executive branch, and the legislative branch. The record before this Court demonstrates that, until very recently, the "State Defendants" actively participating in this action were comprised of the executive

4. On 7 June 2021, the trial court ordered that the CRP be implemented in full and in accordance with the timelines set forth therein[2] and directed the State Defendants to secure such funding and resources necessary to implement in a sustainable manner the programs and policies set forth in the CRP. (7 June 2021 Or. 7.)

5. Between 7 June 2021 and 10 November 2021, the North Carolina General Assembly did not pass, and the Governor did not sign, any legislation providing funding and resources necessary to implement the CRP as ordered by the trial court.

6. On 10 November 2021, the trial court entered the 10 November Order directing the transfer of funds totaling $1,753,153,000. The payments ordered by the trial court were to fully fund years 2 and 3 of the CRP. The trial court stayed the effect of the 10 November Order for thirty days.

7. In the 10 November Order, the trial court determined which of three entities (DPI, DHHS, UNC System) received funding for each of the programs to be undertaken or continued during years 2 and 3 of the CRP based on the CRP's designation of the "responsible party" for that program. (State of N.C.'s 4/14/22 NOF

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branch (the Governor's office, the State Department of Education, the State Department of Public Instruction, and the State Department of Health and Human Services) but not the Legislative Branch. In fact, the record discloses that in 2011 the Legislature sought to intervene in this proceeding but its motion was denied by the trial court in its discretion.

[2] The CRP was a detailed document providing for a host of specific programs to be implemented over an eight-year period with costs associated for each year for each program. By virtue of the level of detail within the CRP, parties involved in the implementation of the CRP had a roadmap for the amount of money necessary to fund each of the programs each year as well as being able to determine the total cost for the CRP each year.

Ex. 1., ECF No. 37.1; *see, e.g.*, CRP I.A.ii.1.(a) (listing DPI as the administrative agency responsible for implementation of the program in question).

8. Eight days after the issuance of the 10 November Order, on 18 November 2021, the General Assembly passed, and the Governor signed, the Current Operations and Appropriations Act of 2021, 2021 N.C. Sess. L. 180 (the "Budget Act"). (ECF No. 23.5.) The Budget Act provided significant funding for the State's education programs.

9. Following the issuance of the 10 November Order, appeals were taken by certain parties — including the State of North Carolina — to the North Carolina Court of Appeals.

10. In addition to the initial notices of appeal to the Court of Appeals, on 24 November 2021, Ms. Linda Combs, a non-party to this action and the Comptroller of the State of North Carolina, through counsel petitioned the Court of Appeals for a Writ of Prohibition, Temporary Stay, and Writ of Supersedeas ("the Petition"). (ECF No. 10.) The Petition sought an order preventing Ms. Combs from being required to comply with the provisions of the 10 November Order directing her to transfer funds to DHHS, DPI, and the UNC System on the bases that: (1) the Superior Court lacked jurisdiction to order Ms. Combs to take the actions set forth in the 10 November Order, (2) the 10 November Order "is at variance with the rules prescribed by law," and (3) the 10 November Order requires Ms. Combs to act in a manner which will defeat a legal right. On 30 November 2021, a panel of the North Carolina Court of

Appeals issued its Order granting the Petition.[3] The Court of Appeals expressly ruled that "the trial court's conclusion that it may order petitioner to pay unappropriated funds from the State Treasury is constitutionally impermissible and beyond the power of the trial court." (*In re. The 10 Nov. 2021 Or. in Hoke Cnty. Bd. Ed. et al. vs. State of North Carolina and W. David Lee (Wake County File 95 CVS 1158)*, No. P21-511, ECF No. 23.8.)

11. Also on 30 November 2021, the trial court separately issued *sua sponte* a Notice of Hearing and Order Continuing Stay of Court's November 10, 2021 Order, (ECF No. 23.6), setting a status conference for the Court "to determine what, if any, modifications may be required to its November 10 Order in light of the Appropriations Act and/or other matters properly before the Court." (30 Nov. Or. 2, ECF No. 23.6.) The trial court also extended the stay set by the 10 November Order so the order did not become effective.

12. Following issuance by the Court of Appeals of its Order of Prohibition, a number of parties filed petitions and notices of appeal with the North Carolina Supreme Court seeking "by-pass" review by the Supreme Court of the issues arising from both the 10 November Order and the Court of Appeals panel's entry of a writ of prohibition. Other parties sought dismissal of the appeal to the Supreme Court and denial of the request for by-pass review.

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[3] The Court of Appeals panel's Order states in relevant part: "We therefore issue the writ of prohibition and restrain the trial court from enforcing the portion of its order requiring the petitioner to treat the $1.7 billion in unappropriated school funding identified by the court 'as an appropriation from the General Fund as contemplated within N.C.G.S. § 143C-6-4(b)(2)(a) and to carry out all actions necessary to effectuate those transfers.' Under our Constitutional system, that trial court lacks the power to impose that judicial order."

13. On 8 December 2021, the Honorable Philip E. Berger, in his official capacity as the President *Pro Tempore* of the North Carolina Senate, and, the Honorable Timothy K. Moore, in his official capacity as the Speaker of the North Carolina House of Representatives (collectively the "Legislative Intervenors"), intervened as a matter of right in the trial court proceeding pursuant to N.C.G.S. § 1-72.2(b). (App. R. 142–48.) Following intervention, the Legislative Intervenors on 8 December 2021 filed a Motion to Dismiss Plaintiffs' and Plaintiffs-Intervenors' Notices of Appeal and Petitions for Discretionary Review in the Supreme Court.

14. On 21 March 2022, the North Carolina Supreme Court issued three orders. In its first order, the Supreme Court ruled that the various petitions and notices seeking to appeal to that Court would be held in abeyance, with no action, pending further order of the Supreme Court. In its second order, the Supreme Court allowed the State of North Carolina's Petition for Discretionary Review Prior to Determination by the Court of Appeals and Plaintiff's Petition for Discretionary Review Prior to Determination by the Court of Appeals. The second order also remanded this case to the Superior Court "for the purpose of allowing the trial court to determine what effect, if any, the enactment of the State Budget has upon the nature and extent of the relief that the trial court granted in its 11 November 2021 order" (the "Remand Order"). (ECF No. 13 ["Remand Or."].) In its third order, Supreme Court Chief Justice Paul M. Newby assigned the task identified in the Remand Order to the undersigned Special Superior Court Judge. (Designation Or., ECF No. 1.) The Remand Order permitted the undersigned to make findings of fact

and conclusions of law and to certify any amended order to the Supreme Court within thirty days, meaning on or before 20 April 2022. (Remand Or. 2.)

15. Pursuant to the Supreme Court's directives, the undersigned on 22 March 2022 issued a Notice of Conference for Purposes of Developing a Schedule for Further Briefing and Argument, (ECF No. 2), and conducted an initial conference with the parties on 24 March 2022. Following the initial conference, the Court entered its order of 24 March 2022 noticing a hearing for 13 April 2022 and providing a schedule for briefing, submission of affidavits and other evidence to be considered. (Scheduling Or. and Notice of Hearing, ECF No. 5.) The next day, the undersigned entered a Supplemental Briefing Order, (ECF No. 6), directing the parties to provide information to the Court, among other issues, directly related to:

a. The amount of the funds appropriated in the 2021 Appropriations Act, 2021 N.C. Sess. Laws 180, that directly fund the various programs and initiatives called for in the Comprehensive Remedial Plan;

b. The amount of funds remaining in the General Fund currently both in gross and net of appropriations in the 2021 Appropriations Act;

c. The effect of the appropriations in the 2021 Appropriations Act on the ability of the Court to order the Legislature to transfer funds to the Department of Health and Human Services, Department of Public Instruction, and the University of North Carolina System. *See Richmond Cty. Board of Education v. Cowell,* 254 N.C. App. 422 (2017).

(Supp. Br. Or. 2.)

16. In accordance with the Court's scheduling directives, on 4 April 2022, the State of North Carolina filed the Affidavit of Kristin L. Walker, Chief Deputy Director of State Budget for the North Carolina Office of State Budget and Management, (ECF No. 12), along with attachments to her affidavit, (ECF Nos. 12.1–12.4), explaining, in Ms. Walker's opinion, based on her review and the review of assistants under her supervision, what portions of years 2 and 3 of the CRP were funded by the Budget Act.

17. In summary, Ms. Walker testified that, by her calculation, the Budget Act funded approximately 63 percent of year 2 CRP programs and 49 percent of year three programs. (Walker Aff. ¶ 6.) Further, Ms. Walker testified that the North Carolina treasury would contain $2.38 billion unappropriated and unreserved in fiscal year 2021–22, $22 million unappropriated and unreserved in fiscal year 2022–23, and that the State's Savings Reserve would contain $4.25 billion in unappropriated funds at the end of the two-year budget cycle. (Walker Aff. ¶ 8.)

18. On 8 April 2022, the parties filed briefs and supporting documents including affidavits and proposed findings of fact and conclusions of law. (ECF Nos. 20–27.)

19. On 13 April 2022, the Court heard oral argument in this matter.

20. Following the 13 April hearing, the parties submitted further position statements, charts, and information regarding their respective positions.

21. The original deadline for the trial court to provide the Supreme Court with its certified order was 20 April 2022. On 19 April 2022, the trial court filed a Request

for Extension of Time to File Order on Remand, (ECF No. 42), seeking a seven-day extension of time to comply with the Supreme Court's Remand Order. On 20 April 2022, the Supreme Court granted the trial court's extension request. (ECF No. 44.)

22. Also on 20 April 2022, the trial court issued a Notice of Hearing for a follow-up conference on 22 April 2022 with counsel regarding disagreements between them as to the amount of funding provided in the Budget Act for specific programs in the CRP. (ECF No. 43.) On 22 April 2022, the undersigned conducted the follow-up conference with counsel. On 25 April 2022, the Legislative Intervenors provided the Court with information regarding their position on issues raised during the 22 April 2022 hearing. (Leg. Intervenors' Supp. Resp. to Court's Question at Apr. 22, 2022 Hearing, ECF No. 47 ["Leg. Supp. Resp."].) The matter is now ripe for ruling.

II.

SCOPE OF ISSUES ON REMAND

23. The parties have spent considerable time arguing the scope of the issues to be addressed by the trial court on remand. Specifically, the parties disagree on the proper interpretation of the Supreme Court's Remand Order and the directive by the Supreme Court that this Court determine "what effect, if any, the enactment of the State Budget has upon the nature and extent of the relief that the trial court granted in [the 10 November Order.]" (Remand Or. 2.)

24. The Legislative Intervenors urge, pursuant to their interpretation of the Remand Order, that the Court make a *de novo* legal determination on the legality and enforceability of the 10 November Order — claiming that, as concluded by the

panel of the Court of Appeals, the trial court lacked legal authority to order funds transferred from the North Carolina treasury to fund specific educational programs. Additionally and alternatively, the Legislative Intervenors ask the trial court to re-examine the evidence in the record, including an examination of the programs funded by the Budget Act and determine that the Budget Act as passed fully satisfies the State's obligation to provide K-12 students with a sound basic education as established by the Supreme Court in *Leandro v. State,* 346 N.C. 336 (1997).

25. By comparison, Plaintiffs and the State Defendants contend that the trial court's task is simply to examine the Budget Act as passed and determine the amount of funding provided therein for each of the CRP programs during years 2 and 3 of the CRP — thereby permitting the trial court to mathematically determine the amount of underfunding of the CRP by the Budget Act. Based on these determinations, the Plaintiffs and State Defendants contend that the 10 November Order should be amended to provide for the transfer of the revised amounts of funding necessary to comply with the CRP.

26. As to the Legislative Intervenor's first argument, the Court acknowledges that the Court of Appeals has already ruled on the enforceability of the 10 November Order. As noted above, on 30 November 2021, a panel of the Court of Appeals ruled that "the trial court's conclusion that it may order petitioner to pay unappropriated funds from the State Treasury is constitutionally impermissible and beyond the power of the trial court." *In re. the 10 November 2021 Order in Hoke County Bd. Ed. et al. v. State of N.C. and W. David Lee*, at 2. The Court of Appeals' 30 November

Order has not been overruled or modified and the undersigned concludes that it is binding on the trial court. Accordingly, this court cannot and shall not consider the legal issue of the trial court's authority to order State officers to transfer funds from the State treasury to fund the CRP. Rather, the undersigned believes that this court should, by an amended order, comply with the Court of Appeals' determination.

27. The Court also declines to determine, as Legislative Intervenors urge, that the Budget Act as passed presumptively comports with the constitutional guarantee for a sound basic education. To make a determination on the compliance of the Budget Act with the constitutional right to a sound basic education would involve extensive expert discovery and evidentiary hearings. This Court does not believe that the Supreme Court's Remand Order intended the undersigned, in a period of 30 days, or, as extended, 37 days, to perform such a massive undertaking.

28. Rather, the Court understands its mandate from the Supreme Court to require the trial court to enter a reasoned order which includes findings of fact and conclusions of law in two distinct categories. First, this Court is directed to determine whether the Budget Act as passed by the Legislature and signed by the Governor eight days after the 10 November Order, funds to any extent (and if so, to what extent), programs in years 2 and 3 of the CRP. Logically, if the Budget Act fully funds all of the programs and priorities during years 2 and 3 of the CRP, the 10 November Order, to the extent it orders State officials to transfer a total of $1,753,153,000.00 to DHHS, DPI, and the UNC System would arguably be mooted or made unnecessary by events transpiring subsequent to the entry of the 10 November Order.

29. Second, the Court understands that the Supreme Court's mandate implicitly requires this Court to inquire into the current status of the State budget and how appropriations in the Budget Act affect the amount of unappropriated funds in the State treasury. In this regard, the undersigned interprets the 10 November Order to have been based or supported, at least in substantial part, on the trial court's finding that there were sufficient unappropriated funds in the North Carolina treasury to fund years 2 and 3 of the CRP.

30. Finally, this Court understands that, depending on the outcome of the first two evaluations, if this Court concludes that the relief provided in the decretal provisions of the 10 November Order should be modified or amended, this Court is to enter an order so amending the trial court's earlier order. To the extent this Court may have misinterpreted its task in the Remand Order, it stands ready to comply to the best of its ability to any further orders and instructions of the Supreme Court.

III.

FINDINGS OF FACT[4]

31. Pursuant to the Supreme Court's directive, the Court makes the following findings of fact.

32. The Court requested and was provided information by all parties regarding the provisions of the Budget Act as they relate to the specific programs to be

[4] To the extent any finding contained in this section of the Court's order is more properly considered a conclusion of law, the undersigned intends it to be so considered. Similarly, to the extent any conclusion of law made hereinafter is more properly considered a finding of fact, the undersigned intends it to be so considered.

undertaken during years 2 and 3 of the CRP.[5] (*See* Scheduling Or. and Supplemental Br. Or., ECF Nos. 5–6.)

33. Based on the Court's review of analyses provided to it by the North Carolina Office of State Budget and Management ("OSBM") and the General Assembly's Fiscal Research Division ("FRD"), and the arguments and submissions of the parties, the evidence demonstrates that significant necessary services for students, as identified in the CRP, remain unfunded and/or underfunded by the Budget Act.[6]

34. In the 10 November Order, the trial court determined that it would cost approximately $1.75 billion to fund years 2 and 3 of the CRP. (*See* 10 Nov. Or. 19.) Based on the materials and evidence before it, the Court finds that the Budget Act fails to provide nearly one-half of those total necessary funds. Specifically, the Budget Act funds approximately 63% of the total cost of the programs to be conducted during year 2 and approximately 50% of the total cost of the programs to be conducted during year 3.

35. The parties submitted to the Court two competing spreadsheets purporting to show the funding status of each CRP program during years 2 and 3. (*See* Trogdon

[5] The CRP covers a period of eight years during which a host of different educational programs and initiatives are to be initiated and conducted. The CRP is broken down by year and initiative or program and provides an anticipated annual cost for each of the initiatives and programs during any given year.

[6] While the focus of the Court's inquiry pursuant to the Remand Order is on appropriations in the Budget Act to fund the programs in years 2 and 3 of the CRP, that funding is but a portion of the overall investment made by the State of North Carolina, in its legislative appropriations every two years, to educate its children.

Aff. Ex. D, ECF No. 27.4 ["FRD Chart"]; Walker Aff. Ex. 2, ECF No. 12.2 ["OSBM Chart"].)

36. The chart submitted by the State of North Carolina (the "OSBM Chart") was prepared by Kristen L. Walker, Chief Deputy Director of State Budget for the North Carolina Office of State Budget and Management. The data and conclusions within the OSBM Chart are endorsed for the most part[7] by the State, Plaintiffs, and the Penn Intervenors.

37. The chart submitted by the Legislative Intervenors (the "FRD Chart") was prepared under the supervision of Mark Trogdon, Director of Fiscal Research at the nonpartisan Fiscal Research Division ("FRD"), a division of the North Carolina General Assembly. (Trogdon Aff. ¶¶ 1, 49, ECF No. 27.)

38. The OSBM Chart and the FRD Chart are largely in agreement on the funding status of the CRP programs for years 2 and 3. Areas of disagreement between the two charts are as follows:

a. The Budget Act appropriated funds to several CRP programs where such funds were provided by the federal American Rescue Plan Act (ARPA) and the Elementary and Secondary Schools Emergency Relief ("ESSER III") Fund.[8] (ARPA, Public Law 117-2, 50 Stat. 664 (March 11, 2021). The FRD Chart credits CRP programs as funded to the extent the General Assembly has appropriated federal ARPA

[7] Based on supplemental filings by the parties, Ms. Walker's numbers for certain program expenses were modified to account for federal funding and program grants that were not included in her original calculations. *See* infra n.9.
[8] *See* FRD Chart rows 18, 27, 30, 39, 44, 52, 59, 61.

and ESSER III monies to fund those programs. The OSBM Chart treats some of those programs as unfunded.[9]

b. The FRD Chart includes $59,750,575 included in the Budget Act which would fund CRP programs which do not begin or require funding until year 4 of the CRP. (FRD Chart rows 35–37.) The OSBM Chart does not include this funding.

c. The OSBM Chart acknowledges, in addition to $18,750,000 each year for years 2 and 3 in federal funds from ESSER III, additional funding in two different appropriations for professional development in the Budget Act in the amounts of $2,500,000 and $1,411,256, for year 2 of the CRP. (OSBM Chart row 31.) The FRD Chart does not include these funds as the Budget Act does not specifically earmark any of these funds for professional development and thus there is no certainty the funds will be put to such use. (Trogdon Aff. ¶ 50(d)(i).)

d. The OSBM Chart credits $305,000 in each of CRP years 2 and 3 toward CRP program III.E.ii.2. where the Budget Act appropriates that sum to support salary increases for personnel at three residential schools for the deaf and blind. (*See* OSBM Chart row 33.) The FRD Chart does not include this funding due to the specialized

[9] On 14 April 2022, the State of North Carolina filed a chart containing partial revisions to the OSBM Chart, (ECF No. 37.4 ["State's Ex. 4"]). The revised chart acknowledges funding from the ARPA childcare block grant for CRP programs VI.B.iv.1 and VI.G.ii.1, and thus the revised chart changes those programs from unfunded, (*see* OSBM Chart rows 51, 59), to fully funded, bringing it in agreement with the FRD Chart regarding those programs. (State's Ex. 4 rows 6, 14.)

nature of these schools and because the CRP does not specifically mention them. (*See* Trogdon Aff. ¶ 50(d)(ii).)

e. The OSBM Chart included funds which were appropriated for the "enhancement teacher allotment," CRP program III.C.ii.1. (OSBM Chart row 30.) The FRD Chart does not include these funds because they were not appropriated by the Budget Act, but instead were previously appropriated by the General Assembly in 2018 N.C. Sess. Laws 2, § 5(d).

39. The FRD Chart notes that the General Assembly appropriated additional funds to K-12 and early education which are not contemplated by the CRP. (Trogdon Aff. ¶ 51.) These appropriations include capital funding for school business systems modernization, public school building repair and renovations, and needs-based capital projects. (Trogdon Aff. ¶¶ 52–53.)

40. After careful consideration of the materials and oral argument presented by all parties to this matter, and because the Court finds that neither of the parties has fully and accurately presented the amount of year 2 and 3 CRP funding provided by the Budget Act, the Court, based upon its own calculations, finds the figures shown in the chart appended to this Order as Exhibit A.

41. The Court started its analysis by use of the FRD chart.[10] (*See* FRD Chart 1–4.) The Court then adjusted the chart in accordance with the following principles:

[10] The decision to use the FRD Chart as a starting point was based on the fact that the Court agrees with the FRD Chart's inclusion of federal monies from ESSER III and ARPA which the General Assembly appropriated for years 2 and 3 CRP programs, and the OSBM Chart did not include such federal monies for several programs. The Court considers those funds

a. Where the Budget Act has appropriated *federal* funding, via ARPA or ESSER III, for an item in year 2 and/or year 3, the Court considers such funding to be available to the responsible party during either year 2 or year 3. In those cases, funding is split such that it is allocated first to year 2, with any excess funding allocated to year 3.

b. Where the Budget Act has appropriated *state* funding to CRP programs, such funding is available to the responsible party only during the year in which it was appropriated. In those cases, funds appropriated for CRP year 2 are not available for year 3, or vice versa, even if there are excess funds available.

c. Where the Budget Act has provided more funds for a program than the CRP requires for that year, the Court considers the program to be overfunded.

d. To the extent that the Budget Act appropriates funds for CRP programs *outside* of years 2 and 3 or overfunds a CRP program during years 2 and 3, the Court does not credit those appropriations. (*See* FRD Chart rows 35–37.) The 10 November Order dealt solely with funding for years 2 and 3 of the CRP and only determined that the CRP programs during those two years should be fully funded — not

properly included in a calculation of the extent to which the CRP may be underfunded, notwithstanding the fact that the funds in question originate from sources outside the State treasury or State revenue. Therefore, the Court has credited those items as funded up to the amount of funding required for the CRP program in question.

overfunded. Accordingly, funding in subsequent years or funding in excess of the amount required by the CRP is not relevant to the Court's present inquiry.

42. The Court has reviewed the sums and calculations contained in the OSBM Chart and FRD Chart and resolving the disagreements between the two finds as follows:

a. Where the Budget Act appropriates sufficient federal monies from ESSER III and ARPA grants for years 2 and 3 CRP programs, the Court considers those programs to be fully funded for years 2 and 3 notwithstanding the fact that the funds in question originate from sources outside the State treasury or State revenue. Therefore, the Court has credited those items[11] as funded up to the amount of funding required for the CRP program in question.

b. The CRP program for professional development, (CRP III.C.iii.1.), is fully funded for years 2 and 3 of the CRP via federal ESSER III funds, (*see* FRD Chart row 27; OSBM Chart row 31), and accordingly, the Court need not determine whether the two allotments in the amounts of $2,500,000 and $1,411,256, (*see* OSBM chart rows 32–33) are properly credited to CRP program III.C.iii.1.

c. The Budget Act's appropriation of $305,000 in each of CRP years 2 and 3, which the state has directed be spent on salary supplements

[11] *See* rows 18, 27, 30, 39, 44, 52, and 61 of the FRD Chart.

for licensed personnel at the State's residential schools for the deaf and blind, is not properly credited to CRP program III.E.ii.2. (*See* OSBM Chart row 32.) As acknowledged by the legislative intervenors, this appropriation applies only to residential schools, and is not available to fund teacher salaries in local school systems as contemplated by program III.E.ii.2. (Leg. Supp. Resp. ¶ 2.) The Court agrees, and accordingly does not include the appropriation of $305,000 for each of years 2 and 3 in its calculation.

d. Although the Program Enhancement Teachers program, (CRP program III.C.ii.1), was fully funded by 2018 N.C. Sess. Laws 2, § 5(d), prior to the passage of the Budget Act, the Court nonetheless credits such funding, as to do otherwise would indicate that a CRP program remains unfunded when it is, in fact, fully funded.

43. The Budget Act reserves during each year of the two-year budget cycle $l.134 billion to the State's Savings Reserve, which brings the total of unappropriated funds in the State's Savings Reserve to $4.25 billion after the fiscal year 2022–23 legislatively-mandated transfer. (Walker Aff. ¶ 8; Trogdon Aff. ¶ 42.) The Savings Reserve "is established as a reserve in the General Fund and is a component of the unappropriated General Fund balance." N.C.G.S. § 143C-4-2.

44. Under North Carolina law,

> [e]ach Current Operations Appropriations Act enacted by the General Assembly shall include a transfer to the Savings Reserve of *fifteen percent (15%) of each fiscal year's estimated growth in State tax revenues* that are deposited in the General Fund, except that if that transfer

> would cause the balance of the Reserve to exceed the recommended Savings Reserve balance developed pursuant to subsection (f) of this section then the amount transferred pursuant to this subsection shall be reduced accordingly.

N.C.G.S. § 143C-4-2(d) (emphasis added).

45. The Budget Act includes significant reductions in the rates of certain personal income and corporate taxes such that the projected tax revenue to be received by the State during the Budget Act's two-year cycle is reduced from current levels by over $2.3 billion. Due to the fact that there is no estimated growth in State tax revenues during the budget cycle, the $1.134 billion transferred into the Savings Reserve each of the next two budget years are not required pursuant to the fifteen percent (15%) statutory transfer, but are instead a transfer made in the discretion of the General Assembly. In addition to the discretionary Savings Reserve transfers provided for in the Budget Act, the Budget Act also provides for the discretionary transfer of over $2 billion into the State's Capital and Infrastructure Reserve.

46. As a matter of mathematical calculation, the funds transferred on a discretionary basis to the State's Savings Reserve and the State's Capital and Infrastructure Reserve during the two-year budget cycle is substantially in excess of the amount necessary to fully fund the CRP during years 2 and 3 of the CRP.

IV.

CONCLUSIONS OF LAW

47. Based on the foregoing Findings of Fact, the Court makes the following Conclusions of Law.

48. Based on the Supreme Court's Remand Order, and the express directive contained therein, this Court has authority to reconsider the trial court's 10 November Order. Further, pursuant to Rule 54(b) of the North Carolina Rules of Civil Procedure, a trial court can reconsider any interlocutory ruling, like the 10 November Order, at any time prior to entry of final judgment and adjudication of the rights and liabilities of all parties to the proceeding. *See Pender Farm Dev., LLC v. NDCO, LLC,* 2O2O NCBC LEXIS 110, at *4 (N.C. Super. Ct. Sep. 25, 2020). Reconsideration is within the trial court's discretion, *W4 Farms, Inc. v. Tyson Farms, Inc.,* 2017 NCBC LEXIS 99, at *5 (N.C.. Super. Ct. Oct. 19, 2017), and may be especially appropriate where an intervening development or change in controlling law has occurred. *See e.g. Pender v. Bank of Am. Corp.,* No. 3:05-CV-238-MU, 2011 U.S. Dist. LEXIS 1838, at *7 (W.D.N.C. Jan. 7, 2011) (citation omitted).

49. In this regard, the Court notes that, as noted previously herein, (*see supra* ¶ 11), even prior to assumption of jurisdiction of this matter by the Supreme Court and entry of its Remand Order, the trial court had, on 30 November 2021 issued a notice of hearing to allow the trial court "to determine what, if any modifications may be required to its November 10 Order in light of the Appropriations Act and/or other matters properly before the Court."

50. The Budget Act, as passed and enacted, when combined with other funds properly considered and included, partially but not totally funds years 2 and 3 of the CRP. Specifically, of a total cost of $1,753,153,000 necessary to fund the programs called for in the CRP during the two years in question, the Budget Act, when

combined with other funds properly considered and included, provides funding for CRP programs during years 2 and 3 in the amount of $968,046,752. As a result, the total underfunding of CRP programs during years 2 and 3 of the CRP is $785,106,248 in the aggregate.

51. The underfunding of years 2 and 3 of the CRP, on a per-entity basis is as follows:

a. Underfunding of programs for which DHHS is responsible: $142,900,000;

b. Underfunding of programs for which DPI is responsible: $608,006,248;

c. Underfunding of programs for which the UNC System is responsible: $34,200,000.[12]

52. At the time the 10 November Order was entered, the State's reserve balance included $ 8 billion and $ 5 billion in forecasted revenues at that time exceeding the existing base budget. (10 Nov. Or. ¶ 22.)

53. The Budget Act anticipates a net of $2.38 billion unappropriated and unreserved funds at the end of Fiscal Year 2021–22, the first year of the two-year budget cycle in the Budget Act. (Walker Aff ¶ 8.) The Budget Act also anticipates that the unappropriated balance remaining at the conclusion of fiscal year 2021–22 will remain available to fund appropriations and reservations in fiscal year 2022–23.

[12] Attached as Exhibit A hereto is a chart listing CRP programs to be conducted during years 2 and 3, the amount of funding required for each CRP program during each year of years 2 and 3, the amount of funding by the Budget Act and other funds properly included in determining aggregate funding of the CRP programs during years 2 and 3, and the amount of underfunding of the same.

(Trogdon Aff. ¶ 41.) The Budget Act thus projects that the State will have an unappropriated, *unreserved* balance of $104,638 at the conclusion of fiscal year 2022–23. (Trogdon Aff. ¶ 41 (emphasis added).) But because funds in the Savings Reserve are defined by N.C.G.S. § 143C-4-2(a) as being "a component of the unappropriated General Fund balance[,]" the funds transferred by the Budget Act, totaling $1.134 billion in each of fiscal years 2021–22 and 2022–23 remain part of the General Fund balance. Accordingly, the unappropriated (but not "unreserved") balance in the General Fund at the conclusion of fiscal year 2022-2023 will be in excess of $4.25 billion.

54. Taking the two-year budget as a whole, the General Fund does contain sufficient unappropriated monies to make the transfer anticipated by the 10 November Order and the lesser amount of underfunding identified above.

55. The Court of Appeals has determined that the trial court had no proper basis in law to direct the transfer by State officers or departments of funds to DHHS, DPI, and the UNC System. As such, this Court concludes that the 10 November Order should be amended to remove a directive that State officers or employees transfer funds from the State Treasury to fully fund the CRP but should amend the 10 November Order to determine that the State of North Carolina has failed to comply with the trial court's prior order to fully fund years 2 and 3 of the CRP.

56. The Order should be further amended to determine specifically that the additional amounts that are due to DHHS, DPI, and the UNC System for undertaking

the programs called for in years 2 and 3 of the CRP should be modified and amended as follows:

a. The amount to be provided to DHHS should be reduced from $189,800,000 to $142,900,000

b. The amount to be provided to DPI should be reduced from $1,522,053,000 to 608,006,248.

c. The amount to be provided to the UNC System should be reduced from $41,300,000 to $34,200,000.

57. The Order should be amended to include a judgment that the DHHS, DPI, and UNC System have and recover from the State the sums set forth in paragraph 56 immediately above.

V.

ORDER

58. It is THEREFORE ORDERED that decretal paragraphs 1–9 on pages 19–20 of the trial court's 10 November Order are stricken and are amended as follows:

1. It is hereby ORDERED, ADJUDGED AND DECREED that the Department of Health and Human Services; the Department of Public Instruction, and the University of North Carolina System have and recover from the State of North Carolina to properly fund years 2 and 3 of the Comprehensive Remedial Plan the following sums in addition to those sums otherwise provided for the Comprehensive Remedial Plan by the Budget Act and federal or other funds made available:

a. The Department of Health and Human Services recover from the State of North Carolina the sum of $142,900,000;

b. The Department of Public Instruction recover from the State of North Carolina the sum of $608,006,248; and

c. The University of North Carolina System recover from the State of North Carolina the sum of $34,200,000.

d. The DHHS, DPI, UNC System, and all other State agents or State actors receiving funds under the Comprehensive Remedial Plan, are directed to administer those funds consistent with, and under the time frames set out in the Comprehensive Remedial Plan, including the Appendix thereto.

2. To the extent any other actions are necessary to effectuate the year 2 and 3 programs in the Comprehensive Remedial Plan, any and all other State actors and their officers, agents, servants, and employees are authorized and directed to do what is necessary to fully effect years 2 and 3 of the Comprehensive Remedial Plan.

3. The funds adjudged to be owed by the State to DHHS, DPI, and the UNC System under this Order are for maximum amounts necessary, when combined with sums already appropriated by the General Assembly in the Budget Act or otherwise, to provide the services and accomplish the purposes described in years 2 and 3 of the Comprehensive Remedial Plan. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these

purposes and the savings shall revert to the General Fund at the end of fiscal year 2023, unless the General Assembly extends their availability.

This Order is certified to the North Carolina Supreme Court.

SO ORDERED, this the 26th day of April, 2022.

/s/ Michael L. Robinson

Michael L. Robinson
Special Superior Court Judge

EXHIBIT B

STATE OF NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 95 CVS 1158

HOKE COUNTY BOARD OF EDUCATION, et al.,

Plaintiffs,

and

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION

Plaintiff-Intervenor,

and

RAFAEL PENN, et al.,

Plaintiff-Intervenors,

v.

STATE OF NORTH CAROLINA and the STATE BOARD OF EDUCATION,

Defendants,

and

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION

Realigned Defendant,

and

PHILIP E. BERGER, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and TIMOTHY K. MOORE, in his official capacity as Speaker of the North Carolina House of Representatives,

Intervenor-Defendants.

STATE OF NORTH CAROLINA'S NOTICE OF FILING

Case No.1995CVS1158 ECF No. 58 Filed 12/19/2022 16:53:32 N.C. Business Court

NOW COMES Defendant, the State of North Carolina, by and through undersigned counsel, and hereby provides notice of the filing of the following documents pursuant to the parties Rule 14.3 Report:

Ex. A - Affidavit of Anca Elen Grozav, Chief Deputy Director of State Budget North Carolina Office of State Budget and Management with accompanying exhibits 1-4.

Grozav Affidavit Ex. 1 – Agency Breakout Summary;

Grozav Affidavit Ex. 2 – Agency Breakout DPI;

Grozav Affidavit Ex. 3 – Agency Breakout DHHS; and

Grozav Affidavit Ex. 4 – Agency Breakout UNC.

Respectfully submitted, this the 19th day of December, 2022.

JOSHUA H. STEIN
ATTORNEY GENERAL

/s/ Amar Majmundar
Amar Majmundar
Senior Deputy Attorney General
N.C. Bar No. 24668
N.C. Department of Justice
P.O. Box 629
Raleigh, North Carolina 27602
Phone: (919) 716-6820
Email: amajmundar@ncdoj.gov

CERTIFICATE OF SERVICE

I do hereby certify that in accordance with BCR 3 the foregoing document has been electronically filed using the Court's electronic filing system, which will automatically send notification of such filing to the following counsel of record:

Matthew Tulchin Tiffany Lucas NC DEPARTMENT OF JUSTICE 114 W. Edenton Street Raleigh, North Carolina 27603 MTulchin@ncdoj.gov TLucas@ncdoj.gov		Thomas J. Ziko Legal Specialist STATE BOARD OF EDUCATION 6302 Mail Service Center Raleigh, NC 27699-6302 Thomas.Ziko@dpi.nc.gov
Neal Ramee David Nolan Tharrington Smith, LLP P.O. Box 1151 Raleigh, North Carolina 27602 NRamee@tharringtonsmith.com dnoland@tharringtonsmith.com Counsel for Charlotte-Mecklenburg Schools		Melanie Black Dubis Scott E. Bayzle Catherine G. Clodfelter Parker Poe Adams & Bernstein LLP P.O. Box 389 Raleigh, NC 27602-0389 melaniedubis@parkerpoe.com scottbayzle@parkerpoe.com catherineclodfelter@parkerpoe.com Counsel for Plaintiffs
H. Lawrence Armstrong Armstrong Law, PLLC P.O. Box 187 Enfield, NC 27823 Email: hla@hlalaw.net Counsel for Plaintiffs		David Hinojosa Elizabeth Haddix Lawyers Committee for Civil Rights Under Law 1500 K Street, NW, Suite 900 Washington, DC 20005 ehaddix@lawyerscommittee.org dhinojosa@lawyerscommittee.org
Robert N. Hunter, Jr. Higgins Benjamin, PLLC 301 North Elm Street, Suite 800 Greensboro, NC 27401 rnhunter@greensborolaw.com Counsel for Petitioner Combs		Matthew Tilley Russ Ferguson W. Clark Goodman Womble Bond Dickinson One Wells Fargo Center, Ste. 3500 301 S, College St. Charlotte, NC 28202-6037 Matthew.tilley@wbd-us.com Russ.Ferguson@wbd-us.com Clark.Goodman@wbd-us.com

Michael P. Robotti* Ballard Spahr 1675 Broadway, 19th Floor New York, NY 10019 robottim@ballardspahr.com *Admitted pro hac vice Counsel for Penn-Intervenors, et al.		Christopher A. Brook Patterson Harkavay LLP 100 Europa Dr., Suite 420 Chapel Hill 27517 cbrook@pathlaw.com

This the 19th day of December, 2022.

/s/ Amar Majmundar
Amar Majmundar
Senior Deputy Attorney General

STATE OF NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 95 CVS 1158

HOKE COUNTY BOARD OF EDUCATION, et al.,

Plaintiffs,

and

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION

Plaintiff-Intervenor,

and

RAFAEL PENN, et al.,

Plaintiff-Intervenors,

v.

STATE OF NORTH CAROLINA and the STATE BOARD OF EDUCATION,

Defendants,

and

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION

Realigned Defendant,

and

PHILIP E. BERGER, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and TIMOTHY K. MOORE, in his official capacity as Speaker of the North Carolina House of Representatives,

Intervenor-Defendants.

AFFIDAVIT OF
ANCA ELENA GROZAV

Case No.1995CVS1158 ECF No. 59 Filed 12/19/2022 16:53:32 N.C. Business Court

I, Anca Elena Grozav, having been duly sworn, depose and state as follows:

1. I am over 18 years of age, legally competent to give this declaration, and have personal knowledge of the facts set forth in it.
2. I am the Chief Deputy Director of State Budget for the North Carolina Office of State Budget and Management. I have been employed in this capacity since 1 November 2022.
3. On 4 November 2022, the North Carolina Supreme Court filed an opinion and order in this matter. Following issuance of the mandate, this Court subsequently filed the opinion and order on 30 November 2022. ECF No. 56
4. The North Carolina Supreme Court's opinion and order provides that the trial court's "November 2021 Order directing certain State officials to transfer available state funds to implement years two and three of the Comprehensive Remedial Plan" is reinstated. Case ECF No. 56, Page 137.
5. The opinion and order further directs the trial court to "recalculate the appropriate distributions in light of the State's 2022 Budget," and that upon reclaculation, the trial court is instructed to "order the applicable State officials to transfer these funds as an appropriation under law." Case ECF No. 56, Page 137.
6. Consistent with the North Carolina Supreme Court's opinion and order, I, with the assistance of several budget analysts under my supervision, determined the overall funding requirements identified in the Comprehensive Remedial Plan for each action item, both by year and total. Those summary determinations are reflected in the attached **Exhibit 1**.
7. As part of that analysis, my staff and I compared how much funding each action item in the Comprehensive Remedial Plan for Year Two and Year Three was received through the Operations Appropriations Act of 2021 (S.L. 2021-180), and the Act to Modify The Current

Operations Appropriations Act of 2021 (S.L. 2022-74). Those figures are reflected in **Exhibit 1.**

8. With respect to the Comprehensive Remedial Plan for Year Two and Year Three, **Exhibit 1** also includes the total amounts of unfunded action item.
9. The analysis reveals that 63% of the Year Two Action Items of the Comprehensive Remedial Plan, and 60% of the Year Three Action Items of the Comprehensive Remedial Plan have been funded. This means that approximately $257,679,390 of Year Two Action Items remain unfunded, while $420,121,777 of Year Three Action Items remain unfunded.
10. **Exhibit 2**, attached, provides a detailed description of the funding requirements associated with the North Carolina Department of Public Instruction for Years Two and Three of the Comprehensive Remedial Plan. **Exhibit 2** provides the amounts that have been funded through S.L. 2021-180 and S.L. 2022-74, as well as those amounts that remain unfunded.
11. **Exhibit 3**, attached, provides a detailed breakdown of the funding requirements associated with the North Carolina Department of Health and Human Services for Years Two and Three of the Comprehensive Remedial Plan. **Exhibit 3** provides the amounts that have been funded through S.L. 2021-180 and S.L. 2022-74, as well as those amounts that remain unfunded.
12. **Exhibit 4**, attached, provides a detailed breakdown of the funding requirements associated with the University of North Carolina System for Years Two and Three of the Comprehensive Remedial Plan. **Exhibit 4** provides the amounts that have been funded through S.L. 2021-180 and S.L. 2022-74, as well as those amounts that remain unfunded.

I affirm, under penalty of perjury, that the foregoing statements are true to the best of my knowledge. This concludes my affidavit.

This the 19th day of December, 2022.

Anca Elena Grozav
Chief Deputy Director of State Budget
North Carolina Office of State Budget
and Management

STATE OF NORTH CAROLINA

WAKE COUNTY

Anca Elena Grozav, first duly sworn, deposes and says that she has read the foregoing Affidavit and knows the contents thereof that the same are true of her own knowledge except as to those matters and things stated therein upon information and belief, and as to those she believes them to be true. Subscribed and sworn to before me this 19th day of December, 2022.

Scarlett Hargis

Notary Public

My commission expires: Dec. 21, 2023

Actions and Corresponding Funding in Years Two and Three of the *Leandro* Comprehensive Remedial Plan

The Comprehensive Remedial Plan (CRP) includes a series of actions, aligned to the seven key areas outlined in Judge Lee's January 21, 2020 order, and the discrete, individual action steps to be taken to achieve each overarching action. Responsible parties are identified for each action step (usually listed in the sub-bullet "a" under each action step in the CRP).

The three agencies listed in the November 10, 2021 order (the Department of Public Instruction, the Department of Health and Human Services, and the University of North Carolina system) are the corresponding agencies listed in the CRP as the responsible party for administering funds and implementing the requisite programs for Year 2 and 3 actions. The total amount of funding called for in the CRP for each action in Year 2 and 3 was totaled by responsible agency to arrive at the total dollar amounts in the November 10, 2021 order.

Pursuant to the 4 November 2022 opinion and order of the North Carolina Supreme Court, the attached tables provide an analysis of the Year 2 and 3 actions in the CRP and the funding that the 2021-23 and 2022-23 State Budgets appropriated for those actions. The first table provides a summary by responsible agency of the total amount of funding called for in the CRP to accomplish the Year 2 and 3 actions, the amount that was funded through the 2021-23 and 2022-23 State Budgets, and the amount underfunded. The additional tables break down Year 2 and 3 actions in the CRP organized by responsible agency and provide:

- A list of Year 2 and 3 actions and funding called for in the CRP (columns labeled "Comprehensive Remedial Plan");
- The amount of funding credited by the Court in its April 2022 Order as appropriated in the 2021-23 State Budget (columns labeled "4/22 Court Conclusion on FY2021-23 Long Session Budget (SL 2021-180)");
- The amount of additional funding appropriated in the 2022-23 State Budget (columns labeled "2022-23 State Budget (SL2022-74)"); and,
- An analysis of the amount of funding still needed to accomplish actions in Years 2 and 3 of the CRP (columns labeled "December 2022 Status Analysis (4/22 Court Conclusion + SL2022-74)").

Case No.1995CVS1158 ECF No. 59.1 Filed 12/19/2022 16:53:32 N.C. Business Court

Comprehensive Remedial Plan Funding Status

	Plan Year 2 (FY2021-22)				Plan Year 3 (FY2022-23)				Total	
	Plan	Funded	Underfunded	% Funded	Plan	Funded	Underfunded	% Funded	Plan	Underfunded
DHHS Subtotal	$ 76,400,000	$ 22,900,000	$ 53,500,000	30%	$ 113,400,000	$ 33,000,000	$ 80,400,000	29%	$ 189,800,000	$ 133,900,000
DPI Subtotal	$ 597,551,500	$ 407,471,570	$ 190,079,930	68%	$ 924,501,500	$ 604,879,723	$ 319,621,777	65%	$ 1,522,053,000	$ 509,701,707
UNC Subtotal	$ 16,700,000	$ 2,600,000	$ 14,100,000	16%	$ 24,600,000	$ 4,500,000	$ 20,100,000	18%	$ 41,300,000	$ 34,200,000
TOTAL	**$ 690,651,500**	**$ 432,971,570**	**$ 257,679,930**	**63%**	**$ 1,062,501,500**	**$ 642,379,723**	**$ 420,121,777**	**60%**	**$ 1,753,153,000**	**$ 677,801,707**

Notes:

1. Some items were "overfunded" through legislative appropriations. They are only shown here up to the plan amounts, since surplus funds make no progress toward other plan items and therefore don't decrease the net remaining funding requirement. The Plan Funding Status tab shows actual funding levels for reference, but on this tab, "Funded" is capped at plan levels to show only legislative appropriations that address plan totals.

Comprehensive Remedial Plan - Department of Public Instruction (DPI)

			Comprehensive Remedial Plan						4/22 Court Conclusion on FY2021-23 Long Session Budget (SL 2021-180)										2022-23 State Budget (SL2022-74)				December 2022 Status Analysis (4/22 Court Conclusion + SL2022-74)						
			Year 2 (FY 2021-22)			Year 3 (FY 2022-23)			Year 2 (FY 2021-22)					Year 3 (FY 2022-23)					Year 3 (FY 2022-23)				Year 2 (FY 2021-22)			Year 3 (FY 2022-23)			
	Action Steps	Agency	Requirements	FTE	Called R/NR	Requirements	FTE	Called R/NR	2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	Notes	2022-23 State Budget Requirements	FTE	Funded R/NR	Notes	Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR	State Budget Act Requirements	Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR
4	Funding to support the work of the Professional Educator Preparation and Standards Commission (I.A.ii.1.)	DPI	$200,000	2	R	$200,000	2	R			$200,000		R			$200,000		R						$ -	$ 200,000	R	$-	$ -	$ 200,000	R
5	Develop a plan for implementing a licensure and compensation reform model designed offer early, inclusive, clear pathways into the profession, reward excellence and advancement, and encourage retention. (I.A.ii.2.)	DPI	$50,000		NR			NR			$50,000		NR			$-								$ -	$ 50,000	NR	$-	$ -	$ -	
6	Analysis of resources and structures necessary for the State's EPPs to increase their production (I.A.ii.3.)	DPI	$25,000		NR			NR			$25,000		NR			$-								$ -	$ 25,000	NR	$-	$ -	$ -	
7	Provide personnel and programmatic support for TeachNC, an initiative that seeks to provide accurate and compelling information about the teaching profession. (I.A.ii.4.)	DPI	$500,000	1	R	$500,000	1	R	$880,000	$500,000	$-	1	NR	$880,000	$500,000	$-	1	NR	DPI updated need following release of LCRP to include total of 1 FTE and $880K (R) for operations.					$ 500,000	$ -	NR	$ 880,000	$ 500,000	$ -	R
8		DPI							$100,000		$-		R	$100,000		$-		R						$ -	$ -	R	$ 100,000	$ -	$ -	R
9	Plan and fund a statewide system/entity to coordinate teacher recruitment and support (I.A.iii.3.)	DPI				$25,000		NR			$-					$25,000		NR						$ -	$ -		$-	$ -	$ 25,000	NR
10	Support for the expansion of student recruitment programs (I.A.ii.5.)	DPI	$300,000		R	$300,000		R			$300,000		R			$300,000		R						$ -	$ 300,000	R	$-	$ -	$ 300,000	R
11	Provide support for high quality teacher preparation residency programs in high need rural and urban districts (I.C.i.1.)	DPI				$5,000,000		R								$5,000,000		R						$ -	$ -		$-	$ -	$ 5,000,000	R
12	Establish the Office of Equity Affairs at NCDPI to direct the recruitment and retention of a diverse educator workforce.	DPI	$400,000		R	$400,000		R			$400,000		R			$400,000		R						$ -	$ 400,000	R	$-	$ -	$ 400,000	R
13	Provide grants to additional districts to implement an advanced teaching roles initiative. (I.H.iii.1.)	DPI	$3,000,000		R	$5,800,000		R	$2,040,000	$2,040,000	$960,000		R	$2,040,000	$2,040,000	$3,760,000		R						$ 2,040,000	$ 960,000	R	$ 2,040,000	$ 2,040,000	$ 3,760,000	R
14	Conduct a North Carolina-specific wage comparability study to determine competitive pay for educators in comparison to professions that require similar education and credentials. (I.J.ii.1.)	DPI	$200,000		NR			NR			$200,000		NR											$ -	$ 200,000	NR	$-	$ -	$ -	
15	Provide funds for the cost of National Board certification for up to 1,000 teachers annually with priority to educators in high needs and low performing schools. (I.K.ii.1.)	DPI	$1,900,000		R	$1,900,000		R	$1,200,000	$1,200,000	$700,000		NR			$1,900,000		NR	ESSER III Set-aside. Judge Lee assigned first to Y2 with any leftover (none) to Y3.					$ 1,200,000	$ 700,000	NR	$-	$ -	$ 1,900,000	NR
16	Establish a district-level grant program focused on the implementation of multi-year recruitment bonuses and other compensation options for certified teachers who commit to teach in a low wealth or high needs district or school for multiple years. (I.K.ii.2.)	DPI	$3,000,000		R	$6,000,000		R	$3,000,000	$3,000,000	$-		R	$4,300,000	$4,300,000	$1,700,000		R						$ 3,000,000	$ -	R	$ 4,300,000	$ 4,300,000	$ 1,700,000	R
17	Remove children with disabilities funding cap and increase supplemental funding to provide funding for students with disabilities equivalent to 2.3 times the cost of an average student. (III.B.ii.1.)	DPI	$40,000,000		R	$70,000,000		R	$13,175,727	$13,175,727	$26,824,273		R	$13,175,727	$13,175,727	$56,824,273		R						$ 13,175,727	$ 26,824,273	R	$ 13,175,727	$ 13,175,727	$ 56,824,273	R
18	Combine the DSSF and at-risk allotments and increase funding such that the combined allotment provides an equivalent supplemental weight of 0.4 on behalf of all economically-disadvantaged students. (III.B.ii.2.)	DPI	$35,000,000		R	$70,000,000		R			$35,000,000		R			$70,000,000		R						$ -	$ 35,000,000	R		$ -	$ 70,000,000	R
19	Increase low wealth funding to provide eligible counties supplemental funding equal to 110% of the statewide local revenue per student. (III.B.ii.3.)	DPI	$20,000,000		R	$40,000,000		R			$20,000,000		R			$40,000,000		R						$ -	$ 20,000,000	R	$-	$ -	$ 40,000,000	R
20	Eliminate the limited English proficiency funding cap, simplify formula, and increase funding to provide per-student support equivalent to a weight of 0.5. (III.B.ii.4.)	DPI	$10,000,000		R	$20,000,000		R			$10,000,000		R			$20,000,000		R						$ -	$ 10,000,000	R	$-	$ -	$ 20,000,000	R

Case No.1995CVS1158 ECF No. 59.2 Filed 12/19/2022 16:53:32 N.C. Business Court

			Comprehensive Remedial Plan						4/22 Court Conclusion on FY2021-23 Long Session Budget (SL 2021-180)										2022-23 State Budget (SL2022-74)				December 2022 Status Analysis (4/22 Court Conclusion + SL2022-74)						
			Year 2 (FY 2021-22)			Year 3 (FY 2022-23)			Year 2 (FY 2021-22)					Year 3 (FY 2022-23)					Year 3 (FY 2022-23)				Year 2 (FY 2021-22)			Year 3 (FY 2022-23)			
	Action Steps	Agency	Requirements	FTE	Called R/NR	Requirements	FTE	Called R/NR	2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	Notes	2022-23 State Budget Requirements	FTE	Funded R/NR	Notes	Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR	State Budget Act Requirements	Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR
21	Complete the final two years of funding of the enhancement teacher allotment. (III.c.ii.1.)	DPI	$139,700,000		R	$139,700,000		R	$139,700,000	$139,700,000	$-		R	$139,700,000	$139,700,000	$-		R	Statutory appropriation for Program Enhancement Teachers included in base budget					$ 139,700,000	$ -	R	$ 139,700,000	$ 139,700,000	$ -	R
22	Increase professional development funding to provide districts with adequate funding for professional development and mentoring. (III.C.iii.1.)	DPI	$10,000,000		R	$20,000,000		R	$10,000,000	$10,000,000	$-		NR	$27,500,000	$20,000,000	$-		NR	Funded from ESSER III set-aside, SL 2021-180, Sec. 7.27 (a)(3.5 (a)(5)). Since funding satisfied, Court did not rule on NR funds for training in computer science to DPI for NCCAT. Funds split according to footnote 5 below.					$ 10,000,000	$ -	NR	$ 27,500,000	$ 20,000,000	$ -	NR
23	Simplify teacher assistant formula and increase funding until funding will provide approximately one teacher assistant for every 27 K-3 students. (III.C.iii.2.)	DPI	$20,000,000		R	$30,000,000		R			$20,000,000		R			$30,000,000		R						$ -	$ 20,000,000	R	$-	$ -	$ 30,000,000	R
24	Provide funding for SISP to meet national guidelines. (III.D.ii.1.)	DPI	$40,000,000		R	$80,000,000		R	$25,451,551	$25,451,551	$12,848,449		R	$25,451,551	$25,451,551	$54,548,449		R	Includes NR ESSER III funds for psychologist recruitment program and R funds for salary increases for certain ISP (SL2021-180 CR p. B-26 #55-56)					$ 27,151,551	$ 12,848,449	R	$ 25,451,551	$ 25,451,551	$ 54,548,449	R
25		DPI							$1,700,000	$1,700,000	$-		NR														$-	$ -		
26	Increase salaries for teachers and instructional support staff by 5 percent in FY 2022 and incrementally after that based on study findings. (III.E.ii.2.)	DPI	$232,200,000		R	$354,100,000		R	$182,776,979	$182,776,979	$49,423,021		R	$266,504,825	$266,504,825	$87,595,175		R	Includes Teacher and ISP raises and Supplemental Allotment	$178,870,326		R	Includes Teacher and ISP raises and Supplemental Allotment	$ 182,776,979	$ 49,423,021	R	$ 445,375,151	$ 354,100,000	$ -	R
27	Increase principal and assistant principal pay consistent with teacher salary increases. (III.E.ii.3.)	DPI	$19,000,000		R	$29,700,000		R	$8,950,813	$8,950,813	$10,049,187		R	$17,926,579	$17,926,579	$11,773,421		R		$6,809,366		R		$ 8,950,813	$ 10,049,187	R	$ 24,735,945	$ 24,735,945	$ 4,964,055	R
28	Implement the NC State Board of Education's District and Regional Support model to provide direct and comprehensive assistance for the improvement of low performing and high poverty schools and districts (V.A.iii.1.)	DPI	$10,000,000		R	$19,000,000		R	$10,000,000	$10,000,000	$-		NR	$8,000,000	$8,000,000	$11,000,000		NR	Funded NR in ESSER III set-aside, SL 2021-180, Sec. 7.27 (a)(3.5 (a)(24)). Split according to footnote 5 below					$ 10,000,000	$ -	NR	$ 8,000,000	$ 8,000,000	$ 11,000,000	NR
29	Provide resources and support to high poverty schools to adopt a community schools or other evidence-based model to address out of school barriers (V.C.ii.1)	DPI	$1,500,000		R	$6,000,000		R			$1,500,000		R			$6,000,000		R						$ -	$ 1,500,000	R	$-	$ -	$ 6,000,000	R
30	Provide funding to cover the reduced-price lunch co-pays for all students who qualify for reduced-price meals so that those students would receive free lunches. (V.C.iii.1.)	DPI				$3,900,000		R			$-					$3,900,000		R		$3,900,000		NR		$ -	$ -		$ 3,900,000	$ 3,900,000	$ -	NR
31	Provide funding for an independent alignment study of all NC dual credit courses and basic graduation requirements (VII.A.ii.3)	DPI	$50,000		NR				$50,000	$50,000	$-		NR			$-			4/22 Court doc includes VII.B.iv.1. Overcounts Y2 by $50k, but 2-year total is still correct.					$ 50,000	$ -	NR	$-	$ -	$ -	
32	Ensure students graduate prepared for college-level coursework at the NC Community Colleges through the Career and College Ready Graduate program (VII.A.ii.4)	DPI	$546,500	1	R	$546,500	1	R	$546,500	$546,500	$-	1	R	$546,500	$546,500	$-	1	R						$ 546,500	$ -	R	$ 546,500	$ 546,500	$ -	R

		Comprehensive Remedial Plan						4/22 Court Conclusion on FY2021-23 Long Session Budget (SL 2021-180)										2022-23 State Budget (SL2022-74)				December 2022 Status Analysis (4/22 Court Conclusion + SL2022-74)						
		Year 2 (FY 2021-22)			Year 3 (FY 2022-23)			Year 2 (FY 2021-22)					Year 3 (FY 2022-23)					Year 3 (FY 2022-23)				Year 2 (FY 2021-22)			Year 3 (FY 2022-23)			
	Action Steps	Agency	Requirements	FTE	Called R/NR	Requirements	FTE	Called R/NR	2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	Notes	2022-23 State Budget Requirements	FTE	Funded R/NR	Notes	Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR	State Budget Act Requirements	Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR
33	Provide funds to examine barriers and supports impacting all students' ability to complete dual enrollment courses (VII.B.iv.1)	DPI				$50,000		NR	$50,000		$-				$50,000	$-		NR	4/22 Court doc includes in VII.A.ii.3. in Y2. 2-year total is still correct					$ -	$ -		$-	$ 50,000	$ -	NR
34	Revise the funding approach for NCVPS to remove barriers that prevent students in low-wealth districts from participating (VII.B.iii.1)	DPI	$1,500,000		R	$3,000,000		R			$1,500,000		R			$3,000,000		R						$ -	$ 1,500,000	R	$-	$ -	$ 3,000,000	R
35	Expand funds for credentials and certifications for Career and Technical Education students (VII.B.iii.2)	DPI	$6,500,000		R	$6,500,000		R	$6,500,000	$6,500,000	$-		R	$6,500,000	$6,500,000	$-		R						$ 6,500,000	$ -	R	$ 6,500,000	$ 6,500,000	$ -	R
36	Provide recurring funding for Cooperative Innovative High Schools approved to open from 2018-2021 (VII.B.ii.1)	DPI	$1,880,000		R	$1,880,000		R	$1,880,000	$1,880,000	$-		R	$1,880,000	$1,880,000	$-		R						$ 1,880,000	$ -	R	$ 1,880,000	$ 1,880,000	$ -	R
37	Provide funds for a Career and Postsecondary Planning Director at NCDPI and Career Development Coordinators in grades 6-12 across state (VII.C.iii.2)	DPI	$100,000		R	$10,000,000		R			$100,000		R			$10,000,000		R						$ -	$ 100,000	R	$-	$ -	$ 10,000,000	R
38	**Total R**		**$ 597,226,500**			**$ 924,426,500**			**$ -**	**$ 384,021,570**	**$ 189,104,930**			**$ -**	**$ 478,025,182**	**$ 405,001,318**				**$ 185,679,692**				**$ 385,721,570**	**$ 189,104,930**		**$ 664,684,874**	**$ 572,929,723**	**$ 306,696,777**	
39	**Total NR**		**$ 325,000**			**$ 75,000**			**$ -**	**$ 23,450,000**	**$ 975,000**			**$ -**	**$ 28,550,000**	**$ 12,925,000**				**$ 3,900,000**				**$ 21,750,000**	**$ 975,000**		**$ 39,400,000**	**$ 31,950,000**	**$ 12,925,000**	
40	**DPI Subtotal**		**$ 597,551,500**			**$ 924,501,500**			**$ 408,001,570**	**$ 407,471,570**	**$ 190,079,930**		**68%**	**$ 514,505,182**	**$ 506,575,182**	**$ 417,926,318**		**55%**						**$ 407,471,570**	**$ 190,079,930**	**68%**		**$ 604,879,723**	**$ 319,621,777**	**65%**

Notes:

1. Comprehensive Remedial Plan (CRP) items with no funding required (policy only) are omitted here.
2. Parentheticals at the end of each plan step refer to the action in the full Comprehensive Remedial Plan
3. "2021-23 State Budget" refers to the Current Operations Appropriations Act of 2021 (SL2021-180) and the two relevant technical corrections laws, SL2021-189 and SL2022-6.
4. "Underfunded" is defined as receiving new appropriations less than the plan's specification.
5. ESSER III funds are available beyond the biennium, through Sept. 2024. The Court's April 2022 order "split such that it is allocated first to year 2, with any excess funding allocated to year 3."
6. Items "overfunded" show full appropriation in Funded columns, but $0 in Underfunded columns since these funds make no progress toward funding other plan items, and therefore don't decrease the net remaining funding requirement. For this reason, Funding percentage is calculated based on Amount Underfunded rather than Amount Funded, to avoid incorrectly skewing funding percentage up.

Comprehensive Remedial Plan - Department of Health and Human Services (DHHS)

		Comprehensive Remedial Plan						4/22 Court Conclusion on FY2021-23 Long Session Budget (SL 2021-180)										2022-23 State Budget (SL2022-74)				December 2022 Status Analysis (4/22 Court Conclusion + SL2022-74)						
		Year 2 (FY 2021-22)			Year 3 (FY 2022-23)			Year 2 (FY 2021-22)					Year 3 (FY 2022-23)					Year 3 (FY 2022-23)				Year 2 (FY 2021-22)			Year 3 (FY 2022-23)			
	Action Steps	Agency	Requirements	FTE	Called R/NR	Requirements	FTE	Called R/NR	2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	Notes	2022-23 State Budget Requirements	FTE	Funded R/NR	Notes	Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR	State Budget Act Requirements	Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR
4	Expand NC Pre-K through incremental rate and slot increases. (VI.A.ii.1.)	DHHS	$ 26,500,000		R	$ 45,400,000		R	$ 1,700,000	$ 1,700,000	$ 24,800,000		R	$ 3,500,000	$ 3,500,000	$ 41,900,000		R		$ 9,000,000		R		$ 1,700,000	$ 24,800,000	R	$ 12,500,000	$ 12,500,000	$ 32,900,000	R
5	Implement child care subsidy improvements and increase funding. (VI.B.iv.1.)	DHHS	$ 10,000,000		R	$ 10,000,000		R	$ 10,000,000	$ 10,000,000	$-		NR	$ 10,000,000	$ 10,000,000	$-		NR	Funded NR with ARPA Child Care Block Grant					$ 10,000,000	$ -	NR	$ 10,000,000	$ 10,000,000	$ -	NR
6	Provide funding for staffing, interpreter services, a centralized provider network system, professional development, and addressing salary inequities. (VI.C.ii.1.)	DHHS	$ 7,700,000		R	$ 10,000,000		R			$ 7,700,000		R			$ 10,000,000		R						$ -	$ 7,700,000	R	$-	$ -	$ 10,000,000	R
7	Conduct a cost study for expanding eligibility. (VI.C.ii.2.)	DHHS	$ 150,000		NR			NR			$ 150,000		NR			$-								$ -	$ 150,000	NR	$-	$ -	$ -	
8	Conduct infrastructure readiness assessment for expanding eligibility. (VI.C.ii.3.)	DHHS	$ 100,000		NR			NR			$ 100,000		NR			$-								$ -	$ 100,000	NR	$-	$ -	$ -	
9	Provide professional development. (VI.C.ii.4.)	DHHS	$ 250,000		R	$ 250,000		R			$ 250,000		R			$ 250,000		R						$ -	$ 250,000	R	$-	$ -	$ 250,000	R
10	Smart Start - Incrementally increase funding annually. (VI.D.ii.1.)	DHHS	$ 20,000,000		R	$ 20,000,000		R	$ 10,000,000	$ 10,000,000	$ 10,000,000		R	$ 10,000,000	$ 10,000,000	$ 10,000,000		R						$ 10,000,000	$ 10,000,000	R	$ 10,000,000	$ 10,000,000	$ 10,000,000	R
11	Expand participation statewide in Child Care WAGE$ salary supplements. (VI.E.ii.1.)	DHHS	$ 10,000,000		R	$ 26,000,000		R			$ 10,000,000		R			$ 26,000,000		R						$ -	$ 10,000,000	R	$-	$ -	$ 26,000,000	R
12	Implement recruitment strategies and professional development. (VI.E.ii.4.)	DHHS	$ 500,000		R	$ 1,250,000		R			$ 500,000		R			$ 1,250,000		R						$ -	$ 500,000	R	$-	$ -	$ 1,250,000	R
13	Implement a real-time early childhood workforce data system. (VI.G.ii.1.)	DHHS	$ 1,200,000		NR	$ 500,000		R	$ 1,200,000	$ 1,200,000	$-		NR	$ 500,000	$ 500,000	$-		NR	Funded NR with ARPA Child Care Block Grant					$ 1,200,000	$ -	NR	$ 500,000	$ 500,000	$ -	NR
14	**Total R**		**$ 74,950,000**			**$ 113,400,000**			**$ -**	**$ 11,700,000**	**$ 53,250,000**			**$ -**	**$ 13,500,000**	**$ 89,400,000**				**$ 9,000,000**				**$ 11,700,000**	**$ 53,250,000**		**$ 22,500,000**	**$ 22,500,000**	**$ 80,400,000**	
15	**Total NR**		**$ 1,450,000**			**$ -**			**$ -**	**$ 11,200,000**	**$ 250,000**			**$ -**	**$ 10,500,000**	**$ -**				**$ -**				**$ 11,200,000**	**$ 250,000**		**$ 10,500,000**	**$ 10,500,000**	**$ -**	
16	**DHHS Subtotal**		**$ 76,400,000**			**$ 113,400,000**			**$ 22,900,000**	**$ 22,900,000**	**$ 53,500,000**		**30%**	**$ 24,000,000**	**$ 24,000,000**	**$ 89,400,000**		**21%**						**$ 22,900,000**	**$ 53,500,000**	**30%**		**$ 33,000,000**	**$ 80,400,000**	**29%**

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Grozav Affidavit Ex. 3 – Page 1 of 1

Case No.1995CVS1158 ECF No. 59.3 Filed 12/19/2022 16:53:32 N.C. Business Court

Comprehensive Remedial Plan - University of North Carolina (UNC)

Action Steps	Agency	Comprehensive Remedial Plan – Year 2 (FY 2021-22) Requirements	FTE	Called R/NR	Comprehensive Remedial Plan – Year 3 (FY 2022-23) Requirements	FTE	Called R/NR	4/22 Court Conclusion on FY2021-23 Long Session Budget (SL 2021-180) – Year 2 (FY 2021-22) 2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	4/22 Court Conclusion – Year 3 (FY 2022-23) 2021-23 State Budget Requirements	Amount Credited by Court	Amount Underfunded in 2021-23 State Budget	FTE	Funded R/NR	Notes	2022-23 State Budget (SL2022-74) – Year 3 (FY 2022-23) Requirements	FTE	Funded R/NR	Notes	December 2022 Status Analysis (4/22 Court Conclusion + SL2022-74) – Year 2 (FY 2021-22) Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR	Year 3 (FY 2022-23) State Budget Act Requirements	Plan Amount Funded this Biennium	Amount Underfunded this Biennium	Funded R/NR
Increase funding to recruit and support up to 1,500 Teaching Fellows annually. (I.B.iii.1.)	UNC	$1,000,000		R	$4,700,000		R			$1,000,000		R			$4,700,000		R						$ -	$ 1,000,000	R	$-	$ -	$ 4,700,000	R
Expand Partnership TEACH and similarly successful, research-based Grow-Your-Own and 2+2 programs in all regions of the State. (I.E.ii.1.)	UNC	$2,200,000		R	$2,200,000		R			$2,200,000		R			$2,200,000		R						$ -	$ 2,200,000	R	$-	$ -	$ 2,200,000	R
Provide comprehensive induction services through the NC New Teacher Support Program to beginning teachers in low performing, high poverty schools. (I.G.ii.1.)	UNC	$2,200,000		R	$5,000,000		R			$2,200,000		R			$5,000,000		R						$ -	$ 2,200,000	R	$-	$ -	$ 5,000,000	R
The North Carolina Principal Fellows Program will prepare 300 new principals annually. (II.B.iii.1.)	UNC	$8,700,000		R	$9,700,000		R			$8,700,000		R	$1,500,000	$1,500,000	$8,200,000		R						$ -	$ 8,700,000	R	$1,500,000	$ 1,500,000	$ 8,200,000	R
Provide matching funds to the College Advising Corps to expand the placement of college advisers (VII.C.iii.1)	UNC	$2,600,000		R	$3,000,000		R	$3,521,000	$2,600,000	$-		NR	$3,521,000	$3,000,000	$-		NR	Funded NR in ESSER III set-aside, SL 2021-180, Sec. 7.27 (a)(3.5 (a)(18)). Note that budget over-funds.					$ 2,600,000	$ -	NR	$3,521,000	$ 3,000,000	$ -	NR
Total R		**$ 16,700,000**			**$ 24,600,000**			**$ -**	**$ -**	**$ 14,100,000**			**$ -**	**$ 1,500,000**	**$ 20,100,000**				**$ -**				**$ -**	**$ 14,100,000**		**$ 1,500,000**	**$ 1,500,000**	**$ 20,100,000**	
Total NR		**$ -**			**$ -**			**$ -**	**$ 2,600,000**	**$ -**			**$ -**	**$ 3,000,000**	**$ -**				**$ -**				**$ 2,600,000**	**$ -**		**$ 3,521,000**	**$ 3,000,000**	**$ -**	
UNC Subtotal		**$ 16,700,000**			**$ 24,600,000**			**$ 3,521,000**	**$ 2,600,000**	**$ 14,100,000**		**16%**	**$ 5,021,000**	**$ 4,500,000**	**$ 20,100,000**		**18%**					**$ 2,600,000**	**$ 14,100,000**	**16%**		**$ 4,500,000**	**$ 20,100,000**	**18%**

Notes:

1. Comprehensive Remedial Plan (CRP) items with no funding required (policy only) are omitted here.
2. Parentheticals at the end of each plan step refer to the action in the full Comprehensive Remedial Plan
3. "2021-23 State Budget" refers to the Current Operations Appropriations Act of 2021 (SL2021-180) and the two relevant technical corrections laws, SL2021-189 and SL2022-6.
4. "Underfunded" is defined as receiving new appropriations less than the plan's specification.
5. ESSER III funds are available beyond the biennium, through Sept. 2024. The Court's April 2022 order "split such that it is allocated first to year 2, with any excess funding allocated to year 3."
6. Items "overfunded" show full appropriation in Funded columns, but $0 in Underfunded columns since these funds make no progress toward funding other plan items, and therefore don't decrease the net remaining funding requirement. For this reason, Funding percentage is calculated based on Amount Underfunded rather than Amount Funded, to avoid incorrectly skewing funding percentage up.

Grozav Affidavit Ex. 4 – Page 1 of 1

Case No.1995CVS1158 ECF No. 59.4 Filed 12/19/2022 16:53:32 N.C. Business Court