

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE DRH30248-MK-155 (03/26)

Short Title: Civil Fines and Forfeitures/Study. (Public)

Sponsors: Representative R. Turner.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE JOINT LEGISLATIVE STUDY COMMISSION ON CIVIL
3 PENALTIES, FINES, AND FORFEITURES.

4 Whereas, on August 8, 2008, the North Carolina superior court ordered a
5 Memorandum of Decision and Judgment in *North Carolina School Boards Association v.*
6 *Moore*; and

7 Whereas, the Memorandum of Decision and Judgment ordered that seven hundred
8 forty-seven million eight hundred eighty-three thousand seventy-four dollars (\$747,883,074) in
9 civil penalties had been withheld by State entities and were owed to the public schools; and

10 Whereas, the Memorandum of Decision and Judgment ordered that the money owed
11 be designated for school technology; and

12 Whereas, the superior court recognized that, because of the constitutional limitations
13 and separation of powers between the judicial, legislative, and executive branches, the superior
14 court did not have the authority to direct the manner and means by which the judgment would
15 be satisfied or the amount of time in which it is done; and

16 Whereas, satisfaction of the judgment will depend on the manner in which the
17 General Assembly elects to carry out its constitutional duty; and

18 Whereas, in 2009, the General Assembly paid eighteen million one hundred
19 eighty-three thousand two hundred fifty-one dollars (\$18,183,251) from funds that had been
20 escrowed by the University of North Carolina; and

21 Whereas, no subsequent payments have been made by the State of North Carolina;
22 and

23 Whereas, there remains an outstanding judgment of seven hundred twenty-nine
24 million six hundred ninety-nine eight hundred twenty-three dollars (\$729,699,823); Now,
25 therefore,

26 The General Assembly of North Carolina enacts:

27 **SECTION 1.** There is established the Joint Legislative Study Commission on Civil
28 Penalties, Fines, and Forfeitures.

29 **SECTION 2.** The Commission shall consist of 14 members as follows:

30 (1) Seven members of the House of Representatives appointed by the Speaker of
31 the House of Representatives.

32 (2) Seven members of the Senate appointed by the President Pro Tempore of the
33 Senate.

34 **SECTION 3.** The Commission shall have two cochairs, one designated by the
35 Speaker of the House of Representatives and one designated by the President Pro Tempore of
36 the Senate from among their respective appointees. The Commission shall meet upon the call



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1 of the cochairs. Any vacancy on the Commission shall be filled by the original appointing
2 authority. A quorum of the Commission shall be a majority of its members.

3 **SECTION 4.** The Commission shall study the following matters related to civil
4 penalties, fines, and forfeitures in North Carolina:

5 (1) How the State of North Carolina will pay the judgment ordered in *North*
6 *Carolina School Boards Association v. Moore*, 98 CVS 14158 (Wake
7 County).

8 (2) Over what period of time the payments shall be made.

9 (3) A review of all civil penalties, fines, and forfeitures collected by the State to
10 determine if the amount assessed is appropriate.

11 (4) Any other matters the Commission deems relevant.

12 **SECTION 5.** Members of the Commission shall receive per diem, subsistence, and
13 travel allowances in accordance with G.S. 120-3.1. The Commission, while in the discharge of
14 its official duties, may exercise all powers provided for under G.S. 120-19 through
15 G.S. 120-19.4. The Commission may meet in the Legislative Building or the Legislative Office
16 Building.

17 With approval of the Legislative Services Commission, the Legislative Services
18 Officer shall assign professional staff to assist the Commission in its work. The House of
19 Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to
20 the Commission, and the expenses relating to the clerical employees shall be borne by the
21 Commission. The Commission may contract for professional, clerical, or consultant services as
22 provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a
23 State employee or a person currently under contract with the State to provide services.

24 All State departments and agencies and local governments and their subdivisions
25 shall furnish the Commission with any information in their possession or available to them.

26 **SECTION 6.** The Commission shall report the results of its study and its
27 recommendations to the 2016 Regular Session of the 2015 General Assembly. The
28 Commission shall terminate on December 31, 2016, or upon the filing of its final report,
29 whichever occurs first.

30 **SECTION 7.** This act is effective when it becomes law.