BOZEMAN MT
Community Development

January 23, 2025

Senate Local Government Committee
Senator Forrest Mandeville, Chair

Greetings, my name is Chris Saunders. I am the Community Development Manager in Bozeman. I have 29 years' experience with land use planning and impact fees in Montana and was part of the stakeholder group which helped write the initial impact fee enabling act.

The City of Bozeman OPPOSES Senate Bill 133. The City of Bozeman, Governor, and Legislature recognize housing supply and affordability as critical issues for our state and its citizens. Multiple bills were passed in the 2023 Legislature to support increased housing production.

A. SB 133 will reduce housing production in the near and long term because:
    1) A common comment from developers is that they need predictability - clearly adopted and known infrastructure funding reduces uncertainty and risk and therefore lowers cost of housing construction.
    2) Impact fees, with the state requirements for Capital Improvement Programing, extensive documentation and publication of costs and the restriction of timing to issuance of a building permit, provide predictability in both the infrastructure improvements to be constructed and the cost of doing so.
    3) Impact fees provide predictability and timeliness in installation of large, highly expensive, and complex system scale improvements that are beyond the capacity or responsibility of an individual development. Impact fees are far more reliable than intermittent voted bonds or other funding tools.
    4) Lack of available infrastructure is a key barrier to housing construction. By providing a reliable funding stream and timely installation of infrastructure the construction of housing can move ahead. Without impact fees, either there is no infrastructure, and local governments must deny applications due to health and safety limitations as required by state law; or private development must figure out how to fund necessary improvements adding delay, uncertainty, and expense.
    5) Impact fees are a free market responsive method to fund infrastructure. The amounts charged must be demonstrated in advance and the rate of collection is automatically proportionate to the rate of new construction. This contrasts to bonds

or levies which are often difficult to coordinate with infrastructure timing needs and which continue to collect revenue even if the rate of development declines.

6) Transferring costs to existing landowners and users increases opposition to new development.

B. Bill Section 1 - Administrative fee removed. The state requires substantial documentation in support of an impact fee that is more extensive than other forms of revenue. Therefore, there are costs to establish and administer the program. The removal of the administration fee moves those costs to existing users and is functionally a new state tax. The deletion represents a 3+ mil impact to existing Bozeman landowners to replace the Administrative funding proposed to be stripped.

C. Bill Section 1 - Allowed services reduced. The impact fee enabling legislation requires a local government to go through exhaustive planning and documentation to link the demand for services, cost of services, and demonstration of benefit to the entity paying the fee. This information must be publicly available and is a standard of proof that far exceeds any other requirement for fee, tax, or charge that the state authorizes. The local governments are most familiar with needs for service and local resources. There is no reasonable justification for the state to restrict further the ability of local government to find a best fit for funding of locally important needs. As a detail, landscaping is often a key part of transportation improvements to restore areas damaged during construction, control stormwater or potential land movement, and otherwise manage functional development of the transportation system.

D. Bill Section 2 - Limitation to rate of inflation. The City of Bozeman adjusts impact fees annually for the cost of inflation using the Engineering News Record construction cost index which is a more accurate measure than consumer price index. Beginning in 2005, the City of Bozeman has updated its impact fee service area reports and associated fees charged four times. In every case, the escalation of actual infrastructure costs of construction, as established by state required bidding processes, far outstripped the rate of inflation identified by the Consumer Price Index or other published metrics.

The City finalized an update to its Transportation impact fee in 2024 and there was a 72% increase in actual construction costs since the prior fee study in 2018. The City updated the Fire and Emergency Services impact fee in 2024 and cost of fire apparatus, i.e. fire engines, more than doubled since the prior fee study in 2018. The inflation over the same 2018-2024 period had been about 13%. So, the difference between standard inflation and actual construction and equipment costs is very substantial.

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Unless the state limits cost increases by material suppliers and contractors to rate of inflation as well this amendment will ensure that state required documentation for impact fees will show that impact fees are not providing enough revenue to maintain levels of service, and therefore: A) costs of infrastructure construction will transfer to existing users which will be effectively a new state imposed tax and further increase opposition to new development by existing residents; and B) inevitably lead to a decrease in available services which will be a direct strong headwind for construction of housing and economic development of the state.

Thank you, Chair Mandeville and members of the Senate Local Government Committee, for considering this testimony **OPPOSING SENATE BILL 133**. I am available to the Committee to answer any questions you may have.

Sincerely,

/s
Chris Saunders, AICP
Community Development Manager
City of Bozeman