

Senator Heath of the 31st offered the following substitute to HR 773:

**MOOT**

A RESOLUTION

1 Proposing an amendment to the Constitution of Georgia so as to change the existing  
 2 provisions regarding the sales tax for education; to allow for a county school district in which  
 3 one or more independent school districts are located to impose that tax jointly with the  
 4 independent school districts which opt to participate or by itself if all independent school  
 5 districts decline to participate, conditioned upon approval in a referendum; to provide for a  
 6 method of distribution for taxes simultaneously collected by a county school district and an  
 7 independent school district within the county; to provide for the submission of this  
 8 amendment for ratification or rejection; and for other purposes.

9 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article VIII, Section VI of the Constitution is amended by striking Paragraph IV in its  
 12 entirety and inserting in lieu thereof a new Paragraph IV to read as follows:

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

21 (2) In any county in which one or more independent school districts are wholly or  
 22 partially located, the board of education of the county school district and the board of  
 23 education of any one or more independent school districts located within such county  
 24 opting to participate, may by resolution impose, levy, and collect a sales and use tax for  
 25 educational purposes of such participating school districts conditioned upon approval by  
 26 a majority of the qualified voters residing within the limits of the local taxing  
 27 jurisdictions voting in a referendum thereon.

1       (3) In the event that all independent school districts wholly or partially located within  
 2       the county decline to participate, the board of education of the county school district may  
 3       by resolution impose, levy, and collect a sales and use tax for educational purposes of  
 4       such school district conditioned upon approval by a majority of the qualified voters  
 5       residing within the limits of the local taxing jurisdiction voting in a referendum thereon.

6       (4) This tax shall be at the rate of 1 percent and shall be imposed for a period of time  
 7       not to exceed five years, but in all other respects, except as otherwise provided in this  
 8       Paragraph, shall correspond to and be levied in the same manner as the tax provided for  
 9       by Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating  
 10      to the special county 1 percent sales and use tax, as now or hereafter amended.  
 11      Proceedings for the reimposition of such tax shall be in the same manner as proceedings  
 12      for the initial imposition of the tax, but the newly authorized tax shall not be imposed  
 13      until the expiration of the tax then in effect.

14      (b) The purpose or purposes for which the proceeds of the tax are to be used and may be  
 15      expended include:

16      (1) Capital outlay projects for educational purposes;

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

30      (3) A combination of the foregoing.

31      (c) The resolution calling for the imposition of the tax and the ballot question shall each  
 32      describe:

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

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

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

3 (d) Nothing in this Paragraph shall prohibit a county and those municipalities located in  
4 such county from imposing as additional taxes local sales and use taxes authorized by  
5 general law.

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

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

12 (g)(1) The net proceeds of the tax shall be distributed to the county school district in  
13 which the tax is collected if no independent school district is located therein.

14 (2)(A) If such a tax is simultaneously collected by a county school district and one or  
15 more participating independent school districts within such county, then the net  
16 proceeds of the tax shall be distributed between the county school district and the  
17 participating independent school district or districts, or portion thereof, located in such  
18 county according to the ratio the student enrollment in each school district, or portion  
19 thereof, bears to the total student enrollment of all school districts in the county or upon  
20 such other formula for distribution as may be authorized by local law the calculation  
21 provided for in this subparagraph. For purposes of this subparagraph, student  
22 enrollment shall be based on the latest full-time equivalency (FTE) count as conducted  
23 twice annually as provided by general law prior to the referendum on imposing the tax.

24 (B) With respect to each participating independent school district, the total distribution  
25 of proceeds of the tax to that district shall be calculated as follows:

26 (i) The number of FTE students residing in and attending the independent school  
27 district shall be added to the number of FTE students residing in the county school  
28 district and attending in the independent school district;

29 (ii) The number of FTE students residing in the independent school district and  
30 attending in the county school district shall be subtracted from the figure derived  
31 under subparagraph (2)(B)(i);

32 (iii) The figure derived under subparagraph (2)(B)(ii) shall be divided by the sum of  
33 the number of FTE students residing in the county school district and the number of  
34 FTE students residing in the independent school district; and

35 (iv) The figure derived under subparagraph (2)(B)(iii) shall be multiplied by the total  
36 amount of annual tax proceeds collected pursuant to this paragraph in the county,  
37 which shall be the total distribution of proceeds to the independent school district.

1 (C) With respect to the county school district, the total distribution of proceeds of the  
 2 tax to that district shall be calculated as follows:

3 (i) The number of FTE students residing in and attending in the county school district  
 4 shall be added to the number of FTE students residing in the independent school  
 5 district and attending in the county school district;

6 (ii) The number of FTE students residing in the county school district and attending  
 7 in the independent school district shall be subtracted from the figure derived under  
 8 subparagraph (2)(C)(i);

9 (iii) The figure derived under subparagraph (2)(C)(ii) shall be divided by the sum of  
 10 the number of FTE students residing in the county school district and the number of  
 11 FTE students residing in the independent school district; and

12 (iv) The figure derived under subparagraph (2)(C)(iii) shall be multiplied by the total  
 13 amount of annual tax proceeds collected pursuant to this paragraph in the county,  
 14 which shall be the total distribution of proceeds to the county school district.

15 (D) Notwithstanding subparagraphs (2)(B) and (2)(C), the county school district and  
 16 each participating independent school district shall send an amount equivalent to one  
 17 FTE student for each student residing in such county school district or participating  
 18 independent school district but attending a school in a district other than the county  
 19 school district or participating independent school district.

20 (h) Excess proceeds of the tax which remain following expenditure of proceeds for  
 21 authorized projects or purposes for education shall be used solely for the purpose of  
 22 reducing any indebtedness of the school system. In the event there is no indebtedness, such  
 23 excess proceeds shall be used by such school system for the purpose of reducing its millage  
 24 rate in an amount equivalent to the amount of such excess proceeds.

25 (i) The tax authorized by this Paragraph may be imposed, levied, and collected as  
 26 provided in this Paragraph without further action by the General Assembly, but the General  
 27 Assembly shall be authorized by general law to further define and implement its provisions  
 28 including, but not limited to, the authority to specify the percentage of net proceeds to be  
 29 allocated among the projects and purposes for which the tax was levied.

30 (j)(1) Notwithstanding any provision of any constitutional amendment continued in force  
 31 and effect pursuant to Article XI, Section I, Paragraph IV(a) and except as otherwise  
 32 provided in subparagraph (j)(2) of this Paragraph, any political subdivision whose ad  
 33 valorem taxing powers are restricted pursuant to such a constitutional amendment may  
 34 receive the proceeds of the tax authorized under this Paragraph or of any local sales and  
 35 use tax authorized by general law, or any combination of such taxes, without any  
 36 corresponding limitation of its ad valorem taxing powers which would otherwise be  
 37 required under such constitutional amendment.

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

7 **SECTION 2.**

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

11 "( ) YES Shall the Constitution of Georgia be amended to provide that county school  
 12 systems may continue to authorize and collect the one-cent sales tax for  
 13 ( ) NO public school capital projects, even when a city school system located  
 14 within a county chooses not to participate; and to provide for voter  
 15 referendum approval and collection and distribution of taxes only in  
 16 participating school system jurisdictions?"

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