

Senator Howard A. Stephenson proposes the following substitute bill:

LOCAL GOVERNMENT AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies provisions relating to impact fees.

Highlighted Provisions:

This bill:

- ▶ enacts a definition of "charter school" in impact fee provisions;
- ▶ repeals obsolete language relating to impact fees;
- ▶ clarifies the purposes of an impact fee capital facilities plan;
- ▶ modifies provisions relating to the written analysis associated with impact fees;
- ▶ modifies provisions relating to an impact fee enactment;
- ▶ limits impacts fees that can be imposed on a school district or charter school;
- ▶ requires local political subdivisions and private entities to ensure that their impact fees comply with the requirements of this bill, even if the impact fee was earlier imposed but not paid;
- ▶ requires a local political subdivision or private entity to participate in mediation of any applicable fee if the state, a school district, or a charter school requests mediation;
- ▶ narrows a limitation on a county and municipality's ability to impose regulations on the location of a facility to apply only to certain educational facilities; and



26 ▶ makes technical changes.

27 **Monies Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

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

32 **Utah Code Sections Affected:**

33 AMENDS:

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

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

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

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

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

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

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

41 ENACTS:

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



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

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

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

47 As used in this chapter:

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

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

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

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

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

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

66 (4) "Charter school" includes:

67 (a) an operating charter school;

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

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

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

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

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

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

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

83 (8) "Development activity" means:

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

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

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

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

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

96 (10) "Educational facility":

97 (a) means:

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

101 (ii) a structure or facility:

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

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

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

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

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

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

112 [~~(10)~~] (11) "Elderly person" means a person who is 60 years old or older, who desires
113 or needs to live with other elderly persons in a group setting, but who is capable of living
114 independently.

115 [~~(11)~~] (12) "Fire authority" means the department, agency, or public entity with
116 responsibility to review and approve the feasibility of fire protection and suppression services
117 for the subject property.

118 [~~(12)~~] (13) "Flood plain" means land that:

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

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

125 [~~(13)~~] (14) "General plan" means a document that a municipality adopts that sets forth
126 general guidelines for proposed future development of the land within the municipality.

127 [~~(14)~~] (15) "Geologic hazard" means:

- 128 (a) a surface fault rupture;
- 129 (b) shallow groundwater;
- 130 (c) liquefaction;
- 131 (d) a landslide;
- 132 (e) a debris flow;
- 133 (f) unstable soil;
- 134 (g) a rock fall; or
- 135 (h) any other geologic condition that presents a risk:
- 136 (i) to life;
- 137 (ii) of substantial loss of real property; or
- 138 (iii) of substantial damage to real property.

139 [~~(15)~~] (16) "Identical plans" means building plans submitted to a municipality that are
140 substantially identical to building plans that were previously submitted to and reviewed and
141 approved by the municipality and describe a building that is:

- 142 (a) located on land zoned the same as the land on which the building described in the
143 previously approved plans is located; and
- 144 (b) subject to the same geological and meteorological conditions and the same law as
145 the building described in the previously approved plans.

146 [~~(16)~~] (17) "Improvement assurance" means a surety bond, letter of credit, cash, or
147 other security:

- 148 (a) to guaranty the proper completion of an improvement;
- 149 (b) that is required as a condition precedent to:

150 (i) recording a subdivision plat; or
151 (ii) beginning development activity; and
152 (c) that is offered to a land use authority to induce the land use authority, before actual
153 construction of required improvements, to:

154 (i) consent to the recording of a subdivision plat; or
155 (ii) issue a permit for development activity.

156 [~~17~~] (18) "Improvement assurance warranty" means a promise that the materials and
157 workmanship of improvements:

158 (a) comport with standards that the municipality has officially adopted; and
159 (b) will not fail in any material respect within a warranty period.

160 [~~18~~] (19) "Land use application" means an application required by a municipality's
161 land use ordinance.

162 [~~19~~] (20) "Land use authority" means a person, board, commission, agency, or other
163 body designated by the local legislative body to act upon a land use application.

164 [~~20~~] (21) "Land use ordinance" means a planning, zoning, development, or
165 subdivision ordinance of the municipality, but does not include the general plan.

166 [~~21~~] (22) "Land use permit" means a permit issued by a land use authority.

167 [~~22~~] (23) "Legislative body" means the municipal council.

168 [~~23~~] (24) "Local district" means an entity under Title 17B, Limited Purpose Local
169 Government Entities - Local Districts, and any other governmental or quasi-governmental
170 entity that is not a county, municipality, school district, or unit of the state.

171 [~~24~~] (25) "Lot line adjustment" means the relocation of the property boundary line in
172 a subdivision between two adjoining lots with the consent of the owners of record.

173 [~~25~~] (26) "Moderate income housing" means housing occupied or reserved for
174 occupancy by households with a gross household income equal to or less than 80% of the
175 median gross income for households of the same size in the county in which the city is located.

176 [~~26~~] (27) "Nominal fee" means a fee that reasonably reimburses a municipality only
177 for time spent and expenses incurred in:

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

181 [~~27~~] (28) "Noncomplying structure" means a structure that:

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

183 (b) because of one or more subsequent land use ordinance changes, does not conform
184 to the setback, height restrictions, or other regulations, excluding those regulations, which
185 govern the use of land.

186 [~~28~~] (29) "Nonconforming use" means a use of land that:

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

188 (b) has been maintained continuously since the time the land use ordinance governing
189 the land changed; and

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

192 [~~29~~] (30) "Official map" means a map drawn by municipal authorities and recorded in
193 a county recorder's office that:

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

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

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

200 [~~30~~] (31) "Person" means an individual, corporation, partnership, organization,
201 association, trust, governmental agency, or any other legal entity.

202 [~~31~~] (32) "Plan for moderate income housing" means a written document adopted by
203 a city legislative body that includes:

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

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

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

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

211 (e) a description of the city's program to encourage an adequate supply of moderate

212 income housing.

213 ~~[(32)]~~ (33) "Plat" means a map or other graphical representation of lands being laid out
214 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

215 ~~[(33)]~~ (34) "Potential geologic hazard area" means an area that:

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

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

222 ~~[(34)]~~ (35) "Public hearing" means a hearing at which members of the public are
223 provided a reasonable opportunity to comment on the subject of the hearing.

224 ~~[(35)]~~ (36) "Public meeting" means a meeting that is required to be open to the public
225 under Title 52, Chapter 4, Open and Public Meetings Act.

226 ~~[(36)]~~ (37) "Record of survey map" means a map of a survey of land prepared in
227 accordance with Section 17-23-17.

228 ~~[(37)]~~ (38) "Receiving zone" means an area of a municipality that the municipality's
229 land use authority designates as an area in which an owner of land may receive transferrable
230 development rights.

231 ~~[(38)]~~ (39) "Residential facility for elderly persons" means a single-family or
232 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not
233 include a health care facility as defined by Section 26-21-2.

234 ~~[(39)]~~ (40) "Residential facility for persons with a disability" means a residence:

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

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

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

240 ~~[(40)]~~ (41) "Sanitary sewer authority" means the department, agency, or public entity
241 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
242 wastewater systems.

243 [~~(41)~~] (42) "Sending zone" means an area of a municipality that the municipality's land
244 use authority designates as an area from which an owner of land may transfer transferrable
245 development rights to an owner of land in a receiving zone.

246 [~~(42)~~] (43) "Specified public utility" means an electrical corporation, gas corporation,
247 or telephone corporation, as those terms are defined in Section 54-2-1.

248 [~~(43)~~] (44) "Street" means a public right-of-way, including a highway, avenue,
249 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
250 or other way.

251 [~~(44)~~] (45) (a) "Subdivision" means any land that is divided, resubdivided or proposed
252 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
253 purpose, whether immediate or future, for offer, sale, lease, or development either on the
254 installment plan or upon any and all other plans, terms, and conditions.

255 (b) "Subdivision" includes:

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

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

261 (c) "Subdivision" does not include:

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

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

268 (A) no new lot is created; and

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

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

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

273 (B) joining a subdivided parcel of property to another parcel of property that has not

274 been subdivided, if the joinder does not violate applicable land use ordinances; or

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

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

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

279 (d) The joining of a subdivided parcel of property to another parcel of property that has
280 not been subdivided does not constitute a subdivision under this Subsection [~~(44)~~] (45) as to
281 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
282 subdivision ordinance.

283 [~~(45)~~] (46) "Transferrable development right" means the entitlement to develop land
284 within a sending zone that would vest according to the municipality's existing land use
285 ordinances on the date that a completed land use application is filed seeking the approval of
286 development activity on the land.

287 [~~(46)~~] (47) "Unincorporated" means the area outside of the incorporated area of a city
288 or town.

289 [~~(47)~~] (48) "Zoning map" means a map, adopted as part of a land use ordinance, that
290 depicts land use zones, overlays, or districts.

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

292 **10-9a-305. Other entities required to conform to municipality's land use**
293 **ordinances -- Exceptions -- School districts and charter schools.**

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

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

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

305 when constructing a:

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

307 or

308 (ii) structure that serves a rail fixed guideway public transit facility that extends across

309 two or more counties, including:

310 (A) platforms;

311 (B) passenger terminals or stations;

312 (C) park and ride facilities;

313 (D) maintenance facilities;

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

315 facility; or

316 (F) other auxiliary facilities.

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

318 not extend to any property not necessary for the construction or operation of a rail fixed

319 guideway public transit facility.

320 (c) A municipality located within the boundaries of a county of the first class may not,

321 through an agreement under Title 11, Chapter 3, Interlocal Cooperation Act, require a public

322 transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, to obtain

323 approval from the municipality prior to 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 (3) (a) Except as provided in Subsection (4), a school district or charter school is

336 subject to a municipality's land use ordinances.

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

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

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

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

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

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

351 (4) A municipality may not:

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

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

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

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

366 (e) require a school district or charter school to pay any impact fee for an improvement

367 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;
368 or

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

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

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

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

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

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

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

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

381 (i) a municipal building inspector;

382 (ii) (A) for a school district, a school district building inspector from that school
383 district; or

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

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

387 (A) not an employee of the contractor;

388 (B) approved by:

389 (I) a municipal building inspector; or

390 (II) (Aa) for a school district, a school district building inspector from that school
391 district; or

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

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

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

396 (c) If a school district or charter school uses a school district or independent building
397 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit to

398 the state superintendent of public instruction and municipal building official, on a monthly
399 basis during construction of the school building, a copy of each inspection certificate regarding
400 the school building.

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

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

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

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

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

412 (A) the state superintendent of public instruction, as provided in Subsection
413 53A-20-104(3), if the school district or charter school used an independent building inspector
414 for inspection of the school building; or

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

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

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

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

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

428 **11-36-102. Definitions.**

429 As used in this chapter:

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

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

434 (3) "Charter school" includes:

435 (a) an operating charter school;

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

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

441 [~~(3)~~] (4) "Development activity" means any construction or expansion of a building,
442 structure, or use, any change in use of a building or structure, or any changes in the use of land
443 that creates additional demand and need for public facilities.

444 [~~(4)~~] (5) "Development approval" means any written authorization from a local
445 political subdivision that authorizes the commencement of development activity.

446 [~~(5)~~] (6) "Enactment" means:

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

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

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

451 [~~(6)~~] (7) "Hookup fees" means reasonable fees, not in excess of the approximate
452 average costs to the political subdivision, for services provided for and directly attributable to
453 the connection to utility services, including gas, water, sewer, power, or other municipal,
454 county, local district, or special service district utility services.

455 [~~(7)~~] (8) (a) "Impact fee" means a payment of money imposed upon development
456 activity as a condition of development approval.

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

459 [~~(8)~~] (9) (a) "Local political subdivision" means a county, a municipality, a local

460 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a
461 special service district under Title 17D, Chapter 1, Special Service District Act.

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

464 [~~(9)~~] (10) "Private entity" means an entity with private ownership that provides
465 culinary water that is required to be used as a condition of development.

466 [~~(10)~~] (11) (a) "Project improvements" means site improvements and facilities that are:

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

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

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

472 [~~(11)~~] (12) "Proportionate share" means the cost of public facility improvements that
473 are roughly proportionate and reasonably related to the service demands and needs of any
474 development activity.

475 [~~(12)~~] (13) "Public facilities" means only the following capital facilities that have a life
476 expectancy of ten or more years and are owned or operated by or on behalf of a local political
477 subdivision or private entity:

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

479 (b) wastewater collection and treatment facilities;

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

481 (d) municipal power facilities;

482 (e) roadway facilities;

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

484 (g) public safety facilities.

485 [~~(13)~~] (14) (a) "Public safety facility" means:

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

487 or

488 (ii) a fire suppression vehicle with a ladder reach of at least 75 feet, costing in excess of
489 \$1,250,000, that is necessary for fire suppression in commercial areas with one or more
490 buildings at least five stories high.

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

493 ~~[(14)]~~ (15) (a) "Roadway facilities" means streets or roads that have been designated on
494 an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision,
495 together with all necessary appurtenances.

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

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

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

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

501 ~~[(15)]~~ (16) (a) "Service area" means a geographic area designated by a local political
502 subdivision on the basis of sound planning or engineering principles in which a defined set of
503 public facilities provide service within the area.

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

505 (17) "Specified public agency" means:

506 (a) the state;

507 (b) a school district; or

508 (c) a charter school.

509 ~~[(16)]~~ (18) (a) "System improvements" means:

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

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

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

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

516 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**

517 **Summary -- Exemptions.**

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

520 (b) A local political subdivision may not:

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

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

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

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

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

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

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

536 (ii) Subsection (1)(c)(i) does not apply to an impact fee that was paid before May 12,
537 2009.

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

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

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

544 (A) (I) "Affected entity" means each county, municipality, local district under Title
545 17B, Limited Purpose Local Government Entities - Local Districts, special service district
546 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation
547 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

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

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

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

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

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

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

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

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

565 (C) be sent to:

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

568 (II) each affected entity;

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

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

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

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

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

576 (VIII) the registered agent of the Utah Chapter of the Associated General Contractors
577 of America; and

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

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

583 (II) facilities or uses of land that the affected entity is planning or considering that may

584 conflict with the facilities proposed in the capital facilities plan.

585 (c) The plan shall identify:

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

587 (ii) the proposed means by which the local political subdivision will meet those

588 demands.

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

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

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

597 (I) to:

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

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

600 (Cc) the registered agent of the Utah Chapter of the Associated General Contractors of
601 America;

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

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

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

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

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

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

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

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

615 (A) each municipality shall comply with the notice and hearing requirements of, and,
616 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
617 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

618 (B) each county shall comply with the notice and hearing requirements of, and, except
619 as provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
620 17-27a-801 and Subsection 17-27a-502(2); and

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

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

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

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

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

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

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

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

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

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

645 [(†)] (ii) identifies the anticipated impact on system improvements required by the

646 anticipated development activity to maintain the established level of service for each public
647 facility;

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

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

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

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

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

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

658 (i) public notice; and

659 (ii) written notice:

660 (A) to:

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

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

663 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
664 America;

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

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

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

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

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

675 ~~[(ii)]~~ (iii) other than impact fees, the manner of financing ~~[existing]~~ each public

676 ~~[facilities]~~ facility, such as user charges, special assessments, bonded indebtedness, general

677 taxes, or federal grants;

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

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

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

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

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

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

700 (6) Each local political subdivision that adopts an impact fee enactment under Section
701 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit
702 a copy of the written analysis required by Subsection (5)(a) and a copy of the summary
703 required by Subsection (5)(d) to:

704 (a) each public library within the local political subdivision;

705 (b) the registered agent of the Utah Home Builders Association;

706 (c) the registered agent of the Utah Association of Realtors; and

707 (d) the registered agent of the Utah Chapter of the Associated General Contractors of

708 America.

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

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

713 **11-36-202. Impact fees -- Enactment -- Required provisions -- Effective date.**

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

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

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

720 (i) the construction contract price;

721 (ii) the cost of acquiring land, improvements, materials, and fixtures;

722 (iii) the cost for planning, surveying, and engineering fees for services provided for and
723 directly related to the construction of the system improvements; and

724 (iv) debt service charges, if the political subdivision might use impact fees as a revenue
725 stream to pay the principal and interest on bonds, notes, or other obligations issued to finance
726 the costs of the system improvements.

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

730 (i) generally accepted cost accounting practices; and

731 (ii) the methodological standards set forth by the federal Office of Management and
732 Budget for federal grant reimbursement.

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

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

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

739 (A) make a copy of the impact fee enactment available to the public; and
740 (B) mail a written copy of the impact fee enactment to:
741 (I) the registered agent of the Utah Home Builders Association;
742 (II) the registered agent of the Utah Association of Realtors; and
743 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
744 America; and

745 (ii) (A) for a municipality, comply with the notice and hearing requirements of, and,
746 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
747 10-9a-205 and 10-9a-801;

748 (B) for a county, comply with the notice and hearing requirements of, and, except as
749 provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
750 17-27a-801; and

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

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

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

757 (a) contains:

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

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

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

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

766 (A) respond to:

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

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

770 (B) ensure that the impact fees are imposed fairly; and
771 (iv) a provision governing calculation of the amount of the impact fee to be imposed on
772 a particular development that permits adjustment of the amount of the fee based upon studies
773 and data submitted by the developer; and
774 (b) allows a developer to receive a credit against or proportionate reimbursement of an
775 impact fee if:
776 (i) the developer [~~is required by the local political subdivision, as a condition of~~
777 ~~development activity approval, to~~]:
778 (A) [~~dedicate~~] dedicates land for a system improvement;
779 (B) [~~improve~~] builds and dedicates some or all of a system improvement; or
780 (C) [~~provide new construction~~] dedicates a public facility that the local political
781 subdivision or private entity and the developer agree will reduce the need for a system
782 improvement[;].
783 [~~(ii) the system improvement is included in the impact fee analysis; and~~]
784 [~~(iii) the land, improvement, or new construction provides a system improvement that~~
785 ~~exceeds the requirements for the project.~~]
786 (3) (a) A local political subdivision or private entity may include a provision in an
787 impact fee enactment that:
788 (i) provides an impact fee exemption for:
789 (A) development activity attributable to:
790 [~~(a) exempts~~] (I) low income housing [~~and~~];
791 (II) the state;
792 (III) a school district; or
793 (IV) a charter school; or
794 (B) other development [~~activities~~] activity with a broad public [~~purposes from impact~~
795 ~~fees~~] purpose; and
796 (ii) establishes one or more sources of funds other than impact fees to pay for that
797 development activity[;].
798 [~~(b) imposes an impact fee for public facility costs previously incurred by a local~~
799 ~~political subdivision or private entity, as the case may be, to the extent that new growth and~~
800 ~~development will be served by the previously constructed improvement; and~~]

801 (b) An impact fee enactment that provides an impact fee exemption for development
802 activity attributable to a school district or charter school shall allow either a school district or a
803 charter school to qualify for the exemption on the same basis.

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

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

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

811 (a) are system improvements; or

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

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

814 ~~[(4)]~~ (5) [Except as provided in Subsection (3)(b), the] A local political subdivision
815 may not impose an impact fee to:

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

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

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

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

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

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

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

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

830 (iii) requiring the legislative body to:

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

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

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

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

838 ~~[(7)]~~ (6) (a) Notwithstanding any other provision of this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

861 (b) If the imposition of an impact fee on a new school is not prohibited under
862 Subsection (6)(a)(iv) because the new school creates a greater demand or need for public

863 facilities than the school being replaced, the impact fee may be based only on the demand or
864 need that the new school creates for public facilities that exceeds the demand or need that the
865 school being replaced creates for those public facilities.

866 [~~8~~] (7) Notwithstanding any other provision of this chapter, a local political
867 subdivision may impose and collect impact fees on behalf of a school district if authorized by
868 Section 53A-20-100.5.

869 [~~9~~] (8) An impact fee enactment may not take effect until 90 days after it is enacted.
870 Section 6. Section **11-36-401.5** is enacted to read:

871 **11-36-401.5. Mediation.**

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

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

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

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

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

882 (b) participate in the mediation process.

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

884 **17-27a-103. Definitions.**

885 As used in this chapter:

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

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

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

894 or

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

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

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

904 (4) "Charter school" includes:

905 (a) an operating charter school;

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

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

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

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

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

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

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

920 (8) "Culinary water authority" means the department, agency, or public entity with
921 responsibility to review and approve the feasibility of the culinary water system and sources for
922 the subject property.

923 (9) "Development activity" means:

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

925 demand and need for public facilities;

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

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

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

933 (b) "Disability" does not include current illegal use of, or addiction to, any federally
934 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
935 802.

936 (11) "Educational facility":

937 (a) means:

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

941 (ii) a structure or facility:

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

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

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

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

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

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

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

955 ~~[(H2)]~~ (13) "Fire authority" means the department, agency, or public entity with

956 responsibility to review and approve the feasibility of fire protection and suppression services
957 for the subject property.

958 [~~(13)~~] (14) "Flood plain" means land that:

959 (a) is within the 100-year flood plain designated by the Federal Emergency

960 Management Agency; or

961 (b) has not been studied or designated by the Federal Emergency Management Agency

962 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because

963 the land has characteristics that are similar to those of a 100-year flood plain designated by the

964 Federal Emergency Management Agency.

965 [~~(14)~~] (15) "Gas corporation" has the same meaning as defined in Section 54-2-1.

966 [~~(15)~~] (16) "General plan" means a document that a county adopts that sets forth

967 general guidelines for proposed future development of the unincorporated land within the

968 county.

969 [~~(16)~~] (17) "Geologic hazard" means:

970 (a) a surface fault rupture;

971 (b) shallow groundwater;

972 (c) liquefaction;

973 (d) a landslide;

974 (e) a debris flow;

975 (f) unstable soil;

976 (g) a rock fall; or

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

978 (i) to life;

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

980 (iii) of substantial damage to real property.

981 [~~(17)~~] (18) "Identical plans" means building plans submitted to a county that are

982 substantially identical building plans that were previously submitted to and reviewed and

983 approved by the county and describe a building that is:

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

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

987 the building described in the previously approved plans.

988 ~~[(18)]~~ (19) "Improvement assurance" means a surety bond, letter of credit, cash, or
989 other security:

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

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

992 (i) recording a subdivision plat; or

993 (ii) beginning development activity; and

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

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

997 (ii) issue a permit for development activity.

998 ~~[(19)]~~ (20) "Improvement assurance warranty" means a promise that the materials and
999 workmanship of improvements:

1000 (a) comport with standards that the county has officially adopted; and

1001 (b) will not fail in any material respect within a warranty period.

1002 ~~[(20)]~~ (21) "Interstate pipeline company" means a person or entity engaged in natural
1003 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
1004 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1005 ~~[(21)]~~ (22) "Intrastate pipeline company" means a person or entity engaged in natural
1006 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
1007 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1008 ~~[(22)]~~ (23) "Land use application" means an application required by a county's land use
1009 ordinance.

1010 ~~[(23)]~~ (24) "Land use authority" means a person, board, commission, agency, or other
1011 body designated by the local legislative body to act upon a land use application.

1012 ~~[(24)]~~ (25) "Land use ordinance" means a planning, zoning, development, or
1013 subdivision ordinance of the county, but does not include the general plan.

1014 ~~[(25)]~~ (26) "Land use permit" means a permit issued by a land use authority.

1015 ~~[(26)]~~ (27) "Legislative body" means the county legislative body, or for a county that
1016 has adopted an alternative form of government, the body exercising legislative powers.

1017 ~~[(27)]~~ (28) "Local district" means any entity under Title 17B, Limited Purpose Local

1018 Government Entities - Local Districts, and any other governmental or quasi-governmental
1019 entity that is not a county, municipality, school district, or unit of the state.

1020 ~~[(28)]~~ (29) "Lot line adjustment" means the relocation of the property boundary line in
1021 a subdivision between two adjoining lots with the consent of the owners of record.

1022 ~~[(29)]~~ (30) "Moderate income housing" means housing occupied or reserved for
1023 occupancy by households with a gross household income equal to or less than 80% of the
1024 median gross income for households of the same size in the county in which the housing is
1025 located.

1026 ~~[(30)]~~ (31) "Nominal fee" means a fee that reasonably reimburses a county only for
1027 time spent and expenses incurred in:

- 1028 (a) verifying that building plans are identical plans; and
- 1029 (b) reviewing and approving those minor aspects of identical plans that differ from the
1030 previously reviewed and approved building plans.

1031 ~~[(31)]~~ (32) "Noncomplying structure" means a structure that:

- 1032 (a) legally existed before its current land use designation; and
- 1033 (b) because of one or more subsequent land use ordinance changes, does not conform
1034 to the setback, height restrictions, or other regulations, excluding those regulations that govern
1035 the use of land.

1036 ~~[(32)]~~ (33) "Nonconforming use" means a use of land that:

- 1037 (a) legally existed before its current land use designation;
- 1038 (b) has been maintained continuously since the time the land use ordinance regulation
1039 governing the land changed; and
- 1040 (c) because of one or more subsequent land use ordinance changes, does not conform
1041 to the regulations that now govern the use of the land.

1042 ~~[(33)]~~ (34) "Official map" means a map drawn by county authorities and recorded in
1043 the county recorder's office that:

- 1044 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1045 highways and other transportation facilities;
- 1046 (b) provides a basis for restricting development in designated rights-of-way or between
1047 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1048 the land; and

1049 (c) has been adopted as an element of the county's general plan.

1050 [~~34~~] (35) "Person" means an individual, corporation, partnership, organization,
1051 association, trust, governmental agency, or any other legal entity.

1052 [~~35~~] (36) "Plan for moderate income housing" means a written document adopted by
1053 a county legislative body that includes:

1054 (a) an estimate of the existing supply of moderate income housing located within the
1055 county;

1056 (b) an estimate of the need for moderate income housing in the county for the next five
1057 years as revised biennially;

1058 (c) a survey of total residential land use;

1059 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
1060 income housing; and

1061 (e) a description of the county's program to encourage an adequate supply of moderate
1062 income housing.

1063 [~~36~~] (37) "Plat" means a map or other graphical representation of lands being laid out
1064 and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

1065 [~~37~~] (38) "Potential geologic hazard area" means an area that:

1066 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1067 relevant map or report as needing further study to determine the area's potential for geologic
1068 hazard; or

1069 (b) has not been studied by the Utah Geological Survey or a county geologist but
1070 presents the potential of geologic hazard because the area has characteristics similar to those of
1071 a designated geologic hazard area.

1072 [~~38~~] (39) "Public hearing" means a hearing at which members of the public are
1073 provided a reasonable opportunity to comment on the subject of the hearing.

1074 [~~39~~] (40) "Public meeting" means a meeting that is required to be open to the public
1075 under Title 52, Chapter 4, Open and Public Meetings Act.

1076 [~~40~~] (41) "Receiving zone" means an unincorporated area of a county that the
1077 county's land use authority designates as an area in which an owner of land may receive
1078 transferrable development rights.

1079 [~~41~~] (42) "Record of survey map" means a map of a survey of land prepared in

1080 accordance with Section 17-23-17.

1081 [~~(42)~~] (43) "Residential facility for elderly persons" means a single-family or
1082 multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not
1083 include a health care facility as defined by Section 26-21-2.

1084 [~~(43)~~] (44) "Residential facility for persons with a disability" means a residence:

1085 (a) in which more than one person with a disability resides; and

1086 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
1087 Chapter 2, Licensure of Programs and Facilities; or

1088 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
1089 Health Care Facility Licensing and Inspection Act.

1090 [~~(44)~~] (45) "Sanitary sewer authority" means the department, agency, or public entity
1091 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1092 wastewater systems.

1093 [~~(45)~~] (46) "Sending zone" means an unincorporated area of a county that the county's
1094 land use authority designates as an area from which an owner of land may transfer transferrable
1095 development rights to an owner of land in a receiving zone.

1096 [~~(46)~~] (47) "Specified public utility" means an electrical corporation, gas corporation,
1097 or telephone corporation, as those terms are defined in Section 54-2-1.

1098 [~~(47)~~] (48) "Street" means a public right-of-way, including a highway, avenue,
1099 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
1100 or other way.

1101 [~~(48)~~] (49) (a) "Subdivision" means any land that is divided, resubdivided or proposed
1102 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
1103 purpose, whether immediate or future, for offer, sale, lease, or development either on the
1104 installment plan or upon any and all other plans, terms, and conditions.

1105 (b) "Subdivision" includes:

1106 (i) the division or development of land whether by deed, metes and bounds description,
1107 devise and testacy, map, plat, or other recorded instrument; and

1108 (ii) except as provided in Subsection [~~(48)~~] (49)(c), divisions of land for residential and
1109 nonresidential uses, including land used or to be used for commercial, agricultural, and
1110 industrial purposes.

- 1111 (c) "Subdivision" does not include:
- 1112 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 1113 (ii) a recorded agreement between owners of adjoining properties adjusting their
- 1114 mutual boundary if:
- 1115 (A) no new lot is created; and
- 1116 (B) the adjustment does not violate applicable land use ordinances;
- 1117 (iii) a recorded document, executed by the owner of record:
- 1118 (A) revising the legal description of more than one contiguous unsubdivided parcel of
- 1119 property into one legal description encompassing all such parcels of property; or
- 1120 (B) joining a subdivided parcel of property to another parcel of property that has not
- 1121 been subdivided, if the joinder does not violate applicable land use ordinances;
- 1122 (iv) a bona fide division or partition of land in a county other than a first class county
- 1123 for the purpose of siting, on one or more of the resulting separate parcels:
- 1124 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
- 1125 corporation, interstate pipeline company, or intrastate pipeline company; or
- 1126 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
- 1127 utility service regeneration, transformation, retransmission, or amplification facility; or
- 1128 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
- 1129 their mutual boundary if:
- 1130 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 1131 (B) the adjustment will not violate any applicable land use ordinance.
- 1132 (d) The joining of a subdivided parcel of property to another parcel of property that has
- 1133 not been subdivided does not constitute a subdivision under this Subsection [~~(48)~~ (49) as to
- 1134 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
- 1135 subdivision ordinance.
- 1136 [~~(49)~~ (50) "Township" means a contiguous, geographically defined portion of the
- 1137 unincorporated area of a county, established under this part or reconstituted or reinstated under
- 1138 Section 17-27a-306, with planning and zoning functions as exercised through the township
- 1139 planning commission, as provided in this chapter, but with no legal or political identity
- 1140 separate from the county and no taxing authority, except that "township" means a former
- 1141 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

1142 [~~(50)~~] (51) "Transferrable development right" means the entitlement to develop land
1143 within a sending zone that would vest according to the county's existing land use ordinances on
1144 the date that a completed land use application is filed seeking the approval of development
1145 activity on the land.

1146 [~~(51)~~] (52) "Unincorporated" means the area outside of the incorporated area of a
1147 municipality.

1148 [~~(52)~~] (53) "Zoning map" means a map, adopted as part of a land use ordinance, that
1149 depicts land use zones, overlays, or districts.

1150 Section 8. Section **17-27a-305** is amended to read:

1151 **17-27a-305. Other entities required to conform to county's land use ordinances --**
1152 **Exceptions -- School districts and charter schools.**

1153 (1) (a) Each county, municipality, school district, charter school, local district, special
1154 service district, and political subdivision of the state shall conform to any applicable land use
1155 ordinance of any county when installing, constructing, operating, or otherwise using any area,
1156 land, or building situated within the unincorporated portion of the county.

1157 (b) In addition to any other remedies provided by law, when a county's land use
1158 ordinance is violated or about to be violated by another political subdivision, that county may
1159 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
1160 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1161 (2) (a) Notwithstanding Subsection (1), a public transit district under Title 17B,
1162 Chapter 2a, Part 8, Public Transit District Act, is not required to conform to any applicable
1163 land use ordinance of a county of the first class when constructing a:

1164 (i) rail fixed guideway public transit facility that extends across two or more counties;
1165 or

1166 (ii) structure that serves a rail fixed guideway public transit facility that extends across
1167 two or more counties, including:

1168 (A) platforms;

1169 (B) passenger terminals or stations;

1170 (C) park and ride facilities;

1171 (D) maintenance facilities;

1172 (E) all related utility lines, roadways, and other facilities serving the public transit

1173 facility; or

1174 (F) other auxiliary facilities.

1175 (b) The exemption from county land use ordinances under this Subsection (2) does not
1176 extend to any property not necessary for the construction or operation of a rail fixed guideway
1177 public transit facility.

1178 (c) A county of the first class may not, through an agreement under Title 11, Chapter 3,
1179 Interlocal Cooperation Act, require a public transit district under Title 17B, Chapter 2a, Part 8,
1180 Public Transit District Act, to obtain approval from the county prior to constructing a:

1181 (i) rail fixed guideway public transit facility that extends across two or more counties;

1182 or

1183 (ii) structure that serves a rail fixed guideway public transit facility that extends across
1184 two or more counties, including:

1185 (A) platforms;

1186 (B) passenger terminals or stations;

1187 (C) park and ride facilities;

1188 (D) maintenance facilities;

1189 (E) all related utility lines, roadways, and other facilities serving the public transit
1190 facility; or

1191 (F) other auxiliary facilities.

1192 (3) (a) Except as provided in Subsection (4), a school district or charter school is
1193 subject to a county's land use ordinances.

1194 (b) (i) Notwithstanding Subsection (4), a county may:

1195 (A) subject a charter school to standards within each zone pertaining to setback, height,
1196 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
1197 staging; and

1198 (B) impose regulations upon the location of a project that are necessary to avoid
1199 unreasonable risks to health or safety, as provided in Subsection (4)(f).

1200 (ii) The standards to which a county may subject a charter school under Subsection
1201 (3)(b)(i) shall be objective standards only and may not be subjective.

1202 (iii) Except as provided in Subsection (8)(d), the only basis upon which a county may
1203 deny or withhold approval of a charter school's land use application is the charter school's

1204 failure to comply with a standard imposed under Subsection (3)(b)(i).

1205 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of an
1206 obligation to comply with a requirement of an applicable building or safety code to which it is
1207 otherwise obligated to comply.

1208 (4) A county may not:

1209 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1210 construction methods or materials, additional building inspections, county building codes,
1211 building use for educational purposes, or the placement or use of temporary classroom facilities
1212 on school property;

1213 (b) except as otherwise provided in this section, require a school district or charter
1214 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1215 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1216 children and not located on or contiguous to school property, unless the roadway or sidewalk is
1217 required to connect an otherwise isolated school site to an existing roadway;

1218 (c) require a district or charter school to pay fees not authorized by this section;

1219 (d) provide for inspection of school construction or assess a fee or other charges for
1220 inspection, unless the school district or charter school is unable to provide for inspection by an
1221 inspector, other than the project architect or contractor, who is qualified under criteria
1222 established by the state superintendent;

1223 (e) require a school district or charter school to pay any impact fee for an improvement
1224 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;
1225 or

1226 (f) impose regulations upon the location of [~~a project~~] an educational facility except as
1227 necessary to avoid unreasonable risks to health or safety.

1228 (5) Subject to Section 53A-20-108, a school district or charter school shall coordinate
1229 the siting of a new school with the county in which the school is to be located, to:

1230 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
1231 the impacts between the new school and future highways; and

1232 (b) maximize school, student, and site safety.

1233 (6) Notwithstanding Subsection (4)(d), a county may, at its discretion:

1234 (a) provide a walk-through of school construction at no cost and at a time convenient to

1235 the district or charter school; and

1236 (b) provide recommendations based upon the walk-through.

1237 (7) (a) Notwithstanding Subsection (4)(d), a school district or charter school shall use:

1238 (i) a county building inspector;

1239 (ii) (A) for a school district, a school district building inspector from that school

1240 district; or

1241 (B) for a charter school, a school district building inspector from the school district in

1242 which the charter school is located; or

1243 (iii) an independent, certified building inspector who is:

1244 (A) not an employee of the contractor;

1245 (B) approved by:

1246 (I) a county building inspector; or

1247 (II) (Aa) for a school district, a school district building inspector from that school

1248 district; or

1249 (Bb) for a charter school, a school district building inspector from the school district in

1250 which the charter school is located; and

1251 (C) licensed to perform the inspection that the inspector is requested to perform.

1252 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.

1253 (c) If a school district or charter school uses a school district or independent building

1254 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit to

1255 the state superintendent of public instruction and county building official, on a monthly basis

1256 during construction of the school building, a copy of each inspection certificate regarding the

1257 school building.

1258 (8) (a) A charter school shall be considered a permitted use in all zoning districts

1259 within a county.

1260 (b) Each land use application for any approval required for a charter school, including

1261 an application for a building permit, shall be processed on a first priority basis.

1262 (c) Parking requirements for a charter school may not exceed the minimum parking

1263 requirements for schools or other institutional public uses throughout the county.

1264 (d) If a county has designated zones for a sexually oriented business, or a business

1265 which sells alcohol, a charter school may be prohibited from a location which would otherwise

1266 defeat the purpose for the zone unless the charter school provides a waiver.

1267 (e) (i) A school district or a charter school may seek a certificate authorizing permanent
1268 occupancy of a school building from:

1269 (A) the state superintendent of public instruction, as provided in Subsection
1270 53A-20-104(3), if the school district or charter school used an independent building inspector
1271 for inspection of the school building; or

1272 (B) a county official with authority to issue the certificate, if the school district or
1273 charter school used a county building inspector for inspection of the school building.

1274 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1275 a school building if it used its own building inspector for inspection of the school building,
1276 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

1277 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
1278 school building from a school district official with authority to issue the certificate, if the
1279 charter school used a school district building inspector for inspection of the school building.

1280 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1281 of public instruction under Subsection 53A-20-104(3) or a school district official with authority
1282 to issue the certificate shall be considered to satisfy any county requirement for an inspection or
1283 a certificate of occupancy.

1284 Section 9. **Coordinating H.B. 259 with S.B. 84, Impact Fees Revisions --**
1285 **Technically superseding and merging amendments..**

1286 If this H.B. 259 and S.B. 84, Impact Fees Revisions, both pass, it is the intent of the
1287 Legislature that:

1288 (1) this coordination clause supersede the coordination clause in S.B. 84 relating to
1289 Subsection 11-36-202(6); and

1290 (2) the Office of Legislative Research and General Counsel, in preparing the Utah
1291 Code database for publication, modify Subsection 11-36-202(6) to read:

1292 "[(7)] (6) (a) Notwithstanding any other provision of this chapter:

1293 [(a) a municipality imposing impact fees to fund fire trucks as of the effective date of
1294 this act may impose impact fees for fire trucks until July 1, 1997; and (b)]

1295 (i) an impact fee to pay for a public safety facility that is a fire suppression vehicle
1296 may not be imposed [with respect to land that has a zoning designation other than

1297 ~~commercial.]~~ on residential components of development;
1298 (ii) an impact fee may not be imposed on a school district or charter school for a park,
1299 recreation facility, open space, or trail;
1300 (iii) an impact fee may not be imposed on development activity that consists of the
1301 construction of a school, whether by a school district or a charter school, if:
1302 (A) the school is intended to replace another school, whether on the same or a different
1303 parcel;
1304 (B) the new school creates no greater demand or need for public facilities than the
1305 school being replaced; and
1306 (C) the new school and the school being replaced are both within:
1307 (I) the boundary of the local political subdivision; or
1308 (II) the jurisdiction of the private entity; and
1309 (iv) an impact fee may not be imposed on a school district or charter school unless:
1310 (A) the development resulting from the school district or charter school's development
1311 activity directly results in a need for additional system improvements for which the impact fee
1312 is imposed; and
1313 (B) the impact fee is calculated to cover only the school district or charter school's
1314 proportionate share of the cost of those additional system improvements.
1315 (b) If the imposition of an impact fee on a new school is not prohibited under
1316 Subsection (6)(a)(iii) because the new school creates a greater demand or need for public
1317 facilities than the school being replaced, the impact fee may be based only on the demand or
1318 need that the new school creates for public facilities that exceeds the demand or need that the
1319 school being replaced creates for those public facilities."