

The Honorable- Senator Rice and Representative Addis, Co-Chairs  
Property Taxes and Revenue Expenditures Committee  
Idaho State Legislature  
P.O. Box 83720  
Boise, Idaho 83720

RE: 2021 Legislative Session: Adding Schools to Impact Fee Eligible Public Facilities

Dear Co-Chairs, Addis and Rice,

I am writing to you as a professional and certified planner that has worked throughout the state of Idaho. I have worked for Latah County, Teton County, the City of Victor and now Ada County. I am also the Chair of the Idaho Chapter of the American Planning Association (APA Idaho) Legislative Committee. APA Idaho represents nearly 300 local planning officials, private-sector planners, and planning commission members statewide. I am writing to register my support of legislation that would allow communities to collect development impact fees for the local school districts.

**1. Problem**

Idaho State Code requires that local governments mitigate impacts on public services caused by new development. The Local Land Use Planning Act (LLUPA) identifies schools specifically as one of the services that can be mitigated for. However, when it comes to those mitigation efforts, such as fees, they must meet Idaho Code 82-67 Development Impact Fees. The issue arises when examining §67-82 and it is noticed that schools are not listed as a “public facility” that is eligible for impact fees.

Specifically –

Section 67-6512(a):

A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan.

Section 67-6512(d.8):

Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

Section 67-6513:

Each such ordinance may provide for mitigation of the effects of subdivision development on the ability of political subdivisions of the state, including school districts, to deliver services without compromising quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision. Fees established for purposes of mitigating the financial impacts of development must comply with the provisions of [chapter 82, title 67](#), Idaho Code.

Section 67-8203(24):

(24) "Public facilities" means:

- (a) Water supply production, treatment, storage and distribution facilities;
- (b) Wastewater collection, treatment and disposal facilities;
- (c) Roads, streets and bridges, including rights-of-way, traffic signals, landscaping and any local components of state or federal highways;
- (d) Storm water collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;
- (e) Parks, open space and recreation areas, and related capital improvements; and
- (f) Public safety facilities, including law enforcement, fire, emergency medical and rescue and street lighting facilities.

## 2. Solution

The solution to this issue is rather simple. It would require two changes to §67-82. First, "Public School Facilities" would need to be added to the list of eligible "public facilities found in §67-8203(24). Second, "school districts" would need to be added to the list of agencies that can enter into inter-governmental agreements with cities and counties, found in §67-8204A. This approach would allow school districts and communities to work together to mitigate the impacts of growth and aid in the financing of capital for the school districts.

Specifically –

Section 67-8203(24):

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- (d) Storm water collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;
- (e) Parks, open space and recreation areas, and related capital improvements; ~~and~~
- (f) Public safety facilities, including law enforcement, fire, emergency medical and rescue and street lighting facilities; ~~and~~
- (g) Public school facilities.**

Section 67-8204A:

INTERGOVERNMENTAL AGREEMENTS. Governmental entities as defined in section [67-8203\(14\)](#), Idaho Code, which are jointly affected by development are authorized to enter into intergovernmental agreements with each other or with highway districts, fire districts, water districts, sewer districts, recreational water, **school districts**, and sewer districts or irrigation districts for the purpose of developing joint plans for capital improvements or for the purpose of agreeing to collect and expend development impact fees for system improvements, or both, provided that such agreement complies with any applicable state laws. Governmental entities are also authorized to enter into agreements with the Idaho transportation department for the expenditure of development impact fees pursuant to a developer's agreement under section [67-8214](#), Idaho Code.

### 3. Justification

Local governments and governmental districts are very limited, through LLUPA, in the tools available for mitigating the impact of new development on existing public services. The main tool available to local governments is "Development Impact Fees". In order to fully consider and mitigate the impacts to local school districts, school facilities need to be added list of public facilities eligible for impact fees.

### 4. Objectives

The objective of this effort is to provide a mitigation mechanism for the impacts of new development on local school districts.

### 5. Constraints

This change will not allow school districts to impose impact fees by themselves. They will need to work with local governments (cities and counties) through intergovernmental agreements to develop the necessary capital improvement plan, impact fee study, comprehensive plan additions and ordinance.

These minor changes to the state statutes, would have an enormous positive impact for our communities and schools. The current taxing/development financing framework places the lion's share of funding new school capital, as well as operation costs on existing property owners. As we have seen, this is a large burden to bear. Utilizing development impact fees will help ease that burden on current tax payers and shift, at least a portion, to those "new properties". This approach will help ensure the level of service that is being provided to our children is not compromised, because our community is growing.

I am happy to answer any additional questions or assist in this process any way you see beneficial. Thank you very much for your time and your service to the citizens of this wonderful state of ours.



Jason Boal  
Jason Boal – AICP, CFM

CC: The Honorable Senator Guthrie  
The Honorable Senator Anthon  
The Honorable Senator Grow  
The Honorable Senator Burgoyne  
The Honorable Senator Woodward  
The Honorable Representative Moyle  
The Honorable Representative Monks  
The Honorable Representative Necochea  
The Honorable Representative Vander Woude  
The Honorable Representative Gestrin  
The Honorable Representative Gannon