

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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**HOUSE BILL 751**

Short Title: Cabarrus Five-Year Sales Tax/Schools.

(Local)

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Sponsors: Representatives Tallent, Moore, and Barbee (Cosponsors).

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Referred to: Local and Regional Government II, if favorable, Finance.

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April 2, 1997

**A BILL TO BE ENTITLED**

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

7 The General Assembly of North Carolina enacts:

8 Section 1. This act applies only to Cabarrus County. The purpose of this act is  
9 to provide funds for the 10-year facilities plan for Cabarrus County and Kannapolis City  
10 Schools, which includes the following public school capital projects. The total estimated  
11 cost of the 10-year plan is one hundred seventy-five million nine hundred fifty-one  
12 thousand dollars (\$175,951,000).

13 PHASE I (1997-1998) (ESTIMATED COST - \$48,988,000)

- 14 1. Concord Middle School (New)  
15 2. NW Middle School Addition  
16 3. High School Additions (Three)  
17 4. Wincoff Elementary School (New)  
18 5. Royal Oaks Renovation  
19 6. Mt. Pleasant Elementary Cafeteria and Classrooms  
20 7. Property Purchase New High School and New Middle School

- 1 8. A. T. Allen Renovation
- 2 9. Kannapolis Middle School Addition (I)
- 3 10. Aycock Elementary Replacement School
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- 5 PHASE II (2000-2002) (ESTIMATED COST - \$68,083,000)
- 6 1. New High School
- 7 2. Eastside Elementary School
- 8 3. Elementary Renovations
- 9 4. Property Purchase Bethel and Harrisburg
- 10 5. Elementary Technology
- 11 6. Fred L. Wilson Elementary Renovation (I)
- 12 7. Shady Brook Elementary Renovation (I)
- 13 8. Woodrow Wilson Renovation (I)
- 14 9. A. L. Brown High School Addition and Renovation
- 15 10. Kannapolis Middle School Renovation (I)
- 16 11. Aycock Elementary Replacement (II)
- 17 12. Instructional Technology

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- 19 PHASE III (2003-2005) (ESTIMATED COST - \$58,880,000)
- 20 1. New Middle School
- 21 2. Bethel Elementary Replacement
- 22 3. Harrisburg Elementary Replacement
- 23 4. Property Purchase New Elementary
- 24 5. Technology
- 25 6. Woodrow Wilson - Complete Plan From Phase 2
- 26 7. Jackson Park Elementary Land Purchase
- 27 8. Shady Brook Elementary Renovation (II)
- 28 9. Fred L. Wilson Renovation (II)
- 29 10. A. L. Brown Renovation (II)
- 30 11. Instructional Technology

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

33 **“ARTICLE 43.**

34 **“SECOND ONE-CENT (1¢) LOCAL GOVERNMENT**  
35 **SALES AND USE TAX.**

36 **“§ 105-505. Short title.**

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

39 **“§ 105-506. Purpose.**

40 This Article gives the counties of this State an opportunity to obtain a temporary  
41 source of revenue with which to meet their public school construction needs. It provides  
42 all counties of the State that are subject to this Article with authority to levy one percent  
43 (1%) sales and use taxes.

1 **"§ 105-507. Limitations.**

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

6 **"§ 105-508. County election on adoption of tax.**

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

21 **[ ] FOR [ ] AGAINST**

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

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

29 **"§ 105-509. Levy and collection of additional taxes.**

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

38 **"§ 105-510. Distribution and use of additional taxes.**

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

1 among the taxing counties in proportion to the amount of taxes collected in each county  
2 under this Article in that month and shall include them in the quarterly distribution.

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

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

16 **"§ 105-511. Expiration.**

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

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

27 **[ ] FOR [ ] AGAINST**

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

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

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

37 Section 3. This act is effective when it becomes law.

38 Section 4. A tax levied under Article 43 of Chapter 105 of the General  
39 Statutes, as enacted by this act, does not apply to construction materials purchased to  
40 fulfill a lump sum or unit price contract entered into or awarded before the effective date  
41 of the levy or entered into or awarded pursuant to a bid made before the effective date of  
42 the levy when the construction materials would otherwise be subject to the tax levied  
43 under Article 43 of Chapter 105 of the General Statutes.