



30 None

31 **Other Special Clauses:**

32 This bill coordinates with H.B. 259, Changes to Impact Fees, by technically  
33 superseding and merging amendments.

34 This bill coordinates with H.B. 274, Local Government Fees and Charges, by  
35 technically superseding and merging amendments.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **10-5-129**, as last amended by Laws of Utah 2006, Chapter 257

39 **10-6-150**, as last amended by Laws of Utah 2006, Chapter 257

40 **11-36-102**, as last amended by Laws of Utah 2008, Chapters 70 and 360

41 **11-36-201**, as last amended by Laws of Utah 2008, Chapters 70, 360, and 382

42 **11-36-202**, as last amended by Laws of Utah 2008, Chapter 70

43 **11-36-301**, as enacted by Laws of Utah 1995, First Special Session, Chapter 11

44 **17-36-37**, as last amended by Laws of Utah 2006, Chapter 257

45 **17B-1-639**, as renumbered and amended by Laws of Utah 2007, Chapter 329



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

48 Section 1. Section **10-5-129** is amended to read:

49 **10-5-129. Annual financial report.**

50 (1) ~~[(a)]~~ Within 180 days after the close of each fiscal year the town clerk or other  
51 delegated person shall present to the council an annual financial report.

52 ~~[(b) Each annual financial report shall identify impact fee funds by the year in which  
53 they were received, the project from which the funds were collected, the capital projects for  
54 which the funds are budgeted, and the projected schedule for expenditure.]~~

55 (2) The requirement under Subsection (1)~~[(a)]~~ to present an annual financial report  
56 may be satisfied by an audit report or annual financial report of an independent auditor.

57 Section 2. Section **10-6-150** is amended to read:

58           **10-6-150. Annual financial reports -- Independent audit reports.**

59           (1) [(a)] Within 180 days after the close of each fiscal period or, for a city that has  
60 adopted a fiscal period that is a biennial period, within 180 days after both the mid-point and  
61 the close of the fiscal period, the city recorder or other delegated person shall present to the  
62 governing body an annual financial report prepared in conformity with generally accepted  
63 accounting principles, as prescribed in the Uniform Accounting Manual for Utah Cities.

64           ~~[(b) Each annual financial report shall identify impact fee funds by the year in which  
65 they were received, the project from which the funds were collected, the capital projects for  
66 which the funds are budgeted, and the projected schedule for expenditure.]~~

67           (2) (a) The requirement under Subsection (1)[(a)] to present an annual financial report  
68 may be satisfied by presentation of the audit report furnished by the independent auditor, if the  
69 financial statements included are appropriately prepared and reviewed with the governing  
70 body.

71           (b) Notwithstanding the acceptability of the audit report furnished by the independent  
72 auditor in substitution for financial statements prepared by an officer of the city, the governing  
73 body has the responsibility for those financial statements.

74           (c) The independent auditor has the responsibility of reporting whether the governing  
75 body's financial statements are prepared in conformity with generally accepted accounting  
76 principles.

77           (3) Copies of the annual financial report or the audit report furnished by the  
78 independent auditor shall be filed with the state auditor and shall be filed as a public document  
79 in the office of the city recorder.

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

81           **11-36-102. Definitions.**

82           As used in this chapter:

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

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

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

90 (4) "Development approval" means any written authorization from a local political  
91 subdivision that authorizes the commencement of development activity.

92 (5) "Enactment" means:

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

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

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

97 (6) "Hookup fees" means reasonable fees, not in excess of the approximate average  
98 costs to the political subdivision, for services provided for and directly attributable to the  
99 connection to utility services, including gas, water, sewer, power, or other municipal, county,  
100 local district, or special service district utility services.

101 (7) (a) "Impact fee" means a payment of money imposed upon development activity as  
102 a condition of development approval.

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

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

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

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

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

113 (i) planned and designed to provide service for development resulting from a

114 development activity; and

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

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

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

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

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

125 (b) wastewater collection and treatment facilities;

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

127 (d) municipal power facilities;

128 (e) roadway facilities;

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

130 (g) public safety facilities.

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

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

133 or

134 (ii) a fire suppression vehicle [~~with a ladder reach of at least 75 feet,~~] costing in excess  
135 of [~~\$1,250,000, that is necessary for fire suppression in commercial areas with one or more~~  
136 ~~buildings at least five stories high~~] \$500,000.

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

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

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

- 144 (i) are necessitated by the new development; and
- 145 (ii) are not funded by the state or federal government.

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

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

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

151 (16) (a) "System improvements" means:

- 152 (i) existing public facilities that are designed to provide services to service areas  
153 within the community at large; and
- 154 (ii) future public facilities identified in a capital facilities plan that are intended to  
155 provide services to service areas within the community at large.

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

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

158 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**  
159 **Summary -- Exemptions.**

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

162 (b) A local political subdivision may not:

- 163 (i) establish any new impact fees that are not authorized by this chapter; or
- 164 (ii) impose or charge any other fees as a condition of development approval unless  
165 those fees are a reasonable charge for the service provided.

166 (c) [~~Notwithstanding any other requirements of this chapter, each~~] Each local political  
167 subdivision shall [~~ensure that each existing impact fee that is charged for any public facility~~  
168 ~~not authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.~~] (d) (i) Existing  
169 impact fees that a local political subdivision charges for public facilities authorized in

170 ~~Subsection 11-36-102(12) need not comply with the requirements of this chapter until July 1,~~  
171 ~~1997. (ii) By July 1, 1997, each local political subdivision shall: (A) review any impact fees~~  
172 ~~in existence as of the effective date of this act, and prepare and approve the analysis required~~  
173 ~~by this section for each of those impact fees; and (B)] ensure that the impact fees comply with~~  
174 the requirements of this chapter.

175 (2) (a) Before imposing impact fees, each local political subdivision and private entity  
176 shall, except as provided in Subsection (2)(f), prepare a capital facilities plan.

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

178 (A) (I) "Affected entity" means each county, municipality, local district under Title  
179 17B, Limited Purpose Local Government Entities - Local Districts, special service district  
180 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation  
181 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

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

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

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

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

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

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

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

197 (B) describe or provide a map of the geographic area where the proposed capital

198 facilities will be located;

199 (C) be sent to:

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

202 (II) each affected entity;

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

204 (IV) the association of governments, established pursuant to an interlocal agreement  
205 under [~~Title 11,~~] Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed  
206 to be located;

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

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

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

210 (VIII) the registered agent of the Utah Chapter of the Associated General Contractors  
211 of America; and

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

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

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

219 (c) The plan shall identify:

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

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

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



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

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

231 (I) to:

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

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

234 (Cc) the registered agent of the Utah Chapter of the Associated General Contractors of  
235 America;

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

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

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

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

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

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

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

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

249 (A) each municipality shall comply with the notice and hearing requirements of, and,  
250 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections  
251 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

252 (B) each county shall comply with the notice and hearing requirements of, and, except  
253 as provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and

254 17-27a-801 and Subsection 17-27a-502(2); and

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

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

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

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

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

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

267 (3) In preparing the plan, each local political subdivision shall generally consider all  
268 revenue sources, including impact fees, to finance the impacts on system improvements.

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

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

276 (i) identifies the impact on system improvements required by the development  
277 activity;

278 (ii) demonstrates how those impacts on system improvements are reasonably related to  
279 the development activity;

280 (iii) estimates the proportionate share of the costs of impacts on system improvements  
281 that are reasonably related to the new development activity; and

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

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

286 (i) public notice; and

287 (ii) written notice:

288 (A) to:

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

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

291 (III) the registered agent of the Utah Chapter of the Associated General Contractors of  
292 America;

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

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

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

300 (i) the cost of existing public facilities;

301 (ii) the manner of financing existing public facilities, such as user charges, special  
302 assessments, bonded indebtedness, general taxes, or federal grants;

303 (iii) the relative extent to which the newly developed properties and other properties  
304 have already contributed to the cost of existing public facilities, by such means as user  
305 charges, special assessments, or payment from the proceeds of general taxes;

306 (iv) the relative extent to which the newly developed properties and other properties  
307 will contribute to the cost of existing public facilities in the future;

308 (v) the extent to which the newly developed properties are entitled to a credit because  
309 the local political subdivision or private entity, as the case may be, requires its developers or

310 owners, by contractual arrangement or otherwise, to provide common facilities, inside or  
311 outside the proposed development, that have been provided by the local political subdivision  
312 or private entity, respectively, and financed through general taxation or other means, apart  
313 from user charges, in other parts of the service area;

314 (vi) extraordinary costs, if any, in servicing the newly developed properties; and  
315 (vii) the time-price differential inherent in fair comparisons of amounts paid at  
316 different times.

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

320 (6) Each local political subdivision that adopts an impact fee enactment under Section  
321 11-36-202 on or after July 1, 2000 shall, at least [~~14~~] ten days before adopting the  
322 enactment[;];

323 (a) submit a copy of the written analysis required by Subsection (5)(a) and a copy of  
324 the summary required by Subsection (5)(d) to:

- 325 [~~(a)~~] (i) each public library within the local political subdivision;
- 326 [~~(b)~~] (ii) the registered agent of the Utah Home Builders Association;
- 327 [~~(c)~~] (iii) the registered agent of the Utah Association of Realtors; and
- 328 [~~(d)~~] (iv) the registered agent of the Utah Chapter of the Associated General  
329 Contractors of America[-]; and

330 (b) obtain a written certification from the person or entity that prepares the written  
331 analysis which states as follows:

332 "I certify that the attached impact fee analysis:

333 1. includes only the costs for qualifying public facilities that are:

334 a. allowed under the Impact Fees Act; and

335 b. projected to be incurred or encumbered within six years after each  
336 impact fee is paid;

337 2. contains no cost for operation and maintenance of public facilities;

- 338 3. offsets costs with grants or other alternate sources of payment;
- 339 4. does not include costs for qualifying public facilities that will raise the level
- 340 of service for the facilities, through impact fees, above the level of service that
- 341 is supported by existing residents; and
- 342 5. complies in each and every relevant respect with the Impact Fees Act."

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

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

347 **11-36-202. Impact fees -- Enactment -- Required provisions -- Effective date.**

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

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

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

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

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

- 364 (i) generally accepted cost accounting practices; and
- 365 (ii) the methodological standards set forth by the federal Office of Management and

366 Budget for federal grant reimbursement.

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

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

372 (i) at least [~~14~~] ten days before the date of the public hearing:

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

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

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

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

377 (III) the registered agent of the Utah Chapter of the Associated General Contractors of  
378 America; and

379 (ii) (A) for a municipality, comply with the notice and hearing requirements of, and,  
380 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections  
381 10-9a-205 and 10-9a-801;

382 (B) for a county, comply with the notice and hearing requirements of, and, except as  
383 provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and  
384 17-27a-801; and

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

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

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

391 (a) contains:

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

394 categories;

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

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

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

401 (A) respond to unusual circumstances in specific cases; and

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

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

406 (b) allows a developer to receive a credit against or proportionate reimbursement of an  
407 impact fee if:

408 (i) the developer is required by the local political subdivision, as a condition of  
409 development activity approval, to:

410 (A) dedicate land for a system improvement;

411 (B) improve a system improvement; or

412 (C) provide new construction for a system improvement;

413 (ii) the system improvement is included in the impact fee analysis; and

414 (iii) the land, improvement, or new construction provides a system improvement that  
415 exceeds the requirements for the project.

416 (3) A local political subdivision or private entity may include a provision in an impact  
417 fee enactment that:

418 (a) exempts low income housing and other development activities with broad public  
419 purposes from impact fees and establishes one or more sources of funds other than impact fees  
420 to pay for that development activity;

421 (b) imposes an impact fee for public facility costs previously incurred by a local

422 political subdivision or private entity, as the case may be, to the extent that new growth and  
423 development will be served by the previously constructed improvement; and

424 (c) allows a credit against impact fees for any dedication of land for, improvement to,  
425 or new construction of, any system improvements provided by the developer if the facilities:

426 (i) are identified in the capital facilities plan; and

427 (ii) are required by the local political subdivision as a condition of approving the  
428 development activity.

429 (4) Except as provided in Subsection (3)(b), the local political subdivision may not  
430 impose an impact fee to cure deficiencies in public facilities serving existing development.

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

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

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

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

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

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

442 (iii) requiring the legislative body to:

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

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

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

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



450           ~~[(7)] (6)~~ Notwithstanding any other provision of this chapter~~[: (a) a municipality~~  
 451 ~~imposing impact fees to fund fire trucks as of the effective date of this act may impose impact~~  
 452 ~~fees for fire trucks until July 1, 1997, and (b)],~~ an impact fee to pay for a public safety facility  
 453 that is a fire suppression vehicle may not be imposed ~~[with respect to land that has a zoning~~  
 454 ~~designation other than commercial]~~ on residential components of development.

455           ~~[(8)] (7)~~ Notwithstanding any other provision of this chapter, a local political  
 456 subdivision may impose and collect impact fees on behalf of a school district if authorized by  
 457 Section 53A-20-100.5.

458           ~~[(9)] (8)~~ An impact fee enactment may not take effect until 90 days after it is enacted.  
 459 Section 6. Section **11-36-301** is amended to read:

460           **11-36-301. Impact fees -- Accounting -- Report.**

461           Each local political subdivision collecting impact fees shall:

462           (1) establish separate interest bearing ledger accounts for each type of public facility  
 463 for which an impact fee is collected;

464           (2) deposit impact fee receipts in the appropriate ledger account;

465           (3) retain the interest earned on each fund or account in the fund or account; and

466           (4) at the end of each fiscal year, prepare a report on each fund or account showing:

467           (a) the source and amount of all monies collected, earned, and received by the fund or  
 468 account; and

469           (b) each expenditure from the fund or account~~[-];~~ and

470           (5) establish a report that:

471           (a) identifies impact fee funds by the year in which they were received, the project  
 472 from which the funds were collected, the capital projects for which the funds were budgeted,  
 473 and the projected schedule for expenditure;

474           (b) is in a format developed by the state auditor;

475           (c) is certified by the local political subdivision's chief financial officer; and

476           (d) is transmitted annually to the state auditor.

477           Section 7. Section **17-36-37** is amended to read:

478 **17-36-37. Budget officer -- Annual financial statement -- Contents.**

479 (1) The budget officer of each county, within 180 days after the close of each fiscal  
480 period or, for a county that has adopted a fiscal period that is a biennial period, within 180  
481 days after both the midpoint and the close of the fiscal period, except as provided by Section  
482 17-36-38, shall prepare and make available to the governing body an annual financial report  
483 which shall contain:

484 (a) a statement of revenues and expenditures and a comparison with the budget of the  
485 general fund, similar statements of all other funds for which budgets are required, and  
486 statements of revenues and expenditures or of income and expense, as the case may be, of all  
487 other operating funds of the county;

488 (b) a balance sheet of each fund and a combined balance sheet of all funds as of:

489 (i) for a county that has adopted a fiscal period that is a biennial period, the midpoint  
490 and the close of the fiscal period; and

491 (ii) for each other county, the close of the fiscal period; or

492 (c) any other reports the governing body may require, including work performance  
493 data, tax levies, taxable values, details of bonded indebtedness, and historical facts of interest  
494 to the governing body and the public.

495 [~~(2) Each annual financial report required under Subsection (1) shall identify impact  
496 fee funds by the year in which they were received, the project from which the funds were  
497 collected, the capital projects for which the funds are budgeted, and the projected schedule for  
498 expenditure.~~]

499 [~~(3)~~] (2) Copies of the annual report shall be furnished to the state auditor and made a  
500 matter of public record in the office of the budget officer.

501 Section 8. Section **17B-1-639** is amended to read:

502 **17B-1-639. Annual financial reports -- Independent audit reports.**

503 (1) [~~(a)~~] Within 180 days after the close of each fiscal year, the district shall prepare  
504 an annual financial report in conformity with generally accepted accounting principles as  
505 prescribed in the Uniform Accounting Manual for Local Districts.

506 ~~[(b) Each annual financial report shall identify impact fee funds by the year in which~~  
507 ~~they were received, the project from which the funds were collected, the capital projects for~~  
508 ~~which the funds are budgeted, and the projected schedule for expenditure.]~~

509 (2) The requirement under Subsection (1)~~[(a)]~~ to prepare an annual financial report  
510 may be satisfied by presentation of the audit report furnished by the independent auditor.

511 (3) Copies of the annual financial report or the audit report furnished by the  
512 independent auditor shall be filed with the state auditor and shall be filed as a public document  
513 in the district office.

514 Section 9. **Coordinating S.B. 84 with H.B. 259 -- Technically superseding and**  
515 **merging amendments.**

516 If this S.B. 84 and H.B. 259, Changes to Impact Fees, both pass, it is the intent of the  
517 Legislature that:

518 (1) the amendments to Subsections 11-36-201(1)(c) and (d) in this bill supersede the  
519 amendments to Subsections 11-36-201(1)(c) and (d) in H.B. 259, when the Office of  
520 Legislative Research and General Counsel prepares the Utah Code database for publication;  
521 and

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

524 "~~[(7)]~~ (6) Notwithstanding any other provision of this chapter:

525 (a) [a municipality imposing impact fees to fund fire trucks as of the effective date of  
526 this act may impose impact fees for fire trucks until July 1, 1997; and (b)] an impact fee to pay  
527 for a public safety facility that is a fire suppression vehicle may not be imposed [with respect  
528 to land that has a zoning designation other than commercial] on residential components of  
529 development[:];

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

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

534 (i) the school is intended to replace another school, whether on the same or a different  
535 parcel; and

536 (ii) the new school and the school being replaced are both within:

537 (A) the boundary of the local political subdivision; or

538 (B) the jurisdiction of the private entity; and

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

540 (i) the development resulting from the school district or charter school's development  
541 activity directly results in a need for additional system improvements for which the impact fee  
542 is imposed; and

543 (ii) the impact fee is calculated to cover only the school district or charter school's  
544 proportionate share of the cost of those additional system improvements."

545 **Section 10. Coordinating S.B. 84 with H.B. 274 -- Technically superseding and**  
546 **merging amendments.**

547 If this S.B. 84 and H.B. 274, Local Government Fees and Charges, both pass, it is the  
548 intent of the Legislature that:

549 (1) the amendments to Subsections 11-36-201(1)(c) and (d) in this bill supersede the  
550 amendments to Subsections 11-36-201(1)(c) and (d) in H.B. 274, when the Office of  
551 Legislative Research and General Counsel prepares the Utah Code database for publication;  
552 and

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

555 "[(7)] (6) Notwithstanding any other provision of this chapter:

556 (a) [a municipality imposing impact fees to fund fire trucks as of the effective date of  
557 this act may impose impact fees for fire trucks until July 1, 1997; and (b)] an impact fee to pay  
558 for a public safety facility that is a fire suppression vehicle may not be imposed [with respect  
559 to land that has a zoning designation other than commercial] on residential components of  
560 development[-];

561 (b) an impact fee for a road facility may be imposed on the state only if and to the

562 extent that:

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

564 (ii) the portion of the road facility related to an impact fee is not funded by the state or

565 by the federal government; and

566 (c) to the extent that the impact fee includes a component for a law enforcement

567 facility, the impact fee may not be imposed on development activity for:

568 (i) the Utah National Guard;

569 (ii) the Utah Highway Patrol; or

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