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

1  
2 RELATING TO SCHOOL DISTRICT IMPACT FEES; AMENDING SECTION 33-601, IDAHO  
3 CODE, TO REVISE PROVISIONS REGARDING SCHOOL DISTRICT TRUSTEE POWERS  
4 AND DUTIES; AMENDING SECTION 67-8203, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-8204,  
5 IDAHO CODE, TO REVISE PROVISIONS REGARDING MINIMUM STANDARDS AND REQUIREMENTS FOR DEVELOPMENT IMPACT FEES ORDINANCES; AMENDING SECTION  
6 67-8213, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE COLLECTION OF  
7 DEVELOPMENT IMPACT FEES; AMENDING CHAPTER 82, TITLE 67, IDAHO CODE,  
8 BY THE ADDITION OF A NEW SECTION 67-8216, IDAHO CODE, TO PROVIDE FOR A  
9 PUBLIC SCHOOL DISTRICT IMPACT FEE; AND AMENDING SECTION 67-8216, IDAHO  
10 CODE, TO REDESIGNATE THE SECTION.  
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12

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

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

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

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

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

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

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

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

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

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

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

49 (b) Real and personal property may be exchanged hereunder for other  
50 property. Provided, however, that aside from the provisions of this

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

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

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

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

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

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

49 (10) To impose school district impact fees by passage of a resolution  
50 pursuant to the provisions of section 67-8216, Idaho Code, for the purpose

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1 of providing for capital improvements arising as a direct result of growth  
2 in the school district due to new residential construction within the bound-  
3 aries of the school district.

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

6 67-8203. DEFINITIONS. As used in this chapter:

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

10 (2) "Appropriate" means to legally obligate by contract or otherwise  
11 commit to use by appropriation or other official act of a governmental en-  
12 tity.

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

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

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

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

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

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

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

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

47 (b) Connection or hookup charges;

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

3 (d) Amounts collected from a developer in a transaction in which the  
4 governmental entity has incurred expenses in constructing capital im-  
5 provements for the development if the owner or developer has agreed to  
6 be financially responsible for the construction or installation of the  
7 capital improvements, unless a written agreement is made pursuant to  
8 section 67-8209(3), Idaho Code, for credit or reimbursement.

9 (10) "Development requirement" means a requirement attached to a devel-  
10 opmental approval or other governmental action approving or authorizing a  
11 particular development project including, but not limited to, a rezoning,  
12 which requirement compels the payment, dedication or contribution of goods,  
13 services, land, or money as a condition of approval.

14 (11) "Extraordinary costs" means those costs incurred as a result of an  
15 extraordinary impact.

16 (12) "Extraordinary impact" means an impact that is reasonably deter-  
17 mined by the governmental entity to:

18 (a) Result in the need for system improvements, the cost of which will  
19 significantly exceed the sum of the development impact fees to be gener-  
20 ated from the project or the sum agreed to be paid pursuant to a develop-  
21 ment agreement as allowed by section 67-8214(2), Idaho Code; or

22 (b) Result in the need for system improvements that are not identified  
23 in the capital improvements plan.

24 (13) "Fee payer" means that person who pays or is required to pay a de-  
25 velopment impact fee.

26 (14) "Governmental entity" means any unit of local government that is  
27 empowered in this enabling legislation to adopt a development impact fee or-  
28 dinance.

29 (15) "Impact fee." See development impact fee.

30 (16) "Land use assumptions" means a description of the service area and  
31 projections of land uses, densities, intensities, and population in the ser-  
32 vice area over at least a twenty (20) year period.

33 (17) "Level of service" means a measure of the relationship between ser-  
34 vice capacity and service demand for public facilities.

35 (18) "Manufactured home" means a structure, constructed according to  
36 HUD/FHA mobile home construction and safety standards, transportable in one  
37 (1) or more sections, which, in the traveling mode, is eight (8) feet or more  
38 in width or is forty (40) body feet or more in length, or when erected on site,  
39 is three hundred twenty (320) or more square feet, and which is built on a  
40 permanent chassis and designed to be used as a dwelling with or without a  
41 permanent foundation when connected to the required utilities, and includes  
42 the plumbing, heating, air conditioning, and electrical systems contained  
43 therein, except that such term shall include any structure that meets all the  
44 requirements of this subsection except the size requirements and with re-  
45 spect to which the manufacturer voluntarily files a certification required  
46 by the secretary of housing and urban development and complies with the stan-  
47 dards established under 42 U.S.C. 5401, et seq.

48 (19) "Modular building" is as defined in section 39-4301, Idaho Code.

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1 (20) "Present value" means the total current monetary value of past,  
2 present, or future payments, contributions or dedications of goods, ser-  
3 vices, materials, construction or money.

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

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

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

13 (24) "Public facilities" means:

14 (a) Water supply production, treatment, storage and distribution fa-  
15 cilities;

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

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

20 (d) ~~Storm-water~~ Stormwater collection, retention, detention, treat-  
21 ment and disposal facilities, flood control facilities, and bank and  
22 shore protection and enhancement improvements;

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

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

27 (g) Public schoolhouses.

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

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

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

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

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

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

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

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

17 67-8204. MINIMUM STANDARDS AND REQUIREMENTS FOR DEVELOPMENT IMPACT  
18 FEES ORDINANCES.

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

22 (b) A governmental entity that receives a public school district  
23 resolution imposing a school district impact fee pursuant to section  
24 67-8216, Idaho Code, shall impose the fee as a development impact fee  
25 under this chapter.

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

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

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

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

45 ~~(56)~~ A development impact fee ordinance shall include a process whereby  
46 the governmental agency shall allow the developer, upon request by the de-  
47 veloper, to provide a written individual assessment of the proportionate  
48 share of development impact fees under the guidelines established by this

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1 chapter, which shall be set forth in the ordinance. The individual assess-  
2 ment process shall permit consideration of studies, data, and any other  
3 relevant information submitted by the developer to adjust the amount of the  
4 fee. The decision by the governmental agency on an application for an in-  
5 dividual assessment shall include an explanation of the calculation of the  
6 impact fee, including an explanation of factors considered under section  
7 67-8207, Idaho Code, and shall specify the system improvement(s) for which  
8 the impact fee is intended to be used.

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

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

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

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

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

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

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

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

48 (145) A development impact fee ordinance shall specify when an applica-  
49 tion for an individual assessment of development impact fees shall be per-  
50 mitted to be made by a developer or fee payer. An application for an individ-



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1 ual assessment of development impact fees shall be permitted sufficiently in  
2 advance of the time that the developer or fee payer may seek a building permit  
3 or related permits so that the issuance of a building permit or related per-  
4 mits will not be delayed.

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

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

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

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

36 (1920) No system for the calculation of development impact fees shall  
37 be adopted ~~which~~ that subjects any development to double payment of impact  
38 fees.

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

41 (a) Rebuilding the same amount of floor space of a structure ~~which~~ that  
42 was destroyed by fire or other catastrophe, providing the structure is  
43 rebuilt and ready for occupancy within two (2) years of its destruction;

44 (b) Remodeling or repairing a structure ~~which~~ that does not increase  
45 the number of service units;

46 (c) Replacing a residential unit, including a manufactured home, with  
47 another residential unit on the same lot, provided that the number of  
48 service units does not increase;

49 (d) Placing a temporary construction trailer or office on a lot;

1 (e) Constructing an addition on a residential structure ~~which~~ that does  
2 not increase the number of service units; and

3 (f) Adding uses that are typically accessory to residential uses, such  
4 as tennis courts or clubhouses, unless it can be clearly demonstrated  
5 that the use creates a significant impact on the capacity of system im-  
6 provements.

7 (2~~1~~2) A development impact fee will be assessed for installation of  
8 a modular building, manufactured home or recreational vehicle unless the  
9 fee payer can demonstrate by documentation, such as utility bills and tax  
10 records, either:

11 (a) That a modular building, manufactured home or recreational vehicle  
12 was legally in place on the lot or space prior to the effective date of  
13 the development impact fee ordinance; or

14 (b) That a development impact fee has been paid previously for the in-  
15 stallation of a modular building, manufactured home or recreational ve-  
16 hicle on that same lot or space.

17 (2~~2~~3) A development impact fee ordinance shall include a process for  
18 dealing with a project ~~which~~ that has extraordinary impacts.

19 (2~~3~~4) A development impact fee ordinance shall provide for the calcula-  
20 tion of a development impact fee in accordance with generally accepted ac-  
21 counting principles. A development impact fee shall not be deemed invalid  
22 because payment of the fee may result in an incidental benefit to owners or  
23 developers within the service area other than the person paying the fee.

24 (2~~4~~5) A development impact fee ordinance shall include a description of  
25 acceptable levels of service for system improvements.

26 (2~~5~~6) Any provision of a development impact fee ordinance that is incon-  
27 sistent with the requirements of this chapter shall be null and void and that  
28 provision shall have no legal effect. A partial invalidity of a development  
29 impact fee ordinance shall not affect the validity of the remaining portions  
30 of the ordinance that are consistent with the requirements of this chapter.

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

33 67-8213. COLLECTION. (1) A governmental entity may provide in a de-  
34 velopment impact fee ordinance the means for collection of development im-  
35 pact fees, including, but not limited to:

36 (1a) Additions to the fee for reasonable interest and penalties for  
37 ~~non-payment~~ nonpayment or late payment;

38 (2b) A reasonable handling surcharge for any public school district im-  
39 pact fees;

40 (c) Withholding of the building permit or other governmental approval  
41 until the development impact fee is paid;

42 (3d) Withholding of utility services until the development impact fee  
43 is paid; and

44 (4e) Imposing liens for failure to timely pay a development impact fee  
45 following procedures contained in chapter 5, title 45, Idaho Code.

46 (2) A governmental entity that discovers an error in its impact fee for-  
47 mula that results in assessment or payment of more than a proportionate share  
48 shall, at the time of assessment on a case by case basis, adjust the fee to

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1 collect no more than a proportionate share or discontinue the collection of  
2 any impact fees until the error is corrected by ordinance.

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

6 67-8216. PUBLIC SCHOOL DISTRICT IMPACT FEES. (1) The board of  
7 trustees of a school district is authorized to adopt a resolution to im-  
8 pose an impact fee on all new residential construction occurring within the  
9 boundaries of the school district.

10 (2) For the purpose of this section, "new residential construction"  
11 means the construction of housing structures that previously did not exist  
12 in the boundaries of the school district. Remodeling of an existing struc-  
13 ture shall not be subject to such a development impact fee unless the livable  
14 capacity of the structure is increased.

15 (3) The impact fee shall be calculated according to the standards set  
16 forth in section 67-8204, Idaho Code. The expenditure of all funds gener-  
17 ated by any public school district impact fee shall be limited to costs di-  
18 rectly related to: the acquisition, purchase, or improvement of a school  
19 site or school sites; to build a schoolhouse or schoolhouses; to demolish or  
20 remove a schoolhouse or schoolhouses; to add to, remodel, or repair an ex-  
21 isting schoolhouse or schoolhouses; or to furnish and equip a schoolhouse or  
22 schoolhouses, including all lighting, heating, ventilation, and sanitation  
23 facilities and appliances necessary to maintain and operate the schoolhouse  
24 or schoolhouses. The resolution shall specify the amount of the impact fee  
25 and the duration of the impact fee.

26 (4) The board of trustees shall submit the resolution adopting the im-  
27 pact fee to the governmental entity authorized under this chapter to impose  
28 a development impact fee. The provisions of the school district resolution  
29 shall be incorporated into the governmental entity's development impact fee  
30 ordinance. Upon receipt of a development impact fee, the governmental en-  
31 tity shall remit any portion of the development impact fee imposed by the  
32 public school district to the school district.

33 (5) The sum of impact fees received by a public school district shall  
34 be deducted from the maximum levy amounts otherwise authorized under sec-  
35 tion 33-802, Idaho Code, or from the bond payments authorized under section  
36 33-1103, Idaho Code, if any, by the board of trustees.

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

39 67-8216~~7~~. SEVERABILITY. The provisions of this chapter are hereby de-  
40 clared to be severable and if any provision of this chapter or the applica-  
41 tion of such provision to any person or circumstance is declared invalid for  
42 any reason, such declaration shall not affect the validity of remaining por-  
43 tions of this chapter.