

**Senator Kirk A. Cullimore** proposes the following substitute bill:

**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



26 delivered; and

27 • is effective, binding, and enforceable against the local political subdivision, its  
28 successors, transferees, and creditors, and all others asserting rights to the ad  
29 valorem tax 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;

36 ▶ authorizes the issuance of general obligation bonds for Department of  
37 Transportation projects; and

38 ▶ makes technical and conforming changes.

39 **Money Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 AMENDS:

45 **11-14-310**, as last amended by Laws of Utah 2018, Chapter 288

46 **11-14-501**, as last amended by Laws of Utah 2007, Chapter 272

47 **63J-1-205.1**, as enacted by Laws of Utah 2015, Chapter 175

48 ENACTS:

49 **63B-30-101**, Utah Code Annotated 1953



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

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

53 **11-14-310. General obligation bonds -- Levy and collection of taxes.**

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

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

61 (iii) A local political subdivision is [hereby expressly] required, regardless of any  
 62 limitations [which] that may otherwise exist on the amount of taxes [which] that the local  
 63 political subdivision may levy, to provide for the annual levy and collection [annually] of ad  
 64 valorem taxes, without limitation as to the rate or amount, on all taxable property in the local  
 65 political subdivision fully sufficient for [such purpose] the payment of principal and interest on  
 66 the local political subdivision's general obligation bonds as the principal and interest become  
 67 due.

68 (iv) If by law ad valorem taxes for the local political subdivision are levied by a board  
 69 other than its governing body[;]:

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

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

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

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

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

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

86 (2) (a) If [any] a local political subdivision [shall neglect] neglects or [fail] fails for any  
 87 reason to levy or collect or to cause to be levied or collected sufficient taxes for the prompt and

88 punctual payment of such principal and interest, [~~any~~] a person in interest may enforce levy and  
89 collection [~~thereof in any~~] of sufficient taxes in a court having jurisdiction of the subject  
90 matter[~~, and any~~].

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

93 (c) All provisions of the constitution and laws relating to the collection of county and  
94 municipal taxes and tax sales [~~shall also~~] apply to and regulate the collection of the taxes levied  
95 pursuant to this section, through the officer whose duty it is to collect the taxes and money due  
96 the local political subdivision.

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

98 **11-14-501. Creation and perfection of government security interests.**

99 (1) As used in this section:

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

101 (b) (i) "General obligation bond" means a bond, note, warrant, certificate of  
102 indebtedness, or other obligation of a local political subdivision that:

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

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

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

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

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

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

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

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

119 contrary.

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

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

124 (ii) The physical delivery, filing, or recording of a security agreement or financing  
125 statement under the Uniform Commercial Code or otherwise, or any other similar act, is not  
126 necessary to perfect the lien.

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

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

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

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

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

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

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

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

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

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

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

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

148 (iii) is effective, binding, and enforceable against the local political subdivision, its  
149 successors, transferees, and creditors, and all others asserting rights to the ad valorem tax

150 revenues.

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

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

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

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

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

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

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

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

164 Section 3. Section **63B-30-101** is enacted to read:

165 **Part 3. General Obligation Bonds**

166 **63B-30-101. General obligation bonds for transportation projects.**

167 (1) As used in this section, "transportation projects" means Department of  
168 Transportation projects described in Subsection [63B-27-101\(2\)](#).

169 (2) (a) When the Department of Transportation certifies to the commission that the  
170 requirements of Subsection [72-2-124\(7\)](#) have been met and certifies the amount of bond  
171 proceeds that the commission needs to provide funding for the transportation projects for the  
172 current or next fiscal year, the commission may issue and sell general obligation bonds in an  
173 amount equal to the certified amount, plus additional amounts necessary to pay costs of  
174 issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements,  
175 not to exceed 1% of the certified amount.

176 (b) The commission may not issue general obligation bonds authorized under this  
177 section if the issuance of the general obligation bonds would result in the total current  
178 outstanding general obligation debt of the state exceeding 50% of the limitation described in  
179 the Utah Constitution, Article XIV, Section 1.

180 (3) The commission may issue general obligation bonds as provided in this section.

181 (4) (a) The total amount of bonds to be issued under this section may not exceed  
182 \$89,510,000 for acquisition and construction proceeds, plus additional amounts necessary to  
183 pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve  
184 requirements, with the total amount of the bonds not to exceed \$92,000,000.

185 (5) The commission shall ensure that proceeds from the issuance of bonds under this  
186 section are provided to the Department of Transportation for use by the Department of  
187 Transportation to pay all or part of the cost of the transportation projects, including:

188 (a) interest estimated to accrue on the bonds authorized in this section until the  
189 completion of construction of the transportation project, plus a period of 12 months after the  
190 end of construction; and

191 (b) all related engineering, architectural, and legal fees.

192 (6) (a) The Department of Transportation may enter into agreements related to the  
193 transportation projects before the receipt of proceeds of bonds issued under this section.

194 (b) The state intends to use proceeds of tax-exempt bonds to reimburse itself for  
195 expenditures for costs of the transportation projects.

196 Section 4. Section **63J-1-205.1** is amended to read:

197 **63J-1-205.1. Legislature to pay debt service first.**

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