

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 469\*

Short Title: Cabarrus Revenue Options for Schools.

(Local)

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Sponsors: Senator Hartsell.

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Referred to: Finance.

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March 24, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REDUCE RELIANCE ON DEBT FOR PUBLIC SCHOOL  
2 CONSTRUCTION IN CABARRUS COUNTY BY AUTHORIZING THE COUNTY  
3 TO LEVY A TEMPORARY SALES AND USE TAX OF ONE PERCENT, A  
4 TEMPORARY ONE PERCENT LAND TRANSFER TAX, OR BOTH, IF  
5 APPROVED BY THE VOTERS OF THE COUNTY, FOR PUBLIC SCHOOL  
6 CONSTRUCTION.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. This act applies only to Cabarrus County.

10 Section 2. Subchapter VIII of Chapter 105 of the General Statutes is amended  
11 by adding a new Article to read:

12 **"ARTICLE 43.**

13 **"SECOND ONE-CENT (1¢) LOCAL GOVERNMENT**  
14 **SALES AND USE TAX.**

15 **"§ 105-505. Short title.**

16 This Article shall be known as the Second One-Cent (1¢) Local Government Sales  
17 and Use Tax Act.

18 **"§ 105-506. Purpose.**

19 This Article gives the counties of this State an opportunity to obtain a temporary  
20 source of revenue with which to meet their public school construction needs. It provides

1 all counties of the State that are subject to this Article with authority to levy one percent  
2 (1%) sales and use taxes.

3 **"§ 105-507. Limitations.**

4 This Article applies only to counties that levy the first one-cent (1¢) sales and use tax  
5 under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the  
6 first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the  
7 second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

8 **"§ 105-508. County election on adoption of tax.**

9 (a) Resolution. – The board of commissioners of a county may, by resolution  
10 adopted by the affirmative vote of at least four-fifths of the commissioners, direct the  
11 county board of elections to conduct an advisory referendum on the question of whether a  
12 temporary local sales and use tax at the rate of one percent (1%) will be levied in  
13 accordance with this Article. The election shall be held on a date jointly agreed upon by  
14 the two boards and shall be held in accordance with the procedures of G.S. 163-287.

15 (b) Public Hearing. – The board of commissioners shall hold a public hearing on  
16 the question at least 30 days before the date the election is to be held. At the hearing, the  
17 board shall provide information on the public school building capital projects for which  
18 the tax revenue would be expected to be used, the approximate cost of each project, the  
19 approximate savings that could be realized by avoiding debt financing, and the fact that  
20 the tax expires automatically after 10 years.

21 (c) Ballot Question. – The form of the question to be presented on a ballot for a  
22 special election concerning the levy of the taxes authorized by this Article shall be:

23 **[ ] FOR [ ] AGAINST**

24 temporary one percent (1%) local sales and use taxes, in addition to the current two  
25 percent (2%) local sales and use taxes, to be used only for public school capital projects.

26 (d) Subsequent Elections. – If a county has previously levied a tax under this  
27 Article and the tax is no longer in effect, the county may levy a new tax in accordance  
28 with this Article. An election regarding the levy of a subsequent tax may not be held,  
29 however, earlier than 90 days after the expiration or repeal of the previous tax under this  
30 Article.

31 **"§ 105-509. Levy and collection of additional taxes.**

32 If the majority of those voting in a referendum held pursuant to this Article vote for  
33 the levy of the tax, the board of commissioners of the county may, by resolution, levy one  
34 percent (1%) local sales and use taxes in addition to any other State and local sales and  
35 use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy,  
36 collection, administration, and repeal of these additional taxes shall be in accordance with  
37 Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this  
38 Article, references to 'this Article' mean 'Article 43 of Chapter 105 of the General  
39 Statutes'.

40 **"§ 105-510. Distribution and use of additional taxes.**

41 (a) Distribution. – The Secretary shall, on a quarterly basis, distribute to each  
42 taxing county the net proceeds of the tax levied under this Article by that county. If the  
43 Secretary collects taxes under this Article in a month and the taxes cannot be identified as

1 being attributable to a particular taxing county, the Secretary shall allocate these taxes  
2 among the taxing counties in proportion to the amount of taxes collected in each county  
3 under this Article in that month and shall include them in the quarterly distribution.

4 (b) Use. – A county may use the net proceeds distributed to it under this Article  
5 only for public school building capital outlay projects including the planning,  
6 construction, reconstruction, enlargement, improvement, repair, or renovation of public  
7 school buildings and for the purchase of land for public school buildings. A county shall  
8 not use the proceeds to pay debt service or to fund a public school building capital outlay  
9 project that is or will be financed in part by debt.

10 (c) Nonsupplant Restriction. – It is the purpose of this Article for counties to  
11 appropriate funds generated under this Article to increase the level of county spending for  
12 public elementary and secondary school capital outlay above the level of spending before  
13 the levy of the tax authorized in this Article. A county that levies a tax under this Article  
14 shall continue to spend for public school capital outlay purposes in its local school  
15 administrative units the same amount of money it would have spent for those purposes if  
16 it had not levied the tax.

17 **"§ 105-511. Expiration.**

18 A tax levied under this Article expires 10 years after the effective date of its levy or  
19 most recent extension, unless the voters of the county approve its extension for an  
20 additional 10 years as provided in this section. During the tenth year after the levy or  
21 most recent extension of the tax authorized in this Article, the county board of  
22 commissioners may direct the county board of elections to conduct an advisory  
23 referendum on the question of whether the tax should be extended for an additional 10  
24 years. The election shall be held on a date jointly agreed upon by the two boards and  
25 shall be held in accordance with the procedures of G.S. 163-287.

26 The form of the question to be presented on a ballot for a special election concerning  
27 the extension of the taxes authorized by this Article shall be:

28 **[ ] FOR [ ] AGAINST**

29 extension of current one percent (1%) local sales and use taxes in addition to the two  
30 percent (2%) local sales and use taxes, to be used only for public school capital projects.

31 If the majority of those voting in a referendum held pursuant to this section vote for  
32 the extension of the tax, the board of commissioners may, by resolution, extend the tax  
33 for an additional 10 years.

34 The expiration of a tax pursuant to this Article does not affect the rights or liabilities  
35 of the State, a taxpayer, or another person arising under the expired tax; nor does it affect  
36 the right to any refund or credit of a tax that would otherwise have been available under  
37 the expired tax before its expiration."

38 Section 3. Chapter 105 of the General Statutes is amended by adding a new  
39 Article to read:

40 **"ARTICLE 8F.**

41 **"LOCAL GOVERNMENT EXCISE STAMP TAX ON CONVEYANCES.**

42 **"§ 105-228.50. Purpose.**

1 This Article gives the counties of this State an opportunity to obtain a temporary  
2 source of revenue with which to meet their public school construction needs. It provides  
3 all counties of the State that are subject to this Article with authority to levy a one percent  
4 (1%) land transfer tax.

5 **"§ 105-228.51. County election on adoption of tax.**

6 (a) Resolution. – The board of commissioners of a county may, by resolution  
7 adopted by the affirmative vote of at least four-fifths of the commissioners, direct the  
8 county board of elections to conduct an advisory referendum on the question of whether a  
9 temporary one percent (1%) excise tax on instruments conveying interests in real  
10 property located in the county will be levied in accordance with this Article. The election  
11 shall be held on a date jointly agreed upon by the two boards, and shall be held in  
12 accordance with the procedures of G.S. 163-287.

13 (b) Public Hearing. – The board of commissioners shall hold a public hearing on  
14 the question at least 30 days before the date the election is to be held. At the hearing, the  
15 board shall provide information on the public school building capital projects for which  
16 the tax revenue would be expected to be used, the approximate cost of each project, the  
17 approximate savings that could be realized by avoiding debt financing, and the fact that  
18 the tax expires automatically after 10 years.

19 (c) Ballot Question. – The form of the question to be presented on a ballot for a  
20 special election concerning the levy of the tax authorized by this Article shall be:

21 **[ ] FOR [ ] AGAINST**

22 temporary county real property transfer tax at the rate of one dollar (\$1.00) on each one  
23 hundred dollars (\$100.00) of value or consideration, to be used only for public school  
24 capital projects.

25 (d) Subsequent Elections. – If a county has previously levied a tax under this  
26 Article and the tax is no longer in effect, the county may levy a new tax in accordance  
27 with this Article. An election regarding the levy of a subsequent tax may not be held,  
28 however, earlier than 90 days after the expiration or repeal of the previous tax under this  
29 Article.

30 **"§ 105-228.52. Levy and collection of tax.**

31 If the majority of those voting in a referendum held pursuant to this Article vote for  
32 the levy of the tax, the board of commissioners of the county may, by resolution, levy an  
33 excise tax on instruments conveying interests in real property located in that county at the  
34 rate of one dollar (\$1.00) on each one hundred dollars (\$100.00) of the consideration or  
35 value, whichever is greater, of the interest conveyed, including the value of any lien or  
36 encumbrance remaining on the property at the time of sale. This tax is in addition to the  
37 tax levied by Article 8E of this Chapter. Upon adoption of the resolution, the board of  
38 commissioners shall send a certified copy to the register of deeds of the county.

39 Collection of the tax, and liability therefor, shall begin and continue only on and after  
40 the first day of a calendar month set by the board of county commissioners in the  
41 resolution levying the tax, which may not be earlier than the first day of the second  
42 succeeding calendar month after the date the resolution is adopted.

43 **"§ 105-228.53. Scope and administration of tax.**

1 A tax levied under this Article does not apply to transfers exempt pursuant to G.S.  
2 105-228.28 or G.S. 105-228.29 from the tax levied by Article 8E of this Chapter. A tax  
3 levied under this Article applies to transfers of interests in real property located within the  
4 taxing county, except that if the property is located in two or more counties, a transfer of  
5 an interest in the property is taxable only by the county in which the greater part of the  
6 property, with respect to value, lies.

7 A tax levied under this Article is payable by the transferor of the interest. The county  
8 register of deeds shall credit the proceeds of the tax to the county's general fund. The  
9 provisions of G.S. 105-228.31 through G.S. 105-228.36 apply to a tax levied under this  
10 Article.

11 **"§ 105-228.54. Use of proceeds.**

12 (a) Use. – A county may use taxes collected under this Article only for public  
13 school building capital outlay projects including the planning, construction,  
14 reconstruction, enlargement, improvement, repair, or renovation of public school  
15 buildings and for the purchase of land for public school buildings. A county shall not use  
16 the proceeds to pay debt service or to fund a public school building capital outlay project  
17 that is or will be financed in part by debt.

18 (b) Nonsupplant Restriction. – It is the purpose of this Article for counties to  
19 appropriate funds generated under this Article to increase the level of county spending for  
20 public elementary and secondary school capital outlay above the level of spending before  
21 the levy of the tax authorized in this Article. A county that levies a tax under this Article  
22 shall continue to spend for public school capital outlay purposes in its local school  
23 administrative units the same amount of money it would have spent for those purposes if  
24 it had not levied the tax.

25 **"§ 105-228.55. Expiration.**

26 A tax levied under this Article expires 10 years after the effective date of its levy or  
27 most recent extension, unless the voters of the county approve its extension for an  
28 additional 10 years as provided in this section. During the tenth year after the levy or  
29 most recent extension of the tax authorized in this Article, the county board of  
30 commissioners may direct the county board of elections to conduct an advisory  
31 referendum on the question of whether the tax should be extended for an additional 10  
32 years. The election shall be held on a date jointly agreed upon by the two boards and  
33 shall be held in accordance with the procedures of G.S. 163-287.

34 The form of the question to be presented on a ballot for a special election concerning  
35 the extension of the taxes authorized by this Article shall be:

36 **[ ] FOR [ ] AGAINST**

37 extension of current county real property transfer tax at the rate of one dollar (\$1.00) on  
38 each one hundred dollars (\$100.00) of value or consideration, to be used only for public  
39 school capital projects.

40 If the majority of those voting in a referendum held pursuant to this section vote for  
41 the extension of the tax, the board of commissioners may, by resolution, extend the tax  
42 for an additional 10 years.

1       The expiration of a tax pursuant to this Article does not affect the rights or liabilities  
2 of the State, a taxpayer, or another person arising under the expired tax; nor does it affect  
3 the right to any refund or credit of a tax that would otherwise have been available under  
4 the expired tax before its expiration.

5 **"§ 105-228.56. Repeal of tax.**

6       A county may, by resolution, repeal a tax levied under this Article. Repeal of the tax  
7 shall become effective on the first day of a month and may not become effective until the  
8 end of the fiscal year in which the repeal resolution was adopted. Repeal of a  
9 conveyance tax under this Article does not affect a liability for a tax that attached before  
10 the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax  
11 that accrued before the effective date of the repeal or reduction."

12             Section 4. This act is effective when it becomes law.

13             Section 5. A tax levied under Article 43 of Chapter 105 of the General  
14 Statutes, as enacted by this act, does not apply to construction materials purchased to  
15 fulfill a lump sum or unit price contract entered into or awarded before the effective date  
16 of the levy or entered into or awarded pursuant to a bid made before the effective date of  
17 the levy when the construction materials would otherwise be subject to the tax levied  
18 under Article 43 of Chapter 105 of the General Statutes.