

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 591

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

Sponsors: Representative Gailliard.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Rules, Calendar, and Operations of the House

April 20, 2021

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

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

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

Now, therefore,

The General Assembly of North Carolina enacts:

**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.