

**Senator Dan R. Eastman** proposes the following substitute bill:

**EQUALIZATION OF SCHOOL CAPITAL**

**OUTLAY FUNDING**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dan R. Eastman**

House Sponsor: Aaron Tilton

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**LONG TITLE**

**General Description:**

This bill makes changes to the Public Education Capital Outlay Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires certain divided school districts to impose a capital outlay levy of at least .0006 per dollar of taxable value;
- ▶ allocates the revenue generated under the capital outlay levy to school districts located within the qualifying divided school district;
- ▶ establishes a combined capital property tax rate a school district must impose to receive a full distribution from both the Capital Outlay Foundation Program and Capital Outlay Enrollment Growth Program;
- ▶ provides for a pro-rated distribution if a school district imposes a combined capital property tax rate less than the rate required for full funding;
- ▶ appropriates additional ongoing funding to the State Board of Education for the Capital Outlay Foundation Program and Capital Outlay Enrollment Growth Program;



- 26           ▶ requires a reduction in the property tax certified tax rate for school districts
- 27 receiving state capital outlay funding increases;
- 28           ▶ requires each school district in a county of the first class to levy a capital outlay
- 29 property tax at a specified rate in order to receive the state contribution toward the
- 30 minimum basic program;
- 31           ▶ allocates the revenue generated under the capital outlay levy to school districts
- 32 located in a county of the first class;
- 33           ▶ amends truth in taxation notice and hearing requirements for school districts
- 34 imposing the mandatory portion of the capital outlay levy;
- 35           ▶ amends the calculation of the certified tax rate with respect to the capital outlay
- 36 levy; and
- 37           ▶ makes technical corrections.

**38 Monies Appropriated in this Bill:**

39           This bill appropriates as an ongoing appropriation subject to future budget constraints,  
40 \$56,000,000 from the Uniform School Fund for fiscal year 2008-09 to the State Board  
41 of Education.

**42 Other Special Clauses:**

43           This bill takes effect on July 1, 2008.

44           This bill coordinates with H.B. 1, Minimum School Program Base Budget  
45 Amendments, by providing superseding amendments.

**46 Utah Code Sections Affected:**

47 AMENDS:

- 48           **11-13-302**, as last amended by Laws of Utah 2007, Chapter 108
- 49           **53A-2-103**, as last amended by Laws of Utah 2002, Chapter 301
- 50           **53A-2-114**, as last amended by Laws of Utah 1996, Chapter 326
- 51           **53A-2-115**, as last amended by Laws of Utah 1996, Chapter 326
- 52           **53A-2-117**, as last amended by Laws of Utah 2007, Chapters 215 and 297
- 53           **53A-16-107**, as last amended by Laws of Utah 1999, Chapter 332
- 54           **53A-16-110**, as last amended by Laws of Utah 2004, Chapter 371
- 55           **53A-17a-135**, as last amended by Laws of Utah 2007, Chapter 2
- 56           **53A-21-102**, as last amended by Laws of Utah 2003, Chapters 199 and 320

57           **59-2-924**, as last amended by Laws of Utah 2007, Chapters 107 and 329

58 ENACTS:

59           **53A-2-118.3**, Utah Code Annotated 1953

60           **53A-16-107.1**, Utah Code Annotated 1953

61           **53A-21-101.5**, Utah Code Annotated 1953

62           **53A-21-201**, Utah Code Annotated 1953

63           **53A-21-202**, Utah Code Annotated 1953

64           **53A-21-301**, Utah Code Annotated 1953

65           **53A-21-302**, Utah Code Annotated 1953

66           **59-2-924.2**, Utah Code Annotated 1953

67           **59-2-924.3**, Utah Code Annotated 1953

68 RENUMBERS AND AMENDS:

69           **53A-21-401**, (Renumbered from 53A-21-104, as last amended by Laws of Utah 2007,  
70 Chapter 344)

71           **53A-21-501**, (Renumbered from 53A-21-105, as last amended by Laws of Utah 2007,  
72 Chapter 2)

73 REPEALS:

74           **53A-21-103**, as last amended by Laws of Utah 2003, Chapter 320

75           **53A-21-103.5**, as last amended by Laws of Utah 2005, Chapters 171 and 184



77 *Be it enacted by the Legislature of the state of Utah:*

78           Section 1. Section **11-13-302** is amended to read:

79           **11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy**  
80 **suppliers -- Method of calculating -- Collection -- Extent of tax lien.**

81           (1) (a) Each project entity created under this chapter that owns a project and that sells  
82 any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible  
83 property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad  
84 valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in  
85 this section to each taxing jurisdiction within which the project or any part of it is located.

86           (b) For purposes of this section, "annual fee" means the annual fee described in  
87 Subsection (1)(a) that is in lieu of ad valorem property tax.

88 (c) The requirement to pay an annual fee shall commence:

89 (i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of  
90 impact alleviation payments under contracts or determination orders provided for in Sections  
91 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the  
92 candidate in which the date of commercial operation of the last generating unit, other than any  
93 generating unit providing additional project capacity, of the project occurs, or, in the case of  
94 any facilities providing additional project capacity, with the fiscal year of the candidate  
95 following the fiscal year of the candidate in which the date of commercial operation of the  
96 generating unit providing the additional project capacity occurs; and

97 (ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in  
98 Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the  
99 project commences, or, in the case of facilities providing additional project capacity, with the  
100 fiscal year of the taxing jurisdiction in which construction of those facilities commences.

101 (d) The requirement to pay an annual fee shall continue for the period of the useful life  
102 of the project or facilities.

103 (2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b)  
104 because the ad valorem property tax imposed by a school district and authorized by the  
105 Legislature under Section 53A-17a-135 represents both:

106 (i) a levy mandated by the state for the state minimum school program under Section  
107 53A-17a-135; and

108 (ii) local levies for capital outlay, maintenance, transportation, and other purposes  
109 under Sections 11-2-7, 53A-16-107, 53A-16-110, 53A-17a-126, 53A-17a-127, 53A-17a-133,  
110 53A-17a-134, 53A-17a-143, and 53A-17a-145~~[, and 53A-21-103]~~.

111 (b) The annual fees due a school district shall be as follows:

112 (i) the project entity shall pay to the school district an annual fee for the state minimum  
113 school program at the rate imposed by the school district and authorized by the Legislature  
114 under Subsection 53A-17a-135(1); and

115 (ii) for all other local property tax levies authorized to be imposed by a school district,  
116 the project entity shall pay to the school district either:

117 (A) an annual fee; or

118 (B) impact alleviation payments under contracts or determination orders provided for

119 in Sections 11-13-305 and 11-13-306.

120 (3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated  
121 by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by  
122 multiplying the fee base or value determined in accordance with Subsection (4) for that year of  
123 the portion of the project located within the jurisdiction by the percentage of the project which  
124 is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

125 (b) As used in this section, "tax rate," when applied in respect to a school district,  
126 includes any assessment to be made by the school district under Subsection (2) or Section  
127 63-51-6.

128 (c) There is to be credited against the annual fee due a taxing jurisdiction for each year,  
129 an amount equal to the debt service, if any, payable in that year by the project entity on bonds,  
130 the proceeds of which were used to provide public facilities and services for impact alleviation  
131 in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

132 (d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

133 (i) take into account the fee base or value of the percentage of the project located  
134 within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the  
135 capacity, service, or other benefit sold to the supplier or suppliers; and

136 (ii) reflect any credit to be given in that year.

137 (4) (a) Except as otherwise provided in this section, the annual fees required by this  
138 section shall be paid, collected, and distributed to the taxing jurisdiction as if:

139 (i) the annual fees were ad valorem property taxes; and

140 (ii) the project were assessed at the same rate and upon the same measure of value as  
141 taxable property in the state.

142 (b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by  
143 this section, the fee base of a project may be determined in accordance with an agreement  
144 among:

145 (A) the project entity; and

146 (B) any county that:

147 (I) is due an annual fee from the project entity; and

148 (II) agrees to have the fee base of the project determined in accordance with the  
149 agreement described in this Subsection (4).

150 (ii) The agreement described in Subsection (4)(b)(i):  
151 (A) shall specify each year for which the fee base determined by the agreement shall be  
152 used for purposes of an annual fee; and  
153 (B) may not modify any provision of this chapter except the method by which the fee  
154 base of a project is determined for purposes of an annual fee.  
155 (iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county  
156 described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in  
157 Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing  
158 jurisdiction.  
159 (iv) (A) If there is not agreement as to the fee base of a portion of a project for any  
160 year, for purposes of an annual fee, the State Tax Commission shall determine the value of that  
161 portion of the project for which there is not an agreement:  
162 (I) for that year; and  
163 (II) using the same measure of value as is used for taxable property in the state.  
164 (B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax  
165 Commission in accordance with rules made by the State Tax Commission.  
166 (c) Payments of the annual fees shall be made from:  
167 (i) the proceeds of bonds issued for the project; and  
168 (ii) revenues derived by the project entity from the project.  
169 (d) (i) The contracts of the project entity with the purchasers of the capacity, service, or  
170 other benefits of the project whose tangible property is not exempted by Utah Constitution  
171 Article XIII, Section 3, from the payment of ad valorem property tax shall require each  
172 purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for,  
173 its share, determined in accordance with the terms of the contract, of these fees.  
174 (ii) It is the responsibility of the project entity to enforce the obligations of the  
175 purchasers.  
176 (5) (a) The responsibility of the project entity to make payment of the annual fees is  
177 limited to the extent that there is legally available to the project entity, from bond proceeds or  
178 revenues, monies to make these payments, and the obligation to make payments of the annual  
179 fees is not otherwise a general obligation or liability of the project entity.  
180 (b) No tax lien may attach upon any property or money of the project entity by virtue of

181 any failure to pay all or any part of an annual fee.

182 (c) The project entity or any purchaser may contest the validity of an annual fee to the  
183 same extent as if the payment was a payment of the ad valorem property tax itself.

184 (d) The payments of an annual fee shall be reduced to the extent that any contest is  
185 successful.

186 (6) (a) The annual fee described in Subsection (1):

187 (i) shall be paid by a public agency that:

188 (A) is not a project entity; and

189 (B) owns an interest in a facility providing additional project capacity if the interest is  
190 otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

191 (ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in  
192 accordance with Subsection (6)(b).

193 (b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax  
194 rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

195 (i) the fee base or value of the facility providing additional project capacity located  
196 within the jurisdiction;

197 (ii) the percentage of the ownership interest of the public agency in the facility; and

198 (iii) the portion, expressed as a percentage, of the public agency's ownership interest  
199 that is attributable to the capacity, service, or other benefit from the facility that is sold by the  
200 public agency to an energy supplier or suppliers whose tangible property is not exempted by  
201 Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

202 (c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the  
203 obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect  
204 to its ownership interest as though it were a project entity.

205 Section 2. Section **53A-2-103** is amended to read:

206 **53A-2-103. Transfer of property to new school district -- Rights and obligations**  
207 **of new school board -- Outstanding indebtedness -- Special tax.**

208 (1) On July 1 following the approval of the creation of a new school district under  
209 Section 53A-2-102, the local school boards of the former districts shall convey and deliver all  
210 school property to the local school board of the new district. Title vests in the new board. All  
211 rights, claims, and causes of action to or for the property, for the use or the income from the

212 property, for conversion, disposition, or withholding of the property, or for any damage or  
213 injury to the property vest at once in the new board.

214 (2) The new board may bring and maintain actions to recover, protect, and preserve the  
215 property and rights of the district schools and to enforce contracts.

216 (3) The new board shall assume and be liable for all outstanding debts and obligations  
217 of each of the former school districts.

218 (4) All of the bonded indebtedness, outstanding debts, and obligations of a former  
219 district, which cannot be reasonably paid from the assets of the former district, shall be paid by  
220 a special tax levied by the new board as needed. The tax shall be levied upon the property  
221 within the former district which was liable for the indebtedness at the time of consolidation. If  
222 bonds are approved in the new district under Section 53A-18-102, the special tax shall be  
223 discontinued and the bonded indebtedness paid as any other bonded indebtedness of the new  
224 district.

225 (5) Bonded indebtedness of a former district which has been refunded shall be paid in  
226 the same manner as that which the new district assumes under Section 53A-18-101.

227 (6) State funds received by the new district under Section [~~53A-21-103~~] 53A-21-202  
228 may be applied toward the payment of outstanding bonded indebtedness of a former district in  
229 the same proportion as the bonded indebtedness of the territory within the former district bears  
230 to the total bonded indebtedness of the districts combined.

231 Section 3. Section **53A-2-114** is amended to read:

232 **53A-2-114. Additional levies -- School board options to abolish or continue after**  
233 **consolidation.**

234 (1) If a school district which has approved an additional levy under Section  
235 53A-16-110, 53A-17a-133, 53A-17a-134, or 53A-17a-145[~~, or 53A-21-103~~] is consolidated  
236 with a district which does not have such a levy, the board of education of the consolidated  
237 district may choose to abolish the levy, or apply it in whole or in part to the entire consolidated  
238 district.

239 (2) If the board chooses to apply any part of the levy to the entire district, the levy may  
240 continue in force for no more than three years, unless approved by the electors of the  
241 consolidated district in the manner set forth in Section 53A-16-110.

242 Section 4. Section **53A-2-115** is amended to read:



243           **53A-2-115. Additional levies in transferred territory -- Transferee board option**  
 244 **to abolish or continue.**

245           If two or more districts undergo restructuring that results in a district receiving territory  
 246 that increases the population of the district by at least 25%, and if the transferred territory was,  
 247 at the time of transfer, subject to an additional levy under Section 53A-16-110, 53A-17a-133,  
 248 53A-17a-134, or 53A-17a-145~~[, or 53A-21-103]~~, the board of education of the transferee  
 249 district may abolish the levy or apply the levy in whole or in part to the entire restructured  
 250 district. Any such levy made applicable to the entire district may continue in force for no more  
 251 than five years, unless approved by the electors of the restructured district in the manner set  
 252 forth in Section 53A-16-110.

253           Section 5. Section **53A-2-117** is amended to read:

254           **53A-2-117. Definitions.**

255           As used in Sections 53A-2-117 through 53A-2-121:

256           (1) "Divided school district", "existing district" or "existing school district" means a  
 257 school district from which a new district is created.

258           (2) "New district" or "new school district" means a school district created under  
 259 Section 53A-2-118 or 53A-2-118.1.

260           (3) "Remaining district" or "remaining school district" means an existing district after  
 261 the creation of a new district.

262           Section 6. Section **53A-2-118.3** is enacted to read:

263           **53A-2-118.3. Imposition of the capital outlay levy in qualifying divided school**  
 264 **districts.**

265           (1) For purposes of this section, "qualifying divided school district" means a divided  
 266 school district:

267           (a) located within a county of the second through sixth class; and

268           (b) with a new school district created under Section 53A-2-118.1 that begins to provide  
 269 educational services after July 1, 2008.

270           (2) A school district within a qualifying divided school district shall impose a capital  
 271 outlay levy described in Section 53A-16-107 of at least .0006 per dollar of taxable value.

272           (3) The county treasurer of a county with a qualifying divided school district shall  
 273 distribute revenues generated by the .0006 portion of the capital outlay levy required in

274 Subsection (2) to the school districts located within the boundaries of the qualifying divided  
275 school district as follows:

276 (a) 25% of the revenues shall be distributed in proportion to a school district's  
277 percentage of the total enrollment growth in all of the school districts within the qualifying  
278 divided school district that have an increase in enrollment, calculated on the basis of the  
279 average annual enrollment growth over the prior three years in all of the school districts within  
280 the qualifying divided school district that have an increase in enrollment during the prior three  
281 years, as of the October 1 enrollment counts; and

282 (b) 75% of the revenues shall be distributed in proportion to a school district's  
283 percentage of the total prior year enrollment in all of the school districts within the qualifying  
284 divided school district, as of the October 1 enrollment counts.

285 (4) On or before December 31 of each year, the State Board of Education shall provide  
286 a county treasurer with audited enrollment information from the fall enrollment audit necessary  
287 to distribute revenues as required by this section.

288 (5) On or before March 31 of each year, a county treasurer in a county with a  
289 qualifying divided school district shall distribute the revenue generated within the qualifying  
290 divided school district during the prior calendar year from the capital outlay levy described in  
291 Section 53A-2-118.3.

292 Section 7. Section **53A-16-107** is amended to read:

293 **53A-16-107. Capital outlay levy -- Maintenance of school facilities -- Authority to**  
294 **use proceeds of .0002 tax rate -- Restrictions and procedure.**

295 (1) ~~[(a) A]~~ Subject to Subsection (3), a local school board may annually impose a  
296 capital outlay levy [a tax not to exceed .0024 per dollar of taxable value for debt service and  
297 capital outlay.] not to exceed .0024 per dollar of taxable value to be used for:

298 (a) capital outlay;

299 (b) debt service; and

300 (c) subject to Subsection (2), school facility maintenance.

301 ~~[(b) Each]~~ (2) (a) A local school board may utilize the proceeds of a maximum of  
302 .0002 per dollar of taxable value of [its] the local school board's annual capital outlay levy for  
303 the maintenance of school [plants] facilities in [its] the school district.

304 ~~[(2)]~~ (b) A local school board that uses the option provided under Subsection [(1)(b)]

305 ~~must do the following]~~ (2)(a) shall:

306       ~~[(a)]~~ (i) maintain the same level of expenditure for maintenance in the current year as it  
307 did in the preceding year, plus the annual average percentage increase applied to the  
308 maintenance and operation budget for the current year; and

309       ~~[(b)]~~ (ii) identify the expenditure of capital outlay funds for maintenance by a district  
310 project number to ensure that the funds ~~[were]~~ are expended in the manner intended.

311       ~~[(3)]~~ (c) The State Board of Education shall establish by rule the expenditure  
312 classification for maintenance under this program using a standard classification system.

313       (3) In order to qualify for receipt of the state contribution toward the basic program  
314 described in Section 53A-17a-135, a local school board in a county of the first class shall  
315 impose a capital outlay levy of at least .0006 per dollar of taxable value.

316       (4) (a) The county treasurer of a county of the first class shall distribute revenues  
317 generated by the .0006 portion of the capital outlay levy required in Subsection (3) to school  
318 districts within the county in accordance with Section 53A-16-107.1.

319       (b) If a school district in a county of the first class imposes a capital outlay levy  
320 pursuant to this section which exceeds .0006, the county treasurer of a county of the first class  
321 shall distribute revenues generated by the portion of the capital outlay levy which exceeds  
322 .0006 to the school district imposing the levy.

323       Section 8. Section **53A-16-107.1** is enacted to read:

324       **53A-16-107.1. School capital outlay in counties of the first class -- Allocation.**

325       (1) The county treasurer of a county of the first class shall distribute revenues  
326 generated by the .0006 portion of the capital outlay levy described in Subsection  
327 53A-16-107(3) to school districts located within the county of the first class as follows:

328       (a) 25% of the revenues shall be distributed in proportion to a school district's  
329 percentage of the total enrollment growth in all of the school districts within the county that  
330 have an increase in enrollment, calculated on the basis of the average annual enrollment growth  
331 over the prior three years in all of the school districts within the county that have an increase in  
332 enrollment during the prior three years, as of the October 1 enrollment counts; and

333       (b) 75% of the revenues shall be distributed in proportion to a school district's  
334 percentage of the total prior year enrollment in all of the school districts within the county, as  
335 of the October 1 enrollment counts.

336 (2) If a new school district is created or school district boundaries are adjusted, the  
337 enrollment for each affected school district shall be calculated on the basis of enrollment in  
338 school district schools located within that school district's newly created or adjusted  
339 boundaries, as of October 1 enrollment counts.

340 (3) On or before December 31 of each year, the State Board of Education shall provide  
341 a county treasurer with audited enrollment information from the fall enrollment audit necessary  
342 to distribute revenues as required by this section.

343 (4) On or before March 31 of each year, a county treasurer in a county of the first class  
344 shall distribute the revenue generated within the county of the first class during the prior  
345 calendar year from the capital outlay levy described in Section 53A-16-107.

346 Section 9. Section **53A-16-110** is amended to read:

347 **53A-16-110. Special tax to buy school building sites, build and furnish**  
348 **schoolhouses, or improve school property.**

349 (1) (a) A local school board may, by following the process for special elections  
350 established in Sections 20A-1-203 and 20A-1-204, call a special election to determine whether  
351 a special property tax should be levied for one or more years to buy building sites, build and  
352 furnish schoolhouses, or improve the school property under its control.

353 (b) The tax may not exceed .2% of the taxable value of all taxable property in the  
354 district in any one year.

355 (2) The board shall give reasonable notice of the election and follow the same  
356 procedure used in elections for the issuance of bonds.

357 (3) If a majority of those voting on the proposition vote in favor of the tax, it is levied  
358 in addition to [~~those~~] a levy authorized under [~~Sections~~] Section 53A-17a-145 [~~and~~  
359 ~~53A-21-103~~] and computed on the valuation of the county assessment roll for that year.

360 (4) (a) Within 20 days after the election, the board shall certify the amount of the  
361 approved tax to the governing body of the county in which the school district is located.

362 (b) The governing body shall acknowledge receipt of the certification and levy and  
363 collect the special tax.

364 (c) It shall then distribute the collected taxes to the business administrator of the school  
365 district at the end of each calendar month.

366 (5) The special tax becomes due and delinquent and attaches to and becomes a lien on

367 real and personal property at the same time as state and county taxes.

368 Section 10. Section **53A-17a-135** is amended to read:

369 **53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

370 (1) (a) In order to qualify for receipt of the state contribution toward the basic program  
371 and as its contribution toward its costs of the basic program[-];

372 (i) each school district shall impose a minimum basic tax rate per dollar of taxable  
373 value that generates \$245,254,790 in revenues statewide[-]; and

374 (ii) a local school board in a county of the first class shall impose the capital outlay  
375 levy described in Subsection 53A-16-107(3) for distribution pursuant to Section 53A-16-107.1.

376 (b) The preliminary estimate for the 2007-08 minimum basic tax rate is .001474.

377 (c) The State Tax Commission shall certify on or before June 22 the rate that generates  
378 \$245,254,790 in revenues statewide.

379 (d) If the minimum basic tax rate exceeds the certified revenue levy as defined in  
380 Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.

381 (2) (a) The state shall contribute to each district toward the cost of the basic program in  
382 the district that portion which exceeds the proceeds of the levy authorized under Subsection  
383 (1).

384 (b) In accord with the state strategic plan for public education and to fulfill its  
385 responsibility for the development and implementation of that plan, the Legislature instructs  
386 the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each  
387 of the coming five years to develop budgets that will fully fund student enrollment growth.

388 (3) (a) If the proceeds of the levy authorized under Subsection (1) equal or exceed the  
389 cost of the basic program in a school district, no state contribution shall be made to the basic  
390 program.

391 (b) The proceeds of the levy authorized under Subsection (1) which exceed the cost of  
392 the basic program shall be paid into the Uniform School Fund as provided by law.

393 Section 11. Section **53A-21-101.5** is enacted to read:

394 **Part 1. General Provisions**

395 **53A-21-101.5. Definitions.**

396 As used in this chapter:

397 (1) "ADM" or "pupil in average daily membership" is as defined in Section

398 53A-17a-103.

399 (2) "Combined capital levy rate" means a rate that includes the sum of the following  
400 property tax levies:

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

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

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

405 (d) the voted capital outlay leeway authorized in Section 53A-16-110.

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

409 (4) "Property tax yield per ADM" means:

410 (a) the product of:

411 (i) a school district's derived net taxable value; and

412 (ii) .0030; divided by

413 (b) the school district's ADM for the school year beginning after the April 1 referenced  
414 in Subsection (3).

415 Section 12. Section **53A-21-102** is amended to read:

416 **53A-21-102. Capital outlay programs -- Use of funds.**

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

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

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

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

425 ~~[(3) School districts shall]~~ A school district may only use the monies provided [to  
426 them] under [the programs established by this section solely] this chapter for school district  
427 capital outlay and debt service purposes.

428 Section 13. Section **53A-21-201** is enacted to read:

**Part 2. Capital Outlay Foundation Program**

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

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

(2) As used in this part:

(a) "Foundation guarantee level per ADM" means a minimum revenue amount per ADM generated by a combined capital levy rate of .0030 per dollar of taxable value, including the following:

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

(ii) the revenue allocated to a school district by the State Board of Education in accordance with Section 53A-21-202.

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

Section 14. Section **53A-21-202** is enacted to read:

**53A-21-202. Capital Outlay Foundation Program -- Distribution formulas -- Allocations.**

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

(2) If a qualifying school district imposes a current year combined capital levy rate of at least .0030 per dollar of taxable value, the State Board of Education shall allocate to the qualifying school district an amount equal to the product of the following:

(a) the qualifying school district's prior year ADM; and

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

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

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

(3) Except as provided in Subsection (4), if a qualifying school district imposes a current year combined capital levy rate less than .0030 per dollar of taxable value, the State Board of Education shall allocate to the qualifying school district an amount equal to the

460 product of the following:

461 (a) the qualifying school district's prior year ADM;

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

463 (i) the foundation guarantee level per ADM for that fiscal year, as determined in

464 accordance with Subsection (1); and

465 (ii) the qualifying school district's prior year property tax yield per ADM; and

466 (c) a percentage equal to the qualifying school district's current year combined capital  
467 levy rate divided by .0030.

468 (4) Notwithstanding Subsection (3), if a qualifying school district imposes a combined  
469 capital levy rate less than .0030 per dollar of taxable value, the State Board of Education shall  
470 allocate funds to the qualifying school district in accordance with the allocation methodology  
471 under Subsection (2) if:

472 (a) the qualifying school district imposed a combined capital levy rate of at least .0030  
473 in either of the prior two years; and

474 (b) the qualifying school district imposes a combined capital levy rate less than .0030  
475 solely due to a decrease in the qualifying school district's certified tax rate, calculated pursuant  
476 to Section 59-2-924, due to increases in the value of taxable property located within the  
477 qualifying school district.

478 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
479 State Board of Education shall make rules to administer this section.

480 Section 15. Section **53A-21-301** is enacted to read:

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

482 **53A-21-301. Capital Outlay Enrollment Growth Program - Definitions.**

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

485 (2) As used in this part:

486 (a) "Average net enrollment increase" means the quotient of:

487 (i) (A) enrollment in the current year, based on October 1 enrollment counts; minus

488 (B) enrollment in the year three years prior, based on October 1 enrollment counts;

489 divided by

490 (ii) three.



491 (b) "Eligible district" or "eligible school district" means a school district that:  
492 (i) has an average net enrollment increase; and  
493 (ii) a prior year property tax yield per ADM that is less than two times the prior year  
494 statewide average property tax yield per ADM.

495 (c) "Funding level per growth student" means the funding level per average net  
496 enrollment increase student which fully allocates appropriated funds.

497 (d) "Statewide average property tax yield per ADM" means the quotient of:  
498 (i) the sum of all school districts' derived net taxable value multiplied by .0030;  
499 divided by  
500 (ii) the sum of total school district ADM statewide for the same year.

501 Section 16. Section **53A-21-302** is enacted to read:

502 **53A-21-302. Capital Outlay Enrollment Growth Program -- Distribution**  
503 **formulas -- Allocations.**

504 (1) The State Board of Education shall annually:

505 (a) determine the funding level per growth student which fully allocates appropriated  
506 funds; and

507 (b) allocate appropriated funds to eligible school districts in accordance with this  
508 section.

509 (2) If an eligible school district imposes a current year combined capital levy rate of at  
510 least .0030 per dollar of taxable value, the State Board of Education shall allocate to the  
511 eligible school district an amount equal to the product of the following:

512 (a) the eligible school district's average net enrollment increase; multiplied by

513 (b) the funding level per growth student.

514 (3) Except as provided in Subsection (4), if an eligible school district imposes a current  
515 year combined capital levy rate less than .0030 per dollar of taxable value, the State Board of  
516 Education shall allocate to the eligible school district an amount equal to the product of the  
517 following:

518 (a) the eligible school district's average net enrollment increase; multiplied by

519 (b) the funding level per growth student; multiplied by

520 (c) a percentage equal to the eligible school district's current year combined capital  
521 levy rate divided by .0030.

522 (4) Notwithstanding Subsection (3), if an eligible school district imposes a combined  
523 capital levy rate less than .0030 per dollar of taxable value, the State Board of Education shall  
524 allocate funds to the eligible school district in accordance with the allocation methodology  
525 under Subsection (2) if:

526 (a) the eligible school district imposed a combined capital levy rate of at least .0030 in  
527 either of the two prior years; and

528 (b) the eligible school district imposes a combined capital levy rate less than .0030  
529 solely due to a decrease in the eligible school district's certified tax rate, calculated pursuant to  
530 Section 59-2-924, due to increases in the value of taxable property located within the eligible  
531 school district.

532 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
533 State Board of Education shall make rules to administer this section.

534 Section 17. Section **53A-21-401**, which is renumbered from Section 53A-21-104 is  
535 renumbered and amended to read:

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

537 **~~[53A-21-104].~~ 53A-21-401. School Building Revolving Account -- Access to**  
538 **the account.**

539 (1) There is created;

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

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

543 (ii) assistance to charter schools to meet school building construction and renovation  
544 needs; and

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

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

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

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

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

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

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

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

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

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

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

570 (i) the recommended amount of the loan;

571 (ii) the payback schedule; and

572 (iii) the interest rate to be charged.

573 (5) (a) There is established within the School Building Revolving Account the Charter  
574 School Building Subaccount administered by the State Board of Education, in consultation  
575 with the State Charter School Board, in accordance with rules adopted by the State Board of  
576 Education.

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

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

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

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

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

583 (i) planning expenses;

584 (ii) constructing or renovating charter school buildings;

585 (iii) equipment and supplies; or

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

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

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

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

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

595 (b) If the committee recommends approval of a loan application under Subsection  
596 (6)(a)(ii), the committee's recommendation shall include:

597 (i) the recommended amount of the loan;

598 (ii) the payback schedule; and

599 (iii) the interest rate to be charged.

600 (c) The committee members may not:

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

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

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

606 (8) ~~[Loans]~~ The term of a loan to a charter [schools] school under this section may not  
607 exceed ~~[a term of]~~ five years.

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

610 Section 18. Section **53A-21-501**, which is renumbered from Section 53A-21-105 is  
611 renumbered and amended to read:

612 **Part 5. Fiscal Matters**

613 ~~[53A-21-105].~~ **53A-21-501. State contribution to capital outlay programs.**

614 (1) As an ongoing appropriation subject to future budget constraints, there is

615 appropriated from the Uniform School Fund for fiscal year [~~2007-08, \$27,288,900~~] 2008-09,  
616 \$56,000,000 to the State Board of Education for the capital outlay programs created in [~~Section~~  
617 ~~53A-21-102~~] this chapter.

618 (2) Of the monies appropriated in Subsection (1), the State Board of Education shall  
619 distribute:

620 (a) [~~\$24,358,000~~] \$33,000,000 in accordance with the Capital Outlay Foundation  
621 Program [~~described in Section 53A-21-103~~] pursuant to Section 53A-21-202; and

622 (b) [~~\$2,930,900~~] \$23,000,000 in accordance with the Capital Outlay Enrollment  
623 Growth Program [~~described in Section 53A-21-103.5~~] pursuant to Section 53A-21-302.

624 Section 19. Section **59-2-924** is amended to read:

625 **59-2-924. Report of valuation of property to county auditor and commission --**  
626 **Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of certified**  
627 **tax rate -- Rulemaking authority -- Adoption of tentative budget.**

628 (1) (a) Before June 1 of each year, the county assessor of each county shall deliver to  
629 the county auditor and the commission the following statements:

630 (i) a statement containing the aggregate valuation of all taxable property in each taxing  
631 entity; and

632 (ii) a statement containing the taxable value of any additional personal property  
633 estimated by the county assessor to be subject to taxation in the current year.

634 (b) The county auditor shall, on or before June 8, transmit to the governing body of  
635 each taxing entity:

636 (i) the statements described in Subsections (1)(a)(i) and (ii);

637 (ii) an estimate of the revenue from personal property;

638 (iii) the certified tax rate; and

639 (iv) all forms necessary to submit a tax levy request.

640 (2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad  
641 valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the  
642 prior year.

643 (ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not  
644 include:

645 (A) collections from redemptions;

646 (B) interest;

647 (C) penalties; and

648 (D) revenue received by a taxing entity from personal property that is:

649 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

650 (II) semiconductor manufacturing equipment.

651 (iii) (A) Except as otherwise provided in this section, the certified tax rate shall be

652 calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the

653 taxing entity by the amount calculated under Subsection (2)(a)(iii)(B).

654 (B) For purposes of Subsection (2)(a)(iii)(A), the legislative body of a taxing entity

655 shall calculate an amount as follows:

656 (I) calculate for the taxing entity the difference between:

657 (Aa) the aggregate taxable value of all property taxed; and

658 (Bb) any redevelopment adjustments for the current calendar year;

659 (II) after making the calculation required by Subsection (2)(a)(iii)(B)(I), calculate an

660 amount determined by increasing or decreasing the amount calculated under Subsection

661 (2)(a)(iii)(B)(I) by the average of the percentage net change in the value of taxable property for

662 the equalization period for the three calendar years immediately preceding the current calendar

663 year;

664 (III) after making the calculation required by Subsection (2)(a)(iii)(B)(II), calculate the

665 product of:

666 (Aa) the amount calculated under Subsection (2)(a)(iii)(B)(II); and

667 (Bb) the percentage of property taxes collected for the five calendar years immediately

668 preceding the current calendar year; and

669 (IV) after making the calculation required by Subsection (2)(a)(iii)(B)(III), calculate an

670 amount determined by subtracting from the amount calculated under Subsection

671 (2)(a)(iii)(B)(III) any new growth as defined in this section:

672 (Aa) within the taxing entity; and

673 (Bb) for the current calendar year.

674 (C) For purposes of Subsection (2)(a)(iii)(B)(I), the aggregate taxable value of all

675 property taxed:

676 (I) except as provided in Subsection (2)(a)(iii)(C)(II), includes the total taxable value of

677 the real and personal property contained on the tax rolls of the taxing entity; and

678 (II) does not include the total taxable value of personal property contained on the tax  
679 rolls of the taxing entity that is:

680 (Aa) assessed by a county assessor in accordance with Part 3, County Assessment; and

681 (Bb) semiconductor manufacturing equipment.

682 (D) For purposes of Subsection (2)(a)(iii)(B)(II), for calendar years beginning on or  
683 after January 1, 2007, the value of taxable property does not include the value of personal  
684 property that is:

685 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,  
686 County Assessment; and

687 (II) semiconductor manufacturing equipment.

688 (E) For purposes of Subsection (2)(a)(iii)(B)(III)(Bb), for calendar years beginning on  
689 or after January 1, 2007, the percentage of property taxes collected does not include property  
690 taxes collected from personal property that is:

691 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,  
692 County Assessment; and

693 (II) semiconductor manufacturing equipment.

694 (F) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
695 the commission may prescribe rules for calculating redevelopment adjustments for a calendar  
696 year.

697 (iv) (A) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
698 Act, the commission shall make rules determining the calculation of ad valorem property tax  
699 revenues budgeted by a taxing entity.

700 (B) For purposes of Subsection (2)(a)(iv)(A), ad valorem property tax revenues  
701 budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax  
702 revenues are calculated for purposes of Section 59-2-913.

703 (v) The certified tax rates for the taxing entities described in this Subsection (2)(a)(v)  
704 shall be calculated as follows:

705 (A) except as provided in Subsection (2)(a)(v)(B), for new taxing entities the certified  
706 tax rate is zero;

707 (B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

708 (I) in a county of the first, second, or third class, the levy imposed for municipal-type  
709 services under Sections 17-34-1 and 17-36-9; and

710 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county  
711 purposes and such other levies imposed solely for the municipal-type services identified in  
712 Section 17-34-1 and Subsection 17-36-3(22); and

713 (C) for debt service voted on by the public, the certified tax rate shall be the actual levy  
714 imposed by that section, except that the certified tax rates for the following levies shall be  
715 calculated in accordance with Section 59-2-913 and this section:

716 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, [~~53A-17a-125;~~  
717 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, and 53A-17a-145~~], and~~  
718 ~~53A-21-103~~]; and

719 (II) levies to pay for the costs of state legislative mandates or judicial or administrative  
720 orders under Section 59-2-906.3.

721 (vi) (A) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be  
722 established at that rate which is sufficient to generate only the revenue required to satisfy one  
723 or more eligible judgments, as defined in Section 59-2-102.

724 (B) The ad valorem property tax revenue generated by the judgment levy shall not be  
725 considered in establishing the taxing entity's aggregate certified tax rate.

726 (vii) The ad valorem property tax revenue generated by the capital outlay levy  
727 described in Section 53A-16-107 within a taxing entity in a county of the first class:

728 (A) may not be considered in establishing the taxing entity's aggregate certified tax  
729 rate; and

730 (B) shall be included by the commission in establishing a certified tax rate for that  
731 capital outlay levy determined in accordance with the calculation described in Subsection  
732 59-2-913(3).

733 (b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use  
734 the taxable value of property on the assessment roll.

735 (ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the  
736 assessment roll does not include:

737 (A) new growth as defined in Subsection (2)(b)(iii); or

738 (B) the total taxable value of personal property contained on the tax rolls of the taxing



739 entity that is:

740 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

741 (II) semiconductor manufacturing equipment.

742 (iii) "New growth" means:

743 (A) the difference between the increase in taxable value of the taxing entity from the  
744 previous calendar year to the current year; minus

745 (B) the amount of an increase in taxable value described in Subsection (2)(b)(v).

746 (iv) For purposes of Subsection (2)(b)(iii), the taxable value of the taxing entity does  
747 not include the taxable value of personal property that is:

748 (A) contained on the tax rolls of the taxing entity if that property is assessed by a  
749 county assessor in accordance with Part 3, County Assessment; and

750 (B) semiconductor manufacturing equipment.

751 (v) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

752 (A) the amount of increase to locally assessed real property taxable values resulting  
753 from factoring, reappraisal, or any other adjustments; or

754 (B) the amount of an increase in the taxable value of property assessed by the  
755 commission under Section 59-2-201 resulting from a change in the method of apportioning the  
756 taxable value prescribed by:

757 (I) the Legislature;

758 (II) a court;

759 (III) the commission in an administrative rule; or

760 (IV) the commission in an administrative order.

761 (c) Beginning January 1, 1997, if a taxing entity receives increased revenues from  
762 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
763 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter  
764 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax  
765 rate to offset the increased revenues.

766 (d) (i) Beginning July 1, 1997, if a county has imposed a sales and use tax under  
767 Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

768 (A) decreased on a one-time basis by the amount of the estimated sales and use tax  
769 revenue to be distributed to the county under Subsection 59-12-1102(3); and

770 (B) increased by the amount necessary to offset the county's reduction in revenue from  
771 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
772 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection  
773 (2)(d)(i)(A).

774 (ii) The commission shall determine estimates of sales and use tax distributions for  
775 purposes of Subsection (2)(d)(i).

776 (e) Beginning January 1, 1998, if a municipality has imposed an additional resort  
777 communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be  
778 decreased on a one-time basis by the amount necessary to offset the first 12 months of  
779 estimated revenue from the additional resort communities sales and use tax imposed under  
780 Section 59-12-402.

781 (f) (i) (A) For fiscal year 2000, the certified tax rate of each county required under  
782 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the  
783 unincorporated area of the county shall be decreased by the amount necessary to reduce  
784 revenues in that fiscal year by an amount equal to the difference between the amount the county  
785 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services  
786 countywide and the amount the county spent during fiscal year 2000 for those services,  
787 excluding amounts spent from a municipal services fund for those services.

788 (B) For fiscal year 2001, the certified tax rate of each county to which Subsection  
789 (2)(f)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that fiscal  
790 year by the amount that the county spent during fiscal year 2000 for advanced life support and  
791 paramedic services countywide, excluding amounts spent from a municipal services fund for  
792 those services.

793 (ii) (A) A city or town located within a county of the first class to which Subsection  
794 (2)(f)(i) applies may increase its certified tax rate by the amount necessary to generate within  
795 the city or town the same amount of revenues as the county would collect from that city or  
796 town if the decrease under Subsection (2)(f)(i) did not occur.

797 (B) An increase under Subsection (2)(f)(ii)(A), whether occurring in a single fiscal year  
798 or spread over multiple fiscal years, is not subject to the notice and hearing requirements of  
799 Sections 59-2-918 and 59-2-919.

800 (g) (i) The certified tax rate of each county required under Subsection 17-34-1(4)(b) to

801 provide detective investigative services to the unincorporated area of the county shall be  
802 decreased:

803 (A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year  
804 by at least \$4,400,000; and

805 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year  
806 by an amount equal to the difference between \$9,258,412 and the amount of the reduction in  
807 revenues under Subsection (2)(g)(i)(A).

808 (ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a  
809 county to which Subsection (2)(g)(i) applies may increase its certified tax rate to generate  
810 within the city or town the same amount of revenue as the county would have collected during  
811 county fiscal year 2001 from within the city or town except for Subsection (2)(g)(i)(A).

812 (II) Beginning with municipal fiscal year 2003, a city or town located within a county  
813 to which Subsection (2)(g)(i) applies may increase its certified tax rate to generate within the  
814 city or town the same amount of revenue as the county would have collected during county  
815 fiscal year 2002 from within the city or town except for Subsection (2)(g)(i)(B).

816 (B) (I) Except as provided in Subsection (2)(g)(ii)(B)(II), an increase in the city or  
817 town's certified tax rate under Subsection (2)(g)(ii)(A), whether occurring in a single fiscal year  
818 or spread over multiple fiscal years, is subject to the notice and hearing requirements of  
819 Sections 59-2-918 and 59-2-919.

820 (II) For an increase under this Subsection (2)(g)(ii) that generates revenue that does not  
821 exceed the same amount of revenue as the county would have collected except for Subsection  
822 (2)(g)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if the city or town:

823 (Aa) publishes a notice that meets the size, type, placement, and frequency  
824 requirements of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed  
825 by the county to one imposed by the city or town, and explains how the revenues from the tax  
826 increase will be used; and

827 (Bb) holds a public hearing on the tax shift that may be held in conjunction with the  
828 city or town's regular budget hearing.

829 (h) (i) This Subsection (2)(h) applies to each county that:

830 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part  
831 13, Utah Special Service District Act, to provide jail service, as provided in Subsection

832 17A-2-1304(1)(a)(x); and

833 (B) levies a property tax on behalf of the special service district under Section  
834 17A-2-1322.

835 (ii) (A) The certified tax rate of each county to which this Subsection (2)(h) applies  
836 shall be decreased by the amount necessary to reduce county revenues by the same amount of  
837 revenues that will be generated by the property tax imposed on behalf of the special service  
838 district.

839 (B) Each decrease under Subsection (2)(h)(ii)(A) shall occur contemporaneously with  
840 the levy on behalf of the special service district under Section 17A-2-1322.

841 (i) (i) As used in this Subsection (2)(i):

842 (A) "Annexing county" means a county whose unincorporated area is included within a  
843 fire district by annexation.

844 (B) "Annexing municipality" means a municipality whose area is included within a fire  
845 district by annexation.

846 (C) "Equalized fire protection tax rate" means the tax rate that results from:

847 (I) calculating, for each participating county and each participating municipality, the  
848 property tax revenue necessary to cover all of the costs associated with providing fire  
849 protection, paramedic, and emergency services:

850 (Aa) for a participating county, in the unincorporated area of the county; and

851 (Bb) for a participating municipality, in the municipality; and

852 (II) adding all the amounts calculated under Subsection (2)(i)(i)(C)(I) for all  
853 participating counties and all participating municipalities and then dividing that sum by the  
854 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

855 (Aa) for participating counties, in the unincorporated area of all participating counties;  
856 and

857 (Bb) for participating municipalities, in all the participating municipalities.

858 (D) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service  
859 Area Act, in the creation of which an election was not required under Subsection  
860 17B-1-214(3)(c).

861 (E) "Fire protection tax rate" means:

862 (I) for an annexing county, the property tax rate that, when applied to taxable property

863 in the unincorporated area of the county, generates enough property tax revenue to cover all the  
864 costs associated with providing fire protection, paramedic, and emergency services in the  
865 unincorporated area of the county; and

866 (II) for an annexing municipality, the property tax rate that generates enough property  
867 tax revenue in the municipality to cover all the costs associated with providing fire protection,  
868 paramedic, and emergency services in the municipality.

869 (F) "Participating county" means a county whose unincorporated area is included  
870 within a fire district at the time of the creation of the fire district.

871 (G) "Participating municipality" means a municipality whose area is included within a  
872 fire district at the time of the creation of the fire district.

873 (ii) In the first year following creation of a fire district, the certified tax rate of each  
874 participating county and each participating municipality shall be decreased by the amount of  
875 the equalized fire protection tax rate.

876 (iii) In the first year following annexation to a fire district, the certified tax rate of each  
877 annexing county and each annexing municipality shall be decreased by the fire protection tax  
878 rate.

879 (iv) Each tax levied under this section by a fire district shall be considered to be levied  
880 by:

881 (A) each participating county and each annexing county for purposes of the county's  
882 tax limitation under Section 59-2-908; and

883 (B) each participating municipality and each annexing municipality for purposes of the  
884 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a  
885 city.

886 (j) For the calendar year beginning on January 1, 2007, the calculation of a taxing  
887 entity's certified tax rate shall be adjusted by the amount necessary to offset any change in the  
888 certified tax rate that may result from excluding the following from the certified tax rate under  
889 Subsection (2)(a) enacted by the Legislature during the 2007 General Session:

890 (i) personal property tax revenue:

891 (A) received by a taxing entity;

892 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and

893 (C) for personal property that is semiconductor manufacturing equipment; or

- 894 (ii) the taxable value of personal property:
- 895 (A) contained on the tax rolls of a taxing entity;
- 896 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and
- 897 (C) that is semiconductor manufacturing equipment.
- 898 (3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.
- 899 (b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county
- 900 auditor of:
  - 901 (i) its intent to exceed the certified tax rate; and
  - 902 (ii) the amount by which it proposes to exceed the certified tax rate.
  - 903 (c) The county auditor shall notify all property owners of any intent to exceed the
  - 904 certified tax rate in accordance with Subsection 59-2-919(2).
  - 905 (4) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be
  - 906 reduced for any year to the extent necessary to provide a community development and renewal
  - 907 agency established under Title 17C, Limited Purpose Local Government Entities - Community
  - 908 Development and Renewal Agencies, with approximately the same amount of money the
  - 909 agency would have received without a reduction in the county's certified tax rate if:
    - 910 (i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or
    - 911 (2)(d)(i);
    - 912 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the
    - 913 previous year; and
    - 914 (iii) the decrease results in a reduction of the amount to be paid to the agency under
    - 915 Section 17C-1-403 or 17C-1-404.
    - 916 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any
    - 917 year to the extent necessary to provide a community development and renewal agency with
    - 918 approximately the same amount of money as the agency would have received without an
    - 919 increase in the certified tax rate that year if:
      - 920 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to
      - 921 a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and
      - 922 (ii) The certified tax rate of a city, school district, local district, or special service
      - 923 district increases independent of the adjustment to the taxable value of the base year.
      - 924 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or

925 (2)(d)(i), the amount of money allocated and, when collected, paid each year to a community  
926 development and renewal agency established under Title 17C, Limited Purpose Local  
927 Government Entities - Community Development and Renewal Agencies, for the payment of  
928 bonds or other contract indebtedness, but not for administrative costs, may not be less than that  
929 amount would have been without a decrease in the certified tax rate under Subsection (2)(c) or  
930 (2)(d)(i).

931 Section 20. Section **59-2-924.2** is enacted to read:

932 **59-2-924.2. Adjustment of the calculation of the certified tax rate for a school**  
933 **district imposing a capital outlay levy.**

934 (1) As used in this section:

935 (a) "Capital outlay increment" means the amount of revenue equal to the difference  
936 between:

937 (i) the amount of revenue generated by a levy of .0006 per dollar of taxable value  
938 within a school district during a fiscal year; and

939 (ii) the amount of revenue the school district received during the same fiscal year from  
940 the distribution described in Subsection 53A-16-107.1(1).

941 (b) "Contributing school district" means a school district in a county of the first class  
942 that in a fiscal year receives less revenue from the distribution described in Subsection  
943 53A-16-107.1(1) than it would have received during the same fiscal year from a levy imposed  
944 within the school district of .0006 per dollar of taxable value.

945 (c) "Receiving school district" means a school district in a county of the first class that  
946 in a fiscal year receives more revenue from the distribution described in Subsection  
947 53A-16-107.1(1) than it would have received during the same fiscal year from a levy imposed  
948 within the school district of .0006 per dollar of taxable value.

949 (2) A receiving school district shall decrease its capital outlay certified tax rate under  
950 Subsection 59-2-924(2)(a)(vii)(B) by the amount required to offset the receiving school  
951 district's capital outlay increment for that fiscal year.

952 (3) Beginning with fiscal year 2009-10, a contributing school district is exempt from  
953 the public notice and hearing requirements of Sections 59-2-918 and 59-2-919 for the school  
954 district's capital outlay levy certified tax rate calculated pursuant to Subsection  
955 59-2-924(2)(a)(vii)(B) if:

956 (a) the contributing school district budgets an increased amount of ad valorem property  
957 tax revenue exclusive of new growth as defined in Subsection 59-2-924(2) for the capital  
958 outlay levy described in Section 53A-16-107; and

959 (b) the increased amount of ad valorem property tax revenue described in Subsection  
960 (3)(a) is less than or equal to that contributing school district's capital outlay increment for the  
961 prior year.

962 (4) Regardless of the amount a school district receives from the revenue collected from  
963 the .0006 portion of the capital outlay levy described in Subsection 53A-16-107(3), the revenue  
964 generated within the school district from the .0006 portion of the capital outlay levy described  
965 in Subsection 53A-16-107(3) shall be considered to be budgeted ad valorem property tax  
966 revenues of the school district that levies the .0006 portion of the capital outlay levy for  
967 purposes of calculating the school district's certified tax rate in accordance with Subsection  
968 59-2-924(2)(a)(vii)(B).

969 Section 21. Section **59-2-924.3** is enacted to read:

970 **59-2-924.3. Adjustment to certified tax rate of school districts receiving funds**  
971 **from capital outlay programs.**

972 (1) For purposes of this section:

973 (a) "New ongoing funding increment" means an amount equal to the difference  
974 between the following:

975 (i) the ongoing appropriation for a program for fiscal year 2007-08 as provided in  
976 Section 53A-21-105; and

977 (ii) the ongoing appropriation for the program for fiscal year 2008-09 as provided in  
978 Section 53A-21-501.

979 (b) "Receiving school district" means a school district that in fiscal year 2008-09  
980 receives a distribution from the funds appropriated in Section 53A-21-501.

981 (2) For the taxable year beginning January 1, 2009, a receiving school district shall  
982 decrease its certified tax rate calculated in accordance with Section 59-2-924 by an amount  
983 equal to the amount of revenue the receiving school district receives from the new ongoing  
984 funding increment of:

985 (a) the Capital Outlay Foundation Program in accordance with Section 53A-21-202;  
986 and



987            (b) the Capital Outlay Enrollment Growth Program in accordance with Section  
988 53A-21-302.

989            **Section 22. Repealer.**

990            This bill repeals:

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

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

995            **Section 23. Effective date.**

996            This bill takes effect on July 1, 2008.

997            **Section 24. Coordinating H.B. 1 with S.B. 48 -- Superseding amendments.**

998            If this S.B. 48 and H.B. 1, Minimum School Program Base Budget Amendments, both  
999 pass, it is the intent of the Legislature that the amendments to Section 53A-21-501, renumbered  
1000 from Section 53A-21-105, in this bill supersede the amendments to Section 53A-21-105 in  
1001 H.B. 1 when the Office of Legislative Research and General Counsel prepares the Utah Code  
1002 database for publication.

**S.B. 48 2nd Sub. (Salmon) - Equalization of School Capital Outlay Funding**

**Fiscal Note**

2008 General Session

State of Utah

**State Impact**

Enactment of this bill appropriates an additional \$28,711,100 in ongoing Uniform School Fund revenue to the State Board of Education to support the Capital Outlay Foundation and Capital Outlay Enrollment Growth Programs. The bill contains a coordinating clause which supercedes the ongoing base budget supporting the Capital Outlay Foundation Program and the Enrollment Growth Program of \$27,288,900 with a total of \$56,000,000 for both programs, of which \$33 million is allocated for the Capital Outlay Foundation Program and \$23 million for the Capital Outlay Enrollment Growth Program.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Uniform School Fund	\$0	\$28,711,100	\$28,711,100	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$28,711,100</b>	<b>\$28,711,100</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Individual, Business and/or Local Impact**

Enactment of this bill may result in increased revenue allocations to school districts that qualify to receive Capital Outlay Foundation and Capital Outlay Enrollment Growth revenues. A school district that receives a higher state fund allocation under the capital outlay programs must reduce its certified property tax rate by the increase it received in allocating new ongoing state funding. Enactment of this bill may also result in additional school districts qualifying for program revenues.

Bill provisions increase the property tax threshold rate that school districts may impose to receive a full distribution of state funds supporting the capital outlay programs. Districts that meet or exceed the new rate will receive a full allocation, those districts that do not meet the new rate may see a pro-rata allocation based on their participation level.

Enactment of this bill requires school districts located in counties of the first class to levy a capital outlay property tax rate in order to receive state funding appropriated to the Minimum School Program - Basic School Program. Revenue generated from the required capital outlay property tax rate is combined and allocated by the county treasurer based on the formula outlined in the bill. A school district that receives a greater allocation of combined revenues than their tax rate produces must decrease its certified capital outlay property tax rate by the increased allocation amount. The certified capital outlay property tax rate of a school district that receives a lesser allocation of combined revenues than their tax rate produces may be adjusted to remain revenue neutral without going through truth in taxation.