

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 396

Short Title: Repay Civil Penalty Funds to Schools. (Public)

Sponsors: Senators Gunn; Blake, Brown, Clary, Daniel, Davis, East, Forrester, Goolsby,
Harrington, Hise, Preston, Rabon, Soucek, and Tucker.

Referred to: Appropriations/Base Budget.

March 23, 2011

A BILL TO BE ENTITLED
AN ACT TO REPAY THE FUNDS OWED TO LOCAL SCHOOL ADMINISTRATIVE
UNITS IN ACCORDANCE WITH THE REQUIREMENTS OF THE JUDGMENT IN
THE CIVIL PENALTIES CASE.

Whereas, the North Carolina Constitution directs that the clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a State agency must go to the counties and be used exclusively for maintaining free public schools; and

Whereas, in December 1998, the North Carolina School Boards Association and some individual school boards sued the State seeking a determination that some funds that the State was retaining should instead go to the schools under that provision of the North Carolina Constitution; and

Whereas, the funds at issue included payments collected by the Department of Revenue for late payments of taxes, payments collected by the Department of Transportation for vehicles that exceed weight limits, parking fines collected by university campuses, and payments for failure to pay the State unauthorized substances tax; and

Whereas, the North Carolina Supreme Court ruled that these funds were owed to the schools and, in the future, must be given to the schools; and

Whereas, the North Carolina Supreme Court did not rule on what to do about funds collected before its decision but sent that question back to the Wake County Superior Court; and

Whereas, in August 2008, the superior court ruled that the State owed the schools \$747,883,074 in funds collected before the North Carolina Supreme Court issued its decision; and

Whereas, the superior court further determined that it had no authority to enforce its decision and that satisfaction of the judgment was in the hands of the General Assembly; and

Whereas, the General Assembly has not acted to satisfy the State's debt to the schools or even expressed any intent to satisfy the debt; Now, therefore,
The General Assembly of North Carolina enacts:

SECTION 1. The purpose of this act is to meet the requirements set out in the Memorandum of Decision and Judgment filed August 8, 2008, in N.C. School Bds. Ass'n v. Moore, 98 CVS 14158 (Wake County).

SECTION 2. Beginning with the 2013-2014 fiscal year, there is annually appropriated from the General Fund to the State Public School Fund a sum equal to the lesser of (i) ten percent (10%) of any unreserved fund balance remaining in the General Fund at the end of the prior fiscal year, (ii) one hundred million dollars (\$100,000,000), and (iii) the amount owed to local school administrative units, including interest, pursuant to the



1 Memorandum of Decision and Judgment filed August 8, 2008, in N.C. School Bds. Ass'n v.
2 Moore, 98 CVS 14158 (Wake County). These funds shall be allotted by the State Board of
3 Education, on behalf of the counties, to local school administrative units on a per pupil basis in
4 accordance with Article IX, Section 7(b) of the North Carolina Constitution and shall be used
5 exclusively for maintaining free public schools.

6 **SECTION 3.** These funds shall supplement and not supplant other funds
7 appropriated for the public schools by the General Assembly.

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