

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

**H**

**1**

**HOUSE BILL 646**

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

Sponsors: Representatives Everitt and Gill (Primary Sponsors).

*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 18, 2023

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:



\* H 6 4 6 - V - 1 \*

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.