

House Resolution 1109

By: Representatives Welch of the 110<sup>th</sup>, Coleman of the 97<sup>th</sup>, Dudgeon of the 25<sup>th</sup>, Abrams of the 89<sup>th</sup>, Parrish of the 158<sup>th</sup>, and others

## A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide that the sales and use tax for  
 2 educational purposes that may be imposed by any school system can be used in part for  
 3 educational programs and materials in public schools upon approval of voters; to provide for  
 4 related matters; 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 revising Paragraph IV as follows:

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

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

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 (b)(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 (b)(2), as certified by the Department of Revenue, no  
 36 further funds shall be expended under this subparagraph (b)(2) by such ~~county or~~  
 37 ~~independent~~ board of education and all such funds shall be maintained in a separate,  
 38 restricted account and held solely for the expenditure for future capital outlay projects for  
 39 educational purposes; ~~or~~

40 (3) Educational programs and materials; provided, however, that this shall not include  
 41 maintenance and operations or salaries of school system personnel unless specifically  
 42 authorized by the General Assembly by law; or

43 ~~(3)(4)~~ A combination of the foregoing.

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

46 (1) The specific capital outlay projects to be funded, ~~or~~ the specific debt to be retired,  
 47 the specific educational program and materials to be funded, or both a combination of the  
 48 foregoing, if applicable;

49 (2) The maximum cost of such project or projects ~~and, if applicable,~~ the maximum  
 50 amount of debt to be retired, ~~which~~ or the maximum cost of such educational program or  
 51 programs and materials, if applicable; provided, however, that the maximum amount of  
 52 net proceeds to be expended on educational programs and materials shall in no event  
 53 exceed 50 percent of the maximum amount of net proceeds to be raised by the tax. Such  
 54 cost and amount of debt shall also be the maximum amount of net proceeds to be raised  
 55 by the tax; and

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

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

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

64 (f) The tax imposed pursuant to this Paragraph shall not be subject to any sales and use  
 65 tax exemption ~~with respect to~~ for the sale or use of food, food ingredients, and beverages  
 66 which is imposed by law.

67 (g) The net proceeds of the tax shall be distributed ~~between the county school district and~~  
 68 ~~the independent school districts, or portion thereof, located in such county according to the~~  
 69 ~~ratio the student enrollment in each school district, or portion thereof, bears to the total~~  
 70 ~~student enrollment of all school districts in the county or upon such other formula for~~  
 71 ~~distribution as may be authorized by local law. For purposes of this subparagraph, student~~  
 72 ~~enrollment shall be based on the latest FTE count prior to the referendum on imposing the~~  
 73 ~~tax to the board of education of the school system levying the tax.~~

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

79 (i) The tax authorized by this Paragraph may be imposed, levied, and collected as  
 80 provided in this Paragraph without further action by the General Assembly, but the General  
 81 Assembly shall be authorized by general law to further define and implement its  
 82 provisions, including, but not limited to, ~~the:~~

83 (1) The authority to specify the percentage of net proceeds to be allocated among the  
 84 projects and purposes for which the tax was levied; and

85 (2) The authority to allow school systems levying taxes for educational purposes on the  
 86 effective date of this Paragraph and for two years thereafter to amend the existing  
 87 authorized purposes of the existing tax to include educational programs and materials.  
 88 Any such amendment shall be contingent upon approval by a majority of the qualified  
 89 voters residing within the limits of the school system voting in a referendum thereon.

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

98 (2) The restriction on and limitation of ad valorem taxing powers described in  
 99 subparagraph (j)(1) of this Paragraph shall remain applicable ~~with respect to~~ proceeds  
 100 received from the levy of a local sales and use tax specifically authorized by a

101 constitutional amendment in force and effect pursuant to Article XI, Section I, Paragraph  
102 IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general  
103 law."

104 **SECTION 2.**

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

108 "( ) YES Shall the Constitution of Georgia be amended so as to allow that the sales  
109 and use tax that is already authorized by state law by any school system be

110 ( ) NO used in part for educational programs and materials in public schools?"

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

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