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LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature Second Regular Session - 2020

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1 AN ACT
2 RELATING TO SCHOOL DISTRICT IMPACT FEES; AMENDING SECTION 33-601, IDAHO
3 CODE, TO REVISE PROVISIONS REGARDING SCHOOL DISTRICT TRUSTEE POWERS AND
4 DUTIES; AMENDING SECTION 67-8203, IDAHO CODE, TO REVISE A DEFINITION;
5 AMENDING SECTION 67-8204, IDAHO CODE, TO REVISE PROVISIONS REGARDING
6 MINIMUM STANDARDS AND REQUIREMENTS FOR DEVELOPMENT IMPACT FEES OR-
7 DINANCES; AMENDING SECTION 67-8213, IDAHO CODE, TO REVISE PROVISIONS
8 REGARDING THE COLLECTION OF DEVELOPMENT IMPACT FEES; AMENDING CHAPTER
9 82, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-8216, IDAHO
10 CODE, TO PROVIDE FOR A SCHOOL DISTRICT IMPACT FEE; AND AMENDING SECTION
11 67-8216, IDAHO CODE, TO REDESIGNATE THE SECTION.

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Section 33-601, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 33-601. REAL AND PERSONAL PROPERTY -- ACQUISITION, USE OR DISPOSAL OF
16 SAME. The board of trustees of each school district shall have the following
17 powers and duties:

18 (1) To rent to or from others, school buildings or other property used,
19 or to be used, for school purposes.

20 (2) To contract for the construction, repair, or improvement of any
21 real property, or the acquisition, purchase or repair of any equipment, or
22 other personal property necessary for the operation of the school district.

23 Except for the purchase of curricular materials as defined in section
24 33-118A, Idaho Code, such contract shall be executed in accordance with the
25 provisions of chapter 28, title 67, Idaho Code.

26 (3) To designate and purchase any real property necessary for school
27 purposes or in the operation of the district, or remove any building, or dis-
28 pose of any real property. Prior to, but not more than one (1) year prior to,
29 any purchase or disposal of real property, the board shall have such property
30 appraised by an appraiser certified in the state of Idaho, which appraisal
31 shall be entered in the records of the board of trustees and shall be used to
32 establish the value of the real property. The board of trustees shall deter-
33 mine the size of the site necessary for school purposes. The site shall be
34 located within the incorporated limits of any city within the district; pro-
35 vided, however, that if the board finds that it is not in the best interests
36 of the electors and the students of the district to locate the site within the
37 incorporated limits of a city, the board, by duly adopted resolution setting
38 forth the reasons for its finding, may designate a site located elsewhere
39 within the district. In elementary school districts, except upon removal
40 for highway purposes, a site may be designated or changed only after approval
41 of two-thirds (2/3) or more of the electors voting at the annual meeting.

1 (4) (a) To convey, except as provided by paragraph (b) of this subsec-
2 tion, by deed, bill of sale, or other appropriate instrument, all of the
3 estate and interest of the district in any property, real or personal.
4 In elementary school districts, except such conveyance as is authorized
5 by subsection (6) of this section, any of the transactions authorized in
6 this subsection shall be subject to the approval of two-thirds (2/3) or
7 more of the electors voting at the annual meeting.

8 Prior to such sale or conveyance, the board shall have the prop-
9 erty appraised pursuant to this section, which appraisal shall be en-
10 tered in the records of the board of trustees. The property may be sold
11 at public auction or by sealed bids, as the board of trustees shall de-
12 termine, to the highest bidder. Such property may be sold for cash or
13 for such terms and conditions as the board of trustees shall determine
14 for a period not exceeding ten (10) years, with the annual rate of in-
15 terest on all deferred payments not less than seven percent (7%) per an-
16 num. The title to all property sold on contract shall be retained in the
17 name of the school district until full payment has been made by the pur-
18 chaser, and title to all property sold under a note and mortgage or deed
19 of trust shall be transferred to the purchaser at the point of sale under
20 the terms and conditions of the mortgage or deed of trust as the board
21 of trustees shall determine. Notice of the time and the conditions of
22 such sale shall be published twice, and proof thereof made, in accor-
23 dance with subsections (2) and (3) of section 33-402, Idaho Code, except
24 that when the appraised value of the property is less than one thousand
25 dollars (\$1,000), one (1) single notice by publication shall be suffi-
26 cient and the property shall be sold by sealed bids or at public auction.

27 The board of trustees may accept the highest bid, may reject any bid,
28 or reject all bids. If the real property was donated to the school dis-
29 trict the board may, within a period of one (1) year from the time of
30 the appraisal, sell the property without additional advertising or bid-
31 ding. Otherwise, the board of trustees must have new appraisals made
32 and again publish notice for bids, as before. During the sealed bid or
33 public auction process, no real property of the school district can be
34 sold for less than its appraised value. If, thereafter, no satisfactory
35 bid is made and received, the board may proceed under its own direction
36 to sell and convey the property for the highest price the market will
37 bear.

38 The board of trustees may sell personal property, with an estimated
39 value of less than one thousand dollars (\$1,000), without appraisal, by
40 sealed bid or at public auction, provided that there has been not less
41 than one (1) published advertisement prior to the sale of said property.
42 If the property has an estimated value of less than five hundred dol-
43 lars (\$500), the property may be disposed of in the most cost-effective
44 and expedient manner by an employee of the district empowered for that
45 purpose by the board, provided however, such employee shall notify the
46 board prior to disposal of said property.

47 (b) Real and personal property may be exchanged hereunder for other
48 property. Provided, however, that aside from the provisions of this
49 paragraph, any school district may by a vote of one-half (1/2) plus one
50 (1) of the members of the full board of trustees, by resolution duly

1 adopted, authorize the transfer or conveyance of any real or personal
2 property owned by such school district to the government of the United
3 States, any city, county, the state of Idaho, any hospital district
4 organized under chapter 13, title 39, Idaho Code, any cooperative ser-
5 vice agency formed pursuant to section 33-317, Idaho Code, any other
6 school district, the Idaho housing and finance association, any public
7 charter school, any library district, any community college district,
8 or any recreation district, with or without any consideration accruing
9 to the school district, when in the judgment of the board of trustees
10 it is for the interest of such school district that said transfer or
11 conveyance be made. Prior to any transfer or conveyance of any real or
12 personal property pursuant to this paragraph (4) (b), the board shall
13 have the property appraised by an appraiser certified in the state of
14 Idaho, which appraisal shall be entered in the records of the board of
15 trustees and shall be used to establish the value of the real or personal
16 property. Provided however, if the board of trustees finds it is in the
17 school district's best interests to trade personal property to a person
18 or entity for like kind personal property, the board of trustees may
19 vote to elect to do so. The board of trustees may elect to abstain from
20 an appraisal of the personal property if the estimated value of such
21 property is less than five thousand dollars (\$5,000).

22 (5) To enter into contracts with any city located within the boundaries
23 of the school district for the joint purchase, construction, development,
24 maintenance and equipping of playgrounds, ball parks, swimming pools, and
25 other recreational facilities upon property owned either by the school dis-
26 trict or the city.

27 (6) To convey rights-of-way and easements for highway, public utility,
28 and other purposes over, upon or across any school property and, when neces-
29 sary to the use of such property for any such purpose, to authorize the re-
30 moval of school buildings to such new location, or locations, as shall be de-
31 termined by the board of trustees, and such removal shall be made at no cost
32 or expense to the school district.

33 (7) To authorize the use of any school building or vacant land of the
34 district as a community center, or for any public purpose, and to establish a
35 policy of charges, if any, to be made for such use.

36 (8) To exercise the right of eminent domain under the provisions of
37 chapter 7, title 7, Idaho Code, for any of the uses and purposes provided in
38 section 7-701, Idaho Code.

39 (9) If there is a great public calamity, such as an extraordinary fire,
40 flood, storm, epidemic, or other disaster, or if it is necessary to do emer-
41 gency work to prepare for national or local defense, or it is necessary to do
42 emergency work to safeguard life, health or property, the board of trustees
43 may pass a resolution declaring that the public interest and necessity de-
44 mand the immediate expenditure of public money to safeguard life, health or
45 property. Upon adoption of the resolution, the board may expend any sum re-
46 quired in the emergency without compliance with this section.

47 (10) To impose school district impact fees by passage of a resolution
48 pursuant to the provisions of section 67-8216, Idaho Code, for the purpose of
49 providing for educational needs arising as a direct result of growth in the

1 school district due to new residential construction within the boundaries of
2 the school district.

3 SECTION 2. That Section 67-8203, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 67-8203. DEFINITIONS. As used in this chapter:

6 (1) "Affordable housing" means housing affordable to families whose
7 incomes do not exceed eighty percent (80%) of the median income for the ser-
8 vice area or areas within the jurisdiction of the governmental entity.

9 (2) "Appropriate" means to legally obligate by contract or otherwise
10 commit to use by appropriation or other official act of a governmenta-
11 lity.

12 (3) "Capital improvements" means improvements with a useful life of ten
13 (10) years or more, by new construction or other action, which increase the
14 service capacity of a public facility.

15 (4) "Capital improvement element" means a component of a comprehensive
16 plan adopted pursuant to chapter 65, title 67, Idaho Code, which component
17 meets the requirements of a capital improvements plan pursuant to this chap-
18 ter.

19 (5) "Capital improvements plan" means a plan adopted pursuant to this
20 chapter that identifies capital improvements for which development impact
21 fees may be used as a funding source.

22 (6) "Developer" means any person or legal entity undertaking develop-
23 ment, including a party that undertakes the subdivision of property pursuant
24 to sections 50-1301 through 50-1334, Idaho Code.

25 (7) "Development" means any construction or installation of a building
26 or structure, or any change in use of a building or structure, or any change
27 in the use, character or appearance of land, which creates additional demand
28 and need for public facilities or the subdivision of property that would per-
29 mit any change in the use, character or appearance of land. As used in this
30 chapter, "development" shall not include activities that would otherwise
31 be subject to payment of the development impact fee if such activities are
32 undertaken by a taxing district, as defined in section 63-201, Idaho Code,
33 or by an authorized public charter school, as defined in section 33-5202A,
34 Idaho Code, in the course of carrying out its statutory responsibilities,
35 unless the adopted impact fee ordinance expressly includes taxing districts
36 or public charter schools as being subject to development impact fees.

37 (8) "Development approval" means any written authorization from a gov-
38 ernmental entity that authorizes the commencement of a development.

39 (9) "Development impact fee" means a payment of money imposed as a con-
40 dition of development approval to pay for a proportionate share of the cost
41 of system improvements needed to serve development. This term is also re-
42 ferred to as an impact fee in this chapter. The term does not include the fol-
43 lowing:

44 (a) A charge or fee to pay the administrative, plan review, or inspec-
45 tion costs associated with permits required for development;

46 (b) Connection or hookup charges;

47 (c) Availability charges for drainage, sewer, water, or transportation
48 charges for services provided directly to the development; or

- 1 (d) Amounts collected from a developer in a transaction in which the
2 governmental entity has incurred expenses in constructing capital im-
3 provements for the development if the owner or developer has agreed to
4 be financially responsible for the construction or installation of the
5 capital improvements, unless a written agreement is made pursuant to
6 section 67-8209(3), Idaho Code, for credit or reimbursement.
- 7 (10) "Development requirement" means a requirement attached to a devel-
8 opmental approval or other governmental action approving or authorizing a
9 particular development project including, but not limited to, a rezoning,
10 which requirement compels the payment, dedication or contribution of goods,
11 services, land, or money as a condition of approval.
- 12 (11) "Extraordinary costs" means those costs incurred as a result of an
13 extraordinary impact.
- 14 (12) "Extraordinary impact" means an impact that is reasonably deter-
15 mined by the governmental entity to:
- 16 (a) Result in the need for system improvements, the cost of which will
17 significantly exceed the sum of the development impact fees to be gener-
18 ated from the project or the sum agreed to be paid pursuant to a develop-
19 ment agreement as allowed by section 67-8214(2), Idaho Code; or
- 20 (b) Result in the need for system improvements that are not identified
21 in the capital improvements plan.
- 22 (13) "Fee payer" means that person who pays or is required to pay a de-
23 velopment impact fee.
- 24 (14) "Governmental entity" means any unit of local government that is
25 empowered in this enabling legislation to adopt a development impact fee or-
26 dinance.
- 27 (15) "Impact fee." See development impact fee.
- 28 (16) "Land use assumptions" means a description of the service area and
29 projections of land uses, densities, intensities, and population in the ser-
30 vice area over at least a twenty (20) year period.
- 31 (17) "Level of service" means a measure of the relationship between ser-
32 vice capacity and service demand for public facilities.
- 33 (18) "Manufactured home" means a structure, constructed according to
34 HUD/FHA mobile home construction and safety standards, transportable in one
35 (1) or more sections, which, in the traveling mode, is eight (8) feet or more
36 in width or is forty (40) body feet or more in length, or when erected on site,
37 is three hundred twenty (320) or more square feet, and which is built on a
38 permanent chassis and designed to be used as a dwelling with or without a
39 permanent foundation when connected to the required utilities, and includes
40 the plumbing, heating, air conditioning, and electrical systems contained
41 therein, except that such term shall include any structure that meets all the
42 requirements of this subsection except the size requirements and with re-
43 spect to which the manufacturer voluntarily files a certification required
44 by the secretary of housing and urban development and complies with the stan-
45 dards established under 42 U.S.C. 5401, et seq.
- 46 (19) "Modular building" is as defined in section 39-4301, Idaho Code.
- 47 (20) "Present value" means the total current monetary value of past,
48 present, or future payments, contributions or dedications of goods, ser-
49 vices, materials, construction or money.

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1 (21) "Project" means a particular development on an identified parcel
2 of land.

3 (22) "Project improvements" means site improvements and facilities
4 that are planned and designed to provide service for a particular devel-
5 opment project and that are necessary for the use and convenience of the
6 occupants or users of the project.

7 (23) "Proportionate share" means that portion of the cost of system im-
8 provements determined pursuant to section 67-8207, Idaho Code, which rea-
9 sonably relates to the service demands and needs of the project.

10 (24) "Public facilities" means:

11 (a) Water supply production, treatment, storage and distribution fa-
12 cilities;

13 (b) Wastewater collection, treatment and disposal facilities;

14 (c) Roads, streets and bridges, including rights-of-way, traffic
15 signals, landscaping and any local components of state or federal high-
16 ways;

17 (d) Storm water collection, retention, detention, treatment and dis-
18 posal facilities, flood control facilities, and bank and shore protec-
19 tion and enhancement improvements;

20 (e) Parks, open space and recreation areas, and related capital im-
21 provements; ~~and~~

22 (f) Public safety facilities, including law enforcement, fire, emer-
23 gency medical and rescue and street lighting facilities; and

24 (g) Public school district facilities and education.

25 (25) "Recreational vehicle" means a vehicular type unit primarily de-
26 signed as temporary quarters for recreational, camping, or travel use, which
27 either has its own motive power or is mounted on or drawn by another vehicle.

28 (26) "Service area" means any defined geographic area identified by a
29 governmental entity or by intergovernmental agreement in which specific
30 public facilities provide service to development within the area defined, on
31 the basis of sound planning or engineering principles or both.

32 (27) "Service unit" means a standardized measure of consumption, use,
33 generation or discharge attributable to an individual unit of development
34 calculated in accordance with generally accepted engineering or planning
35 standards for a particular category of capital improvements.

36 (28) "System improvements," in contrast to project improvements, means
37 capital improvements to public facilities designed to provide service to a
38 service area including, without limitation, the type of improvements de-
39 scribed in section 50-1703, Idaho Code.

40 (29) "System improvement costs" means costs incurred for construction
41 or reconstruction of system improvements, including design, acquisition,
42 engineering and other costs attributable thereto, and also including, with-
43 out limitation, the type of costs described in section 50-1702(h), Idaho
44 Code, to provide additional public facilities needed to serve new growth and
45 development. For clarification, system improvement costs do not include:

46 (a) Construction, acquisition or expansion of public facilities other
47 than capital improvements identified in the capital improvements plan;

48 (b) Repair, operation or maintenance of existing or new capital im-
49 provements;

- 1 (c) Upgrading, updating, expanding or replacing existing capital im-
- 2 provements to serve existing development in order to meet stricter
- 3 safety, efficiency, environmental or regulatory standards;
- 4 (d) Upgrading, updating, expanding or replacing existing capital im-
- 5 provements to provide better service to existing development;
- 6 (e) Administrative and operating costs of the governmental entity un-
- 7 less such costs are attributable to development of the capital improve-
- 8 ments plan, as provided in section 67-8208, Idaho Code; or
- 9 (f) Principal payments and interest or other finance charges on bonds
- 10 or other indebtedness except financial obligations issued by or on be-
- 11 half of the governmental entity to finance capital improvements identi-
- 12 fied in the capital improvements plan.

13 SECTION 3. That Section 67-8204, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 67-8204. MINIMUM STANDARDS AND REQUIREMENTS FOR DEVELOPMENT IMPACT
16 FEES ORDINANCES.

17 (1) (a) Governmental entities which that comply with the requirements
18 of this chapter may impose by ordinance development impact fees as a
19 condition of development approval on all developments.

20 (b) A governmental entity that receives a public school district
21 resolution imposing a school district impact fee pursuant to section
22 67-8216, Idaho Code, shall impose the fee as a development impact fee
23 under this chapter. If the school district impact fee only is being im-
24 posed on the developer without any additional development impact fees,
25 other than a handling surcharge authorized under section 67-8213, Idaho
26 Code, the governmental entity need not comply with the provisions of
27 sections 67-8205 or 67-8208, Idaho Code.

28 (12) A development impact fee shall not exceed a proportionate share
29 of the cost of system improvements determined in accordance with section
30 67-8207, Idaho Code. Development impact fees shall be based on actual system
31 improvement costs or reasonable estimates of such costs.

32 (23) A development impact fee shall be calculated on the basis of levels
33 of service for public facilities adopted in the development impact fee ordi-
34 nance of the governmental entity that are applicable to existing development
35 as well as new growth and development. The construction, improvement, ex-
36 pansion or enlargement of new or existing public facilities for which a de-
37 velopment impact fee is imposed must be attributable to the capacity demands
38 generated by the new development.

39 (34) A development impact fee ordinance shall specify the point in the
40 development process at which the development impact fee shall be collected.
41 The development impact fee may be collected no earlier than the commencement
42 of construction of the development, or the issuance of a building permit or a
43 manufactured home installation permit, or as may be agreed by the developer
44 and the governmental entity.

45 (45) A development impact fee ordinance shall be adopted in accordance
46 with the procedural requirements of section 67-8206, Idaho Code.

47 (56) A development impact fee ordinance shall include a process whereby
48 the governmental agency shall allow the developer, upon request by the de-

1 veloper, to provide a written individual assessment of the proportionate
2 share of development impact fees under the guidelines established by this
3 chapter which shall be set forth in the ordinance. The individual assessment
4 process shall permit consideration of studies, data, and any other relevant
5 information submitted by the developer to adjust the amount of the fee. The
6 decision by the governmental agency on an application for an individual as-
7 sessment shall include an explanation of the calculation of the impact fee,
8 including an explanation of factors considered under section 67-8207, Idaho
9 Code, and shall specify the system improvement(s) for which the impact fee is
10 intended to be used.

11 (67) A development impact fee ordinance shall provide a process whereby
12 a developer shall receive, upon request, a written certification of the
13 development impact fee schedule or individual assessment for a particular
14 project, which shall establish the development impact fee so long as there is
15 no material change to the particular project as identified in the individ-
16 ual assessment application, or the impact fee schedule. The certification
17 shall include an explanation of the calculation of the impact fee including
18 an explanation of factors considered under section 67-8207, Idaho Code. The
19 certification shall also specify the system improvement(s) for which the
20 impact fee is intended to be used.

21 (78) A development impact fee ordinance shall include a provision for
22 credits in accordance with the requirements of section 67-8209, Idaho Code.

23 (89) A development impact fee ordinance shall include a provision pro-
24 hibiting the expenditure of development impact fees except in accordance
25 with the requirements of section 67-8210, Idaho Code.

26 (910) A development impact fee ordinance may provide for the imposition
27 of a development impact fee for system improvement costs incurred subsequent
28 to adoption of the ordinance to the extent that new growth and development
29 will be served by the system improvements.

30 (101) A development impact fee ordinance may exempt all or part of a par-
31 ticular development project from development impact fees provided that such
32 project is determined to create affordable housing, provided that the pub-
33 lic policy which supports the exemption is contained in the governmental en-
34 tity's comprehensive plan and provided that the exempt development's pro-
35 portionate share of system improvements is funded through a revenue source
36 other than development impact fees.

37 (112) A development impact fee ordinance shall provide that development
38 impact fees shall only be spent for the category of system improvements for
39 which the fees were collected and either within or for the benefit of the ser-
40 vice area in which the project is located.

41 (123) A development impact fee ordinance shall provide for a refund
42 of development impact fees in accordance with the requirements of section
43 67-8211, Idaho Code.

44 (134) A development impact fee ordinance shall establish for a proce-
45 dure for timely processing of applications for determination by the govern-
46 mental entity regarding development impact fees applicable to a project, in-
47 dividual assessment of development impact fees, credits or reimbursements
48 to be allowed or paid under section 67-8209, Idaho Code, and extraordinary
49 impact.

1 (145) A development impact fee ordinance shall specify when an applica-
2 tion for an individual assessment of development impact fees shall be per-
3 mitted to be made by a developer or fee payer. An application for an individ-
4 ual assessment of development impact fees shall be permitted sufficiently in
5 advance of the time that the developer or fee payer may seek a building permit
6 or related permits so that the issuance of a building permit or related per-
7 mits will not be delayed.

8 (156) A development impact fee ordinance shall provide for appeals re-
9 garding development impact fees in accordance with the requirements of sec-
10 tion 67-8212, Idaho Code.

11 (167) A development impact fee ordinance must provide a detailed de-
12 scription of the methodology by which costs per service unit are determined.
13 The development impact fee per service unit may not exceed the amount de-
14 termined by dividing the costs of the capital improvements described in
15 section 67-8208(1) (f), Idaho Code, by the total number of projected service
16 units described in section 67-8208(1) (g), Idaho Code. If the number of new
17 service units projected over a reasonable period of time is less than the
18 total number of new service units shown by the approved land use assumptions
19 at full development of the service area, the maximum impact fee per service
20 unit shall be calculated by dividing the costs of the part of the capital
21 improvements necessitated by and attributable to the projected new service
22 units described in section 67-8208(1) (g), Idaho Code, by the total projected
23 new service units described in that section.

24 (178) A development impact fee ordinance shall include a schedule of de-
25 velopment impact fees for various land uses per unit of development. The or-
26 dinance shall provide that a developer shall have the right to elect to pay a
27 project's proportionate share of system improvement costs by payment of de-
28 velopment impact fees according to the fee schedule as full and complete pay-
29 ment of the development project's proportionate share of system improvement
30 costs, except as provided in section 67-8214(3), Idaho Code.

31 (189) After payment of the development impact fees or execution of an
32 agreement for payment of development impact fees, additional development
33 impact fees or increases in fees may not be assessed unless the number of
34 service units increases or the scope or schedule of the development changes.
35 In the event of an increase in the number of service units or schedule of the
36 development changes, the additional development impact fees to be imposed
37 are limited to the amount attributable to the additional service units or
38 change in scope of the development.

39 (1920) No system for the calculation of development impact fees shall be
40 adopted which subjects any development to double payment of impact fees.

41 (201) A development impact fee ordinance shall exempt from development
42 impact fees the following activities:

- 43 (a) Rebuilding the same amount of floor space of a structure which was
44 destroyed by fire or other catastrophe, providing the structure is re-
45 built and ready for occupancy within two (2) years of its destruction;
- 46 (b) Remodeling or repairing a structure which does not increase the
47 number of service units;
- 48 (c) Replacing a residential unit, including a manufactured home, with
49 another residential unit on the same lot, provided that the number of
50 service units does not increase;

- 1 (d) Placing a temporary construction trailer or office on a lot;
- 2 (e) Constructing an addition on a residential structure which does not
- 3 increase the number of service units; and
- 4 (f) Adding uses that are typically accessory to residential uses, such
- 5 as tennis courts or clubhouse, unless it can be clearly demonstrated
- 6 that the use creates a significant impact on the capacity of system im-
- 7 provements.
- 8 (212) A development impact fee will be assessed for installation of
- 9 a modular building, manufactured home or recreational vehicle unless the
- 10 fee payer can demonstrate by documentation such as utility bills and tax
- 11 records, either:
- 12 (a) That a modular building, manufactured home or recreational vehicle
- 13 was legally in place on the lot or space prior to the effective date of
- 14 the development impact fee ordinance; or
- 15 (b) That a development impact fee has been paid previously for the in-
- 16 stallation of a modular building, manufactured home or recreational ve-
- 17 hicle on that same lot or space.
- 18 (223) A development impact fee ordinance shall include a process for
- 19 dealing with a project which has extraordinary impacts.
- 20 (23) A development impact fee ordinance shall provide for the calcula-
- 21 tion of a development impact fee in accordance with generally accepted ac-
- 22 counting principles. A development impact fee shall not be deemed invalid
- 23 because payment of the fee may result in an incidental benefit to owners or
- 24 developers within the service area other than the person paying the fee.
- 25 (244) A development impact fee ordinance shall include a description of
- 26 acceptable levels of service for system improvements.
- 27 (255) Any provision of a development impact fee ordinance that is incon-
- 28 sistent with the requirements of this chapter shall be null and void and that
- 29 provision shall have no legal effect. A partial invalidity of a development
- 30 impact fee ordinance shall not affect the validity of the remaining portions
- 31 of the ordinance that are consistent with the requirements of this chapter.

32 SECTION 4. That Section 67-8213, Idaho Code, be, and the same is hereby
33 amended to read as follows:

- 34 67-8213. COLLECTION. (1) A governmental entity may provide in a de-
35 velopment impact fee ordinance the means for collection of development im-
36 pact fees, including, but not limited to:
- 37 (1a) Additions to the fee for reasonable interest and penalties for
 - 38 non-payment or late payment;
 - 39 (2b) A reasonable handling surcharge for any public school district im-
 - 40 impact fees;
 - 41 (c) Withholding of the building permit or other governmental approval
 - 42 until the development impact fee is paid;
 - 43 (3d) Withholding of utility services until the development impact fee
 - 44 is paid; and
 - 45 (4e) Imposing liens for failure to timely pay a development impact fee
 - 46 following procedures contained in chapter 5, title 45, Idaho Code.
 - 47 (2) A governmental entity that discovers an error in its impact fee for-
 - 48 mula that results in assessment or payment of more than a proportionate share

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1 shall, at the time of assessment on a case by case basis, adjust the fee to
2 collect no more than a proportionate share or discontinue the collection of
3 any impact fees until the error is corrected by ordinance.

4 SECTION 5. That Chapter 82, Title 67, Idaho Code, be, and the same is
5 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
6 ignated as Section 67-8216, Idaho Code, and to read as follows:

7 67-8216. PUBLIC SCHOOL DISTRICT IMPACT FEES. The board of trustees of
8 a school district is authorized to adopt a resolution to impose an impact
9 fee on all new residential construction occurring within the boundaries of
10 the school district. For the purpose of this section, "new residential con-
11 struction" means the construction of housing structures that previously did
12 not exist in the boundaries of the school district. Remodeling of an exist-
13 ing structure shall not be subject to such a development impact fee unless
14 the livable capacity of the structure is increased. The impact fee shall be
15 calculated according to the standards set forth in section 67-8204, Idaho
16 Code. The resolution shall specify the amount of the impact fee and the du-
17 ration of the impact fee. The board of trustees shall submit the resolution
18 adopting the impact fee to the governmental entity authorized under this
19 chapter to impose a development impact fee. The provisions of the school
20 district resolution shall be incorporated into the governmental entity's
21 development impact fee ordinance. Upon receipt of a development impact fee,
22 the governmental entity shall remit any portion of the development impact
23 fee imposed by the public school district to the school district.

24 SECTION 6. That Section 67-8216, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 67-82167. SEVERABILITY. The provisions of this chapter are hereby de-
27 clared to be severable and if any provision of this chapter or the applica-
28 tion of such provision to any person or circumstance is declared invalid for
29 any reason, such declaration shall not affect the validity of remaining por-
30 tions of this chapter.