

Representative Neil A. Hansen proposes the following substitute bill:

**AUDITING OF LEASES RELATED TO
REVENUE BONDS**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Neil A. Hansen

Senate Sponsor: _____

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 that any new contract or agreement between a local political subdivision and a private entity that involves lease payments where the lease revenue is pledged for payment of a revenue bond include provisions that allow the local political subdivision to:

- independently assess the ability of the private entity to meet its financial obligations; and

- rescind or amend the 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 that the independent assessment is conducted prior to entering into a new contract or agreement and at least annually



on existing contracts;

- requires the 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 that 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 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

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 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, as provided under Subsection (2), the ability of the private entity to meet its financial obligations to the local political subdivision if the contract or agreement involves lease payments, the revenue from which is pledged for the payment of principal or interest on a revenue bond; and

57 (b) rescind or amend the contract or agreement if:

58 (i) the independent assessment performed under Subsection (1)(a) produces a finding
59 that the private entity is unable to meet its financial obligations to the local political
60 subdivision; and

61 (ii) based on the assessment performed under Subsection (1)(a), the local political
62 subdivision determines that the rescission or amendment is necessary to protect the financial
63 interests of the local political subdivision.

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

66 (a) prior to entering into a new contract or agreement;

67 (b) at least annually on an existing contract or agreement; and

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

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

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

Fiscal Note**Auditing of Leases Related to Revenue Bonds***06-Feb-06***Bill Number HB0113S01***10:08 AM*

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst