

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**HOUSE DRH10104-LYx-70A (2/6)**

Short Title: School Board Fiscal Accountability Act.

(Public)

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Sponsors: Representative Glazier.

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Referred to:

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A BILL TO BE ENTITLED

1  
2 AN ACT TO PROVIDE FOR FISCAL ACCOUNTABILITY OF SCHOOL BOARDS  
3 BY AUTHORIZING LOCAL BOARDS TO RAISE REVENUE FOR THE  
4 SUPPORT OF PUBLIC EDUCATION AND BY MAKING THOSE BOARDS  
5 RESPONSIBLE TO THE VOTERS FOR THE DECISIONS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Fiscal Responsibility for Local Boards of Education. –  
8 Beginning with the 2008-2009 fiscal year, eligible local boards of education shall have  
9 authority to levy and collect taxes for the support of public education as provided in this  
10 act.

11 **SECTION 2.** Requirements for Boards to Be Given Fiscal Responsibility. –  
12 Eligible local boards of education are those that satisfy all of the following conditions:

13 (1) The school board is elected rather than appointed.

14 (2) The school board and the board of county commissioners of each  
15 county in which the local school administrative unit is located have  
16 passed resolutions authorizing the school board to levy taxes under this  
17 act.

18 **SECTION 3.** Applicability of Local Government Budget and Fiscal Control  
19 Act. – (a) For fiscal year 2008-2009 and subsequent fiscal years, the eligible local  
20 boards of education granted tax-levying authority shall be considered units of local  
21 government under G.S. 159-7(b)(15) and, accordingly, shall follow the provisions of the  
22 Local Government Budget and Fiscal Control Act in Article 3 of Chapter 159 of the  
23 General Statutes rather than the School Budget and Fiscal Control Act in Article 31 of  
24 Chapter 115C of the General Statutes. The eligible local boards of education shall  
25 continue to follow the budget format and fund structure in the School Budget and Fiscal  
26 Control Act, however. The reports an eligible board of education is required to file with

1 the secretary of the Local Government Commission pursuant to G.S. 159-33, 159-33.1,  
2 and 159-34 shall also be filed with the State Board of Education.

3 **SECTION 3.(b)** The superintendent for the eligible local board of education  
4 shall be the budget officer.

5 **SECTION 3.(c)** Any questions concerning the budget format and procedures  
6 to be followed by the eligible local boards of education granted tax-levying authority  
7 shall be resolved by the Local Government Commission.

8 **SECTION 4.** Authority to Levy Property Tax. – (a) Beginning with the  
9 budget to be prepared and adopted for the 2008-2009 fiscal year, the eligible local  
10 boards of education selected by the State Board of Education shall have the same  
11 authority as a board of county commissioners has for purposes of public education to  
12 levy and collect taxes on property having situs within the local school administrative  
13 unit.

14 **SECTION 4.(b)** For the listing, assessment, and collection of the ad valorem  
15 tax, the eligible local school units shall have the same authority and shall follow the  
16 same procedures as a municipality under Article 22 of Chapter 105 of the General  
17 Statutes except as follows:

- 18 (1) An eligible board of education shall not have the option under  
19 G.S. 105-326 of requiring property owners to list their property  
20 separately with the school unit. Instead, the eligible board of education  
21 shall use the abstracts and tax records of the county to determine the  
22 property subject to taxation by the board of education.
- 23 (2) For the property it is entitled to tax, the eligible board of education  
24 shall accept and adopt the appraisals and assessments fixed by the  
25 county. The eligible board of education shall not constitute a separate  
26 board of equalization and review for taxpayers' appeals but shall  
27 accept and be bound by the decisions made by the county board of  
28 equalization and review and any adjustments made by the board of  
29 county commissioners pursuant to G.S. 105-325.
- 30 (3) The eligible local board of education may appoint a tax collector,  
31 pursuant to G.S. 105-349, or may enter an interlocal agreement with  
32 the board of county commissioners to allow the county's tax collector  
33 to serve the same function for the school unit. If the eligible board of  
34 education appoints its own tax collector, it still may enter an interlocal  
35 agreement with the county to perform parts of the tax collection and  
36 foreclosure functions. Whether the eligible board of education appoints  
37 its own tax collector or enters an agreement with the county for the  
38 county tax collector to perform all or some of those functions, the  
39 collection and foreclosure of taxes shall be conducted according to the  
40 provisions of Article 26 of Chapter 105 of the General Statutes.

41 **SECTION 4.(c)** Because ad valorem taxes levied by the eligible local boards  
42 of education for fiscal year 2008-2009 will not become due until September 1, 2006,  
43 and may be paid without penalty beyond that date, the Local Government Commission  
44 and the State Budget Office shall assist each eligible board of education in developing

1 plans for assuring that sufficient revenues are available for the operation of schools  
2 during the beginning portions of the initial fiscal year for the eligible boards to exercise  
3 taxing authority. The plans may include the carrying forward of fund balances from the  
4 previous year, advancement of State appropriations, transfer of moneys from other  
5 funds available in the county, and such other means as may be appropriate.

6 **SECTION 4.(d)** The provisions of G.S. 105-374(h) and G.S. 105-375(k)  
7 concerning joint foreclosure and consolidation of liens, respectively, shall apply to  
8 eligible local boards of education under this act to the same extent as to counties, cities,  
9 and other taxing units.

10 **SECTION 5.** Abolition of Supplemental Taxes. – Effective July 1, 2008,  
11 any supplemental taxes enacted for the support of the public schools in school units  
12 which are authorized to levy and collect taxes pursuant to this act are repealed. Article  
13 36 of Chapter 115C of the General Statutes, concerning voted tax supplements for  
14 school purposes, shall not apply in counties in which the local board of education is  
15 eligible to levy and collect taxes pursuant to this act.

16 **SECTION 6.** Local Sales Tax Proceeds. – (a) In each county in which a  
17 local board of education is authorized to levy and collect taxes pursuant to this act, the  
18 board of education shall receive a portion of the county's distribution from the net  
19 proceeds of the local sales and use tax under G.S. 105-472(b) (the first one-cent local  
20 tax), 105-486(c) (the first half-cent local tax), 105-501 (the second half-cent local tax),  
21 and 105-520(c) (third half-cent local sales tax), as provided in subsection (b) of this  
22 section. This provision shall not affect the share of the local sales and use tax proceeds  
23 distributed to municipalities in the county.

24 **SECTION 6.(b)** The eligible local board of education's share of the net  
25 proceeds of local sales and use taxes shall be determined by the ad valorem method as  
26 described in G.S. 105-472(b)(2). The distribution of net proceeds of local sales and use  
27 tax between counties and municipalities shall first be determined according to the per  
28 capita or ad valorem method as chosen by the county. After that calculation is made,  
29 the county's distribution then shall be divided between the school unit and the county  
30 according to the ad valorem method.

31 **SECTION 6.(c)** The Secretary of Revenue shall allocate and distribute the  
32 school unit's share of the local sales and use tax to the eligible board of education on a  
33 monthly basis the same as such allocations and distributions are made to counties and  
34 municipalities.

35 **SECTION 7.** Existing Indebtedness and Related Local Sales Tax Proceeds.  
36 – (a) An eligible local board of education shall enter an interlocal agreement pursuant to  
37 G.S. 160A-461 under which the eligible board of education shall make the payments  
38 due from the county on any existing indebtedness of the county related to the  
39 construction of public school facilities for that school unit, beginning July 1, 2008. The  
40 form of the interlocal agreement shall be set by the Local Government Commission.

41 **SECTION 7.(b)** To the extent that G.S. 105-487 requires a percentage of the  
42 county proceeds from the first half-cent local sales and use tax to be dedicated to school  
43 capital outlay purposes, and to the extent that G.S. 105-502 requires a percentage of the  
44 county proceeds from the second half-cent local sales and use tax to be dedicated to

1 school capital outlay purposes, those proceeds shall be paid by the Secretary of Revenue  
2 to the eligible local board of education rather than the board of county commissioners in  
3 those counties in which the local board of education has been authorized to levy and  
4 collect taxes pursuant to this act. This provision shall apply to sales tax collected July 1,  
5 2008, and subsequently.

6 **SECTION 7.(c)** Upon entry of an interlocal agreement pursuant to this  
7 section, the county shall transfer to the eligible board of education any capital reserve  
8 fund it has created pursuant to G.S. 159-18 for capital expenditures related to the  
9 construction of public school facilities. The county shall transfer to the eligible board of  
10 education the amount in the reserve fund as of July 1, 2007, plus any additional sums  
11 appropriated to the fund or earned by the fund after that date, minus any amount  
12 expended from the fund to reduce indebtedness related to the construction of public  
13 school facilities. This section also shall apply to any capital reserve fund created by the  
14 county after July 1, 2007, for indebtedness related to the construction of public school  
15 facilities.

16 **SECTION 8. Issuance of Bonds by Local Board of Education.** – (a) An  
17 eligible local board of education shall be authorized to issue bonds for the purposes in  
18 G.S. 159-48(c)(4) to the same extent and in the same manner as a county is authorized  
19 to do so. The faith and credit of the issuing school unit are pledged for the payment of  
20 the principal and interest on all bonds issued pursuant to this section, and the power and  
21 obligation of the issuing school unit to levy taxes and raise other revenue for the prompt  
22 payment of installments of principal and interest shall be unrestricted as to rate and  
23 amount.

24 **SECTION 8.(b)** The issuance of bonds by a local school unit pursuant to  
25 this section shall be subject to the same procedures and requirements of the Local  
26 Government Bond Act as the issuance of such bonds by a county.

27 **SECTION 8.(c)** The Local Government Commission shall determine the  
28 authorization and procedure for an eligible local board of education to issue bonds  
29 pursuant to this section.

30 **SECTION 9.** G.S. 159-160 reads as rewritten:

31 **"§ 159-160. Definitions.**

32 As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government'  
33 as defined in G.S. 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81,  
34 school unit whose local board of education is authorized to levy and collect taxes, and  
35 the State of North Carolina."

36 **SECTION 10.** G.S. 159-168 reads as rewritten:

37 **"§ 159-168. 'Unit' defined.**

38 For purposes of this Part, 'unit,' 'unit of local government,' or 'issuing unit' mean a  
39 'unit of local government' as defined by G.S. ~~159-7(b)~~159-7(b), a school unit whose  
40 board is authorized to levy and collect taxes, and a 'public authority' as defined by  
41 G.S. 159-7(b)."

42 **SECTION 11.** Article 32 of Chapter 115C of the General Statutes is  
43 amended by adding a new section to read:

44 **"§ 115C-458.1. Loans from State Literary Fund directly to certain school units.**

1        In addition to the authority granted in G.S. 115C-458 to lend moneys from the State  
2 Literary Fund to counties, the State Board of Education may make loans from the fund  
3 directly to local boards of education which are authorized to levy and collect taxes. The  
4 provisions of this Article and of the rules of the State Board of Education concerning  
5 loans from the State Literary Fund shall apply to the loans made directly to local boards  
6 of education, except that the county board of commissioners shall have no responsibility  
7 for repayment of such loans."

8            **SECTION 12.** Information Provided to County. – In counties in which the  
9 local board of education has been authorized to levy and collect taxes pursuant to this  
10 act, the provisions of G.S. 115C-429(c) obligating the board of education to provide  
11 certain information to the board of commissioners and similar provisions in the School  
12 Budget and Fiscal Control Act and other statutes shall not apply. The board of  
13 education may provide such information to the board of county commissioners in its  
14 discretion.

15            **SECTION 13.** G.S. 115C-452 reads as rewritten:

16 **"§ 115C-452. Fines and forfeitures.**

17        (a) The clear proceeds of all penalties and forfeitures and of all fines collected in  
18 the General Court of Justice in each county shall be remitted by the clerk of the superior  
19 court to the county finance officer, who shall forthwith determine what portion of the  
20 total is due to each local school administrative unit in the county and remit the  
21 appropriate portion of the amount to the finance officer of each local school  
22 administrative unit. Fines and forfeitures shall be apportioned according to the projected  
23 average daily membership of each local school administrative unit as determined by  
24 and certified to the local school administrative units and the board of county  
25 commissioners by the State Board of Education pursuant to G.S. 115C-430.

26        (b) In counties in which the local board of education has been authorized to levy  
27 and collect taxes, the clerk of superior court shall remit the clear proceeds of all  
28 penalties and forfeitures and all fines collected in the General Court of Justice directly  
29 to the finance officer of the local school administrative unit. If both a county board of  
30 education and city board of education within the same county have such taxing  
31 authority, the clerk of superior court shall remit the proceeds to the finance officer of the  
32 county school administrative unit who shall be responsible for determining and  
33 remitting to the finance officer of the city school administrative unit that city unit's  
34 portion of the proceeds based on projected average daily membership."

35            **SECTION 14.** Reserved.

36            **SECTION 15.** Reserved.

37            **SECTION 16.** Erection of School Buildings. – The provisions of  
38 G.S. 115C-521(b) concerning submission of building needs to the board of county  
39 commissioners shall not apply in counties in which the local board of education has  
40 been given authority to levy and collect taxes pursuant to this act. Nor shall the  
41 provisions of G.S. 115C-521(d) concerning approval of the board of county  
42 commissioners for appropriations apply in such counties.

43            **SECTION 17.** Provision of Equipment for Buildings. – In counties in which  
44 the local board of education has been authorized to levy and collect taxes pursuant to

1 this act, the provisions of G.S. 115C-522 concerning the provision of suitable supplies  
2 and good water supplies shall not apply to the board of county commissioners.

3 **SECTION 18.** Fire Prevention. – In counties in which the local board of  
4 education has been authorized to levy and collect taxes pursuant to this act, the  
5 provisions of G.S. 115C-525(b)(2) requiring the board of county commissioners to  
6 appropriate funds for fire inspections of school buildings shall not apply. The local  
7 board of education shall be responsible for the costs of such inspections in those  
8 counties.

9 **SECTION 19.** Lease Purchase and Installment Purchase Contracts. – In  
10 counties in which the local board of education has been authorized to levy and collect  
11 taxes pursuant to this act, the provisions of G.S. 115C-528(g) concerning submission of  
12 information on lease purchase and installment purchase contracts to the board of county  
13 commissioners shall not apply.

14 **SECTION 20.** Operational Leases of School Buildings and Facilities. – In  
15 counties in which the local board of education has been authorized to levy and collect  
16 taxes pursuant to this act, the provisions of G.S. 115C-530 requiring approval of leases  
17 by the board of county commissioners shall not apply.

18 **SECTION 20.1.** Capital Leases of School Buildings and Facilities. – In  
19 counties in which the local board of education has been authorized to levy and collect  
20 taxes pursuant to this act, the provisions of G.S. 115C-531 requiring approval of leases  
21 by the board of county commissioners shall not apply.

22 **SECTION 21.** Public School Building Capital Fund. – In counties in which  
23 the local board of education has been authorized to levy and collect taxes pursuant to  
24 this act, the responsibilities given to the county and the county board of commissioners  
25 by Article 38A of Chapter 115C of the General Statutes, the Public School Building  
26 Capital Fund, shall be assumed by the administrative school unit and eligible board of  
27 education. In those counties, monies should be allocated to the administrative school  
28 unit rather than to the county.

29 **SECTION 22.** No Other Taxing Authority for Board of Education. – Except  
30 as provided in this act, a local board of education shall have no authority to impose or  
31 collect a tax.

32 **SECTION 23.** Commissioners' Discretion to Provide Additional Support. –  
33 Nothing in this act shall prohibit a board of county commissioners from providing  
34 additional financial support to an eligible local board of education in its discretion.

35 **SECTION 24.** Limitations on Tax Rate for Fiscal Year 2008-2009. – For the  
36 2008-2009 fiscal year, an eligible local board of education may not adopt a property tax  
37 rate greater than the rate needed to produce revenue sufficient to offset the county  
38 appropriations, calculated on a per-student basis, that will no longer be available to the  
39 public schools for that fiscal year, plus an amount necessary to cover the cost-of-living  
40 increase from July 1, 2007. To enable the eligible board of education to determine the  
41 necessary tax rate for the 2008-2009 fiscal year, the board of county commissioners  
42 shall notify the board of education by May 1, 2008, of any county funds other than  
43 property and sales tax revenues that previously have been appropriated to the board of  
44 education but which will no longer be provided. In determining the property tax rate for

1 fiscal year 2008-2009 needed to equal the amount previously appropriated by the county  
2 per student, the eligible board of education shall use the highest per-student  
3 appropriation of the three previous fiscal years.

4           **SECTION 25.** This act is effective when it becomes law.