

**BONDING AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kirk A. Cullimore**

House Sponsor: Brady Brammer

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**LONG TITLE**

**General Description:**

This bill modifies state and local general obligation bond provisions.

**Highlighted Provisions:**

This bill:

▶ provides that a first lien is created on ad valorem taxes for the payment of principal and interest on the local political subdivision's general obligation bonds;

▶ provides that a local school board may use revenues remaining from an ad valorem tax levied for school district technology programs or projects after the principal, premium, and interest on the district's bonds have been paid for the applicable period for which the taxes were levied;

▶ provides that a lien does not attach to any technology programs or projects paid for from the remaining tax revenues;

▶ provides that a general obligation bond issued and sold by or on behalf of a local political subdivision is secured by a first statutory lien on all revenues received pursuant to the levy and collection of ad valorem taxes, that:

- arises and attaches immediately to the ad valorem tax revenues without the need for any action or authorization by the local political subdivision;

- is valid and binding from the time the general obligation bonds are executed and delivered; and

- is effective, binding, and enforceable against the local political subdivision, its



28 successors, transferees, and creditors, and all others asserting rights to the ad valorem tax  
29 revenues;

30       ▶ requires that amounts appropriated or added to the tax levy to pay principal of,  
31 premium, and interest on general obligation bonds be applied to the payment of  
32 those bonds;

33       ▶ modifies a provision relating to the Legislature's appropriation of money each fiscal  
34 year to pay the principal, premium, and interest due on the State's outstanding  
35 general obligation bonds; and

36       ▶ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38       None

39 **Other Special Clauses:**

40       None

41 **Utah Code Sections Affected:**

42 AMENDS:

43       **11-14-310**, as last amended by Laws of Utah 2018, Chapter 288

44       **11-14-501**, as last amended by Laws of Utah 2007, Chapter 272

45       **63J-1-205.1**, as enacted by Laws of Utah 2015, Chapter 175



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

48       Section 1. Section **11-14-310** is amended to read:

49       **11-14-310. General obligation bonds -- Levy and collection of taxes.**

50       (1) (a) (i) Any bonds issued under this chapter [~~in such manner~~] that [~~they~~] are not  
51 payable solely from revenues other than those derived from ad valorem taxes are full general  
52 obligations of the local political subdivision[~~, for~~].

53       (ii) The local political subdivision's full faith and credit is pledged for the prompt and  
54 punctual payment of principal of and interest on [which the full faith and credit of the local  
55 political subdivision are pledged, and the] the local political subdivision's general obligation  
56 bonds.

57       (iii) A local political subdivision is [hereby expressly] required, regardless of any  
58 limitations [which] that may otherwise exist on the amount of taxes [which] that the local

59 political subdivision may levy, to provide for the annual levy and collection [~~annually~~] of ad  
60 valorem taxes, without limitation as to the rate or amount, on all taxable property in the local  
61 political subdivision fully sufficient for [~~such purpose~~] the payment of principal and interest on  
62 the local political subdivision's general obligation bonds as the principal and interest become  
63 due.

64 (iv) If by law ad valorem taxes for the local political subdivision are levied by a board  
65 other than its governing body~~[-]~~:

66 (A) the taxes [~~for which provision is herein made~~] shall be levied by [~~such~~] the other  
67 board; and

68 (B) the local political subdivision shall [~~be under the duty in due season in~~], each year,  
69 [~~to~~] provide [~~such other~~] the levying board with all information necessary to [~~the~~] levy [~~of~~] the  
70 taxes in the required amount.

71 (v) [~~Such taxes~~] Taxes levied under Subsection (1)(a)(iv) shall be levied and collected  
72 by the same officers, at the same time, and in the same manner as are other taxes levied for the  
73 local political subdivision.

74 (b) The pledge of the taxes levied under this section shall constitute an automatically  
75 arising first lien on the taxes as provided in Section 11-14-501.

76 [~~(b)~~] (c) (i) A local school board may use revenues remaining from a tax levied under  
77 this section for school district technology programs or projects after the principal of and  
78 premium and interest on the district's general obligation bonds have been paid for the  
79 applicable period for which the taxes were levied.

80 (ii) A lien created pursuant to Section 11-14-501 does not attach to any technology  
81 programs or projects paid for from the remaining tax revenues under Subsection (1)(c)(i).

82 (2) (a) If [~~any~~] a local political subdivision [~~shall neglect~~] neglects or [~~fail~~] fails for any  
83 reason to levy or collect or to cause to be levied or collected sufficient taxes for the prompt and  
84 punctual payment of such principal and interest, [~~any~~] a person in interest may enforce levy and  
85 collection [~~thereof in any~~] of sufficient taxes in a court having jurisdiction of the subject  
86 matter~~[-, and any].~~

87 (b) A suit, action, or proceeding brought by [~~such~~] a person in interest under  
88 Subsection (2)(a) shall be a preferred cause and shall be heard and disposed of without delay.

89 (c) All provisions of the constitution and laws relating to the collection of county and

90 municipal taxes and tax sales [~~shall also~~] apply to and regulate the collection of the taxes levied  
91 pursuant to this section, through the officer whose duty it is to collect the taxes and money due  
92 the local political subdivision.

93 Section 2. Section **11-14-501** is amended to read:

94 **11-14-501. Creation and perfection of government security interests.**

95 (1) As used in this section:

96 (a) "Bonds" means any bond, note, lease, or other obligation of a governmental unit.

97 (b) (i) "General obligation bond" means a bond, note, warrant, certificate of

98 indebtedness, or other obligation of a local political subdivision that:

99 (A) is payable in whole or in part from revenues derived from ad valorem taxes; and

100 (B) constitutes an indebtedness within the meaning of any applicable constitutional or  
101 statutory debt limitation.

102 (ii) "General obligation bond" includes a general obligation tax, revenue, or bond  
103 anticipation note issued by a local political subdivision that is payable in whole or in part from  
104 revenues derived from ad valorem taxes.

105 [~~(b)~~] (c) "Governmental unit" has the meaning assigned in Section 70A-9a-102.

106 [~~(c)~~] (d) "Pledge" means the creation of a security interest of any kind.

107 [~~(d)~~] (e) "Property" means any property or interests in property, other than real  
108 property.

109 [~~(e)~~] (f) "Security agreement" means any resolution, ordinance, indenture, document, or  
110 other agreement or instrument under which the revenues, fees, rents, charges, taxes, or other  
111 property are pledged to secure the bonds.

112 (2) This section expressly governs the creation, perfection, priority, and enforcement of  
113 a security interest created by the state or a governmental unit of the state, notwithstanding  
114 anything in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to the  
115 contrary.

116 (3) (a) The revenues, fees, rents, charges, taxes, or other property pledged by a  
117 governmental unit for the purpose of securing its bonds are immediately subject to the lien of  
118 the pledge.

119 (b) (i) The lien is a perfected lien upon the effective date of the security agreement.

120 (ii) The physical delivery, filing, or recording of a security agreement or financing

121 statement under the Uniform Commercial Code or otherwise, or any other similar act, is not  
122 necessary to perfect the lien.

123 (c) The lien of any pledge is valid, binding, perfected, and enforceable from the time  
124 the pledge is made.

125 (d) The lien of the pledge has priority:

126 (i) based on the time of the creation of the pledge unless otherwise provided in the  
127 security agreement; and

128 (ii) as against all parties having claims of any kind in tort, contract, or otherwise  
129 against the governmental unit, regardless of whether or not the parties have notice of the lien.

130 (e) Each pledge and security agreement made for the benefit or security of any of the  
131 bonds shall continue to be effective until:

132 (i) the principal, interest, and premium, if any, on the bonds have been fully paid;

133 (ii) provision for payment has been made; or

134 (iii) the lien created by the security agreement has been released by agreement of the  
135 parties in interest or as provided by the security agreement that created the lien.

136 (4) (a) General obligation bonds issued and sold by or on behalf of a local political  
137 subdivision shall be secured by a first statutory lien on all revenues received pursuant to the  
138 levy and collection of ad valorem taxes.

139 (b) The lien described in Subsection (4)(a):

140 (i) arises and attaches immediately to the ad valorem tax revenues without the need for  
141 any action or authorization by the local political subdivision;

142 (ii) is valid and binding from the time the general obligation bonds are executed and  
143 delivered; and

144 (iii) is effective, binding, and enforceable against the local political subdivision, its  
145 successors, transferees, and creditors, and all others asserting rights to the ad valorem tax  
146 revenues.

147 (c) A lien described in Subsection (4)(a) is enforceable against the parties described in  
148 Subsection (4)(b)(iii):

149 (i) regardless of whether the parties described in Subsection (4)(b)(iii) have notice of  
150 the lien; and

151 (ii) without the need for any physical delivery, recordation, filing, or further action.

152           (5) Any amounts appropriated or added to the tax levy to pay principal of and premium  
153 and interest on general obligation bonds:

154           (a) shall be applied solely to the payment of those general obligation bonds; and

155           (b) may not be used for any other purpose, except as provided by law.

156           (6) This section applies to all revenues received pursuant to the levy and collection of  
157 the ad valorem tax regardless of the date on which the general obligation bonds were issued.

158           (7) This section applies to all bonds, including bonds issued before or after the  
159 effective date of this section.

160           Section 3. Section **63J-1-205.1** is amended to read:

161           **63J-1-205.1. Legislature to pay debt service first.**

162           ~~[In appropriating money from the General Fund, the]~~ The Legislature shall appropriate  
163 money each fiscal year sufficient to [debt service] pay the principal, premium, and interest due  
164 on the state's outstanding general obligation bonds before making any other appropriation in  
165 the fiscal year.