

**AUDITING OF LEASES RELATED TO  
REVENUE BONDS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Neil A. Hansen**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Local Government Bonding Act to require certain contract clauses related to the financial condition of a private entity that is making principal or interest payments on lease for revenue bonds.

**Highlighted Provisions:**

This bill:

- ▶ requires any pledge, contract, or agreement between a local political subdivision and a private entity to include provisions that allow the local political subdivision to:
  - independently assess the ability of the private entity to meet its financial obligations if the pledge, contract, or agreement involves lease payments for the repayment of a revenue bond; and
  - rescind or amend the pledge, contract, or agreement if the assessment finds that the private entity is unable to meet its financial obligations and the local political subdivision determines it is necessary to protect its financial interests;
- ▶ requires the local political subdivision to ensure the independent assessment is complete prior to entering into a pledge, contract, or agreement and at least annually;
- ▶ requires independent assessment to be performed using audited financial statements provided by the private entity;



requires the audited financial statements to include an opinion by an independent certified public accountant indicating the financial statements are fairly stated in accordance with accounting principles generally accepted in the United States of America; and

requires that the independent assessment shall determine whether there are adequate available net assets or a reasonable expectation of sufficient future cash flows and revenues in excess of expenses to provide for the lease payments during the next reporting period.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**11-14-317**, Utah Code Annotated 1953

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

Section 1. Section **11-14-317** is enacted to read:

**11-14-317. Contract with private entities -- Lease payments for revenue bonds -- Independent assessment of financial ability -- Opinion by independent certified public accountant.**

(1) Beginning July 1, 2006, any pledge, contract, or agreement between a local political subdivision and a private entity shall include provisions that allow the local political subdivision to:

(a) independently assess the ability of the private entity to meet its financial obligations to the local political subdivision if the pledge, contract, or agreement involves lease payments, the revenue from which is pledged for the payment of principal or interest on a revenue bond; and

(b) rescind or amend the pledge, contract, or agreement if:

(i) the independent assessment produces a finding that the private entity is unable to meet its financial obligations to the local political subdivision; and

59           (ii) the local political subdivision determines that the recision or amendment is  
60 necessary to protect the financial interests of the local political subdivision.

61           (2) The local political subdivision shall ensure the independent assessment under  
62 Subsection (1)(a) is conducted:

63           (a) prior to entering into a pledge, contract, or agreement;

64           (b) at least annually; and

65           (c) using audited financial statements provided by the private entity.

66           (3) The audited financial statements shall include an opinion by an independent  
67 certified public accountant indicating the financial statements are fairly stated in accordance  
68 with accounting principles generally accepted in the United States of America.

69           (4) The independent assessment shall determine whether there are adequate available  
70 net assets or a reasonable expectation of sufficient future cash flows and revenues in excess of  
71 expenses to provide for the lease payments during the next reporting period.

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**Legislative Review Note**  
**as of 1-11-06 9:32 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0113**

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**Auditing of Leases Related to Revenue Bonds**

*20-Jan-06*

*11:53 AM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**