

Senate Resolution 580

By: Senator Cagle of the 49th

## A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide that the sales and use tax for  
 2 educational purposes may also be imposed in whole or in part for maintenance and operation  
 3 of public schools with an equivalent millage rate reduction; to change certain imposition  
 4 requirements; to provide for the submission of this amendment for ratification or rejection;  
 5 and for other purposes.

6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

### 7 SECTION 1.

8 Article VIII, Section VI of the Constitution is amended by striking Paragraph IV and  
 9 inserting in its place a new Paragraph IV to read as follows:

10 "Paragraph IV. *Sales tax for educational purposes.* (a)(1) The board of education of each  
 11 any county school district ~~in a county in which no or any~~ independent school district is  
 12 ~~located~~ may by resolution and the board of education of each county school district and the  
 13 ~~board of education of each independent school district located within such county may by~~  
 14 ~~concurrent resolutions impose, levy, and collect~~ impose and levy within that school district  
 15 a sales and use tax for educational purposes of such school ~~districts~~ district conditioned  
 16 upon approval by a majority of the qualified voters residing within the limits of the ~~local~~  
 17 ~~taxing jurisdiction~~ school district voting in a referendum thereon.

18 (2) This tax shall be at the rate of 1 percent and shall be imposed for a period of time  
 19 not to exceed five years, but in all other respects, except as otherwise provided in this  
 20 Paragraph, shall ~~correspond to and~~ be levied in the ~~same~~ manner as the tax provided for  
 21 by ~~Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating~~  
 22 ~~to the special county 1 percent sales and use tax, as now or hereafter amended~~ general  
 23 law. ~~Proceedings for the reimposition of such tax shall be in the same manner as~~  
 24 ~~proceedings for the initial imposition of the tax, but the newly authorized tax shall not be~~  
 25 ~~imposed until the expiration of the tax then in effect.~~ The purpose or purposes for which  
 26 the proceeds of the tax are to be used and may be expended shall depend upon which

1 option of such tax is selected by the board or boards of education. Such option shall be  
 2 specified in the resolution or concurrent resolution calling for the imposition of the tax.

3 (b) The option 1 purpose or purposes for which the proceeds of the tax are to be used and  
 4 may be expended include:

5 (1) Capital outlay projects for educational purposes;

6 (2) The retirement of previously incurred general obligation debt with respect only to  
 7 capital outlay projects of the school system; provided, however, that the tax authorized  
 8 under this Paragraph shall only be expended for the purpose authorized under this  
 9 subparagraph (b)(2) if all ad valorem property taxes levied or scheduled to be levied prior  
 10 to the maturity of any such then outstanding general obligation debt to be retired by the  
 11 proceeds of the tax imposed under this Paragraph shall be reduced by a total amount  
 12 equal to the total amount of proceeds of the tax imposed under this Paragraph to be  
 13 applied to retire such bonded indebtedness. In the event of failure to comply with the  
 14 requirements of this subparagraph (b)(2), as certified by the Department of Revenue, no  
 15 further funds shall be expended under this subparagraph (b)(2) by such county or  
 16 independent board of education and all such funds shall be maintained in a separate,  
 17 restricted account and held solely for the expenditure for future capital outlay projects for  
 18 educational purposes; or

19 (3) A combination of the foregoing.

20 (c) The option 2 purpose or purposes for which the proceeds of the tax are to be used and  
 21 may be expended include the use of an amount equal to 25 percent of the amount of  
 22 proceeds collected in each year in which the tax is levied for the reduction of the millage  
 23 rate against tangible property within the school district for educational maintenance and  
 24 operation purposes in an equivalent amount and the remaining 75 percent of such proceeds  
 25 for:

26 (1) Capital outlay projects for educational purposes;

27 (2) The retirement of previously incurred general obligation debt with respect only to  
 28 capital outlay projects of the school system; provided, however, that the tax authorized  
 29 under this Paragraph shall only be expended for the purpose authorized under this  
 30 subparagraph (c)(2) if all ad valorem property taxes levied or scheduled to be levied prior  
 31 to the maturity of any such then outstanding general obligation debt to be retired by the  
 32 proceeds of the tax imposed under this Paragraph shall be reduced by a total amount  
 33 equal to the total amount of proceeds of the tax imposed under this Paragraph to be  
 34 applied to retire such bonded indebtedness. In the event of failure to comply with the  
 35 requirements of this subparagraph (c)(2), as certified by the Department of Revenue, no  
 36 further funds shall be expended under this subparagraph (c)(2) by such county or  
 37 independent board of education and all such funds shall be maintained in a separate,

1 restricted account and held solely for the expenditure for future capital outlay projects for  
 2 educational purposes; or

3 (3) A combination of the foregoing.

4 (d) The option 3 purpose for which the proceeds of the tax are to be used and may be  
 5 expended shall be solely for the purpose of reducing the millage rate against tangible  
 6 property within the school district for educational maintenance and operation purposes.

7 ~~(e)~~(e) The resolution calling for the imposition of the tax and the ballot question shall  
 8 each describe the option purposes, and if applicable:

9 (1) The specific capital outlay projects to be funded, or the specific debt to be retired,  
 10 or both, if applicable;

11 (2) The maximum cost of such project or projects and, if applicable, the maximum  
 12 amount of debt to be retired, which cost and amount of debt shall also be the maximum  
 13 amount of net proceeds to be raised by the tax; and

14 (3) The maximum period of time, to be stated in calendar years or calendar quarters  
 15 and not to exceed five years.

16 ~~(d)~~(f) Nothing in this Paragraph shall prohibit a county and those municipalities located  
 17 in such county from imposing as additional taxes local sales and use taxes authorized by  
 18 general law.

19 ~~(e)~~(g) The tax imposed pursuant to this Paragraph shall not be subject to and shall not  
 20 count with respect to any general law limitation regarding the maximum amount of local  
 21 sales and use taxes which may be levied in any jurisdiction in this state.

22 ~~(f)~~(h) The tax imposed pursuant to this Paragraph shall not be subject to any sales and  
 23 use tax exemption with respect to the sale or use of food and beverages which is imposed  
 24 by law.

25 ~~(g)~~(i) The net proceeds of the tax shall be distributed between the county school district  
 26 and the independent school districts, or portion thereof, located in such county according  
 27 to the ratio the student enrollment in each school district, or portion thereof, bears to the  
 28 total student enrollment of all school districts in the county or upon such other formula for  
 29 distribution as may be authorized by local law. For purposes of this subparagraph, student  
 30 enrollment shall be based on the latest FTE count prior to the referendum on imposing the  
 31 tax.

32 ~~(h)~~(j) Excess proceeds of the tax which remain following expenditure of proceeds for  
 33 authorized projects or purposes for education under option 1 or option 2 shall be used  
 34 solely for the purpose of reducing any indebtedness of the school system. In the event there  
 35 is no indebtedness, such excess proceeds shall be used by such school system for the  
 36 purpose of reducing its millage rate in an amount equivalent to the amount of such excess

1 proceeds. For purposes of this subparagraph, excess proceeds shall also be deemed to  
 2 include any interest earned with respect to the proceeds of the tax.

3 (k) The tax authorized by this Paragraph may be imposed, levied, and collected as  
 4 provided in this Paragraph without further action by the General Assembly, but the General  
 5 Assembly shall be authorized by general law to further define and implement its provisions  
 6 including, but not limited to, the authority to specify the percentage of net proceeds to be  
 7 allocated among the projects and purposes for which the tax was levied and the manner and  
 8 method of providing for the millage rollback under option 2 or option 3.

9 (l)(1) Notwithstanding any provision of any constitutional amendment continued in  
 10 force and effect pursuant to Article XI, Section I, Paragraph IV(a) and except as  
 11 otherwise provided in subparagraph (l)(2) of this Paragraph, any political subdivision  
 12 whose ad valorem taxing powers are restricted pursuant to such a constitutional  
 13 amendment may receive the proceeds of the tax authorized under this Paragraph or of any  
 14 local sales and use tax authorized by general law, or any combination of such taxes,  
 15 without any corresponding limitation of its ad valorem taxing powers which would  
 16 otherwise be required under such constitutional amendment.

17 (2) The restriction on and limitation of ad valorem taxing powers described in  
 18 subparagraph (l)(1) of this Paragraph shall remain applicable with respect to proceeds  
 19 received from the levy of a local sales and use tax specifically authorized by a  
 20 constitutional amendment in force and effect pursuant to Article XI, Section I, Paragraph  
 21 IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general  
 22 law."

## 23 SECTION 2.

24 The above proposed amendment to the Constitution shall be published and submitted as  
 25 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the  
 26 above proposed amendment shall have written or printed thereon the following:

27 "( ) YES Shall the Constitution be amended so as to provide that the sales and use tax  
 28 for educational purposes may also be imposed in whole or in part for  
 29 ( ) NO maintenance and operation of public schools with an equivalent millage rate  
 30 reduction and to change the imposition requirements?"

31 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."  
 32 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If  
 33 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall  
 34 become a part of the Constitution of this state.