

House Resolution 1432

By: Representatives Peake of the 137<sup>th</sup> and Lindsey of the 54<sup>th</sup>

A RESOLUTION

1 Proposing an amendment to the Constitution so as to authorize the reduction or elimination  
 2 of local ad valorem taxation for educational purposes with a sales and use tax at the rate of  
 3 1 percent; to provide for procedures, conditions, and limitations; to provide for the  
 4 submission of this amendment for ratification or rejection; and for other purposes.

5 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Article VII of the Constitution is amended by adding a new section to read as follows:

8 SECTION V.

9 SALES TAXATION FOR LOCAL PURPOSES

10 Paragraph I. *Local ad valorem reduction option.* (a) Any local taxing jurisdiction in this  
 11 state consisting of a county school district located in a county in which no independent  
 12 school district is located shall be authorized to levy, impose, and collect a local sales and  
 13 use tax as provided in this Paragraph throughout the entirety of such local taxing  
 14 jurisdiction.

15 (b) In the event one or more independent school districts are located wholly or partially  
 16 within a county, the board of education of that county school district and the board of  
 17 education of each such independent school district shall be authorized, upon the adoption  
 18 of a concurrent resolution, to levy, impose, and collect a local sales and use tax as provided  
 19 in this Paragraph throughout the entirety of such local taxing jurisdiction, and the joint  
 20 areas of such school districts shall constitute the local taxing jurisdiction.

21 (c) The purpose of such tax shall be to reduce or eliminate ad valorem taxation for  
 22 educational purposes. The rate of such tax shall be 1 percent.

23 (d) Such tax shall be imposed for an initial period not to exceed four years. Such tax  
 24 shall be in addition to any state-wide and local sales and use tax.

25 (e) Upon the adoption of a resolution by the board of education of a county school  
26 district or a taxing jurisdiction or concurrent resolution in the case of a county school  
27 district and one or more independent school districts which specifies the maximum  
28 duration of the proposed tax, the maximum net millage rate for the duration of such tax,  
29 and the date of the required referendum, a special election shall be conducted for posing  
30 the question of imposing the tax. Such resolution shall in no event be adopted at any  
31 meeting of the board of education held pursuant to general law for the purpose of raising  
32 the mill rate or adopting a mill rate which exceeds any statutory roll-back rate. Such  
33 special election shall be called and conducted by the appropriate election superintendent  
34 only on the date of the state-wide general primary or the state-wide general election and  
35 in the manner authorized by general law for special elections. The imposition, levy, and  
36 collection of the tax shall be conditioned upon approval by a majority vote of the qualified  
37 electors residing within the limits of the local taxing jurisdiction voting in a referendum  
38 thereon. The ballot question shall specify the maximum duration of the proposed tax and  
39 the maximum net millage rate for the duration of such tax.

40 (f) The authority provided under this Constitution to levy and collect ad valorem taxes  
41 for educational purposes for the purpose of retiring existing indebtedness or repaying future  
42 indebtedness shall continue.

43 (g) Except as otherwise provided in this Paragraph, a local sales and use tax imposed  
44 pursuant to this Paragraph shall correspond to the state-wide sales and use tax imposed by  
45 the revenue laws of this state, as now or hereafter amended. If approved in the referendum,  
46 such local tax shall be imposed on the first day of January of the next succeeding year after  
47 the date of the election at which the tax was approved by the voters.

48 (h) The sales and use tax imposed under this Paragraph shall not be subject to and shall  
49 not count with respect to any general law limitation regarding the maximum amount of  
50 local sales and use taxes which may be levied in any jurisdiction in this state.

51 (i) The sales and use tax imposed under this Paragraph shall not apply to the sale or use  
52 of eligible food and beverages to the extent that such items are subject to state or local sales  
53 and use tax pursuant to general law.

54 (j)(1) The sales and use tax imposed under this Paragraph shall not apply to:

55 (A) The production or generation of energy; or

56 (B) The sale or use of energy used in the manufacturing or processing of tangible  
57 goods primarily for resale.

58 (2) The net maximum millage rate shall not apply to real property upon which any  
59 facilities are located which produce or generate energy or which use energy in the  
60 manufacturing or processing of tangible goods primarily for resale with respect to which  
61 the sales and use tax exemption under this subparagraph applies.

62 (k) The proceeds of the sales and use tax imposed under this Paragraph by any county  
63 school district or independent school district shall count as a part of such district's total  
64 millage for purposes of any equalization grant formula provided by general law.

65 (l) The sales and use tax imposed under this Paragraph may be levied and collected  
66 without the necessity for further action by the General Assembly, but the General  
67 Assembly shall be authorized by general law to further define and implement such tax.

68 (m)(1) The proceeds derived from the sales and use tax imposed pursuant to this  
69 Paragraph shall be used solely for the purpose of reducing the millage rate for educational  
70 purposes against tangible property within the entirety of the local taxing jurisdiction in  
71 an amount equivalent to the amount of proceeds of the tax under this Paragraph collected  
72 for a 12 month period.

73 (2) In the case of a county school district and one or more independent school districts,  
74 the proceeds derived from the sales and use tax imposed pursuant to this Paragraph shall  
75 be used solely for the purpose of reducing the millage rate for educational purposes  
76 against tangible property within each of such school districts. The net proceeds of the tax  
77 shall be distributed between the county school district and the independent school  
78 districts, or portion thereof, located in such county according to the ratio the student  
79 enrollment in each school district, or portion thereof, bears to the total student enrollment  
80 of all school districts in the county. For purposes of this distribution, student enrollment  
81 shall be based on the latest full-time equivalent count prior to the referendum on  
82 imposing the tax.

83 (3) Such reduction shall be set in the form of a dollar-for-dollar credit and shall be  
84 reflected on the ad valorem tax bill of each taxpayer. Any excess proceeds remaining  
85 after eliminating 100 percent of property taxes for educational purposes of the local  
86 taxing jurisdiction shall be used to reduce or eliminate general obligation debt of the local  
87 taxing jurisdiction.

88 (4) As a condition precedent to the levy of the tax, if approved in the required  
89 referendum, the board or boards of education receiving the proceeds shall establish a  
90 maximum net millage rate for general maintenance and operations against tangible  
91 property within such tax jurisdiction or jurisdictions. In the event a state of emergency  
92 has been declared by the President or the Governor or is otherwise necessitated due to a  
93 court order, the maximum net millage rate may be exceeded in the local taxing  
94 jurisdiction for emergency purposes or court order only upon approval of a resolution by  
95 a three-fifths' vote of the board of education and, in the case of a county school district  
96 and one or more independent school districts, upon approval of a concurrent resolution  
97 by a three-fifths' vote of each board of education. The maximum net millage rate shall

98 not apply to real property located in a tax allocation district, a community improvement  
 99 district, or a city business improvement district.

100 (n) The sales and use tax imposed under this Paragraph may be reimposed upon approval  
 101 by a majority vote of the qualified electors voting in a referendum thereon in the same  
 102 manner generally as the tax was initially imposed except that any such reimposition may  
 103 be for a period not to exceed eight years.

104 (o) The Department of Audits and Accounts shall conduct an annual audit of the  
 105 collection and expenditure of the proceeds of such tax in each school district which  
 106 imposes such tax. A copy of such audit shall be provided to the General Assembly and  
 107 made available for public inspection at the office of the board of education of the school  
 108 district to any person who so requests.

109 (p) The use of proceeds of the sales and use tax imposed under this Paragraph shall not  
 110 be subject to redirection by any court order to any other purpose.

111 (q) Any such board or boards of education shall be authorized to cease the levy of the  
 112 sales and use tax imposed under this Paragraph upon approval by a majority vote of the  
 113 qualified electors residing within the limits of such local taxing jurisdiction voting in a  
 114 referendum thereon. The sales and use tax imposed under this Paragraph and the maximum  
 115 net millage rate shall continue until December 31 of the year in which such referendum is  
 116 conducted and approved."

117 **SECTION 2.**

118 Article VIII, Section VI, Paragraph I of the Constitution is amended by revising  
 119 subparagraph (a) as follows:

120 "(a) The Except in cases where no ad valorem millage rate is required because of a tax  
 121 as provided in Article VII, Section V, Paragraph I of this Constitution, the board of  
 122 education of each school system shall annually certify to its fiscal authority or authorities  
 123 a school tax not greater than 20 mills per dollar for the support and maintenance of  
 124 education. Said fiscal authority or authorities shall annually levy said tax upon the assessed  
 125 value of all taxable property within the territory served by said school system, provided that  
 126 the levy made by an area board of education, which levy shall not be greater than 20 mills  
 127 per dollar, shall be in such amount and within such limits as may be prescribed by local law  
 128 applicable thereto."

129 **SECTION 3.**

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

133    " YES   Shall the Constitution of Georgia be amended so as to authorize the  
134                    reduction or elimination of local ad valorem taxation for educational  
135     NO    purposes with a local sales and use tax upon approval in a local  
136                    referendum?"

137 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

138 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If  
139 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall  
140 become a part of the Constitution of this state.