



1 SCHOOL BOARDS; TO AUTHORIZE ELIGIBLE LOCAL SCHOOL BOARDS  
2 TO ISSUE BONDS SUBJECT TO THE PROCEDURES AND REQUIREMENTS  
3 OF THE LOCAL GOVERNMENT BOND ACT; TO AUTHORIZE THE STATE  
4 BOARD OF EDUCATION TO MAKE LOANS FROM THE STATE LITERARY  
5 FUND DIRECTLY TO ELIGIBLE LOCAL SCHOOL BOARDS; TO PROVIDE  
6 THAT ELIGIBLE LOCAL SCHOOL BOARDS AT THEIR DISCRETION MAY  
7 PROVIDE INFORMATION ON THE FINANCIAL OPERATION OF THE  
8 SCHOOL SYSTEM TO THE COUNTY BOARDS OF COMMISSIONERS; TO  
9 REQUIRE THAT THE CLERK OF SUPERIOR COURT REMIT CLEAR  
10 PROCEEDS OF PENALTIES, FORFEITURES, AND FINES TO THE FINANCE  
11 OFFICERS OF THE ELIGIBLE LOCAL SCHOOL BOARDS; TO PROVIDE  
12 THAT ELIGIBLE LOCAL SCHOOL BOARDS DO NOT HAVE TO SUBMIT  
13 BUILDING NEEDS TO THE COUNTY BOARDS OF COMMISSIONERS AND  
14 THAT COUNTY BOARDS OF COMMISSIONERS ARE NOT REQUIRED TO  
15 PROVIDE SUITABLE SUPPLIES, GOOD WATER, OR FUNDS FOR FIRE  
16 INSPECTION FOR THE ELIGIBLE LOCAL SCHOOL BOARDS' SCHOOLS; TO  
17 PROVIDE THAT ELIGIBLE LOCAL SCHOOL BOARDS DO NOT HAVE TO  
18 SUBMIT INFORMATION TO COUNTY BOARDS OF COMMISSIONERS ON  
19 LEASE PURCHASE AND INSTALLMENT PURCHASE CONTRACTS, NOR  
20 MUST THEY OBTAIN APPROVAL FOR OPERATIONAL AND CAPITAL  
21 LEASES OF SCHOOL BUILDINGS AND FACILITIES; TO TRANSFER THE  
22 RESPONSIBILITIES OF THE COUNTY BOARDS OF COMMISSIONERS  
23 UNDER THE PUBLIC SCHOOL BUILDING CAPITAL FUND TO THE  
24 ELIGIBLE LOCAL SCHOOL BOARDS; AND TO PROVIDE THAT AN  
25 ELIGIBLE LOCAL SCHOOL BOARD CANNOT ADOPT A PROPERTY TAX  
26 RATE GREATER THAN THE RATE NEEDED TO PRODUCE SUFFICIENT  
27 REVENUE TO OFFSET THE COUNTY APPROPRIATION THAT WILL NO  
28 LONGER BE AVAILABLE PLUS AN AMOUNT TO COVER COST-OF-LIVING  
29 INCREASE FROM THE PRECEDING FISCAL YEAR.

30 The General Assembly of North Carolina enacts:

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

35 **SECTION 2.(a)** Requirements for Boards to Be Given Fiscal Responsibility.  
36 – Eligible local boards of education are those that satisfy all of the following conditions:  
37 (1) The local board of education is elected rather than appointed.  
38 (2) Each local board of education in the county and the board of county  
39 commissioners of each county in which the local school administrative  
40 unit is located have passed resolutions authorizing the local boards of  
41 education to levy taxes under this act.

42 **SECTION 2.(b)** A local board of education shall have authority to levy and  
43 collect taxes as provided in this act starting with the first fiscal year that begins more  
44 than six months after the adoption of the necessary resolutions by the board of county

1 commissioners and the local board of education. The authority to levy and collect taxes  
2 includes the authority to take any other actions, including preparation and adoption of  
3 the budget, in advance of the start of the fiscal year as necessary to implement the  
4 taxing authority for the fiscal year.

5 **SECTION 3.(a)** Applicability of Local Government Budget and Fiscal  
6 Control Act. – For fiscal year 2008-2009 and subsequent fiscal years, the eligible local  
7 boards of education granted tax-levying authority shall be considered units of local  
8 government under G.S. 159-7(b)(15) and, accordingly, shall follow the provisions of the  
9 Local Government Budget and Fiscal Control Act in Article 3 of Chapter 159 of the  
10 General Statutes rather than the School Budget and Fiscal Control Act in Article 31 of  
11 Chapter 115C of the General Statutes. However, the eligible local boards of education  
12 shall continue to follow the budget format and fund structure in the School Budget and  
13 Fiscal Control Act. The reports an eligible board of education is required to file with  
14 the secretary of the Local Government Commission pursuant to G.S. 159-33, 159-33.1,  
15 and 159-34 shall also be filed with the State Board of Education.

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

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

21 **SECTION 4.(a)** Authority to Levy Property Tax. – Beginning with the  
22 budget to be prepared and adopted for the initial fiscal year in which eligible local  
23 boards of education have tax-levying authority, the eligible local boards of education  
24 shall have the same authority as a board of county commissioners has for purposes of  
25 public education to levy and collect taxes on property having situs within the local  
26 school administrative unit.

27 **SECTION 4.(b)** For the listing, assessment, and collection of the ad valorem  
28 tax, the eligible local boards of education shall have the same authority and shall follow  
29 the same procedures as a municipality under Article 22 of Chapter 105 of the General  
30 Statutes except as follows:

31 (1) An eligible local board of education shall not have the option under  
32 G.S. 105-326 of requiring property owners to list their property  
33 separately with the local board of education. Instead, the eligible local  
34 board of education shall use the abstracts and tax records of the county  
35 to determine the property subject to taxation by the eligible local board  
36 of education.

37 (2) For the property it is entitled to tax, the eligible board of education  
38 shall accept and adopt the appraisals and assessments fixed by the  
39 county. The eligible board of education shall not constitute a separate  
40 board of equalization and review for taxpayers' appeals but shall  
41 accept and be bound by the decisions made by the county board of  
42 equalization and review and any adjustments made by the board of  
43 county commissioners pursuant to G.S. 105-325.

1           (3) The eligible local board of education may appoint a tax collector,  
2           pursuant to G.S. 105-349, or may enter an interlocal agreement with  
3           the board of county commissioners to allow the county's tax collector  
4           to serve the same function for the school unit. If the eligible board of  
5           education appoints its own tax collector, it still may enter an interlocal  
6           agreement with the county to perform parts of the tax collection and  
7           foreclosure functions. Whether the eligible board of education appoints  
8           its own tax collector or enters an agreement with the county for the  
9           county tax collector to perform all or some of those functions, the  
10          collection and foreclosure of taxes shall be conducted according to the  
11          provisions of Article 26 of Chapter 105 of the General Statutes.

12          **SECTION 4.(c)** Because ad valorem taxes levied by the eligible local boards  
13          of education for the initial fiscal year in which the eligible local boards of education  
14          have tax-levying authority will not become due until September 1 of that year, and may  
15          be paid without penalty beyond that date, the Local Government Commission and the  
16          Office of State Budget and Management shall assist each eligible local board of  
17          education in developing plans for assuring that sufficient revenues are available for the  
18          operation of schools during the beginning portions of the initial fiscal year for the  
19          eligible boards to exercise taxing authority. The plans may include the carrying forward  
20          of fund balances from the previous year, advancement of State appropriations, transfer  
21          of moneys from other funds available in the county, and such other means as may be  
22          appropriate.

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

27          **SECTION 5.** Abolition of Supplemental Taxes. – Effective July 1 of the  
28          initial fiscal year in which the eligible local boards have tax-levying authority, any  
29          supplemental taxes enacted for the support of the public schools of the local boards of  
30          education which are authorized to levy and collect taxes pursuant to this act are  
31          repealed. Article 36 of Chapter 115C of the General Statutes, concerning voted tax  
32          supplements for school purposes, shall not apply in counties in which the local board of  
33          education is eligible to levy and collect taxes pursuant to this act.

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

42          **SECTION 6.(b)** The eligible local board of education's share of the net  
43          proceeds of local sales and use taxes shall be determined by the ad valorem method as  
44          described in G.S. 105-472(b)(2). The distribution of net proceeds of local sales and use

1 tax between counties and municipalities shall first be determined according to the per  
2 capita or ad valorem method as chosen by the county. After that calculation is made,  
3 the county's distribution then shall be divided between the school unit and the county  
4 according to the ad valorem method.

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

9 **SECTION 7.(a)** Existing Indebtedness and Related Local Sales Tax  
10 Proceeds. – An eligible local board of education shall enter an interlocal agreement  
11 pursuant to G.S. 160A-461 under which the eligible board of education shall make the  
12 payments due from the county on any existing indebtedness of the county related to the  
13 construction of public school facilities for that school unit, beginning July 1 of the  
14 initial fiscal year in which the eligible local boards of education have tax-levying  
15 authority. The form of the interlocal agreement shall be set by the Local Government  
16 Commission.

17 **SECTION 7.(b)** To the extent that G.S. 105-487 requires a percentage of the  
18 county proceeds from the first half-cent local sales and use tax to be dedicated to school  
19 capital outlay purposes, and to the extent that G.S. 105-502 requires a percentage of the  
20 county proceeds from the second half-cent local sales and use tax to be dedicated to  
21 school capital outlay purposes, those proceeds shall be paid by the Secretary of Revenue  
22 to the eligible local board of education rather than the board of county commissioners in  
23 those counties in which the local board of education has been authorized to levy and  
24 collect taxes pursuant to this act. This provision shall apply to sales tax collected July 1  
25 of the initial fiscal year in which the eligible local boards have tax-levying authority,  
26 and subsequently.

27 **SECTION 7.(c)** Upon entry of an interlocal agreement pursuant to this  
28 section, the county shall transfer to the eligible board of education any capital reserve  
29 fund it has created pursuant to G.S. 159-18 for capital expenditures related to the  
30 construction of public school facilities. The county shall transfer to the eligible local  
31 board of education the amount in the reserve fund as of July 1 of the fiscal year  
32 immediately preceding the initial fiscal year in which the eligible local boards of  
33 education have tax-levying authority, plus any additional sums appropriated to the fund  
34 or earned by the fund after that date, minus any amount expended from the fund to  
35 reduce indebtedness related to the construction of public school facilities. This section  
36 also shall apply to any capital reserve fund created by the county after July 1 of the  
37 fiscal year immediately preceding the initial fiscal year in which the eligible local  
38 boards of education have tax-levying authority for indebtedness related to the  
39 construction of public school facilities.

40 **SECTION 8.(a)** Issuance of Bonds by Local Board of Education. – An  
41 eligible local board of education shall be authorized to issue bonds for the purposes in  
42 G.S. 159-48(c)(4) to the same extent and in the same manner as a county is authorized  
43 to do so. The faith and credit of the issuing school unit is pledged for the payment of  
44 the principal and interest on all bonds issued pursuant to this section, and the power and

1 obligation of the issuing school unit to levy taxes and raise other revenue for the prompt  
2 payment of installments of principal and interest shall be unrestricted as to rate and  
3 amount.

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

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

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

11 **"§ 159-160. Definitions.**

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

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

17 **"§ 159-168. 'Unit' defined.**

18 For purposes of this Part, 'unit,' 'unit of local government,' or 'issuing unit' means a  
19 'unit of local government' as defined by G.S. ~~159-7(b)~~159-7(b), a school unit whose  
20 board is authorized to levy and collect taxes, and a 'public authority' as defined by  
21 G.S. 159-7(b)."

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

24 **"§ 115C-458.1. Loans from State Literary Fund directly to certain school units.**

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

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

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

40 **"§ 115C-452. Fines and forfeitures.**

41 (a) The clear proceeds of all penalties and forfeitures and of all fines collected in  
42 the General Court of Justice in each county shall be remitted by the clerk of the superior  
43 court to the county finance officer, who shall forthwith determine what portion of the  
44 total is due to each local school administrative unit in the county and remit the

1 appropriate portion of the amount to the finance officer of each local school  
2 administrative unit. Fines and forfeitures shall be apportioned according to the projected  
3 average daily membership of each local school administrative unit as determined by and  
4 certified to the local school administrative units and the board of county commissioners  
5 by the State Board of Education pursuant to G.S. 115C-430.

6 (b) In counties in which the local board of education has been authorized to levy  
7 and collect taxes, the clerk of superior court shall remit the clear proceeds of all  
8 penalties and forfeitures and all fines collected in the General Court of Justice directly  
9 to the finance officer of the local school administrative unit. When both a county board  
10 of education and city board of education within the same county have such taxing  
11 authority, the clerk of superior court shall remit the proceeds to the finance officer of the  
12 county school administrative unit who shall be responsible for determining and  
13 remitting to the finance officer of the city school administrative unit that city unit's  
14 portion of the proceeds based on projected average daily membership."

15 **SECTION 14.** **Erection of School Buildings.** – The provisions of  
16 G.S. 115C-521(b) concerning submission of building needs to the board of county  
17 commissioners shall not apply in counties in which the local board of education has  
18 been given authority to levy and collect taxes pursuant to this act. Nor shall the  
19 provisions of G.S. 115C-521(d) concerning approval of the board of county  
20 commissioners for appropriations apply in such counties.

21 **SECTION 15.** **Provision of Equipment for Buildings.** – In counties in which  
22 the local board of education has been authorized to levy and collect taxes pursuant to  
23 this act, the provisions of G.S. 115C-522 concerning the provision of suitable supplies  
24 and good water supplies shall not apply to the board of county commissioners.

25 **SECTION 16.** **Fire Prevention.** – In counties in which the local board of  
26 education has been authorized to levy and collect taxes pursuant to this act, the  
27 provisions of G.S. 115C-525(b)(2) requiring the board of county commissioners to  
28 appropriate funds for fire inspections of school buildings shall not apply. The local  
29 board of education shall be responsible for the costs of such inspections in those  
30 counties.

31 **SECTION 17.** **Lease Purchase and Installment Purchase Contracts.** – In  
32 counties in which the local board of education has been authorized to levy and collect  
33 taxes pursuant to this act, the provisions of G.S. 115C-528(g) concerning submission of  
34 information on lease purchase and installment purchase contracts to the board of county  
35 commissioners shall not apply.

36 **SECTION 18.** **Operational Leases of School Buildings and Facilities.** – In  
37 counties in which the local board of education has been authorized to levy and collect  
38 taxes pursuant to this act, the provisions of G.S. 115C-530 requiring approval of leases  
39 by the board of county commissioners shall not apply.

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

1           **SECTION 20.** Public School Building Capital Fund. – In counties in which  
2 the local board of education has been authorized to levy and collect taxes pursuant to  
3 this act, the responsibilities given to the county and the county board of commissioners  
4 by Article 38A of Chapter 115C of the General Statutes, the Public School Building  
5 Capital Fund, shall be assumed by the administrative school unit and eligible board of  
6 education. In those counties, monies should be allocated to the administrative school  
7 unit rather than to the county.

8           **SECTION 21.** No Other Taxing Authority for Board of Education. – Except  
9 as provided in this act, a local board of education shall have no authority to impose or  
10 collect a tax.

11           **SECTION 22.** Commissioners' Discretion to Provide Additional Support. –  
12 Nothing in this act shall prohibit a board of county commissioners from providing  
13 additional financial support to an eligible local board of education in its discretion.

14           **SECTION 23.** Limitations on Tax Rate for the Initial Fiscal Year. – For the  
15 initial fiscal year, an eligible local board of education shall not adopt a property tax rate  
16 greater than the rate needed to produce revenue sufficient to offset the county  
17 appropriations, calculated on a per-student basis, that will no longer be available to the  
18 public schools for that fiscal year, plus an amount necessary to cover the cost-of-living  
19 increase from the preceding fiscal year. To enable the eligible board of education to  
20 determine the necessary tax rate for the initial fiscal year, the board of county  
21 commissioners shall notify the board of education by May 1 before the beginning of the  
22 fiscal year of any county funds other than property and sales tax revenues that  
23 previously have been appropriated to the local board of education but which will no  
24 longer be provided. In determining the property tax rate for the initial fiscal year  
25 needed to equal the amount previously appropriated by the county per student, the  
26 eligible local board of education shall use the highest per-student appropriation of the  
27 three previous fiscal years.

28           **SECTION 24.** This act is effective when it becomes law.