

The House Committee on Education offers the following substitute to HB 781:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia
2 Annotated, relating to the sales and use tax for educational purposes, so as to provide for the
3 use of a portion of the tax for maintenance and educational programs; to provide for related
4 matters; to provide for a contingent effective date; to provide for applicability; to provide for
5 automatic repeal under certain circumstances; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 2 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
10 relating to the sales and use tax for educational purposes, is amended by revising Code
11 Section 48-8-140, relating to the authority for and legislative intent of the part, as follows:
12 "48-8-140.

13 (a) This part is enacted pursuant to the authority of Article VIII, Section VI, Paragraph IV
14 of the Constitution of Georgia and it is the intent of the General Assembly in the enactment
15 of this part to further define and implement such provision of the Constitution.

16 (b) Any school system levying a sales tax for educational purposes on January 1, 2019,
17 shall have until January 1, 2021, to amend such existing tax to include maintenance and
18 educational programs in the authorized purposes for expenditure of funds collected under
19 the existing tax. Such amendment shall be contingent upon approval of a referendum
20 submitted to the voters."

21 **SECTION 2.**

22 Said part is further amended by revising Code Section 48-8-141, relating to manner of
23 imposition of tax, as follows:

24 "48-8-141.

25 (a) Except as otherwise expressly provided in Article VIII, Section VI, Paragraph IV of
 26 the Constitution of Georgia, the sales tax for educational purposes which may be levied by
 27 a board of education of a county school district or concurrently by the board of education
 28 of a county school district and the board of education of each independent school district
 29 located within such county shall be imposed and levied by such board or boards of
 30 education and collected by the commissioner on behalf of such board or boards of
 31 education in the same manner as provided for under Part 1 of this article and the provisions
 32 of Part 1 of this article in particular, but without limitation, the provisions regarding the
 33 authority of the commissioner to administer and collect this tax, retain the 1 percent
 34 administrative fee, and promulgate rules and regulations governing this tax shall apply
 35 equally to such board or boards of education. The report required pursuant to Code Section
 36 48-8-122 shall be applicable; provided, however, that in addition to posting such report in
 37 a newspaper of general circulation as required by such Code section, such report may be
 38 posted on the searchable website provided for under Code Section 50-6-32.

39 (b) A sales tax for educational purposes may be levied for:

40 (1) Capital outlay projects for educational purposes;

41 (2) The retirement of previously incurred general obligation debt with respect only to
 42 capital outlay projects of the school system;

43 (3) Maintenance and educational programs of a school system; provided, however, that
 44 the maximum amount of net proceeds to be expended on maintenance and educational
 45 programs shall not exceed 35 percent of the maximum amount of net proceeds to be
 46 raised by the tax; or

47 (4) A combination of the foregoing.

48 (c) Maintenance and educational programs shall include:

49 (1) Any activity, such as tests, measurements, replacements, adjustments, and repairs,
 50 intended to retain or restore a building, facility, storage structure, parking area, student
 51 activity area, or instructional area in or to a condition in which it can provide its intended
 52 functions;

53 (2) Action taken to retain material or equipment in a serviceable condition or to restore
 54 it to serviceability, including inspection, testing, servicing, repairing, rebuilding, or
 55 reclamation;

56 (3) Routine recurring work required to keep a facility, such as a plant, building, structure,
 57 ground facility, utility system, or other real property, in such a condition that it may be
 58 continuously used at its original or designed capacity and efficiency for its intended
 59 purpose;

60 (4) Fuel for school buses;

- 61 (5) Driver's education;
 62 (6) Mental health services;
 63 (7) Foreign language courses and programs; fine arts courses and programs; and science,
 64 technology, engineering, and mathematics (STEM) courses and programs; provided,
 65 however, that this shall not include any salaries for teachers in core courses;
 66 (8) School safety enhancement;
 67 (9) Computer science courses and programs; provided, however, that this shall not
 68 include any salaries for teachers;
 69 (10) Before-school and after-school programs;
 70 (11) Drug and alcohol education programs;
 71 (12) Positive behavioral interventions and supports (PBIS);
 72 (13) Classroom supplies; educational materials, including textbooks and software; and
 73 media center materials;
 74 (14) Testing expenses;
 75 (15) Wraparound services; or
 76 (16) Any combination of the foregoing.
 77 (d) The sales tax authorized by this part for maintenance and educational programs shall
 78 not be used to replace any funding earned or allocated pursuant to Article 6 of Chapter 2
 79 of Title 20, the 'Quality Basic Education Act,' or to replace any state funding source or
 80 eligibility for grants or other funding opportunities.
 81 ~~(b)~~(e) On or after July 1, 2015, such sales and use tax levied on sales of motor fuels as
 82 defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of
 83 the motor fuel which is not more than \$3.00 per gallon."

84 **SECTION 3.**

- 85 (a) This Act shall become effective on January 1, 2019; provided, however, that this Act
 86 shall only become effective on January 1, 2019, upon the ratification of a resolution at the
 87 November, 2018, state-wide general election which amends the Constitution of the State of
 88 Georgia so as to authorize the use of local sales and use tax for educational purposes in part
 89 for maintenance and educational programs. If such resolution is not ratified, this Act shall
 90 not become effective and shall stand repealed in its entirety on January 1, 2019.
 91 (b) This Act shall apply to taxes imposed or to be imposed under any resolution adopted by
 92 a board of education on or after January 1, 2019; and this Act shall not apply to taxes
 93 imposed or to be imposed under such resolutions adopted prior to January 1, 2019, unless
 94 they have been amended in accordance with this Act.

95

SECTION 4.

96 All laws and parts of laws in conflict with this Act are repealed.