

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

FILED SENATE  
Mar 14, 2013  
S.B. 326  
PRINCIPAL CLERK

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SENATE DRS85085-LE-30 (02/12)

Short Title: Repay Civil Penalty Funds to Schools. (Public)

Sponsors: Senator Gunn (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REPAY THE FUNDS OWED TO LOCAL SCHOOL ADMINISTRATIVE  
3 UNITS IN ACCORDANCE WITH THE REQUIREMENTS OF THE JUDGMENT IN  
4 THE CIVIL PENALTIES CASE.

5 Whereas, the North Carolina Constitution directs that the clear proceeds of all civil  
6 penalties, civil forfeitures, and civil fines that are collected by a State agency must go to the  
7 counties and be used exclusively for maintaining free public schools; and

8 Whereas, in December 1998, the North Carolina School Boards Association and  
9 some individual school boards sued the State seeking a determination that some funds that the  
10 State was retaining should instead go to the schools under that provision of the North Carolina  
11 Constitution; and

12 Whereas, the funds at issue included payments collected by the Department of  
13 Revenue for late payments of taxes, payments collected by the Department of Transportation  
14 for vehicles that exceed weight limits, parking fines collected by university campuses, and  
15 payments for failure to pay the State unauthorized substances tax; and

16 Whereas, the North Carolina Supreme Court ruled that these funds were owed to the  
17 schools and, in the future, must be given to the schools; and

18 Whereas, the North Carolina Supreme Court did not rule on what to do about funds  
19 collected before its decision but sent that question back to the Wake County Superior Court;  
20 and

21 Whereas, in August 2008, the superior court ruled that the State owed the schools  
22 \$747,883,074 in funds collected before the North Carolina Supreme Court issued its decision;  
23 and

24 Whereas, the superior court further determined that it had no authority to enforce its  
25 decision and that satisfaction of the judgment was in the hands of the General Assembly; and

26 Whereas, the General Assembly has not acted to satisfy the State's debt to the  
27 schools or even expressed any intent to satisfy the debt; Now, therefore,  
28 The General Assembly of North Carolina enacts:

29 **SECTION 1.** The purpose of this act is to meet the requirements set out in the  
30 Memorandum of Decision and Judgment filed August 8, 2008, in N.C. School Bds. Ass'n v.  
31 Moore, 98 CVS 14158 (Wake County).

32 **SECTION 2.(a)** There is established within the Civil Penalty and Forfeiture Fund a  
33 special fund entitled the Civil Penalties Litigation Fund to be administered by the Office of  
34 State Budget and Management. Moneys appropriated to the Civil Penalties Litigation Fund  
35 shall be allocated to local school administrative units on a per pupil basis, based on the student  
36 population for the current school year and shall be spent for school technology.



1           **SECTION 2.(b)** Beginning with the 2014-2015 fiscal year, there is annually  
2 appropriated from the General Fund to the Civil Penalties Litigation Fund a sum equal to the  
3 lesser of (i) ten percent (10%) of any unreserved fund balance remaining in the General Fund at  
4 the end of the prior fiscal year, (ii) one hundred million dollars (\$100,000,000), and (iii) the  
5 amount owed to local school administrative units pursuant to the Memorandum of Decision and  
6 Judgment filed August 8, 2008, in N.C. School Bds. Ass'n v. Moore, 98 CVS 14158 (Wake  
7 County).

8           **SECTION 3.** These funds shall supplement and not supplant other funds  
9 appropriated for public school technology by the General Assembly.

10           **SECTION 4.** This act is effective when it becomes law.