

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 439

Short Title: Mecklenburg Sales Tax for Schools.

(Local)

Sponsors: Senators Odom; and Dannelly.

Referred to: Finance.

March 22, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MECKLENBURG COUNTY TO LEVY A ONE-CENT LOCAL SALES TAX FOR PUBLIC SCHOOL CAPITAL OUTLAY, SUBJECT TO APPROVAL BY THE VOTERS OF THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act applies only to Mecklenburg County.

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

**"ARTICLE 44.**

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

**"§ 105-515. Short title.**

This Article is the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

**"§ 105-516. Purpose.**

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

**"§ 105-517. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the

1 first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the  
2 second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

3 **§ 105-518. Levy and administration of tax.**

4 Subject to the conditions provided in G.S. 105-519, the board of commissioners of the  
5 county may, by resolution, after not less than 10 days' public notice and a public hearing  
6 held pursuant thereto, levy one percent (1%) local sales and use taxes in addition to any  
7 other State and local sales and use taxes levied pursuant to law. Except as provided in  
8 this Article, the adoption, levy, collection, administration, and repeal of these additional  
9 taxes shall be in accordance with Article 39 of this Chapter.

10 A tax levied under this Article does not apply to the sales price of food that is not  
11 otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the  
12 State sales and use tax pursuant to G.S. 105-164.13 if it were purchased under the Food  
13 Stamp Program, 7 U.S.C. § 51.

14 **§ 105-519. County election on adoption of tax.**

15 (a) Resolution. – In order to levy the tax authorized by this Article, the board of  
16 commissioners of the county must hold a special election as provided in this section,  
17 either at a statewide general election before the effective date of the levy of the tax, or at  
18 the next statewide general election after the effective date of the levy of the tax. To hold  
19 the special election, the county must, by resolution, after 10 days' public notice and a  
20 public hearing on the question, direct the county board of elections to conduct a special  
21 election on the question of whether a local sales and use tax at the rate of one percent  
22 (1%) will be levied in accordance with this Article. The election must be held in  
23 accordance with the procedures of G.S. 163-287.

24 (b) Ballot Question. – The question to be presented on a ballot for a special  
25 election concerning the levy of the taxes authorized by this Article must be in the  
26 following form:

27 **[ ] FOR [ ] AGAINST**

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

30 (c) Effect of Special Election. – If the majority of those voting in a special election  
31 held pursuant to this Article vote for the levy of the tax, the tax levy is authorized. If the  
32 majority of those voting in a special election held pursuant to this Article vote against the  
33 levy of the tax, the tax levy and the authority of the county to levy the tax are repealed  
34 effective on the first day of the first month following the election. If the county fails to  
35 hold a special election before or at the next statewide general election following the  
36 effective date of the levy of the tax, the tax is repealed effective on the first day of the  
37 first month following that general election.

38 Repeal of a tax pursuant to this Article does not affect the rights or liabilities of the  
39 county, a taxpayer, or another person arising under the repealed tax before the effective  
40 date of its repeal; nor does it affect the right to any refund or credit of a tax that would  
41 otherwise have been available under the repealed tax before the effective date of its  
42 repeal.

1        If the Secretary receives a valid request for a refund of a tax levied under this Article  
2 after the tax has been repealed and the net proceeds have been distributed, the Secretary  
3 must draw the refund from the taxing county's share of the net proceeds of the tax it  
4 levies under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws,  
5 as applicable.

6 **"§ 105-520. Distribution and use of tax.**

7        (a) Distribution. – The Secretary must, on a quarterly basis, distribute to each  
8 taxing county the net proceeds of the tax levied under this Article by that county. If the  
9 Secretary collects taxes under this Article in a month and the taxes cannot be identified as  
10 being attributable to a particular taxing county, the Secretary must allocate these taxes  
11 among the taxing counties in proportion to the amount of taxes collected in each county  
12 under this Article in that month and must include them in the quarterly distribution.

13        (b) Use. – A county may use the proceeds of a tax levied under this Article only  
14 for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any  
15 indebtedness incurred by the county for these purposes.

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

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

24                Section 4. A tax levied under Article 44 of Chapter 105 of the General  
25 Statutes, as enacted by this act, does not apply to construction materials purchased to  
26 fulfill a lump-sum or unit-price contract entered into or awarded before the effective date  
27 of the levy or entered into or awarded pursuant to a bid made before the effective date of  
28 the levy when the construction materials would otherwise be subject to the tax levied  
29 under Article 44 of Chapter 105 of the General Statutes.