

## House Resolution 761

By: Representatives Collins of the 27<sup>th</sup>, Rogers of the 26<sup>th</sup>, Mills of the 25<sup>th</sup>, and Benton of the 31<sup>st</sup>

## A RESOLUTION

1 Proposing an amendment to the Constitution of Georgia so as to allow for a county school  
 2 district in which one or more independent school districts are located to authorize, impose,  
 3 levy, collect, and distribute a sales and use tax for educational purposes without the  
 4 participation of all the independent school districts located within the county, conditioned  
 5 upon approval by a majority of the qualified voters residing within the limits of the local  
 6 taxing jurisdiction voting in a referendum thereon; to provide for a method of distribution for  
 7 taxes simultaneously collected by a county school district and an independent school district  
 8 within the county; to provide for the submission of this amendment for ratification or  
 9 rejection; and for other purposes.

10 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

## 11 SECTION 1.

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

14 "Paragraph IV. *Sales tax for educational purposes.* (a) The board of education of each  
 15 county school district ~~in a county in which no independent school district is located~~ may  
 16 by resolution and the board of education of each county school district and the board of  
 17 education of ~~each~~ any one or more independent school ~~district~~ districts located within such  
 18 county may by concurrent resolutions impose, levy, and collect within such school district  
 19 or districts a sales and use tax for educational purposes of such school district or districts  
 20 conditioned upon approval by a majority of the qualified voters residing within the limits  
 21 of the local taxing jurisdiction voting in a referendum thereon. This tax shall be at the rate  
 22 of 1 percent and shall be imposed for a period of time not to exceed five years, but in all  
 23 other respects, except as otherwise provided in this Paragraph, shall correspond to and be  
 24 levied in the same manner as the tax provided for by Article 3 of Chapter 8 of Title 48 of  
 25 the Official Code of Georgia Annotated, relating to the special county 1 percent sales and  
 26 use tax, as now or hereafter amended. Proceedings for the reimposition of such tax shall

27 be in the same manner as proceedings for the initial imposition of the tax, but the newly  
 28 authorized tax shall not be imposed until the expiration of the tax then in effect.

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

31 (1) Capital outlay projects for educational purposes;

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

45 (3) A combination of the foregoing.

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

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

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

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

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

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

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

63 (g) The net proceeds of the tax shall be distributed to the school district or districts in  
64 which the tax is collected; provided, however, that if such a tax is simultaneously collected  
65 by a county school district and one or more participating independent school districts  
66 within such county, then the net proceeds of the tax shall be distributed between the county  
67 school district and the participating independent school district or districts, or portion  
68 thereof, located in such county according to an agreement between the county school  
69 district and the independent school district or districts or, if no agreement can be reached,  
70 according to the ratio the student enrollment in each school district, or portion thereof,  
71 bears to the total student enrollment of all school districts in the county ~~or upon such other~~  
72 ~~formula for distribution as may be authorized by local law.~~ For purposes of this  
73 subparagraph, student enrollment shall be based on the latest FTE full-time enrollment  
74 count prior to the referendum on imposing the tax.

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

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

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

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

99

**SECTION 2.**

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

103 "( ) YES Shall the Constitution of Georgia be amended so as to allow for a county  
104 school district in which one or more independent school districts are located  
105 ( ) NO to authorize, impose, levy, collect, and distribute a sales and use tax for  
106 educational purposes without the participation of all the independent school  
107 districts located within the county, conditioned upon approval by a majority  
108 of the qualified voters residing within the limits of the local taxing  
109 jurisdiction voting in a referendum thereon, and to provide for a method of  
110 distribution for taxes simultaneously collected by a county school district  
111 and one or more independent school districts within the county?"

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