I. Issue – Capital Outlay

As stated in the Official Code of Georgia (OCGA 20-2-260(a)), the purpose of the state's capital outlay program is to assure that every public school student is housed in a facility that is structurally sound, well maintained and has adequate space and equipment to meet each student's instructional needs. State capital outlay funds may be used for new construction projects needed due to enrollment growth; to renovate, modernize or replace facilities that have become obsolete or unsafe; to provide new additions to existing facilities or relocation of existing facilities; and to consolidate facilities.

II. Executive Summary

By unanimous vote at their August 25, 2011 meeting, the State Education Finance Study Commission approved recommendations to modify and improve the state's current capital outlay program. The recommendations included shifting entitlement earnings for the Exceptional Growth program to the Regular program. The recommendation also includes tightening requirements for the Advance Funding program and creating opportunities for more school systems to participate in the Low-Wealth program. Other recommendations include codifying the process whereby the Department may expedite funding to schools impacted by fire or a natural disaster, modifying how SPLOST funds are shared by independent school systems which are contained within county school systems and finally removing outdated and problematic language in Georgia code that impacts the capital outlay program.

III. Current Situation/Practice/Funding Method

Each year the state provides funds to local school systems through bonds for school construction, renovations, modifications and additions. The amount of funds provided annually depends on the projects requested by school systems and the funding level chosen by the General Assembly. For Fiscal Year 2012, 30 school systems received $185.9 million for capital outlay. The K-12 capital outlay program is outlined in state law – OCGA 20-2-260 through OCGA 20-2-262.

The law requires all school systems to complete a facilities survey and plan every five years. The facility survey includes student population growth analysis, an assessment of existing facilities within the system, and recommendations for improvements, expansion, modernization, safety and energy retrofitting. This survey becomes the basis for the system's five year facility plan which is a prioritized list of proposed projects that are eligible for state capital outlay funds. Each of the 180 systems' eligible need is summed to determine the total statewide need. Every system's need is then divided by the total statewide need to determine the system ratio. Each year, school systems earn entitlements for capital projects based on their needs as identified in the facilities plan. The specific amount of funding a school system may earn is based upon 1) the needs of a school system in relation to the total needs of the state and 2) the entitlement level funded by the General Assembly. Entitlements are like credits to school systems and not an actual appropriation. Once a school system has accrued enough credits to move forward with a project, they will apply to the state for funding.

There are 5 specific grant programs that the state provides funding for - Regular, Exceptional Growth, Advance Funding, Low-Wealth as well as funding for Mergers. The law specifies that the state must provide funding for these programs in the priority of Regular, Exceptional Growth and Advance. Low-Wealth funding is in a separate code section and is not included in the priority order. A brief explanation of each program is as follows:

Regular – The Regular grant is the original capital outlay program first created by the General Assembly in 1977 and first funded in Fiscal Year 1981 – although the entitlement level has been increased since the program was first created. All school systems are eligible to participate and benefit from this grant program. Each year, systems with enough entitlements make an application to the Department of Education for funding. When the Governor makes his budget recommendations to the General Assembly each January, he also includes a recommended level of entitlement funding for the Regular capital outlay program. The entitlement levels are $200 million, $160 million, $120 million and $80 million. The recommended funding level is not the actual appropriation, but rather the amount of entitlements or credits the state is authorizing for school systems to earn for that year. The actual appropriation is based on the number of systems that are ready to move forward with a project and the amount of entitlement funds they earn at each level. Most years, the General Assembly funds the full $200 million Regular entitlement level.

Advance Funding – The Advance Funding program works like a long-term no interest loan program and provides an "advancement" on future entitlement earnings if the amount of funds requested in a system's facility plan exceeds the system's entitlement earnings for at least 3 years at the $200 million entitlement level plus all accumulated regular funds. Systems that receive this funding cannot submit an application under the Regular program until the state funds advanced to them have been repaid from entitlement earnings. Sunset language was added into this code section when it was first passed by the General Assembly. The sunset has been extended several times without a review of the program to determine if it is meeting its goals. This program will sunset on June 30, 2015.

Exceptional Growth – This grant was created in 1994 to address concerns that the Regular program was not providing enough support for systems with rapidly increasing student populations. To be eligible, a school system must experience growth of 65 or more students and a growth rate of 1.5% or more over the system's previous average (3 year rolling average). Funding may only be used for new construction or additions. Growth funding may not be used for renovations or modifications. Like the Regular program, this grant program has various entitlement levels that the General Assembly may fund each year. The entitlement levels are $100 million, $80 million, $60 million and $40 million. Sunset language was added into this code section when it was first passed by the General Assembly. The sunset has been extended several times without a review of the program to determine if it is meeting its goals. This program will sunset on June 30, 2015.

Low-Wealth – A final capital outlay program was created in 1999 to provide for the needs of low-wealth systems that normally would have to wait years to accumulate enough entitlements for a project. To be

eligible for a Low-Wealth project a system must: 1)be less than 75% of the state average on property wealth per student, 2) be less than 75% of the state average on sales tax wealth per student, 3) be less than 75% of the state average on per capita income wealth per student, 4) have a minimum operating levy that represents a minimum of 60% of the amount generated by 20 mills, 5) must have an existing special purpose local sales tax or bonded indebtedness and 6) must have at least one year of payments remaining on advance funding. The state provides up to 92% of the funding for eligible costs. A system may receive 95% of funding if they choose a state-approved prototype. Sunset language was added into this code section when it was first passed by the General Assembly. The sunset has been extended several times without a review of the program to determine if it is meeting its goals. This program will sunset on June 30, 2015.

Merger - The state also provides funding for school systems which would like to merge with other systems. This program was last utilized about 20 years ago.

The state's capital outlay program requires a local match. The match may vary from 8% to 20% of the eligible cost of a project based on a system's wealth. To determine how much a local system is required to pay, the state considers each system's property and sales tax wealth per FTE as it relates to the state average. Systems may receive a 2% discount if the system chooses a state approved prototype for their project – lowering the local match rate for some systems down to 6%. However, no system has taken advantage of this incentive to date.

In addition to the required match, systems are responsible for any cost not covered by the state's program to include land acquisition and site preparation, and expenses related to athletic programs, etc. School systems are also responsible for any costs that exceed the reimbursement rate set by the State Board of Education. In most cases, the square footage reimbursement rate the state provides is lower than the actual cost of construction. When these factors are considered, the local effort in a project is considerably more than the required match.

IV. Other States

Other states' support for capital outlay varies widely both in terms of the types of assistance that they provide and in the level of funding. While each state's program is unique, there a few generalizations that can be made about the support provided to local school systems.

No Support – According to a report published by the 21st Century School Fund, there are 11 states that do not provide assistance to local school systems for capital outlay. (Indiana, Louisiana, Michigan, Missouri, Nebraska, Nevada, North Dakota, Oklahoma, South Dakota, Virginia, and Wisconsin.) While Mississippi has a capital outlay program, it has not been funded since 2003 due to the downturn in the economy. The remaining states do provide some form of assistance as detailed below.

Flat Grant – Some states provide a flat per FTE amount for capital outlay. These funds are sometimes included in cash as part of a state's basic funding formula. A drawback of the flat rate is that it does not consider a local school system's ability to raise revenue.

Competitive Grant/First-Come First Served – Some state provide funds to districts on a competitive basis. Districts still must meet certain criteria to apply.

Prioritized Grants – Most states have one or more capital outlay programs that provide funding based on certain priorities. These typically include funding to relieve overcrowding, funding based on building condition and age, funding based on district wealth ranking.

States that do not have a comprehensive capital outlay program may be vulnerable to lawsuits. In fact, there have been lawsuits in several states to address inequities in capital outlay funding. According to the Education Commission of the States, lawsuits in Arizona, New Mexico, Ohio and Wyoming by low-wealth systems have resulted in new capital outlay programs that provide more resources for poor systems.

V. Alternatives for Consideration

The Commission worked with the Department of Education to review the key elements of the state's Capital Outlay program. After review, the Commission determined that the 4 main programs were not meeting their stated purpose effectively and that revisions were needed.

According to the Department of Education, the statewide needs assessment for K-12 projects eligible for state funding is $2 billion. When the total local need is considered, this figure increases to $8 billion. With the funding for the Regular program capped at $200 million, the program is not able to meet the needs of systems in a timely manner.

The Exceptional Growth program was designed to assist fast growth systems that were growing by 65 students and 1.5% or more. When the program was first created, the state did not have the capability of updating a system's enrollment growth annually and systems were locked into their growth calculations for several years. Currently, student population is updated annually and growth is considered each year in the Regular program as well. In addition, the number of school systems that are eligible for the growth program has declined over time from 50 in FY 2002 to 18 in FY 2013. There are a number of large school systems that continue to experience high enrollment growth, but can no longer meet the 1.5% threshold.

The Regular Advance program was designed to assist small, poor systems in order to fund projects for which it would otherwise take them many years to accumulate sufficient entitlement earnings. However, a review of the recent program history reveals that there are a number of larger and wealthier systems qualifying for projects under this grant.

The Low-Wealth program criteria are so stringent that there are a number of poor systems that should be eligible for the program but are not. One of the biggest issues is that in order to be eligible for a Low-Wealth project, a system must already be in Regular Advance funding. However, systems that are truly poor often cannot afford to have two projects ongoing at the same time.

While other states' processes for funding capital outlay were reviewed, it was determined that few states, if any, provide support to local systems to the extent that Georgia does. Rather than look to other states for possible solutions, it was determined that it would be best to simply make improvements to the current programs and make adjustments where the programs were no longer working.

VI. Final Commission Recommendation

The Commission recommends making the following changes to the 4 capital outlay programs:

- Regular – Increase the maximum entitlement level to $300 million by phasing out the Exceptional Growth program. This change will benefit most school systems and help them address their facility needs faster.
- Exceptional Growth – Phase out the Exceptional Growth program. Allow previously accumulated Growth entitlements to be used with Regular starting in FY14. Enrollment projections are updated yearly and growth is already accounted for in the Regular program.
- Regular Advance – Tighten eligibility by increasing the requirement of being 3 years away from earning enough entitlements for a project to 5 years. This will ensure that program is helping smaller systems that need the support.
- Low Wealth – Current requirements are so restrictive that many systems that are truly low-wealth are unable to qualify. The Commission recommends striking the requirement that systems have a project in Regular Advance to qualify for a Low-Wealth project. The Commission also recommends deleting the requirement that a system must be less than 75% of the state average on property tax wealth per FTE, sales tax wealth per FTE and per capita income. Instead, in order to be eligible a system must be at the bottom 25% of systems in terms of sales tax and property tax per FTE. Systems may also apply for a specific low-wealth project if they are in the lowest 25% of SPLOST revenue. Systems applying for a low-wealth project must agree to use prototypical specifications (i.e., design/space requirements). Finally systems must levy a minimum of 12 effective mills in order to qualify for the program. The systems must also be either currently collecting SPLOST revenue for capital projects and/or have current bonded indebtedness. The current local match would still be required, but in order to incentivize effort, the state would reduce the required match by 1% for each mill levied above 12.

The Commission also recommends other technical changes to the Capital Outlay Program:

- The state provides funding for schools damaged by fire or natural disaster, but the school must wait until the next budget cycle to apply for a project even though they may need funds sooner. The Commission recommends that the Department of Education be allowed to redirect funds on

bonds that are already sold to provide immediate aid (already allowed with approval of GSFIC and OPB). The school system would then apply for state funding in the next budget cycle and would "pay back" the funds advanced to them by DOE. The Commission recommends that this process be codified.

- The Commission also recommends striking language in Code that is obsolete or problematic:
    - Delete language in O.C.G.A. 20-2-260 (k.1) requiring non-binding referendum on facility closure.
    - Delete language in O.C.G.A. 20-2-260 (p) relating to the expired Incentive Advance Funding program.
    - Delete language relating to debt service credit and local credit in O.C.G.A 20-2-260(b)(2) and O.C.G.A 20-2-260(g)(4). Underutilized since systems have SPLOST.
- Counties with more than one school system (city) determine SPLOST distribution by 1) prorating funds based on FTE or 2) as determined through an agreement. The Commission recommends that the distribution simply be prorated based on FTE. This change will require a constitutional amendment.