

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 646
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40318-NG-74

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

Sponsors: Representative Everitt.

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
27 a 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:



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
10 009586 (Wake County), until such time that judgment has been satisfied. Upon the transfer of
11 excess funds to the School Technology Fund in accordance with G.S. 115C-457.3, the
12 Department of Public Instruction shall send written notice to the North Carolina School Boards
13 Association.

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

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

- 26 (1) Sources of funding to satisfy the judgment.
- 27 (2) A time line for payments to be made that shall not exceed a 10-year period.

28 **SECTION 3.(b)** By March 15, 2024, the Commission shall report the results of its
29 study and its recommendations to the 2023 General Assembly.

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