

1 STATEWIDE CAPITAL OUTLAY

2 EQUALIZATION

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: Aaron Tilton

6 Senate Sponsor: _____

7

8 LONG TITLE

9 General Description:

10 This bill enacts various changes related to school capital outlay funding.

11 Highlighted Provisions:

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ creates the Capital Outlay Equalization Fund;
- 15 ▶ requires certain school districts to impose a basic capital outlay levy that is
- 16 equalized;
- 17 ▶ deposits revenues from the basic capital outlay levy into the Capital Outlay
- 18 Equalization Fund;
- 19 ▶ makes allocations from the Capital Outlay Equalization Fund using specified
- 20 criteria;
- 21 ▶ creates a certified tax rate calculation related to capital outlay for school districts for
- 22 purposes of truth in taxation;
- 23 ▶ appropriates money for the Capital Outlay Foundation and Capital Outlay
- 24 Enrollment Growth Programs; and
- 25 ▶ makes technical corrections.

26 Monies Appropriated in this Bill:

27 This bill appropriates:



59 53A-17a-103.

60 (2) "Capital Outlay Equalization Fund" or "Fund" means the fund created in Section
61 53A-21-502.

62 (3) "Combined capital levy certified tax rate" means a separate certified tax rate, as
63 calculated pursuant to Section 59-2-924, for a school district's combined capital levy rate,
64 except that:

65 (a) when a school district's adjusted basic capital outlay increment increases compared
66 to the prior year, the amount of the basic capital outlay increment shall be subtracted from the
67 prior year's ad valorem property tax revenues; and

68 (b) when a school district's adjusted basic capital outlay increment decreases compared
69 to the prior year, the amount of the basic capital outlay increment shall be added to the prior
70 year's ad valorem property tax revenues.

71 (4) "Combined capital levy rate" means a rate that includes the sum of the following
72 property tax levies:

73 (a) the capital outlay levy authorized in Section 53A-16-107;

74 (b) the portion of the 10% of basic levy described in Section 53A-17a-145 that is
75 budgeted for debt service or capital outlay;

76 (c) the debt service levy authorized in Section 11-14-310;

77 (d) the voted capital outlay leeway authorized in Section 53A-16-110; and

78 (e) the basic capital outlay levy imposed under Section 53A-21-303.

79 (5) "Derived net taxable value" means the total current property tax collections from
80 April 1 through the following March 31 for a school district, divided by the school district's
81 total tax rate for the same year.

82 (6) "Inflation index" means the annual producer price index for new school building
83 construction published by the Bureau of Labor Statistics of the United States Department of
84 Labor.

85 (7) "Property tax yield per ADM" means the quotient of:

86 (a) the product of:

87 (i) a school district's prior year derived net taxable value; multiplied by

88 (ii) .0024; divided by

89 (b) the school district's prior year ADM.

90 (8) "School district net taxable value per enrolled student" means the derived net
91 taxable value in a school district divided by student enrollment in the district as of the same
92 year's October 1 enrollment counts.

93 (9) "Statewide net taxable value per enrolled student" means the sum of the derived net
94 taxable value for each school district in the state, divided by statewide school district
95 enrollment as of the same year's October 1 enrollment counts.

96 Section 2. Section **53A-21-102** is amended to read:

97 **53A-21-102. Capital outlay programs -- Use of funds.**

98 ~~[(1) The Capital Outlay Foundation Program and the Enrollment Growth Program are~~
99 ~~established to provide revenues to school districts for the purposes of capital outlay bonding,~~
100 ~~construction, and renovation.]~~

101 ~~[(2) The Capital Outlay Loan Program is established to provide:]~~

102 ~~[(a) short-term help to school districts to meet district needs for school building~~
103 ~~construction and renovation; and]~~

104 ~~[(b) assistance to charter schools to meet school building construction and renovation~~
105 ~~needs.]~~

106 ~~[(3) School districts shall]~~ A school district may only use the monies provided [to
107 them] under [the programs established by this section solely] this chapter for school district
108 capital outlay and debt service purposes, including capital outlay bonding, construction, and
109 renovation.

110 Section 3. Section **53A-21-201** is enacted to read:

111 **Part 2. Capital Outlay Foundation Program**

112 **53A-21-201. Capital Outlay Foundation Program -- Definitions.**

113 (1) There is created the Capital Outlay Foundation Program to guarantee a certain
114 amount of capital outlay funding to a school district that makes a sufficient local tax effort and
115 generates local property tax revenues below a foundation guarantee funding level.

116 (2) As used in this part:

117 (a) "Foundation guarantee level per ADM" means a minimum revenue amount per
118 ADM generated by a combined capital levy rate of .0024, including the following:

119 (i) the revenue generated locally from a school district's combined capital levy rate; and

120 (ii) the revenue allocated by the State Board of Education in accordance with Section

121 53A-21-202.

122 (b) "Qualifying school district" means a school district with a property tax yield per
123 ADM less than the foundation guarantee level per ADM.

124 Section 4. Section **53A-21-202** is enacted to read:

125 **53A-21-202. Capital Outlay Foundation Program -- Allocations -- Distribution**
126 **Formulas.**

127 (1) For fiscal years beginning on or after July 1, 2008, the State Board of Education
128 shall determine the foundation guarantee level per ADM that fully allocates the funds
129 appropriated to the State Board of Education for distribution under this section.

130 (2) If a qualifying school district imposes a current year combined capital levy rate of
131 at least .0024 per dollar of taxable value, the State Board of Education shall allocate to the
132 qualifying school district an amount equal to the product of the following:

133 (a) the qualifying school district's prior year ADM; multiplied by

134 (b) an amount equal to the difference between the following:

135 (i) the foundation guarantee level per ADM for that fiscal year, as determined in
136 accordance with Subsection (1); and

137 (ii) the qualifying school district's property tax yield per ADM.

138 (3) Except as provided in Subsection (4), if a qualifying school district imposes a
139 current year combined capital levy rate less than .0024 per dollar of taxable value, the State
140 Board of Education shall allocate to the qualifying school district an amount equal to the
141 product of the following:

142 (a) the qualifying school district's prior year ADM; multiplied by

143 (b) an amount equal to the difference between the following:

144 (i) the foundation guarantee level per ADM for that fiscal year, as determined in
145 accordance with Subsection (1); and

146 (ii) the qualifying school district's property tax yield per ADM; multiplied by

147 (c) a percentage equal to the school district's current year combined capital levy rate
148 divided by .0024.

149 (4) Notwithstanding Subsection (3), if a qualifying school district imposes a combined
150 capital levy rate less than .0024 per dollar of taxable value, the State Board of Education shall
151 allocate funds to the school district in accordance with the allocation methodology under

152 Subsection (2) if:

153 (a) the school district imposed a combined capital levy rate of at least .0024 in either of
154 the prior two years; and

155 (b) the school district imposes at least its combined capital levy certified tax rate.

156 Section 5. Section **53A-21-301** is enacted to read:

157 **Part 3. Capital Outlay Enrollment Growth Program**

158 **53A-21-301. Capital Outlay Enrollment Growth Program -- Definitions.**

159 (1) There is created the Capital Outlay Enrollment Growth Program to provide capital
160 outlay funding to school districts experiencing net enrollment increases.

161 (2) As used in this part:

162 (a) "Adjusted allocation amount per student" means the product of:

163 (i) the base allocation amount per student; and

164 (ii) the quotient of the prior year statewide net taxable value per enrolled student
165 divided by the prior year school district net taxable value per enrolled student.

166 (b) "Adjusted basic capital outlay increment" means:

167 (i) for a receiving district, the basic capital outlay increment less the amount of any rate
168 reduction limitation increment remitted to the State Board of Education; and

169 (ii) for a contributing district, the basic capital outlay increment plus any allocations
170 received pursuant to Subsection 53A-21-302(6).

171 (c) "Base allocation amount per student" means \$10,000 in fiscal year 2009-10,
172 adjusted in future years by the percentage difference between the inflation index for the
173 calendar year preceding the calendar year in which the fiscal year begins and the inflation index
174 for calendar year 2008.

175 (d) "Basic capital outlay increment" means an amount equal to the allocations made to
176 a participating school district pursuant to Subsection 53A-21-302(1) minus the revenue
177 generated from the levy imposed under Section 53A-21-303.

178 (e) "Contributing school district" means a participating school district that is entitled to
179 receive less for a fiscal year from the allocations made pursuant to Subsection 53A-21-302(1)
180 than it generates from the levy it imposes under Section 53A-21-303.

181 (f) "Participating school district" means:

182 (i) each school district in a county of the first, second, or third class, as defined in

183 Section 17-50-501; and

184 (ii) a school district in a county of the fourth, fifth, or sixth class, as defined in Section
185 17-50-501, that elects to participate in the Capital Outlay Enrollment Growth Program under
186 this part by imposing the basic capital outlay levy under Section 53A-21-303.

187 (g) "Rate reduction limitation increment" means, for a receiving district whose
188 combined capital levy certified tax rate would be less than .0024 were it not for the rate
189 reduction limitation under Subsections 53A-21-302(4)(a) and 53A-21-304(2)(b), the amount of
190 revenue equal to the difference between the following:

191 (i) the amount of revenue that would have been generated by the combined capital levy
192 certified tax rate in absence of the requirement under Subsections 53A-21-302(4)(a) and
193 53A-21-304(2)(b); and

194 (ii) the amount of revenue generated by a property tax rate of .0024 per dollar of
195 taxable value.

196 (h) "Receiving district" means a participating school district that is entitled to receive
197 more for a fiscal year from the allocations made pursuant to Subsection 53A-21-302(1) than it
198 generates from the levy it imposes under Section 53A-21-303.

199 Section 6. Section **53A-21-302** is enacted to read:

200 **53A-21-302. Capital Outlay Equalization Fund -- Distribution of funds.**

201 (1) (a) Except as provided in Subsection (2), beginning in fiscal year 2009-10, the State
202 Board of Education shall allocate funding from the Capital Outlay Equalization Fund created in
203 Section 53A-21-502 to a participating school district in an amount equal to the product of:

204 (i) the adjusted allocation amount per student; multiplied by

205 (ii) the average net enrollment increase in the participating school district over the prior
206 three years, based on the October 1 enrollment counts.

207 (b) When a new school district is created or school district boundaries are adjusted:

208 (i) the three-year average net enrollment increase for each affected school district shall
209 be based on school district enrollment over the prior three years in non-charter schools located
210 within that school district's newly created or adjusted boundaries, based on October 1
211 enrollment counts; and

212 (ii) the school district net taxable value per enrolled student for each affected school
213 district shall be based upon:

214 (A) the prior year derived net taxable value within each school district's newly created
215 or adjusted boundaries; and

216 (B) the prior year total enrollment in non-charter schools located within the district's
217 newly created or adjusted boundaries.

218 (c) The State Board of Education may not provide an allocation under this Subsection
219 (1) to a participating school district that does not have an average net enrollment increase over
220 the prior three years.

221 (2) If revenues deposited into the Capital Outlay Equalization Fund are insufficient to
222 fully fund the allocations under Subsection (1) for a fiscal year, the State Board of Education
223 shall proportionately reduce allocations to match available revenues.

224 (3) A participating school district shall remit to the State Board of Education an
225 amount equal to the revenue generated from the basic capital outlay tax rate imposed under
226 Section 53A-21-303 on or before the June 30 immediately following the end of the taxable year
227 in which the participating school district imposes the basic capital outlay tax rate under Section
228 53A-21-303.

229 (4) (a) A receiving school district shall impose a combined capital levy rate of at least
230 .0024 per dollar of taxable value.

231 (b) A receiving school district with a combined capital levy certified tax rate that
232 would be less than .0024 per dollar of taxable value were it not for the requirement of
233 Subsections (4)(a) and 53A-21-304(2)(b) shall remit the district's rate reduction limitation
234 increment to the State Board of Education.

235 (5) The State Board of Education shall deposit revenues received pursuant to
236 Subsections (3) and (4)(b) into the Capital Outlay Equalization Fund.

237 (6) The State Board of Education shall allocate the rate reduction limitation increment
238 funds deposited into the Capital Outlay Equalization Fund pursuant to Subsection (4)(b) to
239 contributing districts by allocating an amount that equally reduces each contributing district's
240 basic capital outlay increment by the same percentage.

241 (7) In lieu of making transfers of actual funds pursuant to this section, the State Board
242 of Education and the Division of Finance may implement accounting procedures to increase or
243 decrease other allocations that would otherwise be made to a participating school district, if the
244 accounting procedures properly account for the flow of funds to and from:

245 (a) the Capital Outlay Equalization Fund, consistent with this section; and
246 (b) the revenue source of any allocations adjusted pursuant to this Subsection (7).

247 Section 7. Section **53A-21-303** is enacted to read:

248 **53A-21-303. Basic capital outlay tax rate.**

249 For taxable years beginning on or after January 1, 2009, a participating school district
250 shall impose a basic capital outlay tax rate of .000698 per dollar of taxable value.

251 Section 8. Section **53A-21-304** is enacted to read:

252 **53A-21-304. Adjustment to the certified tax rate calculation for capital outlay --**
253 **Notice and hearing requirements.**

254 (1) A contributing school district is exempt from the requirements of Sections
255 59-2-918 and 59-2-919 if the school district:

256 (a) imposes a rate less than or equal to the certified tax rate calculated pursuant to
257 Section 59-2-924; and

258 (b) imposes a rate less than or equal to the combined capital levy certified tax rate
259 calculated pursuant to this section.

260 (2) (a) If a receiving district imposes a combined capital levy rate that exceeds the
261 combined capital levy certified tax rate, the school district is subject to the requirements of
262 Sections 59-2-918 and 59-2-919.

263 (b) The combined capital levy certified tax rate for a receiving school district may not
264 be less than .0024 per dollar of taxable value.

265 Section 9. Section **53A-21-401**, which is renumbered from Section 53A-21-104 is
266 renumbered and amended to read:

267 **Part 4. Capital Outlay Loan Program**

268 ~~[53A-21-104].~~ **53A-21-401. Capital Outlay Loan Program -- School**
269 **Building Revolving Account -- Access to the account.**

270 (1) There is created;

271 (a) the "Capital Outlay Loan Program" to provide:

272 (i) short-term help to school districts to meet district needs for school building
273 construction and renovation; and

274 (ii) assistance to charter schools to meet school building construction and renovation
275 needs; and

276 (b) a nonlapsing "School Building Revolving Account" administered within the
277 Uniform School Fund by the state superintendent of public instruction in accordance with rules
278 adopted by the State Board of Education.

279 (2) ~~[Monies received by a school district]~~ The State Board of Education may not
280 allocate funds from the School Building Revolving Account ~~[may not]~~ that exceed ~~[the]~~ a
281 school district's bonding limit minus its outstanding bonds.

282 (3) In order to receive monies from the account, a school district ~~[must do the~~
283 ~~following]~~ shall:

284 (a) levy a ~~[tax of]~~ combined capital levy rate of at least .0024 ~~[for capital outlay and~~
285 ~~debt service];~~

286 (b) contract with the state superintendent of public instruction to repay the monies,
287 with interest at a rate established by the state superintendent, within five years of ~~[their]~~ receipt,
288 using future state ~~[building monies or]~~ capital outlay allocations, local revenues, or both;

289 (c) levy sufficient ad valorem taxes under Section 11-14-310 to guarantee annual loan
290 repayments, unless the state superintendent of public instruction alters the payment schedule to
291 improve a hardship situation; and

292 (d) meet any other condition established by the State Board of Education pertinent to
293 the loan.

294 (4) (a) The state superintendent shall establish a committee, including representatives
295 from state and local education entities, to:

296 (i) review requests by school districts for loans under this section; and

297 (ii) make recommendations regarding approval or disapproval of the loan applications
298 to the state superintendent.

299 (b) If the committee recommends approval of a loan application under Subsection
300 (4)(a)(ii), the committee's recommendation shall include:

301 (i) the recommended amount of the loan;

302 (ii) the payback schedule; and

303 (iii) the interest rate to be charged.

304 (5) (a) There is established within the School Building Revolving Account the Charter
305 School Building Subaccount administered by the State Board of Education, in consultation
306 with the State Charter School Board, in accordance with rules adopted by the State Board of

307 Education.

308 (b) The Charter School Building Subaccount shall consist of:

309 (i) money appropriated to the subaccount by the Legislature;

310 (ii) money received from the repayment of loans made from the subaccount; and

311 (iii) interest earned on monies in the subaccount.

312 (c) The state superintendent of public instruction shall make loans to charter schools
313 from the Charter School Building Subaccount to pay for the costs of:

314 (i) planning expenses;

315 (ii) constructing or renovating charter school buildings;

316 (iii) equipment and supplies; or

317 (iv) other start-up or expansion expenses.

318 (d) Loans to new charter schools or charter schools with urgent facility needs may be
319 given priority.

320 (6) (a) The State Board of Education shall establish a committee, which shall include
321 individuals who have expertise or experience in finance, real estate, and charter school
322 administration, one of whom shall be nominated by the governor to:

323 (i) review requests by charter schools for loans under this section; and

324 (ii) make recommendations regarding approval or disapproval of the loan applications
325 to the State Charter School Board and the State Board of Education.

326 (b) If the committee recommends approval of a loan application under Subsection

327 (6)(a)(ii), the committee's recommendation shall include:

328 (i) the recommended amount of the loan;

329 (ii) the payback schedule; and

330 (iii) the interest rate to be charged.

331 (c) The committee members may not:

332 (i) be a relative, as defined in Section 53A-1a-518, of a loan applicant; or

333 (ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person
334 or entity that contracts with a loan applicant.

335 (7) The State Board of Education, in consultation with the State Charter School Board,
336 shall approve all loans to a charter ~~[schools]~~ school under this section.

337 (8) ~~[Loans]~~ The term of a loan to a charter ~~[schools]~~ school under this section may not

338 exceed ~~[a term of]~~ five years.

339 (9) The State Board of Education may not approve loans to charter schools under this
340 section that exceed a total of \$2,000,000 in any year.

341 Section 10. Section **53A-21-501**, which is renumbered from Section 53A-21-105 is
342 renumbered and amended to read:

343 **Part 5. Fiscal Matters**

344 ~~[53A-21-105].~~ **53A-21-501. Capital outlay programs -- Appropriations.**

345 ~~[(+)]~~ As an ongoing appropriation subject to future budget constraints, there is
346 appropriated from the Uniform School Fund for fiscal year ~~[2007-08]~~ 2008-09, \$27,288,900 to
347 the State Board of Education ~~[for the capital outlay programs created in Section 53A-21-102].~~
348 to be allocated pursuant to Section 53A-21-202.

349 ~~[(2) Of the monies appropriated in Subsection (1), the State Board of Education shall~~
350 ~~distribute:]~~

351 ~~[(a) \$24,358,000 in accordance with the Capital Outlay Foundation Program described~~
352 ~~in Section 53A-21-103; and]~~

353 ~~[(b) \$2,930,900 in accordance with the Enrollment Growth Program described in~~
354 ~~Section 53A-21-103.5.]~~

355 Section 11. Section **53A-21-502** is enacted to read:

356 **53A-21-502. Capital Outlay Equalization Fund -- Source of revenues -- Interest --**
357 **Unexpended revenues.**

358 (1) There is created a restricted special revenue fund known as the Capital Outlay
359 Equalization Fund.

360 (2) (a) The fund shall be funded by:

361 (i) revenues from the basic capital outlay levy deposited pursuant to Subsection
362 53A-21-302(3);

363 (ii) revenues from the rate reduction limitation increment deposited pursuant to
364 Subsection 53A-21-302(4)(b); and

365 (iii) appropriations from the Legislature.

366 (b) Any interest earned on the fund shall be deposited into the fund.

367 (3) The State Board of Education shall distribute revenues collected from the basic
368 capital outlay levy imposed pursuant to Section 53A-21-303 for the Capital Outlay Enrollment

369 Growth Program, in accordance with Section 53A-21-302.

370 (4) A school district that receives an allocation from the Capital Outlay Equalization
371 Fund may only use the allocation for school capital outlay or debt service.

372 Section 12. **Repealer.**

373 This bill repeals:

374 Section **53A-21-103, Qualifications for participation in the foundation program --**
375 **Distribution of monies -- Distribution formulas.**

376 Section **53A-21-103.5, Qualifications for participation in the Enrollment Growth**
377 **Program -- State Board of Education rules -- Distribution formula.**

378 Section 13. **Effective date.**

379 This bill takes effect July 1, 2008.

Legislative Review Note
as of 2-4-08 12:44 PM

Office of Legislative Research and General Counsel

H.B. 383 - Statewide Capital Outlay Equalization

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill appropriates \$27,288,900 in ongoing Uniform School Funds to the State Board of Education to support the Capital Outlay Foundation Program. Enactment of the bill modifies provisions governing the allocation of state funding that supports the Capital Outlay Foundation and removes state funding for the Capital Outlay Enrollment Growth programs. The bill creates the Capital Equalization Fund from local revenues to fund the Capital Outlay Enrollment Growth Program outlined in the bill.

	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2010 Approp.</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>	<u>FY 2010 Revenue</u>
Uniform School Fund	\$0	\$27,288,900	\$27,288,900	\$0	\$0	\$0
Total	\$0	\$27,288,900	\$27,288,900	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill may result in increased revenue allocations to school districts that qualify for the Capital Outlay Foundation and Capital Outlay Enrollment Growth programs.

Provisions of this bill require districts to implement a .000698 property tax rate to be earmarked for the Capital Outlay Equalization Fund. A district which assesses the rate but does not reach the state average daily membership yeild established in the bill receives an allocation. Those districts that meet or exceed the established yield will not receive an allocation from the fund.