

**AUDITING OF LEASES RELATED TO  
REVENUE BONDS**

2007 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 lease payments pledged to pay the principal or interest on 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 or will be unable to meet its financial obligations and the local political subdivision determines that rescission or amendment is necessary to protect its financial interests;

- requires the local political subdivision to ensure that the independent assessment is conducted before entering into a new contract or agreement and at least annually on existing contracts;



- 28           ▶ requires the independent assessment to be performed using audited financial  
29 statements provided by the private entity;
- 30           ▶ requires the audited financial statements to include an opinion by an independent  
31 certified public accountant indicating that the financial statements are fairly stated  
32 in accordance with accounting principles adopted by the Federal Accounting  
33 Standards Board; and
- 34           ▶ requires that the independent assessment determine whether there are adequate  
35 available net assets or a reasonable expectation of sufficient future cash flows and  
36 revenues in excess of expenses to provide for the lease payments during the next  
37 reporting period.

38 **Monies Appropriated in this Bill:**

39           None

40 **Other Special Clauses:**

41           None

42 **Utah Code Sections Affected:**

43 ENACTS:

44           **11-14-318**, Utah Code Annotated 1953

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

47           Section 1. Section **11-14-318** is enacted to read:

48           **11-14-318. Contract with private entities -- Lease payments for revenue bonds --**  
49 **Independent assessment of financial ability -- Opinion by independent certified public**  
50 **accountant.**

51           (1) Beginning July 1, 2007, any contract or agreement between a local political  
52 subdivision and a private entity shall include provisions that allow the local political  
53 subdivision to:

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

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

59           (i) the independent assessment performed under Subsection (1)(a) produces a finding  
60 that the private entity is unable to meet its lease payments to the local political 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) before 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 generally accepted accounting principles adopted by the Federal Accounting Standards  
72 Board.

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

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**Legislative Review Note**  
as of 11-22-06 8:03 AM

**Office of Legislative Research and General Counsel**

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**H.B. 251 - Auditing of Leases Related to Revenue Bonds**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Local governments could see some fiscal impact from the requirements of this bill, but this cannot be estimated at this time.

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1/22/2007, 7:56:38 AM, Lead Analyst: Wardrop, T.

**Office of the Legislative Fiscal Analyst**