

**Representative Brady Brammer** 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 **72-2-124**, as last amended by Laws of Utah 2019, Chapters 327 and 479

49 ENACTS:

50 **63B-30-101**, Utah Code Annotated 1953



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

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

54 **11-14-310. General obligation bonds -- Levy and collection of taxes.**

55 (1) (a) (i) Any bonds issued under this chapter [~~in such manner~~] that [~~they~~] are not  
56 payable solely from revenues other than those derived from ad valorem taxes are full general

57 obligations of the local political subdivision~~[, for]~~.

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

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

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

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

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

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

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

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

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

87 (2) (a) If [any] a local political subdivision [shall neglect] neglects or [fail] fails for any

88 reason to levy or collect or to cause to be levied or collected sufficient taxes for the prompt and  
89 punctual payment of such principal and interest, [~~any~~] a person in interest may enforce levy and  
90 collection [~~thereof in any~~] of sufficient taxes in a court having jurisdiction of the subject  
91 matter[~~, and any~~].

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

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

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

99 **11-14-501. Creation and perfection of government security interests.**

100 (1) As used in this section:

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

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

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

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

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

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

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

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

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

117 (2) This section expressly governs the creation, perfection, priority, and enforcement of  
118 a security interest created by the state or a governmental unit of the state, notwithstanding

119 anything in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to the  
120 contrary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

149 (iii) is effective, binding, and enforceable against the local political subdivision, its

150 successors, transferees, and creditors, and all others asserting rights to the ad valorem tax  
151 revenues.

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

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

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

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

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

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

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

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

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

166 **Part 3. General Obligation Bonds**

167 **63B-30-101. General obligation bonds for transportation projects.**

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

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

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

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

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

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

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

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

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

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

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

198 **63J-1-205.1. Legislature to pay debt service first.**

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

203 Section 5. Section **72-2-124** is amended to read:

204 **72-2-124. Transportation Investment Fund of 2005.**

205 (1) There is created a capital projects fund entitled the Transportation Investment Fund  
206 of 2005.

207 (2) The fund consists of money generated from the following sources:

208 (a) any voluntary contributions received for the maintenance, construction,  
209 reconstruction, or renovation of state and federal highways;

210 (b) appropriations made to the fund by the Legislature;

211 (c) registration fees designated under Section [41-1a-1201](#);

212 (d) the sales and use tax revenues deposited into the fund in accordance with Section  
213 59-12-103; and

214 (e) revenues transferred to the fund in accordance with Section 72-2-106.

215 (3) (a) The fund shall earn interest.

216 (b) All interest earned on fund money shall be deposited into the fund.

217 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use  
218 fund money to pay:

219 (i) the costs of maintenance, construction, reconstruction, or renovation to state and  
220 federal highways prioritized by the Transportation Commission through the prioritization  
221 process for new transportation capacity projects adopted under Section 72-1-304;

222 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway  
223 projects described in Subsections 63B-18-401(2), (3), and (4);

224 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401  
225 minus the costs paid from the County of the First Class Highway Projects Fund in accordance  
226 with Subsection 72-2-121(4)(f);

227 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt  
228 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified  
229 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the  
230 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

231 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101  
232 for projects prioritized in accordance with Section 72-2-125;

233 (vi) all highway general obligation bonds that are intended to be paid from revenues in  
234 the Centennial Highway Fund created by Section 72-2-118;

235 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First  
236 Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described  
237 in Section 72-2-121; and

238 (viii) if a political subdivision provides a contribution equal to or greater than 40% of  
239 the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved  
240 nonmotorized transportation for projects that:

241 (A) mitigate traffic congestion on the state highway system;

242 (B) are part of an active transportation plan approved by the department; and



243 (C) are prioritized by the commission through the prioritization process for new  
244 transportation capacity projects adopted under Section 72-1-304.

245 (b) The executive director may use fund money to exchange for an equal or greater  
246 amount of federal transportation funds to be used as provided in Subsection (4)(a).

247 (5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund  
248 money, including fund money from the Transit Transportation Investment Fund, within the  
249 boundaries of a municipality that is required to adopt a moderate income housing plan element  
250 as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the  
251 municipality has failed to adopt a moderate income housing plan element as part of the  
252 municipality's general plan or has failed to implement the requirements of the moderate income  
253 housing plan as determined by the results of the Department of Workforce Service's review of  
254 the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

255 (b) Within the boundaries of a municipality that is required under Subsection  
256 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate  
257 income housing plan element as part of the municipality's general plan or has failed to  
258 implement the requirements of the moderate income housing plan as determined by the results  
259 of the Department of Workforce Service's review of the annual moderate income housing  
260 report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

261 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access  
262 facility;

263 (ii) may not use fund money for the construction, reconstruction, or renovation of an  
264 interchange on a limited-access facility;

265 (iii) may use Transit Transportation Investment Fund money for a multi-community  
266 fixed guideway public transportation project; and

267 (iv) may not use Transit Transportation Investment Fund money for the construction,  
268 reconstruction, or renovation of a station that is part of a fixed guideway public transportation  
269 project.

270 (6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund  
271 money, including fund money from the Transit Transportation Investment Fund, within the  
272 boundaries of the unincorporated area of a county, if the county is required to adopt a moderate  
273 income housing plan element as part of the county's general plan as described in Subsection

274 [17-27a-401](#)(3) and if the county has failed to adopt a moderate income housing plan element as  
275 part of the county's general plan or has failed to implement the requirements of the moderate  
276 income housing plan as determined by the results of the Department of Workforce Service's  
277 review of the annual moderate income housing report described in Subsection  
278 [35A-8-803](#)(1)(a)(vii).

279 (b) Within the boundaries of the unincorporated area of a county where the county is  
280 required under Subsection [17-27a-401](#)(3) to plan for moderate income housing growth but has  
281 failed to adopt a moderate income housing plan element as part of the county's general plan or  
282 has failed to implement the requirements of the moderate income housing plan as determined  
283 by the results of the Department of Workforce Service's review of the annual moderate income  
284 housing report described in Subsection [35A-8-803](#)(1)(a)(vii), the executive director:

285 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access  
286 facility;

287 (ii) may not use fund money for the construction, reconstruction, or renovation of an  
288 interchange on a limited-access facility;

289 (iii) may use Transit Transportation Investment Fund money for a multi-community  
290 fixed guideway public transportation project; and

291 (iv) may not use Transit Transportation Investment Fund money for the construction,  
292 reconstruction, or renovation of a station that is part of a fixed guideway public transportation  
293 project.

294 (7) (a) Before bonds authorized by Section [63B-18-401](#) [~~or~~], [63B-27-101](#), or  
295 [63B-30-101](#) may be issued in any fiscal year, the department and the commission shall appear  
296 before the Executive Appropriations Committee of the Legislature and present the amount of  
297 bond proceeds that the department needs to provide funding for the projects identified in  
298 Subsections [63B-18-401](#)(2), (3), and (4) [~~or~~], Subsection [63B-27-101](#)(2), or Subsection  
299 [63B-30-101](#)(1) for the current or next fiscal year.

300 (b) The Executive Appropriations Committee of the Legislature shall review and  
301 comment on the amount of bond proceeds needed to fund the projects.

302 (8) The Division of Finance shall, from money deposited into the fund, transfer the  
303 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by  
304 Section [63B-18-401](#) [~~or~~], [63B-27-101](#), or [63B-30-101](#) in the current fiscal year to the

305 appropriate debt service or sinking fund.

306 (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit  
307 Transportation Investment Fund.

308 (b) The fund shall be funded by:

309 (i) contributions deposited into the fund in accordance with Section 59-12-103;

310 (ii) appropriations into the account by the Legislature;

311 (iii) private contributions; and

312 (iv) donations or grants from public or private entities.

313 (c) (i) The fund shall earn interest.

314 (ii) All interest earned on fund money shall be deposited into the fund.

315 (d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund  
316 for public transit capital development of new capacity projects to be used as prioritized by the  
317 commission.

318 (e) (i) The Legislature may only appropriate money from the fund for a public transit  
319 capital development project or pedestrian or nonmotorized transportation project that provides  
320 connection to the public transit system if the public transit district or political subdivision  
321 provides funds of equal to or greater than 40% of the costs needed for the project.

322 (ii) A public transit district or political subdivision may use money derived from a loan  
323 granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or  
324 part of the 40% requirement described in Subsection (9)(e)(i) if:

325 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,  
326 State Infrastructure Bank Fund; and

327 (B) the proposed capital project has been prioritized by the commission pursuant to  
328 Section 72-1-303.