

Representative C. Brent Wallis proposes the following substitute bill:

LOCAL GOVERNMENT FEES AND CHARGES

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: C. Brent Wallis

Senate Sponsor: Scott K. Jenkins

LONG TITLE

General Description:

This bill modifies provisions relating to fees and charges imposed by local government on development.

Highlighted Provisions:

This bill:

▸ requires certain public agencies to submit a preliminary design or site plan to local authorities to allow the local authorities to make assessments to provide information to the public agencies for inclusion in the process of compiling a development budget;

▸ provides that changes in applicable provisions or fees after the public agency submits a preliminary design or site plan may not be enforced against the public agency;

▸ clarifies that the fees which must be paid by an applicant before being entitled to approval of a land use application are application fees;

▸ limits hookup and other fees imposed by counties, municipalities, local districts, and special service districts;

▸ modifies the definitions of "hookup fee," "impact fee," "project improvements," and "system improvements" in the Impact Fees Act;

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- 26 ▶ repeals obsolete language;
- 27 ▶ clarifies the purposes of a capital facilities plan relating to an impact fee;
- 28 ▶ modifies provisions relating to an impact fee analysis;
- 29 ▶ modifies requirements applicable to an impact fee enactment;
- 30 ▶ limits impact fees imposed on the state;
- 31 ▶ modifies a provision relating to permissible expenditures of impact fees;
- 32 ▶ clarifies that a local political subdivision may act by resolution in establishing an
- 33 administrative impact fee appeals procedure;
- 34 ▶ requires a local political subdivision to participate in mediation of an impact fee
- 35 challenge if a specified public agency requests mediation; and
- 36 ▶ makes technical changes.

37 Monies Appropriated in this Bill:

38 None

39 Other Special Clauses:

40 None

41 Utah Code Sections Affected:

42 AMENDS:

43 **10-9a-103**, as last amended by Laws of Utah 2008, Chapters 19, 112, 326, and 360

44 **10-9a-305**, as last amended by Laws of Utah 2008, Chapter 290

45 **10-9a-509**, as last amended by Laws of Utah 2008, Chapters 112 and 279

46 **10-9a-510**, as renumbered and amended by Laws of Utah 2005, Chapter 254

47 **11-36-102**, as last amended by Laws of Utah 2008, Chapters 70 and 360

48 **11-36-201**, as last amended by Laws of Utah 2008, Chapters 70, 360, and 382

49 **11-36-202**, as last amended by Laws of Utah 2008, Chapter 70

50 **11-36-302**, as enacted by Laws of Utah 1995, First Special Session, Chapter 11

51 **11-36-401**, as last amended by Laws of Utah 2005, Chapter 254

52 **17-27a-103**, as last amended by Laws of Utah 2008, Chapters 112, 250, 326, and 360

53 **17-27a-305**, as last amended by Laws of Utah 2008, Chapter 290

54 **17-27a-508**, as last amended by Laws of Utah 2008, Chapters 112 and 279

55 **17-27a-509**, as renumbered and amended by Laws of Utah 2005, Chapter 254

56 **17D-1-106**, as enacted by Laws of Utah 2008, Chapter 360

57 ENACTS:

58 **11-36-401.5**, Utah Code Annotated 1953

59 **17B-1-118**, Utah Code Annotated 1953



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

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

63 **10-9a-103. Definitions.**

64 As used in this chapter:

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

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

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

74 (c) the entity has filed with the municipality a request for notice during the same
75 calendar year and before the municipality provides notice to an affected entity in compliance
76 with a requirement imposed under this chapter.

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

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

83 (4) "Charter school" includes:

84 (a) an operating charter school;

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

87 (c) an entity who is working on behalf of a charter school or approved charter applicant

88 to develop or construct a charter school building.

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

93 ~~H→ [(6) "Connection fee" has the same meaning as hookup fee.] ←H~~

94 ~~[(6)] (7)~~ "Constitutional taking" means a governmental action that results in a taking of
95 private property so that compensation to the owner of the property is required by the:

- 96 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 97 (b) Utah Constitution Article I, Section 22.

98 ~~[(7)] (8)~~ "Culinary water authority" means the department, agency, or public entity with
99 responsibility to review and approve the feasibility of the culinary water system and sources for
100 the subject property.

101 ~~[(8)] (9)~~ "Development activity" means:

- 102 (a) any construction or expansion of a building, structure, or use that creates additional
103 demand and need for public facilities;
- 104 (b) any change in use of a building or structure that creates additional demand and need
105 for public facilities; or
- 106 (c) any change in the use of land that creates additional demand and need for public
107 facilities.

108 ~~[(9)] (10)~~ (a) "Disability" means a physical or mental impairment that substantially
109 limits one or more of a person's major life activities, including a person having a record of such
110 an impairment or being regarded as having such an impairment.

111 (b) "Disability" does not include current illegal use of, or addiction to, any federally
112 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
113 802.

114 ~~[(10)] (11)~~ "Elderly person" means a person who is 60 years old or older, who desires
115 or needs to live with other elderly persons in a group setting, but who is capable of living
116 independently.

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

119 for the subject property.

120 [~~(12)~~] (13) "Flood plain" means land that:

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

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

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

129 [~~(14)~~] (15) "Geologic hazard" means:

130 (a) a surface fault rupture;

131 (b) shallow groundwater;

132 (c) liquefaction;

133 (d) a landslide;

134 (e) a debris flow;

135 (f) unstable soil;

136 (g) a rock fall; or

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

138 (i) to life;

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

140 (iii) of substantial damage to real property.

141 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
142 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
143 utility system.

144 [~~(15)~~] (17) "Identical plans" means building plans submitted to a municipality that are
145 substantially identical to building plans that were previously submitted to and reviewed and
146 approved by the municipality and describe a building that is:

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

149 (b) subject to the same geological and meteorological conditions and the same law as

150 the building described in the previously approved plans.

151 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,

152 Impact Fees Act.

153 [~~16~~] (19) "Improvement assurance" means a surety bond, letter of credit, cash, or
154 other security:

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

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

157 (i) recording a subdivision plat; or

158 (ii) beginning development activity; and

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

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

162 (ii) issue a permit for development activity.

163 [~~17~~] (20) "Improvement assurance warranty" means a promise that the materials and
164 workmanship of improvements:

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

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

167 [~~18~~] (21) "Land use application" means an application required by a municipality's
168 land use ordinance.

169 [~~19~~] (22) "Land use authority" means a person, board, commission, agency, or other
170 body designated by the local legislative body to act upon a land use application.

171 [~~20~~] (23) "Land use ordinance" means a planning, zoning, development, or
172 subdivision ordinance of the municipality, but does not include the general plan.

173 [~~21~~] (24) "Land use permit" means a permit issued by a land use authority.

174 [~~22~~] (25) "Legislative body" means the municipal council.

175 [~~23~~] (26) "Local district" means an entity under Title 17B, Limited Purpose Local
176 Government Entities - Local Districts, and any other governmental or quasi-governmental
177 entity that is not a county, municipality, school district, or ~~unit of~~ the state.

178 [~~24~~] (27) "Lot line adjustment" means the relocation of the property boundary line in
179 a subdivision between two adjoining lots with the consent of the owners of record.

180 [~~25~~] (28) "Moderate income housing" means housing occupied or reserved for

181 occupancy by households with a gross household income equal to or less than 80% of the
182 median gross income for households of the same size in the county in which the city is located.

183 ~~[(26)]~~ (29) "Nominal fee" means a fee that reasonably reimburses a municipality only
184 for time spent and expenses incurred in:

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

188 ~~[(27)]~~ (30) "Noncomplying structure" means a structure that:

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

193 ~~[(28)]~~ (31) "Nonconforming use" means a use of land that:

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

199 ~~[(29)]~~ (32) "Official map" means a map drawn by municipal authorities and recorded in
200 a county recorder's office that:

- 201 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
202 highways and other transportation facilities;
- 203 (b) provides a basis for restricting development in designated rights-of-way or between
204 designated setbacks to allow the government authorities time to purchase or otherwise reserve
205 the land; and
- 206 (c) has been adopted as an element of the municipality's general plan.

207 ~~[(30)]~~ (33) "Person" means an individual, corporation, partnership, organization,
208 association, trust, governmental agency, or any other legal entity.

209 ~~[(31)]~~ (34) "Plan for moderate income housing" means a written document adopted by
210 a city legislative body that includes:

- 211 (a) an estimate of the existing supply of moderate income housing located within the

212 city;

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

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

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

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

220 [~~32~~] (35) "Plat" means a map or other graphical representation of lands being laid out
221 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

222 [~~33~~] (36) "Potential geologic hazard area" means an area that:

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

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

229 (37) "Public agency" means:

230 (a) the federal government;

231 (b) the state;

232 (c) a county, municipality, school district, local district, special service district, or other
233 political subdivision of the state; or

234 (d) a charter school.

235 [~~34~~] (38) "Public hearing" means a hearing at which members of the public are
236 provided a reasonable opportunity to comment on the subject of the hearing.

237 [~~35~~] (39) "Public meeting" means a meeting that is required to be open to the public
238 under Title 52, Chapter 4, Open and Public Meetings Act.

239 [~~36~~] (40) "Record of survey map" means a map of a survey of land prepared in
240 accordance with Section 17-23-17.

241 [~~37~~] (41) "Receiving zone" means an area of a municipality that the municipality's
242 land use authority designates as an area in which an owner of land may receive transferrable

243 development rights.

244 ~~[(38)]~~ (42) "Residential facility for elderly persons" means a single-family or
245 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not
246 include a health care facility as defined by Section 26-21-2.

247 ~~[(39)]~~ (43) "Residential facility for persons with a disability" means a residence:

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

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

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

253 ~~[(40)]~~ (44) "Sanitary sewer authority" means the department, agency, or public entity
254 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
255 wastewater systems.

256 ~~[(41)]~~ (45) "Sending zone" means an area of a municipality that the municipality's land
257 use authority designates as an area from which an owner of land may transfer transferrable
258 development rights to an owner of land in a receiving zone.

259 (46) "Specified public agency" means:

260 (a) the state;

261 (b) a school district; or

262 (c) a charter school.

263 ~~[(42)]~~ (47) "Specified public utility" means an electrical corporation, gas corporation,
264 or telephone corporation, as those terms are defined in Section 54-2-1.

265 (48) "State" includes any department, division, or agency of the state.

266 ~~[(43)]~~ (49) "Street" means a public right-of-way, including a highway, avenue,
267 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
268 or other way.

269 ~~[(44)]~~ (50) (a) "Subdivision" means any land that is divided, resubdivided or proposed
270 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
271 purpose, whether immediate or future, for offer, sale, lease, or development either on the
272 installment plan or upon any and all other plans, terms, and conditions.

273 (b) "Subdivision" includes:

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

276 (ii) except as provided in Subsection [~~(44)~~] (50)(c), divisions of land for residential and
277 nonresidential uses, including land used or to be used for commercial, agricultural, and
278 industrial purposes.

279 (c) "Subdivision" does not include:

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

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

286 (A) no new lot is created; and

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

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

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

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

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

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

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

297 (d) The joining of a subdivided parcel of property to another parcel of property that has
298 not been subdivided does not constitute a subdivision under this Subsection [~~(44)~~] (50) as to
299 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
300 subdivision ordinance.

301 [~~(45)~~] (51) "Transferrable development right" means the entitlement to develop land
302 within a sending zone that would vest according to the municipality's existing land use
303 ordinances on the date that a completed land use application is filed seeking the approval of
304 development activity on the land.

305 [~~(46)~~] (52) "Unincorporated" means the area outside of the incorporated area of a city
306 or town.

307 [~~(47)~~] (53) "Zoning map" means a map, adopted as part of a land use ordinance, that
308 depicts land use zones, overlays, or districts.

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

310 **10-9a-305. Other entities required to conform to municipality's land use**
311 **ordinances -- Exceptions -- School districts and charter schools.**

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

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

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

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

325 or

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

328 (A) platforms;

329 (B) passenger terminals or stations;

330 (C) park and ride facilities;

331 (D) maintenance facilities;

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

334 (F) other auxiliary facilities.

335 (b) The exemption from municipal land use ordinances under this Subsection (2) does

336 not extend to any property not necessary for the construction or operation of a rail fixed
337 guideway public transit facility.

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

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

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

346 (A) platforms;

347 (B) passenger terminals or stations;

348 (C) park and ride facilities;

349 (D) maintenance facilities;

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

352 (F) other auxiliary facilities.

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

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

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

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

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

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

366 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of an

367 obligation to comply with a requirement of an applicable building or safety code to which it is
368 otherwise obligated to comply.

369 (4) A municipality may not:

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

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

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

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

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

387 (f) impose regulations upon the location of a project except as necessary to avoid
388 unreasonable risks to health or safety.

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

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

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

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

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

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

- 398 (7) (a) Notwithstanding Subsection (4)(d), a school district or charter school shall use:
- 399 (i) a municipal building inspector;
- 400 (ii) (A) for a school district, a school district building inspector from that school
- 401 district; or
- 402 (B) for a charter school, a school district building inspector from the school district in
- 403 which the charter school is located; or
- 404 (iii) an independent, certified building inspector who is:
- 405 (A) not an employee of the contractor;
- 406 (B) approved by:
- 407 (I) a municipal building inspector; or
- 408 (II) (Aa) for a school district, a school district building inspector from that school
- 409 district; or
- 410 (Bb) for a charter school, a school district building inspector from the school district in
- 411 which the charter school is located; and
- 412 (C) licensed to perform the inspection that the inspector is requested to perform.
- 413 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.
- 414 (c) If a school district or charter school uses a school district or independent building
- 415 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit to
- 416 the state superintendent of public instruction and municipal building official, on a monthly
- 417 basis during construction of the school building, a copy of each inspection certificate regarding
- 418 the school building.
- 419 (8) (a) A charter school shall be considered a permitted use in all zoning districts
- 420 within a municipality.
- 421 (b) Each land use application for any approval required for a charter school, including
- 422 an application for a building permit, shall be processed on a first priority basis.
- 423 (c) Parking requirements for a charter school may not exceed the minimum parking
- 424 requirements for schools or other institutional public uses throughout the municipality.
- 425 (d) If a municipality has designated zones for a sexually oriented business, or a
- 426 business which sells alcohol, a charter school may be prohibited from a location which would
- 427 otherwise defeat the purpose for the zone unless the charter school provides a waiver.
- 428 (e) (i) A school district or a charter school may seek a certificate authorizing permanent

429 occupancy of a school building from:

430 (A) the state superintendent of public instruction, as provided in Subsection
431 53A-20-104(3), if the school district or charter school used an independent building inspector
432 for inspection of the school building; or

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

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

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

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

445 (9) (a) A specified public agency intending to develop its land shall submit to the land
446 use authority a development plan and schedule:

447 (i) as early as practicable in the development process, but no later than the
448 commencement of construction; and

449 (ii) with sufficient detail to enable the land use authority to assess:

450 (A) the specified public agency's compliance with applicable land use ordinances;

451 (B) the demand for public facilities listed in Subsections 11-36-102(12)(a), (b), (c), (d),
452 (e), and (g) caused by the development;

453 (C) the amount of any applicable fee listed in Subsection 10-9a-510(5);

454 (D) any credit against an impact fee; and

455 (E) the potential for waiving an impact fee.

456 (b) The land use authority shall respond to a specified public agency's submission
457 under Subsection (9)(a) with reasonable promptness in order to allow the specified public
458 agency to consider information the municipality provides under Subsection (9)(a)(ii) in the
459 process of preparing the budget for the development.

460 (10) Nothing in this section may be construed to modify or supersede Section
461 10-9a-304.

462 Section 3. Section **10-9a-509** is amended to read:

463 **10-9a-509. When a land use applicant is entitled to approval -- Exception --**
464 **Municipality may not impose unexpressed requirements -- Municipality required to**
465 **comply with land use ordinances.**

466 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
467 land use application if the application conforms to the requirements of the municipality's land
468 use maps, zoning map, and applicable land use ordinance in effect when a complete application
469 is submitted and all application fees have been paid, unless:

470 (i) the land use authority, on the record, finds that a compelling, countervailing public
471 interest would be jeopardized by approving the application; or

472 (ii) in the manner provided by local ordinance and before the application is submitted,
473 the municipality has formally initiated proceedings to amend its ordinances in a manner that
474 would prohibit approval of the application as submitted.

475 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
476 of a land use application until the requirements of this Subsection (1)(b) have been met if the
477 land use application relates to land located within the boundaries of a high priority
478 transportation corridor designated in accordance with Section 72-5-403.

479 (ii) (A) A municipality shall notify the executive director of the Department of
480 Transportation of any land use applications that relate to land located within the boundaries of
481 a high priority transportation corridor.

482 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
483 certified or registered mail to the executive director of the Department of Transportation.

484 (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land
485 use application that relates to land located within the boundaries of a high priority
486 transportation corridor until:

487 (A) 30 days after the notification under Subsection (1)(b)(ii) is received by the
488 Department of Transportation if the land use application is for a building permit; or

489 (B) 45 days after the notification under Subsection (1)(b)(ii) is received by the
490 Department of Transportation if the land use application is for any land use other than a

491 building permit.

492 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b) if:

493 (A) the land use application relates to land that was the subject of a previous land use
494 application; and

495 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
496 with the requirements of Subsection (1)(b).

497 (ii) A municipality may approve a land use application without making the required
498 notifications under Subsection (1)(b) if:

499 (A) the land use application relates to land that was the subject of a previous land use
500 application; and

501 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
502 complied with the requirements of Subsection (1)(b).

503 (d) After a municipality has complied with the requirements of Subsection (1)(b) for a
504 land use application, the municipality may not withhold approval of the land use application for
505 which the applicant is otherwise entitled under Subsection (1)(a).

506 (e) The municipality shall process an application without regard to proceedings
507 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii) if:

508 (i) 180 days have passed since the proceedings were initiated; and

509 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
510 application as submitted.

511 (f) An application for a land use approval is considered submitted and complete when
512 the application is provided in a form that complies with the requirements of applicable
513 ordinances and all applicable fees have been paid.

514 (g) The continuing validity of an approval of a land use application is conditioned upon
515 the applicant proceeding after approval to implement the approval with reasonable diligence.

516 (h) A municipality may not impose on a holder of an issued land use permit or
517 approved subdivision plat a requirement that is not expressed:

518 (i) in the land use permit or subdivision plat, documents on which the land use permit
519 or subdivision plat is based, or the written record evidencing approval of the land use permit or
520 subdivision plat; or

521 (ii) in this chapter or the municipality's ordinances.

522 (i) A municipality may not withhold issuance of a certificate of occupancy or
 523 acceptance of subdivision improvements because of an applicant's failure to comply with a
 524 requirement that is not expressed:

525 (i) in the building permit or subdivision plat, documents on which the building permit
 526 or subdivision plat is based, or the written record evidencing approval of the land use permit or
 527 subdivision plat; or

528 (ii) in this chapter or the municipality's ordinances.

529 (2) A municipality is bound by the terms and standards of applicable land use
 530 ordinances and shall comply with mandatory provisions of those ordinances.

531 (3) Upon a specified public agency's submission of a development plan and schedule as
 532 required in Subsection 10-9a-305(9) that complies with the requirements of that subsection, the
 533 specified public agency vests in the municipality's applicable land use maps, zoning map,
 534 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect
 535 on the date of submission.

536 Section 4. Section **10-9a-510** is amended to read:

537 **10-9a-510. Limit on fees for review and approving building plans.**

538 (1) A municipality may not impose or collect a fee for reviewing or approving the
 539 plans for a commercial or residential building that exceeds the lesser of:

540 (a) the actual cost of performing the plan review; and

541 (b) 65% of the amount the municipality charges for a building permit fee for that
 542 building.

543 (2) Subject to Subsection (1), a municipality may impose and collect only a nominal
 544 fee for reviewing and approving identical plans.

545 (3) A municipality may not impose or collect a hookup fee ~~H~~→ [or connection fee] ←~~H~~ that
 546 exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance
 547 to connect to the municipal water, sewer, storm water, power, or other utility system.

548 (4) A municipality may not impose or collect:

549 (a) a land use application fee that exceeds the ~~H~~→ reasonable ←~~H~~ cost of processing the
 549a application; or

550 (b) an inspection or review fee that exceeds the reasonable cost of performing the
 551 inspection or review.

552 (5) A municipality may not impose on or collect from a public agency any fee

553 associated with the public agency's development of its land other than:

554 (a) subject to Subsection (4), a fee for a development service that the public agency
555 does not itself provide;

556 (b) subject to Subsection (3), a hookup fee; and

557 (c) an impact fee for a public facility listed in Subsection 11-36-102(12)(a), (b), (c),
558 (d), (e), or (g), subject to any applicable credit under Subsection 11-36-202(2)(b).

559 Section 5. Section **11-36-102** is amended to read:

560 **11-36-102. Definitions.**

561 As used in this chapter:

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

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

566 (3) "Development activity" means any construction or expansion of a building,
567 structure, or use, any change in use of a building or structure, or any changes in the use of land
568 that creates additional demand and need for public facilities.

569 (4) "Development approval" means:

570 (a) except as provided in Subsection (4)(b), any written authorization from a local
571 political subdivision that authorizes the commencement of development activity[-]; or

572 (b) development activity, for a public entity that may develop without written
573 authorization from a local political subdivision.

574 (5) "Enactment" means:

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

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

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

579 (6) "Hookup [~~fees~~] fee" means [~~reasonable fees, not in excess of the approximate~~
580 ~~average costs to the political subdivision, for services provided for and directly attributable to~~
581 ~~the connection to utility services, including] a fee for the installation and inspection of any
582 pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or
583 other [~~municipal~~] utility system of a municipality, county, local district, [~~or~~] special service~~

584 district ~~[utility services]~~, or private entity.

585 (7) (a) "Impact fee" means a payment of money imposed upon new development
586 activity as a condition of development approval to mitigate the impact of the new development
587 on public facilities.

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

590 (8) (a) "Local political subdivision" means a county, a municipality, a local district
591 under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special
592 service district under Title 17D, Chapter 1, Special Service District Act.

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

595 (9) "Private entity" means an entity with private ownership that provides culinary water
596 that is required to be used as a condition of development.

597 (10) (a) "Project improvements" means site improvements and facilities that are:

598 (i) planned and designed to provide service for development resulting from a
599 development activity; ~~[and]~~

600 (ii) necessary for the use and convenience of the occupants or users of development
601 resulting from a development activity~~[-]; and~~

602 (iii) not identified or reimbursed as a system improvement.

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

604 (11) "Proportionate share" means the cost of public facility improvements that are
605 roughly proportionate and reasonably related to the service demands and needs of any
606 development activity.

607 (12) "Public facilities" means only the following capital facilities that have a life
608 expectancy of ten or more years and are owned or operated by or on behalf of a local political
609 subdivision or private entity:

610 (a) water rights and water supply, treatment, and distribution facilities;

611 (b) wastewater collection and treatment facilities;

612 (c) storm water, drainage, and flood control facilities;

613 (d) municipal power facilities;

614 (e) roadway facilities;

615 (f) parks, recreation facilities, open space, and trails; and

616 (g) public safety facilities.

617 (13) (a) "Public safety facility" means:

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

619 or

620 (ii) a fire suppression vehicle with a ladder reach of at least 75 feet, costing in excess of
621 \$1,250,000, that is necessary for fire suppression in commercial areas with one or more
622 buildings at least five stories high.

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

625 (14) (a) "Roadway facilities" means streets or roads that have been designated on an
626 officially adopted subdivision plat, roadway plan, or general plan of a political subdivision,
627 together with all necessary appurtenances.

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

630 (i) are necessitated by the new development; and

631 (ii) are not funded by the state or federal government.

632 (c) "Roadway facilities" does not mean federal or state roadways.

633 (15) (a) "Service area" means a geographic area designated by a local political
634 subdivision on the basis of sound planning or engineering principles in which a defined set of
635 public facilities provide service within the area.

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

637 (16) "Specified public agency" means:

638 (a) the state;

639 (b) a school district; or

640 (c) a charter school.

641 [~~16~~] (17) (a) "System improvements" means:

642 (i) existing public facilities that are:

643 (A) identified in the impact fee analysis under Section 11-36-201; and

644 (B) designed to provide services to service areas within the community at large; and

645 (ii) future public facilities identified in [~~a capital facilities plan~~] the impact fee analysis

646 under Section 11-36-201 that are intended to provide services to service areas within the
647 community at large.

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

649 Section 6. Section **11-36-201** is amended to read:

650 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**
651 **Summary -- Exemptions.**

652 (1) (a) ~~H→~~ **(i)** ~~←H~~ Each local political subdivision and private entity shall comply with the
653 requirements of this chapter before establishing or modifying any impact fee.

653a ~~H→~~ **(ii) A fee that meets the definition of impact fee under Section 11-36-102 is an impact**
653b **fee subject to this chapter, regardless of what term the local political subdivision or private**
653c **entity uses to refer to the fee.**

653d **(iii) A local political subdivision or private entity may not avoid application of this**
653e **chapter to a fee that meets the definition of an impact fee under Section 11-36-102 by referring**
653f **to the fee by another name. ←H**

654 (b) A local political subdivision may not:

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

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

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

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

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

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

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

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

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

673 (A) (I) "Affected entity" means each county, municipality, local district under Title
674 17B, Limited Purpose Local Government Entities - Local Districts, special service district
675 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation
676 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

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

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

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

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

686 (ii) Before preparing or amending a capital facilities plan, each local political
687 subdivision and each private entity shall provide written notice, as provided in this Subsection
688 (2)(b), of its intent to prepare or amend a capital facilities plan.

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

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

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

694 (C) be sent to:

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

697 (II) each affected entity;

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

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

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

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

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

705 (VIII) the registered agent of the Utah Chapter of the Associated General Contractors
706 of America; and

707 (D) with respect to the notice to an affected entity, invite the affected entity to provide

708 information for the local political subdivision or private entity to consider in the process of
709 preparing, adopting, and implementing or amending a capital facilities plan concerning:

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

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

714 (c) The plan shall identify:

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

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

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

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

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

726 (I) to:

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

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

729 (Cc) the registered agent of the Utah Chapter of the Associated General Contractors of
730 America;

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

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

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

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

738 (II) make a copy of the plan or amendment, together with a summary designed to be

739 understood by a lay person, available to the public;

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

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

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

744 (A) each municipality shall comply with the notice and hearing requirements of, and,
745 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
746 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

747 (B) each county shall comply with the notice and hearing requirements of, and, except
748 as provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
749 17-27a-801 and Subsection 17-27a-502(2); and

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

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

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

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

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

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

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

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

769 (5) (a) Subject to the notice requirement of Subsection (5)(b), each local political

770 subdivision and private entity intending to impose an impact fee shall prepare a written analysis
771 of each impact fee that:

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

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

777 ~~[(i)]~~ (iii) demonstrates how those anticipated impacts [on system improvements] are
778 reasonably related to the anticipated development activity;

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

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

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

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

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

787 (i) public notice; and

788 (ii) written notice:

789 (A) to:

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

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

792 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
793 America;

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

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

798 (c) In analyzing whether or not the proportionate share of the costs of public facilities
799 are reasonably related to the new development activity, the local political subdivision or private
800 entity, as the case may be, shall identify, if applicable:

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

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

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

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

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

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

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

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

826 (d) Each local political subdivision and private entity that prepares a written analysis
827 under this Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written
828 analysis, designed to be understood by a lay person.

829 (6) Each local political subdivision that adopts an impact fee enactment under Section
830 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit
831 a copy of the written analysis required by Subsection (5)(a) and a copy of the summary

832 required by Subsection (5)(d) to:

- 833 (a) each public library within the local political subdivision;
- 834 (b) the registered agent of the Utah Home Builders Association;
- 835 (c) the registered agent of the Utah Association of Realtors; and
- 836 (d) the registered agent of the Utah Chapter of the Associated General Contractors of
837 America.

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

841 Section 7. Section **11-36-202** is amended to read:

842 **11-36-202. Impact fees -- Enactment -- Required provisions -- Effective date.**

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

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

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

- 849 (i) the construction contract price;
- 850 (ii) the cost of acquiring land, improvements, materials, and fixtures;
- 851 (iii) the cost for planning, surveying, and engineering fees for services provided for and
852 directly related to the construction of the system improvements; and
- 853 (iv) debt service charges, if the political subdivision might use impact fees as a revenue
854 stream to pay the principal and interest on bonds, notes, or other obligations issued to finance
855 the costs of the system improvements.

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

- 859 (i) generally accepted cost accounting practices; and
- 860 (ii) the methodological standards set forth by the federal Office of Management and
861 Budget for federal grant reimbursement.

862 (e) In calculating an impact fee, each local political subdivision shall base amounts

863 calculated under Subsection (1)(c) on realistic estimates, and the assumptions underlying those
864 estimates shall be disclosed in the impact fee analysis.

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

867 (i) at least 14 days before the date of the public hearing:

868 (A) make a copy of the impact fee enactment available to the public; and

869 (B) mail a written copy of the impact fee enactment to:

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

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

872 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
873 America; and

874 (ii) (A) for a municipality, comply with the notice and hearing requirements of, and,
875 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
876 10-9a-205 and 10-9a-801;

877 (B) for a county, comply with the notice and hearing requirements of, and, except as
878 provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
879 17-27a-801; and

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

882 (g) Nothing contained in Subsection (1)(f) may be construed to require involvement by
883 a planning commission in the impact fee enactment process.

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

886 (a) contains:

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

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

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

893 (iii) a provision authorizing the local political subdivision or private entity, as the case

894 may be, to adjust the standard impact fee at the time the fee is charged to:

895 (A) respond to;

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

897 (II) a request for a prompt and individualized impact fee review for the development

898 activity of the state or a school district or charter school; and

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

900 (iv) a provision governing calculation of the amount of the impact fee to be imposed on

901 a particular development that permits adjustment of the amount of the fee based upon studies

902 and data submitted by the developer; and

903 (b) allows a developer to receive a credit against or proportionate reimbursement of an

904 impact fee if:

905 (i) the developer [~~is required by the local political subdivision, as a condition of~~

906 ~~development activity approval, to~~]:

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

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

909 (C) [~~provide new construction~~] dedicates a public facility that the local political

910 subdivision or private entity and the developer agree will reduce the need for a system

911 improvement[;].

912 [~~(ii) the system improvement is included in the impact fee analysis; and]~~

913 [~~(iii) the land, improvement, or new construction provides a system improvement that~~

914 ~~exceeds the requirements for the project.~~]

915 (3) A local political subdivision or private entity may include a provision in an impact

916 fee enactment that:

917 (a) provides an impact fee exemption for:

918 (i) development activity attributable to:

919 [~~(a) exempts~~] (A) low income housing [~~and~~];

920 (B) the state;

921 (C) a school district; or

922 (D) a charter school; or

923 (ii) other development [~~activities~~] activity with a broad public [~~purposes from impact~~

924 fees] purpose; and

925 (b) establishes one or more sources of funds other than impact fees to pay for that
 926 development activity ~~H→ [;] . ←H~~

927 ~~[(b) imposes an impact fee for public facility costs previously incurred by a local
 928 political subdivision or private entity, as the case may be, to the extent that new growth and
 929 development will be served by the previously constructed improvement; and]~~

930 ~~[(c) allows]~~ (4) A local political subdivision or private entity shall include a provision
 931 in an impact fee enactment that requires a credit against impact fees for any dedication of land
 932 for, improvement to, or new construction of, any system improvements provided by the
 933 developer if the facilities:

934 ~~[(i) are identified in the capital facilities plan; and]~~

935 ~~[(ii) are required by the local political subdivision as a condition of approving the
 936 development activity.]~~

937 (a) are system improvements; or

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

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

940 ~~[(4)] (5) [Except as provided in Subsection (3)(b), the]~~ A local political subdivision
 941 may not impose an impact fee to:

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

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

945 (5) Notwithstanding the requirements and prohibitions of this chapter, a local political
 946 subdivision may impose and assess an impact fee for environmental mitigation when:

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

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

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

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

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

956 (iii) requiring the legislative body to:

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

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

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

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

964 [~~(7)~~] (6) Notwithstanding any other provision of this chapter:

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

967 (b) an impact fee to pay for a public safety facility that is a fire suppression vehicle
968 may not be imposed with respect to land that has a zoning designation other than
969 commercial[-];

970 (c) an impact fee for a road facility may be imposed on the state only if and to the
971 extent that:

972 (i) the state's development causes an impact on the road facility; and

973 (ii) the portion of the road facility related to an impact fee is not funded by the state or
974 by the federal government; and

975 (d) to the extent that the impact fee includes a component for a law enforcement
976 facility, the impact fee may not be imposed on development activity for:

977 (i) the Utah National Guard;

978 (ii) the Utah Highway Patrol; or

979 (iii) a state institution of higher education that has its own police force.

980 [~~(8)~~] (7) Notwithstanding any other provision of this chapter, a local political
981 subdivision may impose and collect impact fees on behalf of a school district if authorized by
982 Section 53A-20-100.5.

983 [~~(9)~~] (8) An impact fee enactment may not take effect until 90 days after it is enacted.

984 Section 8. Section **11-36-302** is amended to read:

985 **11-36-302. Impact fees -- Expenditure.**

986 (1) A local political subdivision may expend impact fees only for a system

987 improvement:

988 (a) [~~system improvements for public facilities~~] identified in the capital facilities plan;
989 and

990 (b) [~~system improvements~~] for the specific public facility type for which the fee was
991 collected.

992 (2) (a) Except as provided in Subsection (b), a local political subdivision shall expend
993 or encumber the impact fees for a permissible use within six years of their receipt.

994 (b) A local political subdivision may hold the fees for longer than six years if it
995 identifies, in writing:

996 (i) an extraordinary and compelling reason why the fees should be held longer than six
997 years; and

998 (ii) an absolute date by which the fees will be expended.

999 Section 9. Section **11-36-401** is amended to read:

1000 **11-36-401. Impact fees -- Challenges -- Appeals.**

1001 (1) Any person or entity residing in or owning property within a service area, and any
1002 organization, association, or corporation representing the interests of persons or entities owning
1003 property within a service area, may file a declaratory judgment action challenging the validity
1004 of the fee.

1005 (2) (a) Any person or entity required to pay an impact fee who believes the fee does not
1006 meet the requirements of law may file a written request for information with the local political
1007 subdivision who established the fee.

1008 (b) Within two weeks [~~of~~] after the receipt of the request for information, the local
1009 political subdivision shall provide the person or entity with the written analysis required by
1010 Section 11-36-201, the capital facilities plan, and with any other relevant information relating
1011 to the impact fee.

1012 (3) (a) Any local political subdivision may establish, by ordinance or resolution, an
1013 administrative appeals procedure to consider and decide challenges to impact fees.

1014 (b) If the local political subdivision establishes an administrative appeals procedure,
1015 the local political subdivision shall ensure that the procedure includes a requirement that the
1016 local political subdivision make its decision no later than 30 days after the date the challenge to
1017 the impact fee is filed.

1018 (4) (a) In addition to the method of challenging an impact fee under Subsection (1), a
1019 person or entity that has paid an impact fee that was imposed by a local political subdivision
1020 may challenge:

1021 (i) if the impact fee enactment was adopted on or after July 1, 2000:

1022 (A) whether the local political subdivision complied with the notice requirements of
1023 this chapter with respect to the imposition of the impact fee; and

1024 (B) whether the local political subdivision complied with other procedural
1025 requirements of this chapter for imposing the impact fee; and

1026 (ii) except as limited by Subsection (4)(a)(i), the impact fee.

1027 (b) A challenge under Subsection (4)(a) may not be initiated unless it is initiated
1028 within:

1029 (i) for a challenge under Subsection (4)(a)(i)(A), 30 days after the person or entity pays
1030 the impact fee;

1031 (ii) for a challenge under Subsection (4)(a)(i)(B), 180 days after the person or entity
1032 pays the impact fee; or

1033 (iii) for a challenge under Subsection (4)(a)(ii), one year after the person or entity pays
1034 the impact fee.

1035 (c) A challenge under Subsection (4)(a) is initiated by filing:

1036 (i) if the local political subdivision has established an administrative appeals procedure
1037 under Subsection (3), the necessary document, under the administrative appeals procedure, for
1038 initiating the administrative appeal;

1039 (ii) a request for arbitration as provided in Subsection 11-36-402(1); or

1040 (iii) an action in district court.

1041 (d) (i) The sole remedy for a challenge under Subsection (4)(a)(i)(A) is the equitable
1042 remedy of requiring the local political subdivision to correct the defective notice and repeat the
1043 process.

1044 (ii) The sole remedy for a challenge under Subsection (4)(a)(i)(B) is the equitable
1045 remedy of requiring the local political subdivision to correct the defective process.

1046 (iii) The sole remedy for a challenge under Subsection (4)(a)(ii) is a refund of the
1047 difference between what the person or entity paid as an impact fee and the amount the impact
1048 fee should have been if it had been correctly calculated.

1049 (e) Nothing in this Subsection (4) may be construed as requiring a person or entity to
 1050 exhaust administrative remedies with the local political subdivision before filing an action in
 1051 district court under this Subsection (4).

1052 (f) The protections given to a municipality under Section 10-9a-801 and to a county
 1053 under Section 17-27a-801 do not apply in a challenge under Subsection (4)(a)(i)(A).

1054 (5) The judge may award reasonable attorneys' fees and costs to the prevailing party in
 1055 any action brought under this section.

1056 (6) Nothing in this chapter may be construed as restricting or limiting any rights to
 1057 challenge impact fees that were paid before the effective date of this chapter.

1058 Section 10. Section **11-36-401.5** is enacted to read:

1059 **11-36-401.5. Mediation.**

1060 (1) In addition to the methods of challenging an impact fee under Section 11-36-401, a
 1061 specified public agency may require a local political subdivision or private entity to participate
 1062 in mediation of any ~~H~~→ [appealable] applicable ←~~H~~ fee.

1063 (2) To require mediation, the specified public agency shall submit a written request for
 1064 mediation to the local political subdivision or private entity.

1065 (3) The specified public agency may submit a request for mediation under this section
 1066 at any time, but no later than 30 days after the impact fee is paid.

1067 (4) Upon the submission of a request for mediation under this section, the local
 1068 political subdivision or private entity shall:

1069 (a) cooperate with the specified public agency in the selection of a mediator; and

1070 (b) participate in the mediation process.

1071 Section 11. Section **17-27a-103** is amended to read:

1072 **17-27a-103. Definitions.**

1073 As used in this chapter:

1074 (1) "Affected entity" means a county, municipality, local district, special service
 1075 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
 1076 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
 1077 property owner, property owners association, public utility, or the Utah Department of
 1078 Transportation, if:

1079 (a) the entity's services or facilities are likely to require expansion or significant

1080 modification because of an intended use of land;

1081 (b) the entity has filed with the county a copy of the entity's general or long-range plan;

1082 or

1083 (c) the entity has filed with the county a request for notice during the same calendar
1084 year and before the county provides notice to an affected entity in compliance with a
1085 requirement imposed under this chapter.

1086 (2) "Appeal authority" means the person, board, commission, agency, or other body
1087 designated by ordinance to decide an appeal of a decision of a land use application or a
1088 variance.

1089 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
1090 residential property if the sign is designed or intended to direct attention to a business, product,
1091 or service that is not sold, offered, or existing on the property where the sign is located.

1092 (4) "Charter school" includes:

1093 (a) an operating charter school;

1094 (b) a charter school applicant that has its application approved by a chartering entity in
1095 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

1096 (c) an entity who is working on behalf of a charter school or approved charter applicant
1097 to develop or construct a charter school building.

1098 (5) "Chief executive officer" means the person or body that exercises the executive
1099 powers of the county.

1100 (6) "Conditional use" means a land use that, because of its unique characteristics or
1101 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
1102 compatible in some areas or may be compatible only if certain conditions are required that
1103 mitigate or eliminate the detrimental impacts.

1104 ~~Ĥ→ [(7) "Connection fee" has the same meaning as hookup fee.] ←Ĥ~~

1105 [(7)] (8) "Constitutional taking" means a governmental action that results in a taking of
1106 private property so that compensation to the owner of the property is required by the:

1107 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1108 (b) Utah Constitution Article I, Section 22.

1109 [(8)] (9) "Culinary water authority" means the department, agency, or public entity with
1110 responsibility to review and approve the feasibility of the culinary water system and sources for

1111 the subject property.

1112 [~~(9)~~] (10) "Development activity" means:

1113 (a) any construction or expansion of a building, structure, or use that creates additional
1114 demand and need for public facilities;

1115 (b) any change in use of a building or structure that creates additional demand and need
1116 for public facilities; or

1117 (c) any change in the use of land that creates additional demand and need for public
1118 facilities.

1119 [~~(10)~~] (11) (a) "Disability" means a physical or mental impairment that substantially
1120 limits one or more of a person's major life activities, including a person having a record of such
1121 an impairment or being regarded as having such an impairment.

1122 (b) "Disability" does not include current illegal use of, or addiction to, any federally
1123 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
1124 802.

1125 [~~(11)~~] (12) "Elderly person" means a person who is 60 years old or older, who desires
1126 or needs to live with other elderly persons in a group setting, but who is capable of living
1127 independently.

1128 [~~(12)~~] (13) "Fire authority" means the department, agency, or public entity with
1129 responsibility to review and approve the feasibility of fire protection and suppression services
1130 for the subject property.

1131 [~~(13)~~] (14) "Flood plain" means land that:

1132 (a) is within the 100-year flood plain designated by the Federal Emergency
1133 Management Agency; or

1134 (b) has not been studied or designated by the Federal Emergency Management Agency
1135 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
1136 the land has characteristics that are similar to those of a 100-year flood plain designated by the
1137 Federal Emergency Management Agency.

1138 [~~(14)~~] (15) "Gas corporation" has the same meaning as defined in Section 54-2-1.

1139 [~~(15)~~] (16) "General plan" means a document that a county adopts that sets forth
1140 general guidelines for proposed future development of the unincorporated land within the
1141 county.

1142 [~~(16)~~] (17) "Geologic hazard" means:

1143 (a) a surface fault rupture;

1144 (b) shallow groundwater;

1145 (c) liquefaction;

1146 (d) a landslide;

1147 (e) a debris flow;

1148 (f) unstable soil;

1149 (g) a rock fall; or

1150 (h) any other geologic condition that presents a risk:

1151 (i) to life;

1152 (ii) of substantial loss of real property; or

1153 (iii) of substantial damage to real property.

1154 (18) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
1155 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
1156 system.

1157 [~~(17)~~] (19) "Identical plans" means building plans submitted to a county that are
1158 substantially identical building plans that were previously submitted to and reviewed and
1159 approved by the county and describe a building that is:

1160 (a) located on land zoned the same as the land on which the building described in the
1161 previously approved plans is located; and

1162 (b) subject to the same geological and meteorological conditions and the same law as
1163 the building described in the previously approved plans.

1164 (20) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,
1165 Impact Fees Act.

1166 [~~(18)~~] (21) "Improvement assurance" means a surety bond, letter of credit, cash, or
1167 other security:

1168 (a) to guaranty the proper completion of an improvement;

1169 (b) that is required as a condition precedent to:

1170 (i) recording a subdivision plat; or

1171 (ii) beginning development activity; and

1172 (c) that is offered to a land use authority to induce the land use authority, before actual

1173 construction of required improvements, to:

1174 (i) consent to the recording of a subdivision plat; or

1175 (ii) issue a permit for development activity.

1176 [~~(19)~~] (22) "Improvement assurance warranty" means a promise that the materials and
1177 workmanship of improvements:

1178 (a) comport with standards that the county has officially adopted; and

1179 (b) will not fail in any material respect within a warranty period.

1180 [~~(20)~~] (23) "Interstate pipeline company" means a person or entity engaged in natural
1181 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
1182 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1183 [~~(21)~~] (24) "Intrastate pipeline company" means a person or entity engaged in natural
1184 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
1185 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1186 [~~(22)~~] (25) "Land use application" means an application required by a county's land use
1187 ordinance.

1188 [~~(23)~~] (26) "Land use authority" means a person, board, commission, agency, or other
1189 body designated by the local legislative body to act upon a land use application.

1190 [~~(24)~~] (27) "Land use ordinance" means a planning, zoning, development, or
1191 subdivision ordinance of the county, but does not include the general plan.

1192 [~~(25)~~] (28) "Land use permit" means a permit issued by a land use authority.

1193 [~~(26)~~] (29) "Legislative body" means the county legislative body, or for a county that
1194 has adopted an alternative form of government, the body exercising legislative powers.

1195 [~~(27)~~] (30) "Local district" means any entity under Title 17B, Limited Purpose Local
1196 Government Entities - Local Districts, and any other governmental or quasi-governmental
1197 entity that is not a county, municipality, school district, or ~~unit of~~ the state.

1198 [~~(28)~~] (31) "Lot line adjustment" means the relocation of the property boundary line in
1199 a subdivision between two adjoining lots with the consent of the owners of record.

1200 [~~(29)~~] (32) "Moderate income housing" means housing occupied or reserved for
1201 occupancy by households with a gross household income equal to or less than 80% of the
1202 median gross income for households of the same size in the county in which the housing is
1203 located.

1204 [~~(30)~~] (33) "Nominal fee" means a fee that reasonably reimburses a county only for
1205 time spent and expenses incurred in:

- 1206 (a) verifying that building plans are identical plans; and
- 1207 (b) reviewing and approving those minor aspects of identical plans that differ from the
1208 previously reviewed and approved building plans.

1209 [~~(31)~~] (34) "Noncomplying structure" means a structure that:

- 1210 (a) legally existed before its current land use designation; and
- 1211 (b) because of one or more subsequent land use ordinance changes, does not conform
1212 to the setback, height restrictions, or other regulations, excluding those regulations that govern
1213 the use of land.

1214 [~~(32)~~] (35) "Nonconforming use" means a use of land that:

- 1215 (a) legally existed before its current land use designation;
- 1216 (b) has been maintained continuously since the time the land use ordinance regulation
1217 governing the land changed; and
- 1218 (c) because of one or more subsequent land use ordinance changes, does not conform
1219 to the regulations that now govern the use of the land.

1220 [~~(33)~~] (36) "Official map" means a map drawn by county authorities and recorded in
1221 the county recorder's office that:

- 1222 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1223 highways and other transportation facilities;
- 1224 (b) provides a basis for restricting development in designated rights-of-way or between
1225 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1226 the land; and
- 1227 (c) has been adopted as an element of the county's general plan.

1228 [~~(34)~~] (37) "Person" means an individual, corporation, partnership, organization,
1229 association, trust, governmental agency, or any other legal entity.

1230 [~~(35)~~] (38) "Plan for moderate income housing" means a written document adopted by
1231 a county legislative body that includes:

- 1232 (a) an estimate of the existing supply of moderate income housing located within the
1233 county;
- 1234 (b) an estimate of the need for moderate income housing in the county for the next five

1235 years as revised biennially;

1236 (c) a survey of total residential land use;

1237 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
1238 income housing; and

1239 (e) a description of the county's program to encourage an adequate supply of moderate
1240 income housing.

1241 [~~36~~] (39) "Plat" means a map or other graphical representation of lands being laid out
1242 and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

1243 [~~37~~] (40) "Potential geologic hazard area" means an area that:

1244 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1245 relevant map or report as needing further study to determine the area's potential for geologic
1246 hazard; or

1247 (b) has not been studied by the Utah Geological Survey or a county geologist but
1248 presents the potential of geologic hazard because the area has characteristics similar to those of
1249 a designated geologic hazard area.

1250 (41) "Public agency" means:

1251 (a) the federal government;

1252 (b) the state;

1253 (c) a county, municipality, school district, local district, special service district, or other
1254 political subdivision of the state; or

1255 (d) a charter school.

1256 [~~38~~] (42) "Public hearing" means a hearing at which members of the public are
1257 provided a reasonable opportunity to comment on the subject of the hearing.

1258 [~~39~~] (43) "Public meeting" means a meeting that is required to be open to the public
1259 under Title 52, Chapter 4, Open and Public Meetings Act.

1260 [~~40~~] (44) "Receiving zone" means an unincorporated area of a county that the
1261 county's land use authority designates as an area in which an owner of land may receive
1262 transferrable development rights.

1263 [~~41~~] (45) "Record of survey map" means a map of a survey of land prepared in
1264 accordance with Section 17-23-17.

1265 [~~42~~] (46) "Residential facility for elderly persons" means a single-family or

1266 multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not
1267 include a health care facility as defined by Section 26-21-2.

1268 [~~(43)~~] (47) "Residential facility for persons with a disability" means a residence:

1269 (a) in which more than one person with a disability resides; and

1270 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
1271 Chapter 2, Licensure of Programs and Facilities; or

1272 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
1273 Health Care Facility Licensing and Inspection Act.

1274 [~~(44)~~] (48) "Sanitary sewer authority" means the department, agency, or public entity
1275 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1276 wastewater systems.

1277 [~~(45)~~] (49) "Sending zone" means an unincorporated area of a county that the county's
1278 land use authority designates as an area from which an owner of land may transfer transferrable
1279 development rights to an owner of land in a receiving zone.

1280 (50) "Specified public agency" means:

1281 (a) the state;

1282 (b) a school district; or

1283 (c) a charter school.

1284 [~~(46)~~] (51) "Specified public utility" means an electrical corporation, gas corporation,
1285 or telephone corporation, as those terms are defined in Section 54-2-1.

1286 (52) "State" includes any department, division, or agency of the state.

1287 [~~(47)~~] (53) "Street" means a public right-of-way, including a highway, avenue,
1288 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
1289 or other way.

1290 [~~(48)~~] (54) (a) "Subdivision" means any land that is divided, resubdivided or proposed
1291 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
1292 purpose, whether immediate or future, for offer, sale, lease, or development either on the
1293 installment plan or upon any and all other plans, terms, and conditions.

1294 (b) "Subdivision" includes:

1295 (i) the division or development of land whether by deed, metes and bounds description,
1296 devise and testacy, map, plat, or other recorded instrument; and

1297 (ii) except as provided in Subsection [~~(48)~~] (54)(c), divisions of land for residential and
1298 nonresidential uses, including land used or to be used for commercial, agricultural, and
1299 industrial purposes.

1300 (c) "Subdivision" does not include:

1301 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1302 (ii) a recorded agreement between owners of adjoining properties adjusting their
1303 mutual boundary if:

1304 (A) no new lot is created; and

1305 (B) the adjustment does not violate applicable land use ordinances;

1306 (iii) a recorded document, executed by the owner of record:

1307 (A) revising the legal description of more than one contiguous unsubdivided parcel of
1308 property into one legal description encompassing all such parcels of property; or

1309 (B) joining a subdivided parcel of property to another parcel of property that has not
1310 been subdivided, if the joinder does not violate applicable land use ordinances;

1311 (iv) a bona fide division or partition of land in a county other than a first class county
1312 for the purpose of siting, on one or more of the resulting separate parcels:

1313 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
1314 corporation, interstate pipeline company, or intrastate pipeline company; or

1315 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
1316 utility service regeneration, transformation, retransmission, or amplification facility; or

1317 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
1318 their mutual boundary if:

1319 (A) no new dwelling lot or housing unit will result from the adjustment; and

1320 (B) the adjustment will not violate any applicable land use ordinance.

1321 (d) The joining of a subdivided parcel of property to another parcel of property that has
1322 not been subdivided does not constitute a subdivision under this Subsection [~~(48)~~] (54) as to
1323 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
1324 subdivision ordinance.

1325 [~~(49)~~] (55) "Township" means a contiguous, geographically defined portion of the
1326 unincorporated area of a county, established under this part or reconstituted or reinstated under
1327 Section 17-27a-306, with planning and zoning functions as exercised through the township

1328 planning commission, as provided in this chapter, but with no legal or political identity
1329 separate from the county and no taxing authority, except that "township" means a former
1330 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

1331 [~~(50)~~] (56) "Transferrable development right" means the entitlement to develop land
1332 within a sending zone that would vest according to the county's existing land use ordinances on
1333 the date that a completed land use application is filed seeking the approval of development
1334 activity on the land.

1335 [~~(51)~~] (57) "Unincorporated" means the area outside of the incorporated area of a
1336 municipality.

1337 [~~(52)~~] (58) "Zoning map" means a map, adopted as part of a land use ordinance, that
1338 depicts land use zones, overlays, or districts.

1339 Section 12. Section **17-27a-305** is amended to read:

1340 **17-27a-305. Other entities required to conform to county's land use ordinances --**
1341 **Exceptions -- School districts and charter schools.**

1342 (1) (a) Each county, municipality, school district, charter school, local district, special
1343 service district, and political subdivision of the state shall conform to any applicable land use
1344 ordinance of any county when installing, constructing, operating, or otherwise using any area,
1345 land, or building situated within the unincorporated portion of the county.

1346 (b) In addition to any other remedies provided by law, when a county's land use
1347 ordinance is violated or about to be violated by another political subdivision, that county may
1348 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
1349 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1350 (2) (a) Notwithstanding Subsection (1), a public transit district under Title 17B,
1351 Chapter 2a, Part 8, Public Transit District Act, is not required to conform to any applicable
1352 land use ordinance of a county of the first class when constructing a:

1353 (i) rail fixed guideway public transit facility that extends across two or more counties;

1354 or

1355 (ii) structure that serves a rail fixed guideway public transit facility that extends across
1356 two or more counties, including:

1357 (A) platforms;

1358 (B) passenger terminals or stations;

- 1359 (C) park and ride facilities;
- 1360 (D) maintenance facilities;
- 1361 (E) all related utility lines, roadways, and other facilities serving the public transit
- 1362 facility; or
- 1363 (F) other auxiliary facilities.
- 1364 (b) The exemption from county land use ordinances under this Subsection (2) does not
- 1365 extend to any property not necessary for the construction or operation of a rail fixed guideway
- 1366 public transit facility.
- 1367 (c) A county of the first class may not, through an agreement under Title 11, Chapter 3,
- 1368 Interlocal Cooperation Act, require a public transit district under Title 17B, Chapter 2a, Part 8,
- 1369 Public Transit District Act, to obtain approval from the county prior to constructing a:
- 1370 (i) rail fixed guideway public transit facility that extends across two or more counties;
- 1371 or
- 1372 (ii) structure that serves a rail fixed guideway public transit facility that extends across
- 1373 two or more counties, including:
- 1374 (A) platforms;
- 1375 (B) passenger terminals or stations;
- 1376 (C) park and ride facilities;
- 1377 (D) maintenance facilities;
- 1378 (E) all related utility lines, roadways, and other facilities serving the public transit
- 1379 facility; or
- 1380 (F) other auxiliary facilities.
- 1381 (3) (a) Except as provided in Subsection (4), a school district or charter school is
- 1382 subject to a county's land use ordinances.
- 1383 (b) (i) Notwithstanding Subsection (4), a county may:
- 1384 (A) subject a charter school to standards within each zone pertaining to setback, height,
- 1385 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
- 1386 staging; and
- 1387 (B) impose regulations upon the location of a project that are necessary to avoid
- 1388 unreasonable risks to health or safety, as provided in Subsection (4)(f).
- 1389 (ii) The standards to which a county may subject a charter school under Subsection

1390 (3)(b)(i) shall be objective standards only and may not be subjective.

1391 (iii) Except as provided in Subsection (8)(d), the only basis upon which a county may
1392 deny or withhold approval of a charter school's land use application is the charter school's
1393 failure to comply with a standard imposed under Subsection (3)(b)(i).

1394 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of an
1395 obligation to comply with a requirement of an applicable building or safety code to which it is
1396 otherwise obligated to comply.

1397 (4) A county may not:

1398 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1399 construction methods or materials, additional building inspections, county building codes,
1400 building use for educational purposes, or the placement or use of temporary classroom facilities
1401 on school property;

1402 (b) except as otherwise provided in this section, require a school district or charter
1403 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1404 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1405 children and not located on or contiguous to school property, unless the roadway or sidewalk is
1406 required to connect an otherwise isolated school site to an existing roadway;

1407 (c) require a district or charter school to pay fees not authorized by this section;

1408 (d) provide for inspection of school construction or assess a fee or other charges for
1409 inspection, unless the school district or charter school is unable to provide for inspection by an
1410 inspector, other than the project architect or contractor, who is qualified under criteria
1411 established by the state superintendent;

1412 (e) require a school district or charter school to pay any impact fee for an improvement
1413 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;
1414 or

1415 (f) impose regulations upon the location of a project except as necessary to avoid
1416 unreasonable risks to health or safety.

1417 (5) Subject to Section 53A-20-108, a school district or charter school shall coordinate
1418 the siting of a new school with the county in which the school is to be located, to:

1419 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
1420 the impacts between the new school and future highways; and

- 1421 (b) maximize school, student, and site safety.
- 1422 (6) Notwithstanding Subsection (4)(d), a county may, at its discretion:
- 1423 (a) provide a walk-through of school construction at no cost and at a time convenient to
- 1424 the district or charter school; and
- 1425 (b) provide recommendations based upon the walk-through.
- 1426 (7) (a) Notwithstanding Subsection (4)(d), a school district or charter school shall use:
- 1427 (i) a county building inspector;
- 1428 (ii) (A) for a school district, a school district building inspector from that school
- 1429 district; or
- 1430 (B) for a charter school, a school district building inspector from the school district in
- 1431 which the charter school is located; or
- 1432 (iii) an independent, certified building inspector who is:
- 1433 (A) not an employee of the contractor;
- 1434 (B) approved by:
- 1435 (I) a county building inspector; or
- 1436 (II) (Aa) for a school district, a school district building inspector from that school
- 1437 district; or
- 1438 (Bb) for a charter school, a school district building inspector from the school district in
- 1439 which the charter school is located; and
- 1440 (C) licensed to perform the inspection that the inspector is requested to perform.
- 1441 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.
- 1442 (c) If a school district or charter school uses a school district or independent building
- 1443 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit to
- 1444 the state superintendent of public instruction and county building official, on a monthly basis
- 1445 during construction of the school building, a copy of each inspection certificate regarding the
- 1446 school building.
- 1447 (8) (a) A charter school shall be considered a permitted use in all zoning districts
- 1448 within a county.
- 1449 (b) Each land use application for any approval required for a charter school, including
- 1450 an application for a building permit, shall be processed on a first priority basis.
- 1451 (c) Parking requirements for a charter school may not exceed the minimum parking

1452 requirements for schools or other institutional public uses throughout the county.

1453 (d) If a county has designated zones for a sexually oriented business, or a business
1454 which sells alcohol, a charter school may be prohibited from a location which would otherwise
1455 defeat the purpose for the zone unless the charter school provides a waiver.

1456 (e) (i) A school district or a charter school may seek a certificate authorizing permanent
1457 occupancy of a school building from:

1458 (A) the state superintendent of public instruction, as provided in Subsection
1459 53A-20-104(3), if the school district or charter school used an independent building inspector
1460 for inspection of the school building; or

1461 (B) a county official with authority to issue the certificate, if the school district or
1462 charter school used a county building inspector for inspection of the school building.

1463 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1464 a school building if it used its own building inspector for inspection of the school building,
1465 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

1466 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
1467 school building from a school district official with authority to issue the certificate, if the
1468 charter school used a school district building inspector for inspection of the school building.

1469 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1470 of public instruction under Subsection 53A-20-104(3) or a school district official with authority
1471 to issue the certificate shall be considered to satisfy any county requirement for an inspection or
1472 a certificate of occupancy.

1473 (9) (a) A specified public agency intending to develop its land shall submit to the land
1474 use authority a development plan and schedule:

1475 (i) as early as practicable in the development process, but no later than the
1476 commencement of construction; and

1477 (ii) with sufficient detail to enable the land use authority to assess:

1478 (A) the specified public agency's compliance with applicable land use ordinances;

1479 (B) the demand for public facilities listed in Subsections 11-36-102(12)(a), (b), (c), (d),
1480 (e), and (g) caused by the development;

1481 (C) the amount of any applicable fee listed in Subsection 17-27a-509(5);

1482 (D) any credit against an impact fee; and

1483 (E) the potential for waiving an impact fee.

1484 (b) The land use authority shall respond to a specified public agency's submission
1485 under Subsection (9)(a) with reasonable promptness in order to allow the specified public
1486 agency to consider information the municipality provides under Subsection (9)(a)(ii) in the
1487 process of preparing the budget for the development.

1488 (10) Nothing in this section may be construed to modify or supersede Section
1489 17-27a-304.

1490 Section 13. Section **17-27a-508** is amended to read:

1491 **17-27a-508. When a land use applicant is entitled to approval -- Exception --**
1492 **County may not impose unexpressed requirements -- County required to comply with**
1493 **land use ordinances.**

1494 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
1495 land use application if the application conforms to the requirements of the county's land use
1496 maps, zoning map, and applicable land use ordinance in effect when a complete application is
1497 submitted and all application fees have been paid, unless:

1498 (i) the land use authority, on the record, finds that a compelling, countervailing public
1499 interest would be jeopardized by approving the application; or

1500 (ii) in the manner provided by local ordinance and before the application is submitted,
1501 the county has formally initiated proceedings to amend its ordinances in a manner that would
1502 prohibit approval of the application as submitted.

1503 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
1504 of a land use application until the requirements of this Subsection (1)(b) have been met if the
1505 land use application relates to land located within the boundaries of a high priority
1506 transportation corridor designated in accordance with Section 72-5-403.

1507 (ii) (A) A county shall notify the executive director of the Department of
1508 Transportation of any land use applications that relate to land located within the boundaries of
1509 a high priority transportation corridor.

1510 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
1511 certified or registered mail to the executive director of the Department of Transportation.

1512 (iii) Except as provided in Subsection (1)(c), a county may not approve a land use
1513 application that relates to land located within the boundaries of a high priority transportation

1514 corridor until:

1515 (A) 30 days after the notification under Subsection (1)(b)(ii) is received by the
1516 Department of Transportation if the land use application is for a building permit; or

1517 (B) 45 days after the notification under Subsection (1)(b)(ii) is received by the
1518 Department of Transportation if the land use application is for any land use other than a
1519 building permit.

1520 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b) if:

1521 (A) the land use application relates to land that was the subject of a previous land use
1522 application; and

1523 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
1524 with the requirements of Subsection (1)(b).

1525 (ii) A county may approve a land use application without making the required
1526 notifications under Subsection (1)(b) if:

1527 (A) the land use application relates to land that was the subject of a previous land use
1528 application; and

1529 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
1530 complied with the requirements of Subsection (1)(b).

1531 (d) After a county has complied with the requirements of Subsection (1)(b) for a land
1532 use application, the county may not withhold approval of the land use application for which the
1533 applicant is otherwise entitled under Subsection (1)(a).

1534 (e) The county shall process an application without regard to proceedings initiated to
1535 amend the county's ordinances as provided in Subsection (1)(a)(ii) if:

1536 (i) 180 days have passed since the proceedings were initiated; and

1537 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
1538 application as submitted.

1539 (f) An application for a land use approval is considered submitted and complete when
1540 the application is provided in a form that complies with the requirements of applicable
1541 ordinances and all applicable fees have been paid.

1542 (g) The continuing validity of an approval of a land use application is conditioned upon
1543 the applicant proceeding after approval to implement the approval with reasonable diligence.

1544 (h) A county may not impose on a holder of an issued land use permit or approved

1545 subdivision plat a requirement that is not expressed:

1546 (i) in the land use permit or subdivision plat documents on which the land use permit
1547 or subdivision plat is based, or the written record evidencing approval of the land use permit or
1548 subdivision plat; or

1549 (ii) in this chapter or the county's ordinances.

1550 (i) A county may not withhold issuance of a certificate of occupancy or acceptance of
1551 subdivision improvements because of an applicant's failure to comply with a requirement that
1552 is not expressed:

1553 (i) in the building permit or subdivision plat, documents on which the building permit
1554 or subdivision plat is based, or the written record evidencing approval of the building permit or
1555 subdivision plat; or

1556 (ii) in this chapter or the county's ordinances.

1557 (2) A county is bound by the terms and standards of applicable land use ordinances and
1558 shall comply with mandatory provisions of those ordinances.

1559 (3) Upon a specified public agency's submission of a development plan and schedule as
1560 required in Subsection 17-27a-305(9) that complies with the requirements of that subsection,
1561 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
1562 fees, impact fees, other applicable development fees, and land use ordinances in effect on the
1563 date of submission.

1564 Section 14. Section **17-27a-509** is amended to read:

1565 **17-27a-509. Limit on fee for review and approving building plans.**

1566 (1) A county may not impose or collect a fee for reviewing or approving the plans for a
1567 commercial or residential building that exceeds the lesser of:

1568 (a) the actual cost of performing the plan review; and

1569 (b) 65% of the amount the county charges for a building permit fee for that building.

1570 (2) Subject to Subsection (1), a county may impose and collect only a nominal fee for
1571 reviewing and approving identical plans.

1572 (3) A county may not impose or collect a hookup fee ~~Ĥ~~→ [~~or connection fee~~] ←Ĥ that
1572a exceeds the

1573 reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to
1574 the county water, sewer, storm water, power, or other utility system.

1575 (4) A county may not impose or collect:

1576 (a) a land use application fee that exceeds the ~~H→~~ reasonable ~~←H~~ cost of processing
1576a the application; or

1577 (b) an inspection or review fee that exceeds the reasonable cost of performing the
1578 inspection or review.

1579 (5) A county may not impose on or collect from a public agency any fee associated
1580 with the public agency's development of its land other than:

1581 (a) subject to Subsection (4), a fee for a development service that the public agency
1582 does not itself provide;

1583 (b) subject to Subsection (3), a hookup fee; and

1584 (c) an impact fee for a public facility listed in Subsection 11-36-102(12)(a), (b), (c),
1585 (d), (e), or (g), subject to any applicable credit under Subsection 11-36-202(2)(b).

1586 Section 15. Section **17B-1-118** is enacted to read:

1587 **17B-1-118. Local district hookup fee -- Preliminary design or site plan from a**
1588 **specified public agency.**

1589 (1) As used in this section:

1590 ~~H→~~ [(a) "**Connection fee**" has the same meaning as **hookup fee**;

1591 ~~(b)] (a) ←H~~ "**Hookup fee**" means a fee for the installation and inspection of any pipe, line,
1592 meter, or appurtenance to connect to a local district water, sewer, storm water, power, or other
1593 utility system.

1593a ~~H→~~ (b) "**Impact fee**" has the same meaning as defined in Section 11-36-102. ~~←H~~

1594 (c) "**Specified public agency**" means:

1595 (i) the state;

1596 (ii) a school district; or

1597 (iii) a charter school.

1598 (d) "State" includes any department, division, or agency of the state.

1599 (2) A local district may not impose or collect a hookup fee ~~H→~~ [**or connection fee**] ~~←H~~ that
1600 exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to
1601 connect to the local district water, sewer, storm water, power, or other utility system.

1602 (3) (a) A specified public agency intending to develop its land shall submit a
1603 development plan and schedule to each local district from which the specified public agency
1604 anticipates the development will receive service:

1605 (i) as early as practicable in the development process, but no later than the
1606 commencement of construction; and

1607 (ii) with sufficient detail to enable the local district to assess:

1608 (A) the demand for public facilities listed in Subsections 11-36-102(12)(a), (b), (c), (d),

1609 (e), and (g) caused by the development;

1610 (B) the amount of any hookup ~~fee~~ fees, ~~or~~ or ~~connection~~ impact fees or

1610a substantive equivalent ~~fee~~ ;

1611 (C) any credit against an impact fee; and

1612 (D) the potential for waiving an impact fee.

1613 (b) The local district shall respond to a specified public agency's submission under

1614 Subsection (3)(a) with reasonable promptness in order to allow the specified public agency to

1615 consider information the local district provides under Subsection (3)(a)(ii) in the process of

1616 preparing the budget for the development.

1617 (4) Upon a specified public agency's submission of a development plan and schedule as

1618 required in Subsection (3) that complies with the requirements of that subsection, the specified

1619 public agency vests in the local district's hookup fees ~~;~~ and ~~impact fees~~ ~~and other~~

1619a applicable

1620 development fees] ~~in effect on the date of submission.~~

1621 Section 16. Section **17D-1-106** is amended to read:

1622 **17D-1-106. Special service districts subject to other provisions.**

1623 (1) A special service district is, to the same extent as if it were a local district, subject

1624 to and governed by:

1625 (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-109, 17B-1-110, 17B-1-111,

1626 17B-1-112, 17B-1-113, [~~and~~] 17B-1-116, and 17B-1-118;

1627 (b) Sections 17B-1-304, 17B-1-305, 17B-1-306, 17B-1-307, 17B-1-310, 17B-1-312,

1628 and 17B-1-313;

1629 (c) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

1630 (d) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

1631 (e) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

1632 (f) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

1633 (2) For purposes of applying the provisions listed in Subsection (1) to a special service

1634 district, each reference in those provisions to the local district board of trustees means the

1635 governing authority.

H.B. 274 1st Sub. (Buff) - Local Government Fees and Charges

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
