NOTE 21: CONDUIT DEBT OBLIGATIONS, COMMITMENTS, AND CONTINGENCIES

A. Conduit Debt Obligations

The State, by action of the General Assembly, created the North Carolina Medical Care Commission which is authorized to issue tax-exempt bonds and notes to finance construction and equipment projects for nonprofit and public hospitals, nursing homes, continuing care facilities for the elderly and related facilities. The bonds are not an indebtedness of the State and, accordingly, are not reflected in the accompanying financial statements. Each issue is payable solely from the revenues of the facility financed by that issue and any other credit support provided. In addition, no commitments beyond the payments from the facilities and maintenance of the tax-exempt status of the conduit debt obligation were extended by the North Carolina Medical Care Commission. Therefore, each issue is separately secured and is separate and independent from all other issues as to source of payment and security. The indebtedness of each entity is serviced and administered by a trustee independent of the State. Maturing serially and term to calendar year 2055, the outstanding principal of such bonds and notes as of June 30, 2025, was $4.92 billion with interest rates varying from .75% to 6.25%.

The North Carolina Capital Facilities Finance Agency (Agency) is authorized by the State to issue tax-exempt bonds and notes to finance industrial and manufacturing facilities, pollution control facilities for industrial (in connection with manufacturing) or pollution control facilities and to finance facilities and structures at private nonprofit colleges and universities, and institutions providing kindergarten, elementary and secondary education, and various other nonprofit entities. The Agency's authority to issue bonds and notes also includes financing private sector capital improvements for activities that constitute a public purpose. The bonds issued by the Agency are not an indebtedness of the State and, accordingly, are not reflected in the accompanying financial statements. Each issue is payable solely from the revenues of the facility financed by that issue and any other credit support provided. In addition, no commitments beyond the payments from the nonprofit entities and maintenance of the tax-exempt status of the conduit debt obligation were extended by the North Carolina Capital Facilities Finance Agency. Therefore, each issue is separately secured and is separate and independent from all other issues as to source of payment and security. The outstanding principal of such bonds and notes as of June 30, 2025, was $1.22 billion carrying both fixed interest rates and variable interest rates which can be reset periodically.

The North Carolina Department of Transportation (NCDOT) is authorized by General Statute §136-18(39) and General Statute §136-18(39a) to enter into private partnership agreements to finance by tolls and other financing methods the cost of constructing transportation infrastructures. Such an agreement was entered into on June 26, 2014, with I-77 Mobility Partners LLC (Mobility Partners) to design, build, finance and operate the I-77 High Occupancy Toll (HOT) Lanes Project. The NCDOT issued $100 million of senior private activity bonds (PABs) on behalf of Mobility Partners and provided additional direct funds of $116.2 million. The PABs are not an obligation of the NCDOT or the State. The bonds are payable from payments received by the Mobility Partners, and NCDOT has committed to maintaining the tax-exempt status of the bonds. As of June 30, 2025, the outstanding principal of the PABs was $99.45 million.

B. Litigation

Hoke County Board of Education et al. v. State of North Carolina et al. — Right to a Sound Basic Education **(formerly *Leandro*) —** In 1994, students and boards of education in five counties in the State filed a suit in Superior Court requesting a declaration that the public education system of North Carolina, including its system of funding, violates the state constitution by failing to provide adequate or substantially equal educational opportunities, by denying due process of law, and by violating various statutes relating to public education. Five other school boards and students therein intervened, alleging claims for relief on the basis of the high proportion of at-risk and high-cost students in their counties' systems.

The suit is similar to a number of suits in other states, some of which resulted in holdings that the respective systems of public education funding were unconstitutional under the applicable state law. The State filed a motion to dismiss, which was denied. On appeal, the North Carolina Supreme Court upheld the present funding system against the claim that it unlawfully discriminated against low-wealth counties but remanded the case for trial on the claim for relief based on the Court's conclusion that the constitution guarantees every child the opportunity to obtain a sound basic education. Trial on the claim of one plaintiff-county was held in the fall of 1999. On October 26, 2000, the trial court, in Section Two of a projected three-part ruling, concluded that at-risk children in North Carolina are constitutionally entitled to such pre-kindergarten educational programs as may be necessary to prepare them for higher levels of education and the "sound basic education" mandated by the Supreme Court. On March 26, 2001, the Court issued Section Three of the three-part ruling, in which the judge ordered all parties to investigate certain school systems to determine why they are succeeding without additional funding. The State filed a Notice of Appeal to the Court of Appeals, which resulted in the Court's decision to re-open the trial and call additional witnesses. That proceeding took place in the fall of 2001. On April 4, 2002, the Court entered Section Four of the ruling, ordering the State to take such actions as may be necessary to remedy the constitutional deficiency for those children who are not being provided with access to a sound basic education and to report to the Court at 90-day intervals remedial actions being implemented. On July 30, 2004, the North Carolina Supreme Court affirmed the majority of the trial court's orders, thereby directing the executive and legislative branches to take corrective

action necessary to ensure that every child has the opportunity to obtain a sound, basic education. Thereafter, the State took steps to respond to the trial court's orders.

On June 15, 2011, the General Assembly enacted legislation which placed certain restrictions on the North Carolina pre-kindergarten program which had been established by the General Assembly in 2001. Following a hearing requested by the plaintiffs, the trial court entered an order prohibiting the enforcement of legislation having the effect of restricting participation in the program. On appeal, the North Carolina Court of Appeals affirmed the trial court's order prohibiting the State from denying any eligible "at risk" children admission to the program. The State appealed this decision, and in November 2013, the North Carolina Supreme Court held that amendments to the 2011 legislation had rendered the appeal moot. The case was remanded to the Superior Court.

On March 13, 2018, the Superior Court issued an Order appointing WestEd to serve as the Court's independent, non-party consultant to make recommendations for specific actions necessary to achieve sustained compliance with the constitutional mandates of *Leandro*. On October 4, 2019, WestEd submitted its final report and recommendations to the Court. The WestEd report estimated that over the eight-year period beginning in the fiscal year 2019-20, it could take as much as $6.86 billion in additional funding beyond 2018-19 appropriations for the State to meet its *Leandro* obligations. On January 21, 2020, the Court entered a Consent Order Regarding the Need for Immediate Systemic Action for the Achievement of *Leandro* Compliance. In that Order, the Court found that many children across North Carolina are still not receiving the constitutionally required opportunity for a sound basic education, and the State had to make systemic changes and investments to fulfill its obligations. Consistent with that decision, the Court ordered the State Defendants, in consultation with the plaintiff parties, to develop a comprehensive remedial plan to provide all children with the opportunity for a sound basic education. The Court did not order the State to appropriate any funds but ordered the State to remedy the deficiencies identified in its Order of January 21, 2020.

In June 2020, the parties submitted a Joint Report to the Court on Sound Basic Education (SBE) for All: Fiscal Year 2021 Action Plan For North Carolina. The Joint Report detailed the actions the State and N.C. State Board of Education were committed to taking in the first year (Fiscal Year 2021) of an eight-year Plan. The parties agreed that the actions outlined in the Joint Report were the necessary and appropriate actions needed in Fiscal Year 2021 to begin to adequately address the constitutional violations in providing the opportunity for a sound basic education to all children in North Carolina. The State Defendants estimated that the costs of the action steps detailed in the Joint Report would require an additional State investment of $426.99 million in Fiscal Year 2021. The Court thereafter ordered the parties to formalize the commitments in the Joint Report in a Consent Order which the Court entered on September 11, 2020.

On March 15, 2021, the State Defendants submitted the Comprehensive Remedial Plan required under the January and September Consent Orders. The State Defendants, including the N.C. State Board of Education, agreed that the actions outlined in that Plan were the necessary and appropriate actions needed over the next eight years to address the constitutional violations and provide the opportunity for a sound basic education to all children in North Carolina. Attached to the Plan was an Appendix which detailed the implementation timeline for each action step, as well as the estimated additional State investment necessary for each of the actions described in the Plan. The State Defendants estimated that the actions steps in the Plan would cost an additional $5.5 billion in recurring funds at the end of the eight-year implementation period.

On June 7, 2021, the Court entered an Order directing the State Defendants to implement the Comprehensive Remedial Plan in full and in accordance with the timelines contained therein. The Court further ordered the State Defendants to seek and secure "such funding and resources as are needed and required to implement in a sustainable manner the programs and policies set forth in the Comprehensive Remedial Plan." The Court held open the possibility of entering judgment in the future "granting declaratory relief and such other relief as needed to correct the wrong" if the State fails to implement the actions described in the Plan. Finally, the Court ordered State Defendants to submit a report no later than August 6, 2021, regarding progress toward fulfilling the terms and conditions of the Order and stated that it would hold a hearing in September 2021 to address issues raised in that report.

On August 6, 2021, the State Board of Education and the State of North Carolina filed separate Reports on Progress on the Comprehensive Remedial Plan. On August 27, 2021, the Plaintiffs and the Plaintiff Intervenors filed Reponses to those Reports. The Court scheduled a hearing on September 8, 2021, to "address issues raised in the reports and responses."

On October 16, 2021, the trial court held a hearing during which it indicated that it would enter an order directing certain executive branch officials to transfer sufficient funds to fund Years two and three of the Comprehensive Remedial Plan. On November 10, 2021, the trial court entered such an order.

On November 18, 2021, the State Budget Act was enacted. On that day, the State filed a notice of appeal of the trial court order transferring funds, followed shortly by an appeal from the Legislative Leaders who noticed intervention into the case by virtue of N.C. General Statute §1-72.2. The State filed a petition to bypass the Court of Appeals and have the claim directly heard by the North Carolina Supreme Court. That petition was granted by the Court, who first remanded the case for clarification on how the enactment of the State Budget Act impacted the trial court order of November 10, 2021.

At the same time the appeal was entered of the trial court order transferring funds, the Office of the State Controller (Controller) filed a petition for temporary stay, writ of supersedes and writ of prohibition with the Court of Appeals enjoining the trial court from ordering the transfer of funds without an appropriation. The writ of prohibition was granted and subsequently appealed to the Supreme Court.

During that time, the Honorable Michael Robinson was selected to preside over the matter. Judge Robinson amended the trial court order of November 2021 by incorporating the financial changes associated with the State Budget Act. Judge Robinson also incorporated his understanding that because the Court of Appeals had recently entered a writ of prohibition in a collateral appeal barring the transfer of funds, the trial court was no longer permitted to include the transfer within the bounds of the amended order.

The case was heard by the North Carolina Supreme Court on August 31, 2022. On November 4, 2022, the Supreme Court filed an opinion. With that opinion, the Supreme Court stayed the writ of prohibition issued by the Court of Appeals, in part, concluding that the court erred when it concluded that it lacked the authority to order the transfer of funds. Mandate on the opinion issued directly to the trial court on November 29, 2022, commanding that the trial court conform the subject order to the Supreme Court opinion. Subsequently, in March 2023, the North Carolina Supreme Court lifted the stay of the writ of prohibition and reinstated the writ, which prohibits the trial court from ordering the transfer of funds. The Controller argued that judicial branch mandated transfers in this matter would subject the Controller to criminal and civil liability before the basic elements of procedural due process were met, and that there were many outstanding issues unaddressed in the Court's earlier opinion. The North Carolina Supreme Court found that the Controller made a sufficient showing of substantial and irreparable harm should the judicial branch mandate transfers of funds in this matter. The writ of prohibition is currently in effect until the Court has made a final decision on the remaining issues in the case.

Since that time, the trial court convened a hearing to determine what funds remained due to satisfy the obligations of Years 2 and 3 of the Comprehensive Remedial Plan. Following the entry of an order on April 14, 2023, the Legislative Intervenors appealed the matter to the North Carolina Court of Appeals, and thereafter, were granted a bypass petition to the North Carolina Supreme Court. After extensive briefing, the case was heard by the North Carolina Supreme Court on February 22, 2024, and a decision is pending. A fiscal impact in this case is reasonably possible.

Michael Hughes, on behalf of himself and others similarly situated v. Board of Trustees Teachers' and State Employees' Retirement System, et al.- This suit involves a declaratory judgment action, a claim for "violation of N.C. General Statute § 135-5"; and Breach of Contract, all of which arise from an allegation that, as a retiree from North Carolina's Teachers' and State Employees' Retirement System (TSERS), Plaintiff is entitled to receive a comparable cost of living increase in his retirement allowance each year in which the North Carolina General Assembly increases the salaries of active State employees, and that such increases must be comparable. This matter is a putative class action, which Plaintiff purports to bring on behalf of retirees in TSERS, the Consolidated Judicial Retirement System (CJRS), and the Legislative Retirement System (LRS) against the TSERS Board of Trustees, TSERS, CJRS, LRS, State Treasurer Dale R. Folwell (in his official capacity as ex officio Chair of the TSERS Board of Trustees), and the State of North Carolina (Defendants).

Defendants moved to dismiss Plaintiff's Complaint pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure for failure to state a claim, arguing there is no statutory basis for Plaintiff's claim that he is entitled to such an increase because: (1) the portion of the statute on which Plaintiff's argument relies, N.C. General Statute §135-5(o), which states that retired TSERS members "may receive cost-of-living increases in retirement allowances if active members of the system receive across-the-board cost-of-living salary increases[,]" is permissive, not mandatory; (2) the condition that must be met before retirement allowances may be increased – that "active members of the system receive across-the-board cost-of-living salary increases" has not been met since Plaintiff retired; and (3) Plaintiff's Complaint concedes that the TSERS Board of Trustees does not have the authority to award retirement allowances pursuant to N.C. General Statute §135-5(o). Defendants' Motion to Dismiss came on for hearing on August 24, 2022, in Wake County Superior Court. The court entered an order on August 26, 2022, that denied Defendants' motion.

Defendants then filed a motion for judgment on the pleadings and motion to dismiss Plaintiff's Complaint on all three causes of action because: (1) they are nonjusticiable under the political question doctrine; (2) they are barred by sovereign immunity as a matter of law; (3) there is no private right of action for "Violation of N.C. General Statute §135-5"; and (4) Plaintiff does not have standing to bring this action against CJRS and LRS. The plaintiff's only allegation that he has a relationship with any of the Defendants in this case is that he is a retiree of TSERS, a pension plan administered by the North Carolina Retirement Systems Division within the Department of State Treasurer. TSERS is not the same pension plan as the CJRS or LRS pension plans named in this suit and Plaintiff has not alleged that he is a vested member of CJRS or LRS or otherwise alleged a relationship with either entity.

The trial court granted Defendants' motion for judgment on the pleadings and dismissed the case. Plaintiffs appealed to the Court of Appeals. The Court of Appeals, in a split decision, ruled by the Defendants, the State and the Retirement System Division concluding that sovereign immunity shields the State from the Cost of Living Adjustment (COLA) grounded lawsuits for breach of contract. Plaintiffs sought an en banc rehearing/review from the Court of Appeals, but the Court of Appeals denied it. Plaintiffs petitioned the Supreme Court for discretionary review, and it has not yet ruled. The likelihood of an unfavorable outcome is only reasonably possible.

Lake v. State Health Plan — The main issue is whether the State wrongfully charged a monthly premium to retired State employees for the State's 80/20 coinsurance health plan. The general theme of the complaint is that the State established vesting requirements under which

if the employee fulfilled the requirements, the State contracted with each employee to provide 80/20 coinsurance insurance coverage at no monthly premium to the retiree for the duration of each retiree's retirement. Similarly, the plaintiffs allege that the State terminated an optional 90/10 coinsurance health plan to which they allegedly had vested rights. Plaintiffs claim (1) breach of contract; (2) unconstitutional impairment of contract; (3) unconstitutional denial of equal protection; and (4) unconstitutional denial of due process. The plaintiffs also allege a variety of equitable claims (e.g., specific performance, common fund) that piggy-back on the legal claims.

The State moved to dismiss, and, after a hearing, the trial court denied the motion. On May 19, 2017, the trial court issued an order granting plaintiffs' motion for partial summary judgment and denying defendants' motion for summary judgment as to liability. The trial court held that plaintiffs, and all class members, are entitled to the version of the 80/20 coinsurance plan in existence in September 2011, or its equivalent, with no premium for their lifetime. The trial court's order would provide damages for retirees who remained on the 80/20 coinsurance plan at the amount of premiums they actually paid. Any method for determining damages for retirees who switched to the zero-premium 70/30 coinsurance plan is yet to be determined.

The State appealed. On March 5, 2019, a panel of the Court of Appeals unanimously reversed the order of the superior court and remanded for entry of summary judgment in favor of the State. The plaintiffs have petitioned the North Carolina Supreme Court for discretionary review of the decision of the Court of Appeals. The petition for discretionary review was allowed, and the case is now being briefed in the North Carolina Supreme Court.

The State Treasurer has stated that if the trial court's ruling stands – which would require reversal of the Court of Appeals – the costs to the State could exceed $100 million, not including the cost to the State Health Plan of complying with the plaintiffs' demands going forward.

On October 4, 2022, the North Carolina Supreme Court affirmed in part, reversed in part and remanded the Court of Appeals' decision. The Supreme Court concluded that the eligible retired State employees possessed a vested right protected under the Contracts Clause. The Court also held that genuine issues of material fact needed to be resolved in order to answer whether the General Assembly substantially impaired the retired State employees' vested rights. If so, it must be determined whether such impairment was reasonable and necessary. The Supreme Court remanded to the trial court on these issues.

The matter is currently pending before the superior court on remand. The parties are in the process of discussing additional discovery to be conducted in this case based on the directives from the Supreme Court and developing a case management order to accommodate the issues identified by the Supreme Court. Written and oral discovery is likely to follow. Additionally, in November 2022, plaintiffs reached out to State Defendants to entertain a possibility of settlement.

On March 24, 2023, the State Defendants requested approval to retain private counsel, which was approved on April 4, 2023. The entire case file was subsequently transferred to private counsel. On April 18, 2023, the parties had a status conference with the judge to discuss a case management order for the case on remand, which was the last case activity in which N.C. Department of Justice (NCDOJ) attorneys participated. On April 27, 2023, the Order removing NCDOJ attorneys as counsel was filed. While the actual exposure amount or the likelihood of an unfavorable outcome is difficult to determine at this time, there is a reasonable or probable possibility that a substantial amount against the State may be awarded.

Since June 30, 2024, the parties engaged in the discovery process pursuant to the Court's direction. Before another trial in Superior Court (scheduled for March 2025), the parties filed motions for summary judgment, to exclude certain experts, and, on the part of the Plan, to decertify the class of plaintiffs. These motions were denied. The Plan has appealed to the North Carolina Supreme Court with respect to the denial of its motion to decertify the class, filing its notice of appeal on April 11, 2025.

Legionnaires' Disease Litigation/2019 Mountain State Fair – North Carolina Department of Agriculture and Consumer Services — This litigation arises out of a Legionnaires' disease outbreak allegedly connected to the 2019 North Carolina Mountain State Fair. The 2019 North Carolina Mountain State Fair was hosted and organized by the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) from September 6 to 15, 2019, on the grounds of the Western North Carolina Agricultural Center in Fletcher, North Carolina. On or about September 23, 2019, local public health officials began tracking an outbreak of Legionnaire's Disease. Following an investigation, the North Carolina Department of Health and Human Services and the Center for Disease Control found that the outbreak was likely caused by exposure to *Legionella* bacteria in aerosolized water vapor coming from hot tubs displayed by two vendors at the 2019 Mountain State Fair. The outbreak was believed to have resulted in 136 cases of Legionaries' disease, one case of Pontiac Fever, 96 hospitalizations, and four deaths.

Plaintiffs are individuals that alleged to have contracted Legionnaires' disease at the 2019 Mountain State Fair and the estates of two individuals that are alleged to have died as a result of contracting Legionnaires' Disease. In total, there are 78 individual Plaintiffs asserting claims. The Plaintiff brought claims against the two hot tub vendors in a series of 19 lawsuits filed in Henderson, Buncombe, and Mecklenburg County Superior Court. The hot tub vendors then brought third-party claims against NCDA&CS and seven other vendors that had been at the 2019 Mountain State Fair. Plaintiffs then amended their complaints to assert direct claims against NCDA&CS and the other vendors. NCDA&CS has also filed cross-claims and counterclaims for contribution and indemnity against the two hot tub vendors. All of these cases have been consolidated under a single Superior Court Judge pursuant to Rule 2.1. The maximum claimed exposure would be

$78 million ($1 million per Plaintiff). The Plaintiffs have shifted their focus to NCDA&CS as the primary target given that the hot tub vendors appear to have insufficient assets.

Map Act Litigation (Kirby v. North Carolina Department of Transportation and subsequent cases) — The Transportation Corridor Official Map Act (Map Act) was enacted in 1987 to provide the N.C. Department of Transportation (NCDOT) with the authority to record corridor maps that imposed restrictions on a landowner's rights to improve, develop, and subdivide property within the corridor, which restrictions may remain indefinitely. The Map Act did not require NCDOT to purchase the property at the time of the filing of a future corridor map. Starting in 1989, NCDOT filed 27 separate maps that affected approximately 8,500 parcels of land. In June of 2016, the North Carolina Supreme Court ruled that the filing of a transportation corridor map pursuant to the Map Act resulted in a taking of the property owners' rights to improve, develop, and subdivide their property. Under state law, whether a property owner should be paid for the property, and how much, are determined on a case-by-case basis.

Since the last update, NCDOT has continued to acquire parcels and settle cases that have been filed in the Map Act corridors. The most current numbers as to remaining cases and dollar value are available from NCDOT.

Landowners' attorneys have also recently raised two new theories of recovery. There are three cases currently on appeal, which were argued in the Supreme Court on September 16, 2025: *Mata, et al. v. Department of Transportation* and *Wonder Day v. Department of Transportation* (combined in 217PA24), and *Sanders v. Department of Transportation* (87PA 24). Decision in these cases are expected in the Spring of 2026. The decisions could potentially increase liability for the Department by allowing consideration of additional damage theories presented by the landowners.

Lexington/AIG v. N.C., POELIC, et al. — This matter is related to *McCollum and Brown v. Red Springs*, et al., 5:15-cv-00451-BO (EDNC) which is a Section 1983 action filed against a local police department, a county sheriff's office, and two former State Bureau of Investigation (SBI) agents. The plaintiffs in that case (McCollum and Brown) alleged various constitutional violations by the law enforcement defendants related to their confessions, subsequent convictions, and incarceration. A jury returned a verdict of $75 million dollars against the two SBI agents (all other defendants settled out before a jury reached a verdict). That verdict was appealed.

While the matter was on appeal, Lexington Insurance Company (AIG) filed a declaratory judgement action against POELIC and the State seeking a determination that the excess policies it provided to POELIC do not provide coverage (or provide limited coverage) for the jury's verdict against the SBI agents. N.C. Department of Justice (NCDOJ) approached AIG about a consent stay of the declaratory judgment action pending the full and final resolution on the appeal of the underlying litigation. AIG agreed, and NCDOJ secured a stay in the case.

In the Spring of 2023, the Fourth Circuit affirmed the jury's verdict, and the matter was remanded to the District Court for Plaintiffs to begin collection proceedings. At that time, NCDOJ worked with counsel for McCollum and Brown to set up a mediation with the State and all the insurance carriers to hopefully secure enough coverage to satisfy the judgement that was pending against the SBI agents. That effort was ultimately unsuccessful as the insurance carriers remained largely steadfast in their positions that there was limited insurance coverage available to cover the judgement against the SBI agents. Thus, the stay in this case was lifted. However, McCollum and Brown (who were added as defendants to this action by AIG) moved to dismiss this action. McCollum and Brown argued that under the prior pending action doctrine, the underlying litigation (which now includes the coverage issues) takes precedent and thus the state court should not entertain the coverage issues presented by Lexington's declaratory judgment action. The trial court agreed and dismissed the case. AIG has appealed against that ruling.

For our part, NCDOJ, on behalf of the State/POELIC, along with private counsel for the SBI agents, engaged in negotiations with counsel for McCollum and Brown in an attempt to limit the responsibility of the SBI agents and to resolve the exposure of the State to pay the judgment. NCDOJ was able to successfully negotiate a resolution with Plaintiffs' counsel for $7.5 million which resolved all potential claims against the State and to cabin off claims against the SBI agents which would fully resolve once Plaintiff's complete their claims against the excess insurance carriers. Thus, the risk of any further adverse decision against the State is remote.

Bolch v. Governor, DHHS, Kody Kinsley, Susan Osborne, Mark Payne, Mecklenburg DSS & Gaston DSS — Plaintiffs, working with A Better Childhood, filed this Class Action Complaint on August 27, 2024, in the Western District alleging systemic issues in the child welfare system in violation of the Constitution, the Adoption Assistance and Child Welfare Act, and the Americans with Disabilities Act (ADA). The State Defendants filed motions to dismiss in December 2024. On September 25, 2025, the Court granted the motion to dismiss and dismissed the case without prejudice. Plaintiffs filed a motion to reconsider that is pending before the Court. If Plaintiffs are successful with the motion to reconsider or a subsequent appeal, fiscal exposure of the State may be substantial.

North Carolina Bar and Tavern Association; et al., v. Cooper — During the early stages of the COVID-19 pandemic, a large group of bar owners sued Governor Roy Cooper (in his official capacity) asserting that one of the orders the Governor issued under the Emergency Management Act (EMA) responded to the pandemic violated several provisions of the North Carolina Constitution. They also sought preliminary injunctive relief. After a hearing, a superior court judge denied plaintiffs' motion for a preliminary injunction. The Governor moved to dismiss plaintiffs' complaint.

More than a year later, after all orders limiting plaintiffs' businesses had been lifted, plaintiffs filed an amended complaint on October 26, 2021. In their amended complaint, plaintiffs sought compensation/damages as a remedy for their state constitutional claims. The Governor again moved to dismiss plaintiffs' claims. Plaintiffs moved for partial summary judgment on their claims under the fruits of labor clause, EMA Act and the Public Records Act. The superior court denied plaintiffs' motion for partial summary judgment and granted the Governor's motion to dismiss. Plaintiffs appeal for the dismissal of their claims to the Court of Appeals.

A panel of that Court held that the superior court had properly dismissed plaintiffs' claims under the Emergency Management Act and the Public Records Act. It also held, however, that the superior court had erred in dismissing plaintiffs' fruits-of-labor and equal-protection claims. The panel instead awarded summary judgment to plaintiffs on those claims. The Governor then petitioned the N.C. Supreme Court for discretionary review of the panel's decision with respect to the fruits-of-labor and equal-protection claims. Plaintiffs also conditionally petitioned the N.C. Supreme Court, if it allowed the Governor's petition, to review the dismissal of their statutory claims as well. The Court granted both the Governor's and plaintiffs' petitions and heard argument on October 23, 2024.

The N.C. Supreme Court issued an opinion on August 22, 2025, in which it affirmed in part and reversed in part the Court of Appeals' decision and remanded the case back to trial court for the parties to conduct further discovery. The N.C. Supreme Court affirmed the dismissal of Plaintiffs' statutory claims and reversed the Court of Appeals' entry of summary judgment on the fruits-of-labor and equal protection claims. The N.C. Supreme Court held that deferential rational-basis review applies to equal protection claims concerning state action that burdens a person's right to earn a living and because there was at least some "conceivable" justification for the Governor's orders the trial court properly dismissed that claim. The N.C. Supreme Court also held that because the Court of Appeals issued its decision before the N.C. Supreme Court had released its decision in the Ace Speedway case – a case in which it clarified the standard for fruits-of-labor claims – the case needed to be remanded to the trial court so that the parties can engage in discovery under the clarified standard. The answer has been filed by Defendants. The case, as an exceptional case, will likely be assigned to Rule 2.1 Judge for future proceedings. The risk of adverse fiscal impact is reasonably possible.

Howell; et al. v. Cooper et al. — In December 2020, plaintiffs, a small group of bar owners, sued the Governor (in his official capacity) and the State of North Carolina, alleging that Governor Cooper's time-limited restrictions on bars to protect public health during the COVID-19 pandemic violated three provisions of the state constitution: the fruits-of-labor clause, N.C. Constitution. Article I, § 1 (count 1); the law-of-the-land clause, id. art. I, §19 (count 3); and the equal protection clause, id. (count 4). Plaintiffs also alleged that two provisions of the Emergency Management Act, under which the Governor issued the challenged executive orders, were unconstitutional: N.C. General Statute §166A-19.31(b)(2) (count 2), and N.C. General Statute §166A-19.30(c) (count 5).

Plaintiffs originally sought a declaration that the executive orders were unconstitutional, an injunction preventing defendants from enforcing the orders against them, and money damages. In January 2021, defendants moved to dismiss under Civil Rules 12(b)(1), (b)(2), and (b)(6). Defendants also moved to transfer plaintiffs' constitutional challenges to the Emergency Management Act to a three-judge panel. In March 2021, the trial court transferred plaintiffs' challenge to N.C. General Statute §166A-19.30(c) (count 5) to a three-judge panel.

On May 11, 2021, plaintiffs then filed an amended complaint adding as defendants Tim Moore, in his official capacity as Speaker of the House of Representatives, and Phil Berger, in his official capacity as President Pro Tempore of the Senate. Plaintiffs' amended complaint did not make any substantive changes to their original claims. Just three days later, on May 14, 2021, the Governor lifted all restrictions on bars and similar businesses. Executive Order No. 215, 35 N.C. Reg. 2651 (May 14, 2021).

In July 2021, the State and the Governor moved to dismiss the amended complaint. The legislative defendants filed an answer. In February 2022, the trial court granted the State's and the Governor's motion to dismiss in part. The court dismissed plaintiffs' equal protection claim. The court also dismissed plaintiffs' claim for injunctive relief as moot because no executive order restricting the operations of bars had been in effect since May 2021. By contrast, the court allowed plaintiffs' fruits-of-labor and law-of-the-land claims for money damages to proceed to discovery. Finally, the court transferred plaintiffs' remaining constitutional challenge to the Emergency Management Act, N.C. General Statute §166A-19.31(b)(2) (count 2), to a three-judge panel.

The State and the Governor appealed to dismiss the denial of their motion to dismiss. In a 2-1 decision, the Court of Appeals affirmed the trial court's order allowing plaintiffs' fruits-of-labor and law-of-the-land claims for money damages to proceed to discovery. Judge Arrowood dissented. Defendants filed a notice of appeal based on Judge Arrowood's dissent. Defendants also petitioned for discretionary review as to additional issues not addressed in the dissent. The N.C. Supreme Court (NCSC) allowed the petition. The Court heard arguments on October 23, 2024.

The NCSC issued an opinion on August 22, 2025, in which, relying on its prior decision in Ace Speedway, it held that plaintiffs' claims for damages here could proceed beyond a motion to dismiss. It held that the fruits-of-labor and law-of-the-land clauses are implicated whenever state action "interferes" in some way with a person's right to earn a living. If state action does so, the Court reaffirmed that then state action will be invalidated unless the State has 1) acted for a proper purpose and 2) chosen reasonable means to achieve that purpose. The Court also stressed that both inquiries are very fact-intensive, apparently requiring discovery to resolve. The answer has been filed in this case. The risk of adverse fiscal impact is reasonably possible.

***Ussery v. Hooks et al. (federal court)* —** Plaintiff commenced this action by filing a Complaint on April 21, 2023, naming Governor Roy Cooper (in his official capacity), Wake County District Attorney Lorrin Freeman (in her individual and official capacity) and several others as defendants. The plaintiff subsequently filed an Amended Complaint on May 1, 2023. The Amended Complaint asserted claims pursuant to 42 U.S.C. §1983 for an alleged violation of Plaintiff's constitutional rights under the First and Fourteenth Amendments; and a claim that Defendants conspired to deprive Plaintiff of her rights in violation of the North Carolina Constitution.

On September 9, 2023, Plaintiff filed a Motion for Leave to file a Second Amended Complaint (SAC), which was granted on November 7, 2023. Plaintiff subsequently filed her Second Amended Complaint on November 15, 2023. The Second Amended Complaint removed Governor Cooper as a named defendant, and names the City of Raleigh, Raleigh's Chief of Police, a Raleigh Police Captain, and Raleigh Police Officers John and Jane Does 1-4, Wake County District Attorney, Lorrin Freeman; the Secretary of the North Carolina Department of Public Safety; several officers of the North Carolina State Capitol Police, and the Chief of the North Carolina General Assembly Police Department as defendants. All defendants are sued in both their individual and official capacities.

Plaintiff's SAC asserts six causes of action: Count I: Conspiracy to deprive Plaintiff of her rights under the North Carolina Constitution against all defendants; Count II: A 42 U.S.C. § 1983 claim for violation of the First Amendment against all defendants; Count III: A Section 1983 claim for violation of due process under the Fourteenth Amendment to the United States Constitution against all defendants; Count IV: A Section 1983 claim for a *Brady* violation against Defendant Freeman; Count V: A Section 1983 claim for violation of equal protection under the Fourteenth Amendment against all defendants; and Count VI: Claims for violations of Article I, § 12, 14, and 19 of the North Carolina Constitution against all defendants. Collectively, Plaintiff seeks declaratory relief, compensatory and nominal damages, and costs and expenses of this action, including reasonable attorney's fees. On December 20, 2023, all the defendants moved to dismiss Plaintiff's SAC pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure.

The district court granted defendants' motions to dismiss and entered final judgment on the merits against Plaintiff on June 20, 2024. The district court dismissed Plaintiff's federal claims with prejudice and dismissed Plaintiff's state law claims without prejudice. Plaintiff filed the notice of appeal on July 19, 2024, the case is fully briefed in the Fourth Circuit, and, as none of the parties requested oral argument, the North Carolina Department of Justice is awaiting a decision from that Court. The risk of adverse fiscal impact is remote.

***Utility Easement Issues: The consequences of the decisions in Department of Transportation v. Canady, 2020 N.C. App. LEXIS 943 and Department of Transportation v. Prior, Wake County 20-CVS-6521* —** A recent trend in eminent domain cases is that the property owners and their counsel are asserting additional damages resulting from the imposition of Permanent Utility Easements (PUEs), Aerial Utility Easements (AUEs) and Drainage/Utility Easements (DUEs) as part of the condemnation process. The North Carolina Department of Transportation (NCDOT) has always recognized that the acquisition of these easements was a near total taking of the easement areas and has also been willing to acknowledge circumstances where the location and nature of the easement could result in damages to the remainder of the affected property. However, in recent years, the property owners have asserted that the damages evaluation of these easements must be considered as if NCDOT was exercising its rights to the "fullest extent of the law," relying on State Highway Commission v. Black, 239 N.C. 198, 79 S.E.2d 778 (1954). The practical effect of this argument is that the imposition of a PUE, AUE or DUE across a property's road frontage is now evaluated for damages purposes as if the NCDOT has cut off all access to the property, resulting in damages greatly exceeding NCDOT's initial appraisals.

The first of these cases to be heard in Superior Court was *Prior*, in Wake County in December 2022. Judge Graham Shirley sided with the property owners in his ruling. The NCDOT's argument that the damages resulting from these easements was a matter for the jury to consider (which it always had been in the past) was overruled. Numerous other Superior Court judges have adopted Judge Shirley's decision, and NCDOT to date has not appealed or tried any of these cases to a jury. The damages in *Prior* went from the NCDOJ estimation of $164 thousand to a settlement of $1.25 million, and other cases have had similar increases in the amount of damages. The Condemnation Section has worked with NCDOT and Duke Energy to limit damages by amending the language of the easements, but there are still some property owners and their attorneys who would prefer seeking increased damages rather than the protections of the amended language.

The Department of Transportation proposed statutory changes to limit the potential damages claims in these cases, by specifically stating that the imposition of these easements does not constitute new control of access, and that the decision in *Black* is limited to easements for right of way and not applicable to other easements. Legislation proposed to incorporate these changes, but to date has not been enacted or considered by the General Assembly as a whole, and the proposed changes included in Senate Bill 391 were not included in the comprehensive transportation bill (Session Law 2025-47). The Department is pursuing an additional legislative change.

This potential for increased liability has become even more extreme due to the results of trials in Guilford County in March 2025. The largest of those cases was Department of Transportation v. JPC Monroe, in which NCDOT prevented from putting on evidence on trial due to a previous ruling on a Section 108 motion. NCDOT's deposit was $49 thousand, and the jury verdict was $13.92 million. Five related cases were tried shortly thereafter, with the verdicts totaling $6.64 million, off of deposits totaling $235 thousand. These verdicts were appealed but were later withdrawn based on advice of outside counsel. Instead, the Department presented an alternative strategy involving market study evidence and new legal arguments in a hearing held during the week of 21 September 2025 in *Department of Transportation v. Indian Trail Plaza*, Mecklenburg County 24-CVS-005591. While the trial court ruled against DOT on the defendant's motion pursuant to Section 136-108, the Department anticipated a potential negative ruling and made a conscious effort to preserve all issues for appellate

review in that case. The Department has filed its notice of appeal in the *Indian Trail* matter, and is in the process of preparing the Record on Appeal. While that appeal is pending, attorneys from the Condemnation Section are continuing to coordinate with outside counsel on the appropriate strategies for contesting the damages claims arising as a result of permanent utility easements.

***Ussery v. Cooper et al. (state court)* —** Following the dismissal without prejudice of her state law claims in federal court, Plaintiff commenced this action by filing a Complaint in July 2024 in Wake Country Superior Court, naming Governor Roy Cooper (in his official capacity), the City of Raleigh, Raleigh's Chief of Police, a Raleigh Police Captain, and Raleigh Police Officers John and Jane Does 1-4, Wake County District Attorney, Lorrin Freeman; the Secretary of the North Carolina Department of Public Safety; several officers of the North Carolina State Capitol Police, and the Chief of the North Carolina General Assembly Police Department as defendants.

The Complaint sets forth four causes of action: Conspiracy to deprive Plaintiff's North Carolina constitutional rights; violation of N.C. Constitution Article I, §12 for the right to assembly and petition, violation of N.C. Constitution Article I, §14 for freedom of speech; violation of N.C. Constitution Article I, §19 for equal protection and due process. The plaintiff seeks both declaratory relief and monetary damages. On September 24, 2024, the State Defendants moved to dismiss Plaintiff's complaint pursuant to Rules 12(b)(1), 12(b)(2), and 12(b)(6) of the North Carolina Rules of Civil Procedure. The other defendants also moved to dismiss the claims against them. The defendants' motions to dismiss were heard before the Honorable George Hicks on April 21, 2025. On April 23, 2025, Judge Hicks granted in part the State Defendants' motion to dismiss. The court dismissed all the claims against State Defendants Cooper, Hooks, Brock, and Fink for failure to state a claim under N.C. R. Civ. P. 12(b)(6) but denied the claims against State Defendants Hawley (now Terry Green who replaced the retired Hawley), Proctor, and the State of North Carolina. Those State Defendants filed a notice of appeal with the Court of Appeals on May 22, 2025. Plaintiff and the City of Raleigh also filed notice of appeal, the appeals have been consolidated. The parties have agreed up the Record on Appeal, and it will be filed with the court. The risk of adverse fiscal impact is remote.

***Samantha R. v. N.C. and DHHS* —** filed in Wake County Superior Court in May 2017. The six individual plaintiffs and plaintiff organization Disability Rights North Carolina (DRNC) assert that the State of North Carolina and the North Carolina Department of Health and Human Services (NCDHHS) have violated the North Carolina Persons with Disabilities Protection Act and the state Constitution. Plaintiffs seek an injunction requiring the defendants to administer publicly funded behavioral health programs to individuals with intellectual and developmental disabilities in compliance with the Act and the North Carolina Constitution. As Plaintiffs do not seek monetary damages, it is hard to put a dollar amount on the litigation. However, if the Court does enter some sort of injunction, NCDHHS anticipates that substantial funds would be needed for implementation of any service or systems modification. Attorney General staff attorneys represent NCDHHS and the State. NCDHHS' motion to dismiss was denied. After the completion of discovery, all parties filed Motions for Summary Judgment. The trial court denied the State's Motion for Summary Judgment and granted Plaintiff's partial Motion for Summary Judgment by order dated February 4, 2020. The Court ruled that the State was in violation of North Carolina General Statute §168A-7(b) of the North Carolina Persons with Disabilities Protection Act. At the Court's direction, the parties briefed the question of the proper remedy for the violation of the integration mandate. The Court heard the issue on May 12, 2022.

On July 21, 2022, the Court directed the parties to submit a proposed order adopting specific and measurable goals. On November 2, 2022, the Court entered its Order, in the form of an injunction, directing North Carolina and NCDHHS to transition individuals from institutions to community settings; to reduce the Registry/Wait List; and to collect and report data to DRNC on direct care professionals.

On November 30, 2022, Defendants filed a Notice of Appeal and Motion to Stay the Court's decision (from both the remedies order dated November 2, 2022, and the Summary Judgment order dated February 4, 2020) and a motion to stay enforcement of the remedies order pending the appeal. On February 9, 2023, the Court granted the motion to stay on Benchmarks 1 and 2 of the injunctions for the duration of the appeal. The Court also clarified the requirement on cessation of admissions.

The parties filed the record on appeal with the N.C. Court of Appeals in May 2023. The parties also agreed to mediation through the appellate court, which began in August 2023 and continued through April 2024. On April 10, 2024, the parties filed a joint motion and proposed consent order with the Superior Court which reflects the parties' agreement to resolve the appeal and outstanding claims in the litigation. The parties appeared before the Superior Court on April 17, 2024. The Superior Court approved the parties' plan, NCDHHS dismissed the appeal, and the case is continuing before the Superior Court as it monitors the parties' compliance with the Consent Order. NCDHHS has ongoing quarterly reporting requirements through 2025 and part of 2026. The Consent Order provides that the parties will confer and propose potential further actions to the Court by July 1, 2026. The risk of adverse fiscal impact is reasonably possible.

***Disability Rights North Carolina v NCDHHS, Case No. 1:24-cv-335-LCB-JLW (Middle District of North Carolina)* —** In May 2024, Plaintiff Disability Rights North Carolina brought claims against NCDHHS and its Secretary in his official capacity. Plaintiff alleged that state court criminal detainees with mental health disabilities, who may be incapable of proceeding to trial, are required to wait an unreasonable amount of time in county jails before they are provided with capacity assessments and capacity restoration services. Plaintiff asserted alleged violations under 42 USC § 1983 and the Fourteenth Amendment to the US Constitution (substantive due process and procedural due process), and under the Americans with Disabilities Act and the Rehabilitation Act. As Plaintiff does not seek monetary damages, it is difficult to put a dollar amount on the litigation; however, if the Court enters some sort of injunction, NCDHHS anticipates that substantial funds may be needed for implementation of any service or systems modifications. Plaintiff moved for a preliminary injunction in May 2024, and NCDHHS moved to dismiss in June 2024. In June 2025, the Court issued a Memorandum Opinion and

Recommendation of United States Magistrate Judge. It concluded and recommended that the motion for preliminary injunction be denied, and that the motion to dismiss be denied in part and granted in part. In July 2025, both parties filed objections to portions of the Recommendation, which remain pending before the Court. The risk of adverse fiscal impact is reasonably possible.

Timothy B, Flora B, Isabella A, Steph C, DRNC, NC NAACP v. Kody Kinsley in his official capacity & NC DHHS — Class Action Complaint for Declaratory and Injunctive Relief filed in the Middle District on December 6, 2022. The complaint alleges that DHHS unlawfully places children with disabilities in child welfare custody ("foster care") who are unnecessarily segregated from their home communities and routinely isolated in heavily restrictive, and often clinically inappropriate, institutional placements known as psychiatric residential treatment facilities (PRTFs). The claims are raised as unlawful pursuant to FED. R. CIV. P. 57: policies, procedures, and practices that violate Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., or Section 504 of the Rehabilitation Act, 29 U.S.C. §794 et seq., The parties mediated the case in June and July of 2025 and were unable to reach a settlement. The parties are proceeding with discovery. The risk of adverse fiscal impact is reasonably possible.

Lannan et al. v. UNC Board of Governors (20-CVS-9988-910) — This case is a putative class action seeking a refund of fees paid by students enrolled at University of North Carolina – Chapel Hill (UNC-Chapel Hill) and North Carolina State University (N.C. State) during the Fall 2021 semester. Specifically, the two named plaintiffs have claimed that they did not receive the value of these fees, particularly those directed to on-campus activities, when these two universities transitioned from an in-person to remote model of instruction several weeks into the Fall 2021 semester. They also claimed they did not receive the benefit of parking fees they paid.

In their original complaint, filed in September 2021, the plaintiffs brought a claim for breach of contract, as well as violations of the North Carolina Constitution. The trial court dismissed the plaintiffs' constitutional claim but declined to dismiss their breach-of-contract claim. Both sides appealed, and the case eventually was heard by the North Carolina Supreme Court in October 2024. In March 2025, the Supreme Court affirmed the trial court's decision, concluding that the plaintiffs had sufficiently alleged their breach-of-contract claims. The case is now back before the Wake County Superior Court (with Judge Ed Wilson as a Rule 2.1 judge) and proceeding through discovery.

The two named plaintiffs are seeking refunds of $2,000 - $2,500 in mandatory student fees. During the Fall 2021 semester, N.C. State had a total student enrollment of approximately 34,000 students, and UNC-Chapel Hill had a total student enrollment of approximately 29,500 students. Thus, if the plaintiffs are able to certify a class, the potential outside recovery could be more than $150 million. However, North Carolina Department of Justice (NCDOJ) thinks it unlikely that the plaintiffs would be able to recover such an amount for the following reasons. First, NCDOJ believes NCDOJ will have strong arguments that the plaintiffs will not be able to meet the requirements to certify a class, particularly the requirement that plaintiffs show that a common issue predominates across the class. The class certification issue will likely be litigated in the trial court in early 2026, and that decision will almost certainly be appealed. If the Board of Governors is successful in defeating the plaintiffs' class claims, the potential value of this case drops significantly.

Second, even if the plaintiffs are able to certify a class, NCDOJ believe NCDOJ have strong arguments that many of the fees are not recoverable either because they were not paid as part of an enforceable contract, or because the students were not in fact deprived of the benefit of any services for which those fees were paid. That said, the plaintiffs have stronger arguments that they are entitled to a refund of certain of the fees, specifically those directed towards the athletic program, student health services, student recreational facility and other on-campus services. Based on an analysis of the plaintiffs' chance of succeeding on those fees, NCDOJ estimates a more likely value of the class claims to be approximately $15.5 million (for N.C. State) and approximately $12 million (for UNC-Chapel Hill). Thus, NCDOJ think a liability exposure above $20 million is certainly possible, taking into considerations the conditions discussed above. The case is in the discovery phase.

N.C. School Boards Association v. Moore, 359 N.C. 474 (2005) —The North Carolina Supreme Court ruled that certain specified tax penalties must be paid to the State Civil Penalty and Forfeiture Fund for the benefit of the public schools, rather than the General Fund. The Court's decision applies prospectively and retroactively. The Supreme Court remanded the case to the superior court for implementation. Upon remand, the superior court issued an order requiring the prospective payments to commence effective July 1, 2005. The superior court subsequently issued an order regarding the amount of civil penalties at issue for the period from July 1, 1996, to June 30, 2005. The court found that the civil penalties collected during this time totaled $767 million ($747 million after subtracting costs of collection). Of the total amount, $585 million represented amounts collected by the Department of Revenue ($583 million after subtracting the costs of collection).

In 2018, Plaintiffs filed a new complaint to renew the judgment, totaling $729 million. Plaintiffs agreed based on the holding in *Richmond County Board of Education v. Cowell*, 254 N.C. App. 422, 803 S.E.2d 27 (2017) – that the courts do not have the authority to execute a judgment against the State – that they could not collect on the judgment. However, *Richmond County* was recently argued before the Supreme Court of North Carolina and an opinion is pending.

Other Litigation — The State is involved in numerous other claims and legal proceedings, many of which are normal for governmental operations. A review of the status of outstanding lawsuits involving the State by the North Carolina Attorney General did not disclose other proceedings that are expected to have a material adverse effect on the financial position of the State.

C. Federal Grants

The State receives significant financial assistance from the federal government in the form of grants and entitlements, which are generally conditioned upon compliance with the terms and conditions of the grant agreements and applicable federal regulations, including the expenditure of the resources for eligible purposes. Under the terms of the grants, periodic audits are required, and certain costs may be questioned as not being appropriate expenditures. Any disallowance as a result of the costs questioned could become a liability of the State.

An audit conducted by the United States Department of Health and Human Services Office of Inspector General concluded that the State did not comply with federal and state requirements when making Medicaid claims for school-based Medicaid administrative costs. Based on the audit, the Office of Inspector General recommended that the State refund $53.8 million to the federal government for non-compliant claims. The State disagrees with the findings and recommendation. Once a final determination of liability is made, the amount will be paid to Centers for Medicare & Medicaid Services (CMS). As of June 30, 2025, the State had not received a demand for recovery from CMS.

For the fiscal years 2011-2013, the State received more than $34.8 million in unallowable performance bonus payments under the Children's Health Insurance Program Reauthorization Act. The overpayments were the result of the overstatement of the enrollment numbers in its request. CMS has issued a disallowance and a demand for recovery. The State disagrees with the findings and has appealed. Other states also appealed, and the matters were consolidated for a decision by the Departmental Appeals Board (DAB). The DAB issued its decision, finding that CMS had erred in its interpretation of the statute, but also remanded the case to CMS to determine if there were overpayments made. The State is awaiting further information and guidance from CMS.

As of June 30, 2025, the State is unable to estimate what liabilities may result from additional audits of federal grants and entitlements.

The State refunds federal shares of drug rebate collections to CMS. As of June 30, 2025, the amount due to CMS was $259.87 million.

D. Highway Construction

The State has placed a deposit in court of $445.98 million for a potential liability to property owners for contested rights-of-way acquisition costs in condemnation proceedings. The State may also be liable for an additional $146.86 million in these proceedings. As of June 30, 2025, the State had no outstanding verified contractor's claims.

As a result of damages sustained from Hurricane Helene, the North Carolina Department of Transportation identified approximately 9,400 sites where roads and bridges were effected. The Office of State Budget and Management estimated total infrastructure restoration costs at approximately $10.3 billion, with the forecasted State share estimated at $922 million.

As of June 30, 2025, expenditures incurred related to Hurricane Helene recovery activities totaled approximately $909.2 million, while federal reimbursements amounted to approximately $182.1 million. Additional reimbursements are anticipated from the Federal Highway Administration (FHWA) and the Federal Emergency Management Agency (FEMA); however, the timing and amount of such reimbursements cannot be reasonably determined at this time.

E. Construction and Other Commitments

On June 30, 2025, the State had commitments of $7.55 billion for construction of highway infrastructure. Of this amount, $4.66 billion relates to the Highway Fund, $617.76 million relates to the N.C. Turnpike Authority, and $2.27 billion relates to the Highway Trust Fund. The other commitments for construction and improvements of state government facilities totaled $790.12 million, including $254.75 million for the General Assembly, $241.55 million for the Department of Natural & Cultural Resources, $70.35 million for the Department of Adult Correction, and $54.53 million for the Department of Environmental Quality, $39.95 million for the Department of Agriculture.

On June 30, 2025, the University of North Carolina System (component units) had outstanding construction commitments of $1.26 billion (including $258.9 million for East Carolina University, $234.57 million for Appalachian State University, $164.55 million for University of North Carolina Chapel Hill, $116.33 million for North Carolina State University, and $95.03 million for University of North Carolina at Greensboro).

On June 30, 2025, community colleges (component units) had outstanding construction commitments of $411.19 million (including $120.85 million for Wake Technical Community College, $43.17 million for Brunswick Community College, $38.7 million for South Piedmont Community College, $34.37 million for Central Piedmont Community College, and $29.47 million for Isothermal Community College).

The Department of Environmental Quality has other significant commitments of $1.74 billion for clean water and other cost reimbursement grants. On June 30, 2025, the Department of Natural and Cultural Resources had other outstanding commitments of $172.63 million for clean water grants to non-governmental organizations and local and state government. The Department of Public Instruction has other significant commitments of $1.24 billion for needs-based public school building capital fund cost reimbursement grants awarded to Local Education Agencies (LEAs) for school capital projects.

The 911 Board (Board), part of the Department of Information Technology Services, sets aside a portion of its fund annually to support local Public Safety Answering Points (PSAPs). The PSAPs apply to the Board for the funds with improvement project proposals that the Board evaluates and either approves or denies. On June 30, 2025, the 911 Fund (special revenue fund) had outstanding commitments for these cost-reimbursement grants and contracts to the PSAPs totaling $43.52 million.

On June 30, 2025, the Administrative Office of the Courts had outstanding software in development contract commitments of $158.65 million.

The State Treasurer has entered contracts with external fund managers of several investment portfolios within the North Carolina Department of State Treasurer External Investment Pool (External Investment Pool), where the State Treasurer agrees to commit capital to these investments. More detailed information about the External Investment Pool is available in a separate report (See Note 3A).

The University of North Carolina Investment Fund, LLC (UNC Investment Fund) at the University of North Carolina at Chapel Hill has entered into agreements with limited partnerships to invest capital. These agreements represent the funding of capital over a designated period of time and are subject to adjustments. As of June 30, 2025, the UNC Investment Fund had approximately $1.65 billion unfunded committed capital.

F. Tobacco Settlement

In 1998, North Carolina, along with 45 other states, signed the Master Settlement Agreement (MSA) with the nation's largest tobacco companies to settle existing and potential claims of the states for damages arising from the use of the companies' tobacco products. Under the MSA, the tobacco companies are required to adhere to a variety of marketing, advertising, lobbying, and youth access restrictions, support smoking cessation and prevention programs, and provide payments to the states in perpetuity. The amount that North Carolina will receive from this settlement remains uncertain, but projections are that the State will receive approximately $4.74 billion from the inception of the agreement through the year 2025. Since the inception, the State has received approximately $4.02 billion in MSA payments. In the early years of MSA, participating states received initial payments that were distinct from annual payments. The initial payments were made for five years: 1998 and 2000 through 2003. The annual payments began in 2000 and will continue indefinitely. However, these payments are subject to a number of adjustments including an inflation adjustment and a volume adjustment. Some adjustments (e.g., inflation) should result in an increase in the payments while others (e.g., domestic cigarette sales volume) may decrease the payments. Also, future payments may be impacted by continuing and potential litigation against the tobacco industry and changes in the financial condition of the tobacco companies. At year-end, the State recognizes a receivable and revenue in the government-wide statements for the tobacco settlement based on the underlying domestic shipment of cigarettes. This accrual estimate is based on the projected payment schedule in the MSA adjusted for historical payment trends.

G. Other Contingencies

The Civil Rights Division of the U.S. Department of Justice (US DOJ) investigated the State's mental health system and found the State to be in violation of Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Sec 12131, and the following, as interpreted by the U.S. Supreme Court in *Olmstead v. L.C.*, 527 U.S. 581 (1999), and Section 504 of the Rehabilitation Act of 1973 (Rehab Act), 29 U.S.C. Sec 794(a). On August 23, 2012, the Civil Rights Division and the State entered into an agreement that addresses the corrective measures that will ensure that the State will willingly meet the requirements of the ADA, Section 504 of the Rehab Act, and the *Olmstead* decision. Through the agreement, it is intended that the goals of community integration and self-determination will be achieved. Both parties to the agreement have selected a reviewer to monitor the State's implementation of this agreement. The reviewer has authority to independently assess, review, and report annually on the State's implementation of and compliance with the provisions of this agreement. The potential liability to the State cannot be reasonably estimated. If the State fails to comply with this agreement, the United States can seek an appropriate judicial remedy. To date, the State has demonstrated good faith effort by providing sufficient funding essential to meeting the settlement requirements. The State is responsible for determining and identifying the amount of appropriation funding that is needed to fulfill this agreement which was originally going to be phased in over eight years (2013-20). The settlement agreement was first extended for an additional year to July 1, 2021, to give the State more time to meet the requirements. In March of 2021, the parties signed an agreement acknowledging the State's compliance in some areas of the agreement but extending other items for an additional two years. In March 2023, the parties entered into another two-year extension of the agreement, which included the development and approval of an Implementation Plan to outline how the State will come into substantial compliance by July 2025. In the winter of 2024-25 the parties negotiated a consent order which both discharged the State of certain obligations under the settlement which US DOJ agreed NCDOJ had met substantial compliance on and agreed to another two-year extension of time for completion of the remaining aspects of the settlement.

In Session Law 2012-142 Section 10.23A.(e), $10.3 million was appropriated as recurring funds to support the Department of Health and Human Services in the implementation of its plan for transitioning individuals with severe mental illness to community living arrangements, including establishing a rental assistance program. In Session Law 2013-360, additional money was appropriated in the expansion budget for $3.83 million for fiscal 2014 and $9.39 million for fiscal 2015. Funding has continued each budget year at appropriate levels to meet the terms of the agreement with a current net appropriation for Transition to Community Living across all N.C. Department of Health and Human Services (NCDHHS) divisions at $83.8 million in each year of the biennium of the 2023-25 biennium.

In Session Law 2015-241, the North Carolina Housing Finance Agency (NCHFA), in consultation with the N.C. Department of Health and Human Services (NCDHHS), was authorized to administer the Community Living Housing Fund (CLHF) in order to provide permanent community-based housing in integrated settings appropriate for individuals with severe mental illness and severe and persistent mental illness. The funds are first transferred from NCDHHS and then must be appropriated by the General Assembly in order for the NCHFA to expend the funds. NCDHHS transferred $2.89 million to the Community Living Housing Fund in fiscal year 2015. House Bill 1030 authorized the NCHFA to expend receipts of $5.52 million transferred from NCDHHS to the CLHF in fiscal year 2017. Session Law 2017-57 and Session Law 2018-5 provided funds of $4.2 million and $3.96 million, respectively, transferred from NCDHHS to the CLHF. In fiscal years 2019 through 2021, NCDHHS transferred $10.47 million to the CLHF and Session Law 2020-97 appropriated those funds for the State to meet its commitment to the supported housing requirements of the agreement. At present, the work continues with the funds available through continuing budget provisions. NCDHHS did not transfer any funds to the CLHF for the state fiscal year 2021-22 or 2022-23 as no funds remained in accordance with the law. NCDHHS transferred $3.37 million in remaining funds to the CLHF at the end of the 2023-24 fiscal year.

The State is liable for an ongoing worker's compensation claim for a former employee who was severely injured and will require care for life. The estimated total cost of care is currently $25.6 million.