

30 This bill coordinates with S.B. 84, Impact Fees Revisions, by technically superseding
31 and merging amendments.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **10-9a-103**, as last amended by Laws of Utah 2008, Chapters 19, 112, 326, and 360

35 **10-9a-305**, as last amended by Laws of Utah 2008, Chapter 290

36 **11-36-102**, as last amended by Laws of Utah 2008, Chapters 70 and 360

37 **11-36-201**, as last amended by Laws of Utah 2008, Chapters 70, 360, and 382

38 **11-36-202**, as last amended by Laws of Utah 2008, Chapter 70

39 **17-27a-103**, as last amended by Laws of Utah 2008, Chapters 112, 250, 326, and 360

40 **17-27a-305**, as last amended by Laws of Utah 2008, Chapter 290

41 ENACTS:

42 **11-36-401.5**, Utah Code Annotated 1953



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

45 Section 1. Section **10-9a-103** is amended to read:

46 **10-9a-103. Definitions.**

47 As used in this chapter:

48 (1) "Affected entity" means a county, municipality, local district, special service
49 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
50 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
51 specified public utility, a property owner, a property owners association, or the Utah
52 Department of Transportation, if:

53 (a) the entity's services or facilities are likely to require expansion or significant
54 modification because of an intended use of land;

55 (b) the entity has filed with the municipality a copy of the entity's general or
56 long-range plan; or

57 (c) the entity has filed with the municipality a request for notice during the same

58 calendar year and before the municipality provides notice to an affected entity in compliance
59 with a requirement imposed under this chapter.

60 (2) "Appeal authority" means the person, board, commission, agency, or other body
61 designated by ordinance to decide an appeal of a decision of a land use application or a
62 variance.

63 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
64 residential property if the sign is designed or intended to direct attention to a business,
65 product, or service that is not sold, offered, or existing on the property where the sign is
66 located.

67 (4) "Charter school" includes:

68 (a) an operating charter school;

69 (b) a charter school applicant that has its application approved by a chartering entity
70 in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

71 (c) an entity who is working on behalf of a charter school or approved charter
72 applicant to develop or construct a charter school building.

73 (5) "Conditional use" means a land use that, because of its unique characteristics or
74 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
75 compatible in some areas or may be compatible only if certain conditions are required that
76 mitigate or eliminate the detrimental impacts.

77 (6) "Constitutional taking" means a governmental action that results in a taking of
78 private property so that compensation to the owner of the property is required by the:

79 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

80 (b) Utah Constitution Article I, Section 22.

81 (7) "Culinary water authority" means the department, agency, or public entity with
82 responsibility to review and approve the feasibility of the culinary water system and sources
83 for the subject property.

84 (8) "Development activity" means:

85 (a) any construction or expansion of a building, structure, or use that creates additional

86 demand and need for public facilities;

87 (b) any change in use of a building or structure that creates additional demand and
88 need for public facilities; or

89 (c) any change in the use of land that creates additional demand and need for public
90 facilities.

91 (9) (a) "Disability" means a physical or mental impairment that substantially limits
92 one or more of a person's major life activities, including a person having a record of such an
93 impairment or being regarded as having such an impairment.

94 (b) "Disability" does not include current illegal use of, or addiction to, any federally
95 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
96 802.

97 (10) "Educational facility":

98 (a) means:

99 (i) a school district's building at which pupils assemble to receive instruction in a
100 program for any combination of grades from preschool through grade 12, including
101 kindergarten and a program for children with disabilities;

102 (ii) a structure or facility:

103 (A) located on the same property as a building described in Subsection (10)(a)(i); and

104 (B) used in support of the use of that building; and

105 (iii) a building to provide office and related space to a school district's administrative
106 personnel; and

107 (b) does not include land or a structure, including land or a structure for inventory
108 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or
109 other use in support of providing instruction to pupils, that is:

110 (i) not located on the same property as a building described in Subsection (10)(a)(i);

111 and

112 (ii) used in support of the purposes of a building described in Subsection (10)(a)(i).

113 [~~(10)~~] (11) "Elderly person" means a person who is 60 years old or older, who desires

114 or needs to live with other elderly persons in a group setting, but who is capable of living
115 independently.

116 ~~[(11)]~~ (12) "Fire authority" means the department, agency, or public entity with
117 responsibility to review and approve the feasibility of fire protection and suppression services
118 for the subject property.

119 ~~[(12)]~~ (13) "Flood plain" means land that:

120 (a) is within the 100-year flood plain designated by the Federal Emergency
121 Management Agency; or

122 (b) has not been studied or designated by the Federal Emergency Management Agency
123 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event
124 because the land has characteristics that are similar to those of a 100-year flood plain
125 designated by the Federal Emergency Management Agency.

126 ~~[(13)]~~ (14) "General plan" means a document that a municipality adopts that sets forth
127 general guidelines for proposed future development of the land within the municipality.

128 ~~[(14)]~~ (15) "Geologic hazard" means:

129 (a) a surface fault rupture;

130 (b) shallow groundwater;

131 (c) liquefaction;

132 (d) a landslide;

133 (e) a debris flow;

134 (f) unstable soil;

135 (g) a rock fall; or

136 (h) any other geologic condition that presents a risk:

137 (i) to life;

138 (ii) of substantial loss of real property; or

139 (iii) of substantial damage to real property.

140 ~~[(15)]~~ (16) "Identical plans" means building plans submitted to a municipality that are
141 substantially identical to building plans that were previously submitted to and reviewed and

142 approved by the municipality and describe a building that is:

143 (a) located on land zoned the same as the land on which the building described in the
144 previously approved plans is located; and

145 (b) subject to the same geological and meteorological conditions and the same law as
146 the building described in the previously approved plans.

147 [~~16~~] (17) "Improvement assurance" means a surety bond, letter of credit, cash, or
148 other security:

149 (a) to guaranty the proper completion of an improvement;

150 (b) that is required as a condition precedent to:

151 (i) recording a subdivision plat; or

152 (ii) beginning development activity; and

153 (c) that is offered to a land use authority to induce the land use authority, before actual
154 construction of required improvements, to:

155 (i) consent to the recording of a subdivision plat; or

156 (ii) issue a permit for development activity.

157 [~~17~~] (18) "Improvement assurance warranty" means a promise that the materials and
158 workmanship of improvements:

159 (a) comport with standards that the municipality has officially adopted; and

160 (b) will not fail in any material respect within a warranty period.

161 [~~18~~] (19) "Land use application" means an application required by a municipality's
162 land use ordinance.

163 [~~19~~] (20) "Land use authority" means a person, board, commission, agency, or other
164 body designated by the local legislative body to act upon a land use application.

165 [~~20~~] (21) "Land use ordinance" means a planning, zoning, development, or
166 subdivision ordinance of the municipality, but does not include the general plan.

167 [~~21~~] (22) "Land use permit" means a permit issued by a land use authority.

168 [~~22~~] (23) "Legislative body" means the municipal council.

169 [~~23~~] (24) "Local district" means an entity under Title 17B, Limited Purpose Local

170 Government Entities - Local Districts, and any other governmental or quasi-governmental
171 entity that is not a county, municipality, school district, or unit of the state.

172 ~~[(24)]~~ (25) "Lot line adjustment" means the relocation of the property boundary line in
173 a subdivision between two adjoining lots with the consent of the owners of record.

174 ~~[(25)]~~ (26) "Moderate income housing" means housing occupied or reserved for
175 occupancy by households with a gross household income equal to or less than 80% of the
176 median gross income for households of the same size in the county in which the city is
177 located.

178 ~~[(26)]~~ (27) "Nominal fee" means a fee that reasonably reimburses a municipality only
179 for time spent and expenses incurred in:

- 180 (a) verifying that building plans are identical plans; and
- 181 (b) reviewing and approving those minor aspects of identical plans that differ from the
182 previously reviewed and approved building plans.

183 ~~[(27)]~~ (28) "Noncomplying structure" means a structure that:

- 184 (a) legally existed before its current land use designation; and
- 185 (b) because of one or more subsequent land use ordinance changes, does not conform
186 to the setback, height restrictions, or other regulations, excluding those regulations, which
187 govern the use of land.

188 ~~[(28)]~~ (29) "Nonconforming use" means a use of land that:

- 189 (a) legally existed before its current land use designation;
- 190 (b) has been maintained continuously since the time the land use ordinance governing
191 the land changed; and
- 192 (c) because of one or more subsequent land use ordinance changes, does not conform
193 to the regulations that now govern the use of the land.

194 ~~[(29)]~~ (30) "Official map" means a map drawn by municipal authorities and recorded
195 in a county recorder's office that:

- 196 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
197 highways and other transportation facilities;

198 (b) provides a basis for restricting development in designated rights-of-way or between
199 designated setbacks to allow the government authorities time to purchase or otherwise reserve
200 the land; and

201 (c) has been adopted as an element of the municipality's general plan.

202 [~~(30)~~] (31) "Person" means an individual, corporation, partnership, organization,
203 association, trust, governmental agency, or any other legal entity.

204 [~~(31)~~] (32) "Plan for moderate income housing" means a written document adopted by
205 a city legislative body that includes:

206 (a) an estimate of the existing supply of moderate income housing located within the
207 city;

208 (b) an estimate of the need for moderate income housing in the city for the next five
209 years as revised biennially;

210 (c) a survey of total residential land use;

211 (d) an evaluation of how existing land uses and zones affect opportunities for
212 moderate income housing; and

213 (e) a description of the city's program to encourage an adequate supply of moderate
214 income housing.

215 [~~(32)~~] (33) "Plat" means a map or other graphical representation of lands being laid
216 out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

217 [~~(33)~~] (34) "Potential geologic hazard area" means an area that:

218 (a) is designated by a Utah Geological Survey map, county geologist map, or other
219 relevant map or report as needing further study to determine the area's potential for geologic
220 hazard; or

221 (b) has not been studied by the Utah Geological Survey or a county geologist but
222 presents the potential of geologic hazard because the area has characteristics similar to those
223 of a designated geologic hazard area.

224 [~~(34)~~] (35) "Public hearing" means a hearing at which members of the public are
225 provided a reasonable opportunity to comment on the subject of the hearing.

226 [~~(35)~~] (36) "Public meeting" means a meeting that is required to be open to the public
227 under Title 52, Chapter 4, Open and Public Meetings Act.

228 [~~(36)~~] (37) "Record of survey map" means a map of a survey of land prepared in
229 accordance with Section 17-23-17.

230 [~~(37)~~] (38) "Receiving zone" means an area of a municipality that the municipality's
231 land use authority designates as an area in which an owner of land may receive transferrable
232 development rights.

233 [~~(38)~~] (39) "Residential facility for elderly persons" means a single-family or
234 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not
235 include a health care facility as defined by Section 26-21-2.

236 [~~(39)~~] (40) "Residential facility for persons with a disability" means a residence:

237 (a) in which more than one person with a disability resides; and

238 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
239 Chapter 2, Licensure of Programs and Facilities; or

240 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
241 Health Care Facility Licensing and Inspection Act.

242 [~~(40)~~] (41) "Sanitary sewer authority" means the department, agency, or public entity
243 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
244 wastewater systems.

245 [~~(41)~~] (42) "Sending zone" means an area of a municipality that the municipality's
246 land use authority designates as an area from which an owner of land may transfer
247 transferrable development rights to an owner of land in a receiving zone.

248 [~~(42)~~] (43) "Specified public utility" means an electrical corporation, gas corporation,
249 or telephone corporation, as those terms are defined in Section 54-2-1.

250 [~~(43)~~] (44) "Street" means a public right-of-way, including a highway, avenue,
251 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
252 or other way.

253 [~~(44)~~] (45) (a) "Subdivision" means any land that is divided, resubdivided or proposed

254 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
255 purpose, whether immediate or future, for offer, sale, lease, or development either on the
256 installment plan or upon any and all other plans, terms, and conditions.

257 (b) "Subdivision" includes:

258 (i) the division or development of land whether by deed, metes and bounds
259 description, devise and testacy, map, plat, or other recorded instrument; and

260 (ii) except as provided in Subsection [~~(44)~~] (45)(c), divisions of land for residential
261 and nonresidential uses, including land used or to be used for commercial, agricultural, and
262 industrial purposes.

263 (c) "Subdivision" does not include:

264 (i) a bona fide division or partition of agricultural land for the purpose of joining one
265 of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
266 neither the resulting combined parcel nor the parcel remaining from the division or partition
267 violates an applicable land use ordinance;

268 (ii) a recorded agreement between owners of adjoining unsubdivided properties
269 adjusting their mutual boundary if:

270 (A) no new lot is created; and

271 (B) the adjustment does not violate applicable land use ordinances;

272 (iii) a recorded document, executed by the owner of record:

273 (A) revising the legal description of more than one contiguous unsubdivided parcel of
274 property into one legal description encompassing all such parcels of property; or

275 (B) joining a subdivided parcel of property to another parcel of property that has not
276 been subdivided, if the joinder does not violate applicable land use ordinances; or

277 (iv) a recorded agreement between owners of adjoining subdivided properties
278 adjusting their mutual boundary if:

279 (A) no new dwelling lot or housing unit will result from the adjustment; and

280 (B) the adjustment will not violate any applicable land use ordinance.

281 (d) The joining of a subdivided parcel of property to another parcel of property that

282 has not been subdivided does not constitute a subdivision under this Subsection [~~(44)~~] (45) as
283 to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
284 subdivision ordinance.

285 [~~(45)~~] (46) "Transferrable development right" means the entitlement to develop land
286 within a sending zone that would vest according to the municipality's existing land use
287 ordinances on the date that a completed land use application is filed seeking the approval of
288 development activity on the land.

289 [~~(46)~~] (47) "Unincorporated" means the area outside of the incorporated area of a city
290 or town.

291 [~~(47)~~] (48) "Zoning map" means a map, adopted as part of a land use ordinance, that
292 depicts land use zones, overlays, or districts.

293 Section 2. Section **10-9a-305** is amended to read:

294 **10-9a-305. Other entities required to conform to municipality's land use**
295 **ordinances -- Exceptions -- School districts and charter schools.**

296 (1) (a) Each county, municipality, school district, charter school, local district, special
297 service district, and political subdivision of the state shall conform to any applicable land use
298 ordinance of any municipality when installing, constructing, operating, or otherwise using any
299 area, land, or building situated within that municipality.

300 (b) In addition to any other remedies provided by law, when a municipality's land use
301 ordinance is violated or about to be violated by another political subdivision, that municipality
302 may institute an injunction, mandamus, abatement, or other appropriate action or proceeding
303 to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

304 (2) (a) Notwithstanding Subsection (1), a public transit district under Title 17B,
305 Chapter 2a, Part 8, Public Transit District Act, is not required to conform to any applicable
306 land use ordinance of a municipality located within the boundaries of a county of the first
307 class when constructing a:

308 (i) rail fixed guideway public transit facility that extends across two or more counties;
309 or

310 (ii) structure that serves a rail fixed guideway public transit facility that extends across
311 two or more counties, including:

312 (A) platforms;

313 (B) passenger terminals or stations;

314 (C) park and ride facilities;

315 (D) maintenance facilities;

316 (E) all related utility lines, roadways, and other facilities serving the public transit
317 facility; or

318 (F) other auxiliary facilities.

319 (b) The exemption from municipal land use ordinances under this Subsection (2) does
320 not extend to any property not necessary for the construction or operation of a rail fixed
321 guideway public transit facility.

322 (c) A municipality located within the boundaries of a county of the first class may not,
323 through an agreement under Title 11, Chapter 3, Interlocal Cooperation Act, require a public
324 transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, to obtain
325 approval from the municipality prior to constructing a:

326 (i) rail fixed guideway public transit facility that extends across two or more counties;

327 or

328 (ii) structure that serves a rail fixed guideway public transit facility that extends across
329 two or more counties, including:

330 (A) platforms;

331 (B) passenger terminals or stations;

332 (C) park and ride facilities;

333 (D) maintenance facilities;

334 (E) all related utility lines, roadways, and other facilities serving the public transit
335 facility; or

336 (F) other auxiliary facilities.

337 (3) (a) Except as provided in Subsection (4), a school district or charter school is

338 subject to a municipality's land use ordinances.

339 (b) (i) Notwithstanding Subsection (4), a municipality may:

340 (A) subject a charter school to standards within each zone pertaining to setback,
341 height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
342 construction staging; and

343 (B) impose regulations upon the location of a project that are necessary to avoid
344 unreasonable risks to health or safety, as provided in Subsection (4)(f).

345 (ii) The standards to which a municipality may subject a charter school under
346 Subsection (3)(b)(i) shall be objective standards only and may not be subjective.

347 (iii) Except as provided in Subsection (8)(d), the only basis upon which a municipality
348 may deny or withhold approval of a charter school's land use application is the charter school's
349 failure to comply with a standard imposed under Subsection (3)(b)(i).

350 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of
351 an obligation to comply with a requirement of an applicable building or safety code to which it
352 is otherwise obligated to comply.

353 (4) A municipality may not:

354 (a) impose requirements for landscaping, fencing, aesthetic considerations,
355 construction methods or materials, additional building inspections, municipal building codes,
356 building use for educational purposes, or the placement or use of temporary classroom
357 facilities on school property;

358 (b) except as otherwise provided in this section, require a school district or charter
359 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
360 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
361 children and not located on or contiguous to school property, unless the roadway or sidewalk
362 is required to connect an otherwise isolated school site to an existing roadway;

363 (c) require a district or charter school to pay fees not authorized by this section;

364 (d) provide for inspection of school construction or assess a fee or other charges for
365 inspection, unless the school district or charter school is unable to provide for inspection by an

366 inspector, other than the project architect or contractor, who is qualified under criteria
367 established by the state superintendent;

368 (e) require a school district or charter school to pay any impact fee for an improvement
369 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;
370 or

371 (f) impose regulations upon the location of [~~a project~~] an educational facility except as
372 necessary to avoid unreasonable risks to health or safety.

373 (5) Subject to Section 53A-20-108, a school district or charter school shall coordinate
374 the siting of a new school with the municipality in which the school is to be located, to:

375 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
376 the impacts between the new school and future highways; and

377 (b) maximize school, student, and site safety.

378 (6) Notwithstanding Subsection (4)(d), a municipality may, at its discretion:

379 (a) provide a walk-through of school construction at no cost and at a time convenient
380 to the district or charter school; and

381 (b) provide recommendations based upon the walk-through.

382 (7) (a) Notwithstanding Subsection (4)(d), a school district or charter school shall use:

383 (i) a municipal building inspector;

384 (ii) (A) for a school district, a school district building inspector from that school
385 district; or

386 (B) for a charter school, a school district building inspector from the school district in
387 which the charter school is located; or

388 (iii) an independent, certified building inspector who is:

389 (A) not an employee of the contractor;

390 (B) approved by:

391 (I) a municipal building inspector; or

392 (II) (Aa) for a school district, a school district building inspector from that school
393 district; or

394 (Bb) for a charter school, a school district building inspector from the school district
395 in which the charter school is located; and

396 (C) licensed to perform the inspection that the inspector is requested to perform.

397 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.

398 (c) If a school district or charter school uses a school district or independent building
399 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit
400 to the state superintendent of public instruction and municipal building official, on a monthly
401 basis during construction of the school building, a copy of each inspection certificate
402 regarding the school building.

403 (8) (a) A charter school shall be considered a permitted use in all zoning districts
404 within a municipality.

405 (b) Each land use application for any approval required for a charter school, including
406 an application for a building permit, shall be processed on a first priority basis.

407 (c) Parking requirements for a charter school may not exceed the minimum parking
408 requirements for schools or other institutional public uses throughout the municipality.

409 (d) If a municipality has designated zones for a sexually oriented business, or a
410 business which sells alcohol, a charter school may be prohibited from a location which would
411 otherwise defeat the purpose for the zone unless the charter school provides a waiver.

412 (e) (i) A school district or a charter school may seek a certificate authorizing
413 permanent occupancy of a school building from:

414 (A) the state superintendent of public instruction, as provided in Subsection
415 53A-20-104(3), if the school district or charter school used an independent building inspector
416 for inspection of the school building; or

417 (B) a municipal official with authority to issue the certificate, if the school district or
418 charter school used a municipal building inspector for inspection of the school building.

419 (ii) A school district may issue its own certificate authorizing permanent occupancy of
420 a school building if it used its own building inspector for inspection of the school building,
421 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

422 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
423 school building from a school district official with authority to issue the certificate, if the
424 charter school used a school district building inspector for inspection of the school building.

425 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
426 of public instruction under Subsection 53A-20-104(3) or a school district official with
427 authority to issue the certificate shall be considered to satisfy any municipal requirement for
428 an inspection or a certificate of occupancy.

429 Section 3. Section **11-36-102** is amended to read:

430 **11-36-102. Definitions.**

431 As used in this chapter:

432 (1) "Building permit fee" means the fees charged to enforce the uniform codes adopted
433 pursuant to Title 58, Chapter 56, Utah Uniform Building Standards Act, that are not greater
434 than the fees indicated in the appendix to the International Building Code.

435 (2) "Capital facilities plan" means the plan required by Section 11-36-201.

436 (3) "Charter school" includes:

437 (a) an operating charter school;

438 (b) an applicant for a charter school whose application has been approved by a
439 chartering entity as provided in Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;
440 and

441 (c) an entity that is working on behalf of a charter school or approved charter applicant
442 to develop or construct a charter school building.

443 [~~(3)~~] (4) "Development activity" means any construction or expansion of a building,
444 structure, or use, any change in use of a building or structure, or any changes in the use of land
445 that creates additional demand and need for public facilities.

446 [~~(4)~~] (5) "Development approval" means any written authorization from a local
447 political subdivision that authorizes the commencement of development activity.

448 [~~(5)~~] (6) "Enactment" means:

449 (a) a municipal ordinance, for a municipality;

450 (b) a county ordinance, for a county; and

451 (c) a governing board resolution, for a local district, special service district, or private
452 entity.

453 ~~[(6)]~~ (7) "Hookup fees" means reasonable fees, not in excess of the approximate
454 average costs to the political subdivision, for services provided for and directly attributable to
455 the connection to utility services, including gas, water, sewer, power, or other municipal,
456 county, local district, or special service district utility services.

457 ~~[(7)]~~ (8) (a) "Impact fee" means a payment of money imposed upon development
458 activity as a condition of development approval.

459 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a
460 hookup fee, a fee for project improvements, or other reasonable permit or application fee.

461 ~~[(8)]~~ (9) (a) "Local political subdivision" means a county, a municipality, a local
462 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a
463 special service district under Title 17D, Chapter 1, Special Service District Act.

464 (b) "Local political subdivision" does not mean a school district, whose impact fee
465 activity is governed by Section 53A-20-100.5.

466 ~~[(9)]~~ (10) "Private entity" means an entity with private ownership that provides
467 culinary water that is required to be used as a condition of development.

468 ~~[(10)]~~ (11) (a) "Project improvements" means site improvements and facilities that
469 are:

470 (i) planned and designed to provide service for development resulting from a
471 development activity; and

472 (ii) necessary for the use and convenience of the occupants or users of development
473 resulting from a development activity.

474 (b) "Project improvements" does not mean system improvements.

475 ~~[(11)]~~ (12) "Proportionate share" means the cost of public facility improvements that
476 are roughly proportionate and reasonably related to the service demands and needs of any
477 development activity.

478 [~~(12)~~] (13) "Public facilities" means only the following capital facilities that have a
479 life expectancy of ten or more years and are owned or operated by or on behalf of a local
480 political subdivision or private entity:

- 481 (a) water rights and water supply, treatment, and distribution facilities;
- 482 (b) wastewater collection and treatment facilities;
- 483 (c) storm water, drainage, and flood control facilities;
- 484 (d) municipal power facilities;
- 485 (e) roadway facilities;
- 486 (f) parks, recreation facilities, open space, and trails; and
- 487 (g) public safety facilities.

488 [~~(13)~~] (14) (a) "Public safety facility" means:

489 (i) a building constructed or leased to house police, fire, or other public safety entities;

490 or

491 (ii) a fire suppression vehicle with a ladder reach of at least 75 feet, costing in excess
492 of \$1,250,000, that is necessary for fire suppression in commercial areas with one or more
493 buildings at least five stories high.

494 (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary
495 incarceration.

496 [~~(14)~~] (15) (a) "Roadway facilities" means streets or roads that have been designated
497 on an officially adopted subdivision plat, roadway plan, or general plan of a political
498 subdivision, together with all necessary appurtenances.

499 (b) "Roadway facilities" includes associated improvements to federal or state
500 roadways only when the associated improvements:

- 501 (i) are necessitated by the new development; and
- 502 (ii) are not funded by the state or federal government.
- 503 (c) "Roadway facilities" does not mean federal or state roadways.

504 [~~(15)~~] (16) (a) "Service area" means a geographic area designated by a local political
505 subdivision on the basis of sound planning or engineering principles in which a defined set of

506 public facilities provide service within the area.

507 (b) "Service area" may include the entire local political subdivision.

508 (17) "Specified public agency" means:

509 (a) the state;

510 (b) a school district; or

511 (c) a charter school.

512 ~~[(16)]~~ (18) (a) "System improvements" means:

513 (i) existing public facilities that are designed to provide services to service areas
514 within the community at large; and

515 (ii) future public facilities identified in a capital facilities plan that are intended to
516 provide services to service areas within the community at large.

517 (b) "System improvements" does not mean project improvements.

518 Section 4. Section **11-36-201** is amended to read:

519 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**
520 **Summary -- Exemptions.**

521 (1) (a) Each local political subdivision and private entity shall comply with the
522 requirements of this chapter before establishing or modifying any impact fee.

523 (b) A local political subdivision may not:

524 (i) establish any new impact fees that are not authorized by this chapter; or

525 (ii) impose or charge any other fees as a condition of development approval unless
526 those fees are a reasonable charge for the service provided.

527 ~~[(c) Notwithstanding any other requirements of this chapter, each local political~~
528 ~~subdivision shall ensure that each existing impact fee that is charged for any public facility not~~
529 ~~authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.]~~

530 ~~[(d) (i) Existing impact fees that a local political subdivision charges for public~~
531 ~~facilities authorized in Subsection 11-36-102(12) need not comply with the requirements of~~
532 ~~this chapter until July 1, 1997.]~~

533 ~~[(ii) By July 1, 1997, each local political subdivision shall:]~~

534 ~~[(A) review any impact fees in existence as of the effective date of this act, and~~
535 ~~prepare and approve the analysis required by this section for each of those impact fees; and]~~

536 (c) (i) Each local political subdivision and private entity shall ensure that each impact
537 fee collected on or after May 12, 2009 complies with the provisions of this chapter, even if the
538 impact fee was imposed but not paid before May 12, 2009.

539 (ii) Subsection (1)(c)(i) does not apply to an impact fee that was paid before May 12,
540 2009.

541 ~~[(B)] (d) Each local political subdivision shall~~ ensure that the impact fees comply with
542 the requirements of this chapter.

543 (2) (a) Before imposing impact fees, each local political subdivision and private entity
544 shall, except as provided in Subsection (2)(f), prepare a capital facilities plan to determine the
545 public facilities required to serve development resulting from new development activity.

546 (b) (i) As used in this Subsection (2)(b):

547 (A) (I) "Affected entity" means each county, municipality, local district under Title
548 17B, Limited Purpose Local Government Entities - Local Districts, special service district
549 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation
550 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

551 (Aa) whose services or facilities are likely to require expansion or significant
552 modification because of the facilities proposed in the proposed capital facilities plan; or

553 (Bb) that has filed with the local political subdivision or private entity a copy of the
554 general or long-range plan of the county, municipality, local district, special service district,
555 school district, interlocal cooperation entity, or specified public utility.

556 (II) "Affected entity" does not include the local political subdivision or private entity
557 that is required under this Subsection (2) to provide notice.

558 (B) "Specified public utility" means an electrical corporation, gas corporation, or
559 telephone corporation, as those terms are defined in Section 54-2-1.

560 (ii) Before preparing or amending a capital facilities plan, each local political
561 subdivision and each private entity shall provide written notice, as provided in this Subsection

562 (2)(b), of its intent to prepare or amend a capital facilities plan.

563 (iii) Each notice under Subsection (2)(b)(ii) shall:

564 (A) indicate that the local political subdivision or private entity intends to prepare or
565 amend a capital facilities plan;

566 (B) describe or provide a map of the geographic area where the proposed capital
567 facilities will be located;

568 (C) be sent to:

569 (I) each county in whose unincorporated area and each municipality in whose
570 boundaries is located the land on which the proposed facilities will be located;

571 (II) each affected entity;

572 (III) the Automated Geographic Reference Center created in Section 63F-1-506;

573 (IV) the association of governments, established pursuant to an interlocal agreement
574 under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to
575 be located;

576 (V) the state planning coordinator appointed under Section 63J-4-202;

577 (VI) the registered agent of the Utah Home Builders Association;

578 (VII) the registered agent of the Utah Association of Realtors; and

579 (VIII) the registered agent of the Utah Chapter of the Associated General Contractors
580 of America; and

581 (D) with respect to the notice to an affected entity, invite the affected entity to provide
582 information for the local political subdivision or private entity to consider in the process of
583 preparing, adopting, and implementing or amending a capital facilities plan concerning:

584 (I) impacts that the facilities proposed in the capital facilities plan may have on the
585 affected entity; and

586 (II) facilities or uses of land that the affected entity is planning or considering that may
587 conflict with the facilities proposed in the capital facilities plan.

588 (c) The plan shall identify:

589 (i) demands placed upon existing public facilities by new development activity; and

590 (ii) the proposed means by which the local political subdivision will meet those
591 demands.

592 (d) A municipality or county need not prepare a separate capital facilities plan if the
593 general plan required by Section 10-9a-401 or 17-27a-401, respectively, contains the elements
594 required by Subsection (2)(c).

595 (e) (i) If a local political subdivision chooses to prepare an independent capital
596 facilities plan rather than include a capital facilities element in the general plan, the local
597 political subdivision shall:

598 (A) before preparing or contracting to prepare or amending or contracting to amend
599 the independent capital facilities plan, send written notice:

600 (I) to:

601 (Aa) the registered agent of the Utah Home Builders Association;

602 (Bb) the registered agent of the Utah Association of Realtors; and

603 (Cc) the registered agent of the Utah Chapter of the Associated General Contractors of
604 America;

605 (II) stating the local political subdivision's intent to prepare or amend a capital
606 facilities plan; and

607 (III) inviting each of the notice recipients to participate in the preparation of or
608 amendment to the capital facilities plan; and

609 (B) before adopting or amending the capital facilities plan:

610 (I) give public notice of the plan or amendment according to Subsection (2)(e)(ii)(A),
611 (B), or (C), as the case may be, at least 14 days before the date of the public hearing;

612 (II) make a copy of the plan or amendment, together with a summary designed to be
613 understood by a lay person, available to the public;

614 (III) place a copy of the plan or amendment and summary in each public library within
615 the local political subdivision; and

616 (IV) hold a public hearing to hear public comment on the plan or amendment.

617 (ii) With respect to the public notice required under Subsection (2)(e)(i)(B)(I):

618 (A) each municipality shall comply with the notice and hearing requirements of, and,
619 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
620 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

621 (B) each county shall comply with the notice and hearing requirements of, and, except
622 as provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
623 17-27a-801 and Subsection 17-27a-502(2); and

624 (C) each local district, special service district, and private entity shall comply with the
625 notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

626 (iii) Nothing contained in this Subsection (2)(e) or in the subsections referenced in
627 Subsections (2)(e)(ii)(A) and (B) may be construed to require involvement by a planning
628 commission in the capital facilities planning process.

629 (f) (i) A local political subdivision with a population or serving a population of less
630 than 5,000 as of the last federal census need not comply with the capital facilities plan
631 requirements of this part, but shall ensure that:

632 (A) the impact fees that the local political subdivision imposes are based upon a
633 reasonable plan; and

634 (B) each applicable notice required by this chapter is given.

635 (ii) Subsection (2)(f)(i) does not apply to private entities.

636 (3) In preparing the plan, each local political subdivision shall generally consider all
637 revenue sources, including impact fees and anticipated dedication of system improvements, to
638 finance the impacts on system improvements.

639 (4) A local political subdivision or private entity may only impose impact fees on
640 development activities when its plan for financing system improvements establishes that
641 impact fees are necessary to achieve an equitable allocation to the costs borne in the past and
642 to be borne in the future, in comparison to the benefits already received and yet to be received.

643 (5) (a) Subject to the notice requirement of Subsection (5)(b), each local political
644 subdivision and private entity intending to impose an impact fee shall prepare a written
645 analysis of each impact fee that:

646 (i) identifies the anticipated impact on or consumption of any existing capacity of a
647 public facility by the anticipated development activity;

648 [(i)] (ii) identifies the anticipated impact on system improvements required by the
649 anticipated development activity to maintain the established level of service for each public
650 facility;

651 [(ii)] (iii) demonstrates how those anticipated impacts [~~on system improvements~~] are
652 reasonably related to the anticipated development activity;

653 [(iii)] (iv) estimates the proportionate share of:

654 (A) the costs for existing capacity that will be recouped; and

655 (B) the costs of impacts on system improvements that are reasonably related to the
656 new development activity; and

657 (iv) based upon those factors and the requirements of this chapter, identifies how the
658 impact fee was calculated.

659 (b) Before preparing or contracting to prepare the written analysis required under
660 Subsection (5)(a), each local political subdivision or private entity shall provide:

661 (i) public notice; and

662 (ii) written notice:

663 (A) to:

664 (I) the registered agent of the Utah Home Builders Association;

665 (II) the registered agent of the Utah Association of Realtors; and

666 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
667 America;

668 (B) indicating the local political subdivision or private entity's intent to prepare or
669 contract to prepare a written analysis of an impact fee; and

670 (C) inviting each notice recipient to participate in the preparation of the written
671 analysis.

672 (c) In analyzing whether or not the proportionate share of the costs of public facilities
673 are reasonably related to the new development activity, the local political subdivision or

674 private entity, as the case may be, shall identify, if applicable:

675 (i) the cost of each existing public ~~[facilities]~~ facility that has excess capacity to serve
676 the anticipated development resulting from the new development activity;

677 (ii) the cost of system improvements for each public facility;

678 ~~[(ii)]~~ (iii) other than impact fees, the manner of financing ~~[existing]~~ each public
679 ~~[facilities]~~ facility, such as user charges, special assessments, bonded indebtedness, general
680 taxes, or federal grants;

681 ~~[(iii)]~~ (iv) the relative extent to which [the newly developed properties and other
682 properties have already contributed to the cost of] development activity will contribute to
683 financing the excess capacity of and system improvements for each existing public ~~[facilities]~~
684 facility, by such means as user charges, special assessments, or payment from the proceeds of
685 general taxes;

686 ~~[(iv)]~~ (v) the relative extent to which [the newly developed properties and other
687 properties] development activity will contribute to the cost of existing public facilities and
688 system improvements in the future;

689 ~~[(v)]~~ (vi) the extent to which the [newly developed properties are] development
690 activity is entitled to a credit against impact fees because the ~~[local political subdivision or~~
691 ~~private entity, as the case may be, requires its developers or owners, by contractual~~
692 ~~arrangement or otherwise, to provide common facilities]~~ development activity will dedicate
693 system improvements or public facilities that will offset the demand for system improvements,
694 inside or outside the proposed development[, that have been provided by the local political
695 subdivision or private entity, respectively, and financed through general taxation or other
696 means, apart from user charges, in other parts of the service area];

697 ~~[(vi)]~~ (vii) extraordinary costs, if any, in servicing the newly developed properties; and

698 ~~[(vii)]~~ (viii) the time-price differential inherent in fair comparisons of amounts paid at
699 different times.

700 (d) Each local political subdivision and private entity that prepares a written analysis
701 under this Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written

702 analysis, designed to be understood by a lay person.

703 (6) Each local political subdivision that adopts an impact fee enactment under Section
704 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment,
705 submit a copy of the written analysis required by Subsection (5)(a) and a copy of the
706 summary required by Subsection (5)(d) to:

- 707 (a) each public library within the local political subdivision;
- 708 (b) the registered agent of the Utah Home Builders Association;
- 709 (c) the registered agent of the Utah Association of Realtors; and
- 710 (d) the registered agent of the Utah Chapter of the Associated General Contractors of
711 America.

712 (7) Nothing in this chapter may be construed to repeal or otherwise eliminate any
713 impact fee in effect on the effective date of this chapter that is pledged as a source of revenues
714 to pay bonded indebtedness that was incurred before the effective date of this chapter.

715 Section 5. Section **11-36-202** is amended to read:

716 **11-36-202. Impact fees -- Enactment -- Required and allowed provisions --**
717 **Limitations -- Effective date.**

718 (1) (a) Each local political subdivision and private entity wishing to impose impact
719 fees shall pass an impact fee enactment.

720 (b) The impact fee imposed by that enactment may not exceed the highest fee justified
721 by the impact fee analysis performed pursuant to Section 11-36-201.

722 (c) In calculating the impact fee, a local political subdivision or private entity may
723 include:

- 724 (i) the construction contract price;
- 725 (ii) the cost of acquiring land, improvements, materials, and fixtures;
- 726 (iii) the cost for planning, surveying, and engineering fees for services provided for
727 and directly related to the construction of the system improvements; and
- 728 (iv) debt service charges, if the political subdivision might use impact fees as a
729 revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to

730 finance the costs of the system improvements.

731 (d) In calculating an impact fee, a local political subdivision may not include an
732 expense for overhead unless the expense is calculated pursuant to a methodology that is
733 consistent with:

734 (i) generally accepted cost accounting practices; and
735 (ii) the methodological standards set forth by the federal Office of Management and
736 Budget for federal grant reimbursement.

737 (e) In calculating an impact fee, each local political subdivision shall base amounts
738 calculated under Subsection (1)(c) on realistic estimates, and the assumptions underlying those
739 estimates shall be disclosed in the impact fee analysis.

740 (f) Each local political subdivision and private entity that intends to enact an impact
741 fee enactment shall:

742 (i) at least 14 days before the date of the public hearing:
743 (A) make a copy of the impact fee enactment available to the public; and
744 (B) mail a written copy of the impact fee enactment to:
745 (I) the registered agent of the Utah Home Builders Association;
746 (II) the registered agent of the Utah Association of Realtors; and
747 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
748 America; and

749 (ii) (A) for a municipality, comply with the notice and hearing requirements of, and,
750 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
751 10-9a-205 and 10-9a-801;

752 (B) for a county, comply with the notice and hearing requirements of, and, except as
753 provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
754 17-27a-801; and

755 (C) for a local district or special service district, comply with the notice and hearing
756 requirements of, and receive the protections of, Section 17B-1-111.

757 (g) Nothing contained in Subsection (1)(f) may be construed to require involvement

758 by a planning commission in the impact fee enactment process.

759 (2) The local political subdivision or private entity shall ensure that the impact fee
760 enactment:

761 (a) contains:

762 (i) a provision establishing one or more service areas within which the local political
763 subdivision or private entity calculates and imposes impact fees for various land use
764 categories;

765 (ii) (A) a schedule of impact fees for each type of development activity that specifies
766 the amount of the impact fee to be imposed for each type of system improvement; or

767 (B) the formula that the local political subdivision or private entity, as the case may
768 be, will use to calculate each impact fee;

769 (iii) a provision authorizing the local political subdivision or private entity, as the case
770 may be, to adjust the standard impact fee at the time the fee is charged to:

771 (A) respond to:

772 (I) unusual circumstances in specific cases; [and] or

773 (II) a request for a prompt and individualized impact fee review for the development
774 activity of the state or a school district or charter school; and

775 (B) ensure that the impact fees are imposed fairly; and

776 (iv) a provision governing calculation of the amount of the impact fee to be imposed
777 on a particular development that permits adjustment of the amount of the fee based upon
778 studies and data submitted by the developer; and

779 (b) allows a developer to receive a credit against or proportionate reimbursement of an
780 impact fee if~~[(t)]~~ the developer ~~[is required by the local political subdivision, as a condition~~
781 ~~of development activity approval, to]:~~

782 ~~[(A) dedicate]~~ (i) dedicates land for a system improvement;

783 ~~[(B) improve]~~ (ii) builds and dedicates some or all of a system improvement; or

784 ~~[(C) provide new construction]~~ (iii) dedicates a public facility that the local political
785 subdivision or private entity and the developer agree will reduce the need for a system

786 improvement[;].
787 ~~[(ii) the system improvement is included in the impact fee analysis; and]~~
788 ~~[(iii) the land, improvement, or new construction provides a system improvement that~~
789 ~~exceeds the requirements for the project.]~~
790 (3) (a) A local political subdivision or private entity may include a provision in an
791 impact fee enactment that:
792 (i) provides an impact fee exemption for:
793 (A) development activity attributable to:
794 ~~[(a) exempts] (I) low income housing [and];~~
795 (II) the state;
796 (III) a school district; or
797 (IV) a charter school; or
798 (B) other development [activities] activity with a broad public [purposes from impact
799 fees] purpose; and
800 (ii) establishes one or more sources of funds other than impact fees to pay for that
801 development activity[;].
802 ~~[(b) imposes an impact fee for public facility costs previously incurred by a local~~
803 ~~political subdivision or private entity, as the case may be, to the extent that new growth and~~
804 ~~development will be served by the previously constructed improvement; and]~~
805 (b) An impact fee enactment that provides an impact fee exemption for development
806 activity attributable to a school district or charter school shall allow either a school district or a
807 charter school to qualify for the exemption on the same basis.
808 ~~[(c) allows] (4) A local political subdivision or private entity shall include a provision~~
809 in an impact fee enactment that requires a credit against impact fees for any dedication of land
810 for, improvement to, or new construction of, any system improvements provided by the
811 developer if the facilities:
812 ~~[(i) are identified in the capital facilities plan; and]~~
813 ~~[(ii) are required by the local political subdivision as a condition of approving the~~

814 development activity.]

815 (a) are system improvements; or

816 (b) (i) are dedicated to the public; and

817 (ii) offset the need for an identified system improvement.

818 ~~[(4)]~~ (5) ~~[Except as provided in Subsection (3)(b), the]~~ A local political subdivision
819 may not impose an impact fee to:

820 (a) cure deficiencies in a public ~~[facilities]~~ facility serving existing development~~[-];~~ or

821 (b) raise the established level of service of a public facility serving existing
822 development.

823 ~~[(5)]~~ (6) Notwithstanding the requirements and prohibitions of this chapter, a local
824 political subdivision may impose and assess an impact fee for environmental mitigation when:

825 (a) the local political subdivision has formally agreed to fund a Habitat Conservation
826 Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec 1531, et seq.
827 or other state or federal environmental law or regulation;

828 (b) the impact fee bears a reasonable relationship to the environmental mitigation
829 required by the Habitat Conservation Plan; and

830 (c) the legislative body of the local political subdivision adopts an ordinance or
831 resolution:

832 (i) declaring that an impact fee is required to finance the Habitat Conservation Plan;

833 (ii) establishing periodic sunset dates for the impact fee; and

834 (iii) requiring the legislative body to:

835 (A) review the impact fee on those sunset dates;

836 (B) determine whether or not the impact fee is still required to finance the Habitat
837 Conservation Plan; and

838 (C) affirmatively reauthorize the impact fee if the legislative body finds that the
839 impact fee must remain in effect.

840 ~~[(6) Each political subdivision shall ensure that any existing impact fee for
841 environmental mitigation meets the requirements of Subsection (5) by July 1, 1995.]~~

842 (7) (a) Notwithstanding any other provision of this chapter:
843 ~~[(a)]~~ (i) a municipality imposing impact fees to fund fire trucks as of the effective date
844 of this act may impose impact fees for fire trucks until July 1, 1997; ~~[and]~~
845 ~~[(b)]~~ (ii) an impact fee to pay for a public safety facility that is a fire suppression
846 vehicle may not be imposed with respect to land that has a zoning designation other than
847 commercial[-];
848 (iii) an impact fee may not be imposed on a school district or charter school for a park,
849 recreation facility, open space, or trail;
850 (iv) an impact fee may not be imposed on development activity that consists of the
851 construction of a school, whether by a school district or a charter school, if:
852 (A) the school is intended to replace another school, whether on the same or a different
853 parcel;
854 (B) the new school creates no greater demand or need for public facilities than the
855 school being replaced; and
856 (C) the new school and the school being replaced are both within:
857 (I) the boundary of the local political subdivision; or
858 (II) the jurisdiction of the private entity; and
859 (v) an impact fee may not be imposed on a school district or charter school unless:
860 (A) the development resulting from the school district or charter school's development
861 activity directly results in a need for additional system improvements for which the impact fee
862 is imposed; and
863 (B) the impact fee is calculated to cover only the school district or charter school's
864 proportionate share of the cost of those additional system improvements.
865 (b) If the imposition of an impact fee on a new school is not prohibited under
866 Subsection (7)(a)(iv) because the new school creates a greater demand or need for public
867 facilities than the school being replaced, the impact fee may be based only on the demand or
868 need that the new school creates for public facilities that exceeds the demand or need that the
869 school being replaced creates for those public facilities.

870 (8) Notwithstanding any other provision of this chapter, a local political subdivision
871 may impose and collect impact fees on behalf of a school district if authorized by Section
872 53A-20-100.5.

873 (9) An impact fee enactment may not take effect until 90 days after it is enacted.
874 Section 6. Section **11-36-401.5** is enacted to read:

875 **11-36-401.5. Mediation.**

876 (1) In addition to the methods of challenging an impact fee under Section 11-36-401, a
877 specified public agency may require a local political subdivision or private entity to participate
878 in mediation of any applicable fee.

879 (2) To require mediation, the specified public agency shall submit a written request for
880 mediation to the local political subdivision or private entity.

881 (3) The specified public agency may submit a request for mediation under this section
882 at any time, but no later than 30 days after the impact fee is paid.

883 (4) Upon the submission of a request for mediation under this section, the local
884 political subdivision or private entity shall:

885 (a) cooperate with the specified public agency in the selection of a mediator; and

886 (b) participate in the mediation process.

887 Section 7. Section **17-27a-103** is amended to read:

888 **17-27a-103. Definitions.**

889 As used in this chapter:

890 (1) "Affected entity" means a county, municipality, local district, special service
891 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
892 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
893 specified property owner, property owners association, public utility, or the Utah Department
894 of Transportation, if:

895 (a) the entity's services or facilities are likely to require expansion or significant
896 modification because of an intended use of land;

897 (b) the entity has filed with the county a copy of the entity's general or long-range

898 plan; or

899 (c) the entity has filed with the county a request for notice during the same calendar
900 year and before the county provides notice to an affected entity in compliance with a
901 requirement imposed under this chapter.

902 (2) "Appeal authority" means the person, board, commission, agency, or other body
903 designated by ordinance to decide an appeal of a decision of a land use application or a
904 variance.

905 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
906 residential property if the sign is designed or intended to direct attention to a business,
907 product, or service that is not sold, offered, or existing on the property where the sign is
908 located.

909 (4) "Charter school" includes:

910 (a) an operating charter school;

911 (b) a charter school applicant that has its application approved by a chartering entity
912 in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

913 (c) an entity who is working on behalf of a charter school or approved charter
914 applicant to develop or construct a charter school building.

915 (5) "Chief executive officer" means the person or body that exercises the executive
916 powers of the county.

917 (6) "Conditional use" means a land use that, because of its unique characteristics or
918 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
919 compatible in some areas or may be compatible only if certain conditions are required that
920 mitigate or eliminate the detrimental impacts.

921 (7) "Constitutional taking" means a governmental action that results in a taking of
922 private property so that compensation to the owner of the property is required by the:

923 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

924 (b) Utah Constitution Article I, Section 22.

925 (8) "Culinary water authority" means the department, agency, or public entity with

926 responsibility to review and approve the feasibility of the culinary water system and sources
927 for the subject property.

928 (9) "Development activity" means:

929 (a) any construction or expansion of a building, structure, or use that creates additional
930 demand and need for public facilities;

931 (b) any change in use of a building or structure that creates additional demand and
932 need for public facilities; or

933 (c) any change in the use of land that creates additional demand and need for public
934 facilities.

935 (10) (a) "Disability" means a physical or mental impairment that substantially limits
936 one or more of a person's major life activities, including a person having a record of such an
937 impairment or being regarded as having such an impairment.

938 (b) "Disability" does not include current illegal use of, or addiction to, any federally
939 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
940 802.

941 (11) "Educational facility":

942 (a) means:

943 (i) a school district's building at which pupils assemble to receive instruction in a
944 program for any combination of grades from preschool through grade 12, including
945 kindergarten and a program for children with disabilities;

946 (ii) a structure or facility:

947 (A) located on the same property as a building described in Subsection (11)(a)(i); and

948 (B) used in support of the use of that building; and

949 (iii) a building to provide office and related space to a school district's administrative
950 personnel; and

951 (b) does not include land or a structure, including land or a structure for inventory
952 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or
953 other use in support of providing instruction to pupils, that is:

954 (i) not located on the same property as a building described in Subsection (11)(a)(i);
955 and

956 (ii) used in support of the purposes of a building described in Subsection (11)(a)(i).

957 ~~[(11)]~~ (12) "Elderly person" means a person who is 60 years old or older, who desires
958 or needs to live with other elderly persons in a group setting, but who is capable of living
959 independently.

960 ~~[(12)]~~ (13) "Fire authority" means the department, agency, or public entity with
961 responsibility to review and approve the feasibility of fire protection and suppression services
962 for the subject property.

963 ~~[(13)]~~ (14) "Flood plain" means land that:

964 (a) is within the 100-year flood plain designated by the Federal Emergency
965 Management Agency; or

966 (b) has not been studied or designated by the Federal Emergency Management Agency
967 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event
968 because the land has characteristics that are similar to those of a 100-year flood plain
969 designated by the Federal Emergency Management Agency.

970 ~~[(14)]~~ (15) "Gas corporation" has the same meaning as defined in Section 54-2-1.

971 ~~[(15)]~~ (16) "General plan" means a document that a county adopts that sets forth
972 general guidelines for proposed future development of the unincorporated land within the
973 county.

974 ~~[(16)]~~ (17) "Geologic hazard" means:

975 (a) a surface fault rupture;

976 (b) shallow groundwater;

977 (c) liquefaction;

978 (d) a landslide;

979 (e) a debris flow;

980 (f) unstable soil;

981 (g) a rock fall; or

982 (h) any other geologic condition that presents a risk:

983 (i) to life;

984 (ii) of substantial loss of real property; or

985 (iii) of substantial damage to real property.

986 [~~(17)~~] (18) "Identical plans" means building plans submitted to a county that are
987 substantially identical building plans that were previously submitted to and reviewed and
988 approved by the county and describe a building that is:

989 (a) located on land zoned the same as the land on which the building described in the
990 previously approved plans is located; and

991 (b) subject to the same geological and meteorological conditions and the same law as
992 the building described in the previously approved plans.

993 [~~(18)~~] (19) "Improvement assurance" means a surety bond, letter of credit, cash, or
994 other security:

995 (a) to guaranty the proper completion of an improvement;

996 (b) that is required as a condition precedent to:

997 (i) recording a subdivision plat; or

998 (ii) beginning development activity; and

999 (c) that is offered to a land use authority to induce the land use authority, before actual
1000 construction of required improvements, to:

1001 (i) consent to the recording of a subdivision plat; or

1002 (ii) issue a permit for development activity.

1003 [~~(19)~~] (20) "Improvement assurance warranty" means a promise that the materials and
1004 workmanship of improvements:

1005 (a) comport with standards that the county has officially adopted; and

1006 (b) will not fail in any material respect within a warranty period.

1007 [~~(20)~~] (21) "Interstate pipeline company" means a person or entity engaged in natural
1008 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
1009 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1010 [~~(21)~~] (22) "Intrastate pipeline company" means a person or entity engaged in natural
1011 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
1012 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1013 [~~(22)~~] (23) "Land use application" means an application required by a county's land
1014 use ordinance.

1015 [~~(23)~~] (24) "Land use authority" means a person, board, commission, agency, or other
1016 body designated by the local legislative body to act upon a land use application.

1017 [~~(24)~~] (25) "Land use ordinance" means a planning, zoning, development, or
1018 subdivision ordinance of the county, but does not include the general plan.

1019 [~~(25)~~] (26) "Land use permit" means a permit issued by a land use authority.

1020 [~~(26)~~] (27) "Legislative body" means the county legislative body, or for a county that
1021 has adopted an alternative form of government, the body exercising legislative powers.

1022 [~~(27)~~] (28) "Local district" means any entity under Title 17B, Limited Purpose Local
1023 Government Entities - Local Districts, and any other governmental or quasi-governmental
1024 entity that is not a county, municipality, school district, or unit of the state.

1025 [~~(28)~~] (29) "Lot line adjustment" means the relocation of the property boundary line in
1026 a subdivision between two adjoining lots with the consent of the owners of record.

1027 [~~(29)~~] (30) "Moderate income housing" means housing occupied or reserved for
1028 occupancy by households with a gross household income equal to or less than 80% of the
1029 median gross income for households of the same size in the county in which the housing is
1030 located.

1031 [~~(30)~~] (31) "Nominal fee" means a fee that reasonably reimburses a county only for
1032 time spent and expenses incurred in:

1033 (a) verifying that building plans are identical plans; and

1034 (b) reviewing and approving those minor aspects of identical plans that differ from the
1035 previously reviewed and approved building plans.

1036 [~~(31)~~] (32) "Noncomplying structure" means a structure that:

1037 (a) legally existed before its current land use designation; and

1038 (b) because of one or more subsequent land use ordinance changes, does not conform
1039 to the setback, height restrictions, or other regulations, excluding those regulations that govern
1040 the use of land.

1041 [~~32~~] (33) "Nonconforming use" means a use of land that:

1042 (a) legally existed before its current land use designation;

1043 (b) has been maintained continuously since the time the land use ordinance regulation
1044 governing the land changed; and

1045 (c) because of one or more subsequent land use ordinance changes, does not conform
1046 to the regulations that now govern the use of the land.

1047 [~~33~~] (34) "Official map" means a map drawn by county authorities and recorded in
1048 the county recorder's office that:

1049 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1050 highways and other transportation facilities;

1051 (b) provides a basis for restricting development in designated rights-of-way or between
1052 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1053 the land; and

1054 (c) has been adopted as an element of the county's general plan.

1055 [~~34~~] (35) "Person" means an individual, corporation, partnership, organization,
1056 association, trust, governmental agency, or any other legal entity.

1057 [~~35~~] (36) "Plan for moderate income housing" means a written document adopted by
1058 a county legislative body that includes:

1059 (a) an estimate of the existing supply of moderate income housing located within the
1060 county;

1061 (b) an estimate of the need for moderate income housing in the county for the next five
1062 years as revised biennially;

1063 (c) a survey of total residential land use;

1064 (d) an evaluation of how existing land uses and zones affect opportunities for
1065 moderate income housing; and

1066 (e) a description of the county's program to encourage an adequate supply of moderate
1067 income housing.

1068 [~~(36)~~] (37) "Plat" means a map or other graphical representation of lands being laid
1069 out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

1070 [~~(37)~~] (38) "Potential geologic hazard area" means an area that:

1071 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1072 relevant map or report as needing further study to determine the area's potential for geologic
1073 hazard; or

1074 (b) has not been studied by the Utah Geological Survey or a county geologist but
1075 presents the potential of geologic hazard because the area has characteristics similar to those
1076 of a designated geologic hazard area.

1077 [~~(38)~~] (39) "Public hearing" means a hearing at which members of the public are
1078 provided a reasonable opportunity to comment on the subject of the hearing.

1079 [~~(39)~~] (40) "Public meeting" means a meeting that is required to be open to the public
1080 under Title 52, Chapter 4, Open and Public Meetings Act.

1081 [~~(40)~~] (41) "Receiving zone" means an unincorporated area of a county that the
1082 county's land use authority designates as an area in which an owner of land may receive
1083 transferrable development rights.

1084 [~~(41)~~] (42) "Record of survey map" means a map of a survey of land prepared in
1085 accordance with Section 17-23-17.

1086 [~~(42)~~] (43) "Residential facility for elderly persons" means a single-family or
1087 multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not
1088 include a health care facility as defined by Section 26-21-2.

1089 [~~(43)~~] (44) "Residential facility for persons with a disability" means a residence:

1090 (a) in which more than one person with a disability resides; and

1091 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
1092 Chapter 2, Licensure of Programs and Facilities; or

1093 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,

1094 Health Care Facility Licensing and Inspection Act.

1095 ~~[(44)]~~ (45) "Sanitary sewer authority" means the department, agency, or public entity
1096 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1097 wastewater systems.

1098 ~~[(45)]~~ (46) "Sending zone" means an unincorporated area of a county that the county's
1099 land use authority designates as an area from which an owner of land may transfer
1100 transferrable development rights to an owner of land in a receiving zone.

1101 ~~[(46)]~~ (47) "Specified public utility" means an electrical corporation, gas corporation,
1102 or telephone corporation, as those terms are defined in Section 54-2-1.

1103 ~~[(47)]~~ (48) "Street" means a public right-of-way, including a highway, avenue,
1104 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
1105 or other way.

1106 ~~[(48)]~~ (49) (a) "Subdivision" means any land that is divided, resubdivided or proposed
1107 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
1108 purpose, whether immediate or future, for offer, sale, lease, or development either on the
1109 installment plan or upon any and all other plans, terms, and conditions.

1110 (b) "Subdivision" includes:

1111 (i) the division or development of land whether by deed, metes and bounds
1112 description, devise and testacy, map, plat, or other recorded instrument; and

1113 (ii) except as provided in Subsection ~~[(48)]~~ (49)(c), divisions of land for residential
1114 and nonresidential uses, including land used or to be used for commercial, agricultural, and
1115 industrial purposes.

1116 (c) "Subdivision" does not include:

1117 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1118 (ii) a recorded agreement between owners of adjoining properties adjusting their
1119 mutual boundary if:

1120 (A) no new lot is created; and

1121 (B) the adjustment does not violate applicable land use ordinances;

- 1122 (iii) a recorded document, executed by the owner of record:
- 1123 (A) revising the legal description of more than one contiguous unsubdivided parcel of
- 1124 property into one legal description encompassing all such parcels of property; or
- 1125 (B) joining a subdivided parcel of property to another parcel of property that has not
- 1126 been subdivided, if the joinder does not violate applicable land use ordinances;
- 1127 (iv) a bona fide division or partition of land in a county other than a first class county
- 1128 for the purpose of siting, on one or more of the resulting separate parcels:
- 1129 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
- 1130 corporation, interstate pipeline company, or intrastate pipeline company; or
- 1131 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
- 1132 utility service regeneration, transformation, retransmission, or amplification facility; or
- 1133 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
- 1134 their mutual boundary if:
- 1135 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 1136 (B) the adjustment will not violate any applicable land use ordinance.
- 1137 (d) The joining of a subdivided parcel of property to another parcel of property that
- 1138 has not been subdivided does not constitute a subdivision under this Subsection [~~(48)~~ (49) as
- 1139 to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
- 1140 subdivision ordinance.
- 1141 [~~(49)~~ (50) "Township" means a contiguous, geographically defined portion of the
- 1142 unincorporated area of a county, established under this part or reconstituted or reinstated under
- 1143 Section 17-27a-306, with planning and zoning functions as exercised through the township
- 1144 planning commission, as provided in this chapter, but with no legal or political identity
- 1145 separate from the county and no taxing authority, except that "township" means a former
- 1146 township under Laws of Utah 1996, Chapter 308, where the context so indicates.
- 1147 [~~(50)~~ (51) "Transferrable development right" means the entitlement to develop land
- 1148 within a sending zone that would vest according to the county's existing land use ordinances
- 1149 on the date that a completed land use application is filed seeking the approval of development

1150 activity on the land.

1151 [~~(51)~~] (52) "Unincorporated" means the area outside of the incorporated area of a
1152 municipality.

1153 [~~(52)~~] (53) "Zoning map" means a map, adopted as part of a land use ordinance, that
1154 depicts land use zones, overlays, or districts.

1155 Section 8. Section **17-27a-305** is amended to read:

1156 **17-27a-305. Other entities required to conform to county's land use ordinances**
1157 **-- Exceptions -- School districts and charter schools.**

1158 (1) (a) Each county, municipality, school district, charter school, local district, special
1159 service district, and political subdivision of the state shall conform to any applicable land use
1160 ordinance of any county when installing, constructing, operating, or otherwise using any area,
1161 land, or building situated within the unincorporated portion of the county.

1162 (b) In addition to any other remedies provided by law, when a county's land use
1163 ordinance is violated or about to be violated by another political subdivision, that county may
1164 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
1165 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1166 (2) (a) Notwithstanding Subsection (1), a public transit district under Title 17B,
1167 Chapter 2a, Part 8, Public Transit District Act, is not required to conform to any applicable
1168 land use ordinance of a county of the first class when constructing a:

1169 (i) rail fixed guideway public transit facility that extends across two or more counties;
1170 or

1171 (ii) structure that serves a rail fixed guideway public transit facility that extends across
1172 two or more counties, including:

1173 (A) platforms;

1174 (B) passenger terminals or stations;

1175 (C) park and ride facilities;

1176 (D) maintenance facilities;

1177 (E) all related utility lines, roadways, and other facilities serving the public transit

1178 facility; or

1179 (F) other auxiliary facilities.

1180 (b) The exemption from county land use ordinances under this Subsection (2) does not
1181 extend to any property not necessary for the construction or operation of a rail fixed guideway
1182 public transit facility.

1183 (c) A county of the first class may not, through an agreement under Title 11, Chapter
1184 3, Interlocal Cooperation Act, require a public transit district under Title 17B, Chapter 2a, Part
1185 8, Public Transit District Act, to obtain approval from the county prior to constructing a:

1186 (i) rail fixed guideway public transit facility that extends across two or more counties;

1187 or

1188 (ii) structure that serves a rail fixed guideway public transit facility that extends across
1189 two or more counties, including:

1190 (A) platforms;

1191 (B) passenger terminals or stations;

1192 (C) park and ride facilities;

1193 (D) maintenance facilities;

1194 (E) all related utility lines, roadways, and other facilities serving the public transit

1195 facility; or

1196 (F) other auxiliary facilities.

1197 (3) (a) Except as provided in Subsection (4), a school district or charter school is
1198 subject to a county's land use ordinances.

1199 (b) (i) Notwithstanding Subsection (4), a county may:

1200 (A) subject a charter school to standards within each zone pertaining to setback,
1201 height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
1202 construction staging; and

1203 (B) impose regulations upon the location of a project that are necessary to avoid
1204 unreasonable risks to health or safety, as provided in Subsection (4)(f).

1205 (ii) The standards to which a county may subject a charter school under Subsection

1206 (3)(b)(i) shall be objective standards only and may not be subjective.

1207 (iii) Except as provided in Subsection (8)(d), the only basis upon which a county may
1208 deny or withhold approval of a charter school's land use application is the charter school's
1209 failure to comply with a standard imposed under Subsection (3)(b)(i).

1210 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of
1211 an obligation to comply with a requirement of an applicable building or safety code to which it
1212 is otherwise obligated to comply.

1213 (4) A county may not:

1214 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1215 construction methods or materials, additional building inspections, county building codes,
1216 building use for educational purposes, or the placement or use of temporary classroom
1217 facilities on school property;

1218 (b) except as otherwise provided in this section, require a school district or charter
1219 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1220 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1221 children and not located on or contiguous to school property, unless the roadway or sidewalk
1222 is required to connect an otherwise isolated school site to an existing roadway;

1223 (c) require a district or charter school to pay fees not authorized by this section;

1224 (d) provide for inspection of school construction or assess a fee or other charges for
1225 inspection, unless the school district or charter school is unable to provide for inspection by an
1226 inspector, other than the project architect or contractor, who is qualified under criteria
1227 established by the state superintendent;

1228 (e) require a school district or charter school to pay any impact fee for an improvement
1229 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;
1230 or

1231 (f) impose regulations upon the location of [~~a project~~] an educational facility except as
1232 necessary to avoid unreasonable risks to health or safety.

1233 (5) Subject to Section 53A-20-108, a school district or charter school shall coordinate

1234 the siting of a new school with the county in which the school is to be located, to:

1235 (a) avoid or mitigate existing and potential traffic hazards, including consideration of

1236 the impacts between the new school and future highways; and

1237 (b) maximize school, student, and site safety.

1238 (6) Notwithstanding Subsection (4)(d), a county may, at its discretion:

1239 (a) provide a walk-through of school construction at no cost and at a time convenient

1240 to the district or charter school; and

1241 (b) provide recommendations based upon the walk-through.

1242 (7) (a) Notwithstanding Subsection (4)(d), a school district or charter school shall use:

1243 (i) a county building inspector;

1244 (ii) (A) for a school district, a school district building inspector from that school

1245 district; or

1246 (B) for a charter school, a school district building inspector from the school district in

1247 which the charter school is located; or

1248 (iii) an independent, certified building inspector who is:

1249 (A) not an employee of the contractor;

1250 (B) approved by:

1251 (I) a county building inspector; or

1252 (II) (Aa) for a school district, a school district building inspector from that school

1253 district; or

1254 (Bb) for a charter school, a school district building inspector from the school district

1255 in which the charter school is located; and

1256 (C) licensed to perform the inspection that the inspector is requested to perform.

1257 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.

1258 (c) If a school district or charter school uses a school district or independent building

1259 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit

1260 to the state superintendent of public instruction and county building official, on a monthly

1261 basis during construction of the school building, a copy of each inspection certificate

1262 regarding the school building.

1263 (8) (a) A charter school shall be considered a permitted use in all zoning districts
1264 within a county.

1265 (b) Each land use application for any approval required for a charter school, including
1266 an application for a building permit, shall be processed on a first priority basis.

1267 (c) Parking requirements for a charter school may not exceed the minimum parking
1268 requirements for schools or other institutional public uses throughout the county.

1269 (d) If a county has designated zones for a sexually oriented business, or a business
1270 which sells alcohol, a charter school may be prohibited from a location which would otherwise
1271 defeat the purpose for the zone unless the charter school provides a waiver.

1272 (e) (i) A school district or a charter school may seek a certificate authorizing
1273 permanent occupancy of a school building from:

1274 (A) the state superintendent of public instruction, as provided in Subsection
1275 53A-20-104(3), if the school district or charter school used an independent building inspector
1276 for inspection of the school building; or

1277 (B) a county official with authority to issue the certificate, if the school district or
1278 charter school used a county building inspector for inspection of the school building.

1279 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1280 a school building if it used its own building inspector for inspection of the school building,
1281 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

1282 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
1283 school building from a school district official with authority to issue the certificate, if the
1284 charter school used a school district building inspector for inspection of the school building.

1285 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1286 of public instruction under Subsection 53A-20-104(3) or a school district official with
1287 authority to issue the certificate shall be considered to satisfy any county requirement for an
1288 inspection or a certificate of occupancy.

1289 Section 9. **Coordinating H.B. 259 with S.B. 84, Impact Fees Revisions --**

1290 **Technically superseding and merging amendments..**

1291 If this H.B. 259 and S.B. 84, Impact Fees Revisions, both pass, it is the intent of the
1292 Legislature that:

1293 (1) this coordination clause supersede the coordination clause in S.B. 84 relating to
1294 Subsection 11-36-202(6); and

1295 (2) the Office of Legislative Research and General Counsel, in preparing the Utah
1296 Code database for publication, modify Subsection 11-36-202(7) to read:

1297 "(7) (a) Notwithstanding any other provision of this chapter:

1298 [(a) a municipality imposing impact fees to fund fire trucks as of the effective date of
1299 this act may impose impact fees for fire trucks until July 1, 1997; and (b)]

1300 (i) an impact fee to pay for a public safety facility that is a fire suppression vehicle
1301 may not be imposed [with respect to land that has a zoning designation other than
1302 commercial:] on residential components of development;

1303 (ii) an impact fee may not be imposed on a school district or charter school for a park,
1304 recreation facility, open space, or trail;

1305 (iii) an impact fee may not be imposed on development activity that consists of the
1306 construction of a school, whether by a school district or a charter school, if:

1307 (A) the school is intended to replace another school, whether on the same or a different
1308 parcel;

1309 (B) the new school creates no greater demand or need for public facilities than the
1310 school being replaced; and

1311 (C) the new school and the school being replaced are both within:

1312 (I) the boundary of the local political subdivision; or

1313 (II) the jurisdiction of the private entity; and

1314 (iv) an impact fee may not be imposed on a school district or charter school unless:

1315 (A) the development resulting from the school district or charter school's development
1316 activity directly results in a need for additional system improvements for which the impact fee
1317 is imposed; and

1318 (B) the impact fee is calculated to cover only the school district or charter school's
1319 proportionate share of the cost of those additional system improvements.

1320 (b) If the imposition of an impact fee on a new school is not prohibited under
1321 Subsection (7)(a)(iii) because the new school creates a greater demand or need for public
1322 facilities than the school being replaced, the impact fee may be based only on the demand or
1323 need that the new school creates for public facilities that exceeds the demand or need that the
1324 school being replaced creates for those public facilities."