

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL DRH40252-MKa-96A

Short Title: Fines and Forfeitures/Payment to Schools. (Public)

Sponsors: Representative Gailliard.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT EXCESS RECEIPTS IN THE CIVIL PENALTY AND FORFEITURE
3 FUND TO BE TRANSFERRED TO THE SCHOOL TECHNOLOGY FUND IN THE
4 SAME FISCAL YEAR AND ANY CAPITAL FUNDS FOR SCHOOL TECHNOLOGY TO
5 BE USED TOWARD PAYMENT OF THE 2019 COURT JUDGMENT ON CIVIL
6 PENALTIES, FINES, AND FORFEITURES AND TO DIRECT THE LEGISLATIVE
7 RESEARCH COMMISSION TO STUDY WAYS TO SATISFY THE REMAINDER OF
8 THE JUDGMENT.

9 Whereas, Section 7 of Article IX of the North Carolina Constitution requires that
10 public schools receive the clear proceeds of all penalties and forfeitures and of all fines collected
11 in several counties for any breach of the penal laws of the State; and

12 Whereas, in 1996, the North Carolina Supreme Court ruled in *Craven County Board*
13 *of Education v. Boyles* that civil fines imposed by State agencies should be treated the same as
14 criminal fines and that those fines belong to the public schools; and

15 Whereas, on August 8, 2008, the Wake County Superior Court ordered a
16 Memorandum of Decision and Judgment in *North Carolina School Boards Association v. Moore*;
17 and

18 Whereas, the Memorandum of Decision and Judgment stipulated that \$747,883,074
19 in fines and forfeitures had been wrongly withheld by the State of North Carolina and that these
20 funds should have been received by the local school administrative units; and

21 Whereas, the Memorandum of Decision and Judgment ordered that all proceeds from
22 the judgment be used for school technology; and

23 Whereas, in 2009, the General Assembly appropriated \$18,183,251 from parking
24 fines held in escrow by The University of North Carolina to begin paying off the judgment; and

25 Whereas, in 2019, the Wake County Superior Court ordered in *North Carolina School*
26 *Boards Association et al. v. Folwell* in an Order Granting Judgment that the Plaintiffs obtained a
27 valid judgment in the sum of \$747,883,074 on August 8, 2008, and that \$729,699,823 of that
28 judgment remained unpaid and entered a judgment for that amount on March 6, 2019, to be paid
29 by the State of North Carolina; and

30 Whereas, no additional funds have been allocated by the State of North Carolina to
31 pay off the judgment; and

32 Whereas, the State of North Carolina still owes \$729,699,823 for school technology;

33 Now, therefore,

34 The General Assembly of North Carolina enacts:

35 SECTION 1.(a) G.S. 115C-457.3 is amended by adding a new subsection to read:



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1 "(c) Any amount of funds in excess of the appropriation made by the General Assembly
2 for a fiscal year in the Current Operations Appropriations Act pursuant to subsection (a) of this
3 section shall be transferred to the School Technology Fund established pursuant to
4 G.S. 115C-102.6D in the same fiscal year in which the excess funds are collected."

5 **SECTION 1.(b)** Notwithstanding G.S. 115C-102.6D(b), in any fiscal year in which
6 excess funds are transferred to the School Technology Fund pursuant to G.S. 115C-457.3(c), as
7 enacted by subsection (a) of this section, the Department of Public Instruction shall allocate those
8 funds to local school administrative units on a per pupil basis to be credited toward the remaining
9 judgment ordered in North Carolina School Boards Association, et al. v. Folwell, 18 CVS 009586
10 (Wake County), until such time that judgment has been satisfied. Upon the transfer of excess
11 funds to the School Technology Fund in accordance with G.S. 115C-457.3, the Department of
12 Public Instruction shall send written notice to the North Carolina School Boards Association.

13 **SECTION 2.** In any fiscal year that funds are appropriated by the General Assembly
14 from a source other than the Civil Penalty and Forfeiture Fund for capital improvements for
15 school technology for local school administrative units, those funds shall be credited toward the
16 remaining judgment ordered in North Carolina School Boards Association, et al. v. Folwell, 18
17 CVS 009586 (Wake County), until such time that judgment has been satisfied. Within 60 days
18 after the end of each fiscal year, the Department of Public Instruction shall send written notice to
19 North Carolina School Boards Association of any funds credited toward the remaining judgment
20 pursuant to this section.

21 **SECTION 3.(a)** The Legislative Research Commission (Commission) shall study
22 ways the State of North Carolina shall satisfy the remainder of the judgment ordered in North
23 Carolina School Boards Association, et al. v. Folwell, 18 CVS 009586 (Wake County), including
24 at least the following:

25 (1) Sources of funding to satisfy the judgment.

26 (2) A time line for payments to be made that shall not exceed a 10-year period.

27 **SECTION 3.(b)** By March 15, 2022, the Commission shall report the results of its
28 study and its recommendations to the 2021 General Assembly.

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