



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 13, 2006

GOV. MSG. NO. 523

The Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
State Capitol
Honolulu, Hawaii 96813

Dear Mr. President:

This letter amends my March 17, 2006 request for immediate consideration and passage of House Bill. No. 970, Relating to Emergency Relief for Natural Disasters, to appropriate emergency funding to: 1) cover the costs of storm recovery and mitigation efforts; 2) stabilize and repair storm damaged slopes and drainage systems; 3) assess the structural integrity of dams and reservoirs statewide and recommend long-term plans to ensure dam safety; and 4) investigate legal issues related to dam and reservoir failures.

Since the March 17th request, the State has experienced additional storm damage and the various departments have had the opportunity to make a more thorough assessment of recovery and mitigation costs. This amended request incorporates these updated requirements as a result of storms that have occurred in February and March 2006. This amended request for immediate consideration and passage is made in accordance with Section 9, Article VII of the Constitution of the State of Hawaii.

Additional emergency funding totaling \$3,169,257 in general funds, \$29,300,000 in state highway special funds, and \$17,450,000 in general obligation bond funds, and a reduction of \$2,700,000 in federal funds, is requested for the Departments of Agriculture, Land and Natural Resources, and Transportation as follows:

- Department of Agriculture - \$2,500,000 in general obligation bond funds for plans, land acquisition, design and construction of a controlled breach of the Kailua Reservoir Dam, Oahu. The dam was in eminent danger of being breached during the latter part of March. To address this problem, a section of the dam needs to be permanently removed along with regrading of the reservoir, realignment of the existing stream realignment and installation of slope protection measures.

- Department of Land and Natural Resources - \$7,000,000 in general obligation bond funds for plans, design and construction of roadway and slope stabilization measures along Round Top Drive, Oahu and within Maunalaha Valley, Oahu. During March, there were three slope collapses in the valley covering the roadway, the last of which severely damaged the roadway and caused extensive property damage to several residences in the valley.
- Department of Land and Natural Resources – \$3,000,000 in general obligation bond funds for plans, design and construction of slope stabilization measures within and adjacent to forest reserve areas of Round Top Drive, Oahu in the Tantalus and Manoa Valley areas. During March, heavy rains affected various areas along Round Top Drive with excessive runoff, mudslides and boulders onto Round Top Drive making hazardous driving conditions as well as numerous temporary road closures.
- Department of Land and Natural Resources – \$3,000,000 in general obligation bond funds for plans, design and construction of roadway and slope stabilization measures along a portion of Round Top Drive, Oahu above Puuhonua Street in Manoa Valley. During March, heavy rains affected various residences on Puuhonua Street and Sonoma Street with mudslides and excessive sediment runoff onto the streets causing hazardous driving conditions and temporary road closures. Three road closures occurred on Puuhonua Street cutting off access to area residents and emergency support services.
- Department of Land and Natural Resources – \$1,235,000 in general funds (\$1,275,000 total request) for the Engineering Division to hire consultants and contractors to assess, respond to and clean up storm damage, and to reimburse the United States Army Corps of Engineers and United States Geological Survey for work performed and equipment utilized in dam inspections. These costs reflect additional expenses incurred during the second half of March and updated assessments of recovery costs.
- Department of Land and Natural Resources – \$260,750 in general funds for the Division of Forestry and Wildlife for staff and operating expenses and to hire consultants and contractors to assess, respond to, clean up and repair storm damage, and undertake storm related landslide, rockfall and hazard tree mitigation measures on forestry lands. These costs reflect additional expenses incurred during the second half of March and updated assessments of recovery costs.
- Department of Land and Natural Resources – \$1,446,500 in general funds (\$1,646,500 total request) for the Division of State Parks for staff and operating expenses and to hire consultants and contractors to assess, respond to, clean up and repair storm damage, and to undertake rock fall mitigation measures on state park lands. These costs reflect additional expenses incurred during the second half of March and updated assessments of recovery costs.

- Department of Land and Natural Resources – \$131,207 in general funds (\$155,207 total request) for the Division of Boating and Ocean Recreation for staff and operating expenses and to hire contractors to respond to, clean up and repair storm damage at small boat harbors, and to clean up the Ala Wai Canal, Oahu. These costs reflect additional expenses incurred during the second half of March and updated assessments of recovery costs.
- Department of Land and Natural Resources – \$1,200,000 in general obligation bond funds for plans, design and construction to dredge the channel and entrance leading to Wailoa.

Small Boat Harbor, Hawaii. Sediment build-up from the heavy rains of March at the mouth and within the entrance channel of Wailoa River now makes access impossible or extremely hazardous during low tides. Boats have been damaged and/or run aground.

- Department of Land and Natural Resources – \$750,000 in general obligation bond funds to dredge the canal fronting Waikaea boat ramp, Kauai. Sediment build-up from the heavy rains of March is causing hazardous navigation within the Waikaea Canal for boaters and is reducing the capacity for the canal to pass storm flows which would exacerbate flooding in the area.
- Department of Land and Natural Resources – \$95,800 in general funds (\$115,800 total request) for the Division of Conservation and Resource Enforcement for staff and operating expenses to respond to the storm, and to replace a damaged radio repeater on the island of Kauai. These costs reflect additional expenses incurred during the second half of March and updated assessments of recovery costs.
- Department of Transportation – \$600,000 in State Highway Funds for expenses, including, but not limited to, staff and operating and maintenance expenditures resulting from storm damage on the island of Oahu. These costs reflect additional expenses incurred during the second half of March and updated assessments of recovery costs.
- Department of Transportation – \$1,500,000 in State Highway Funds (\$3,500,000 total request) for expenses, including, but not limited to, staff and operating and maintenance expenditures resulting from storm damage on the island of Kauai. These costs reflect additional expenses incurred during the second half of March and updated assessments of recovery costs.
- Department of Transportation – \$15,500,000 in State Highway Funds and \$500,000 in federal funds for design, land acquisition and construction for remediation of eroded portions along various state routes on the island of Oahu caused by storm damage. These costs reflect additional expenses incurred during the second half of March and updated assessments of recovery costs.

- Department of Transportation – \$11,700,000 in State Highway Funds (\$12,500,000 total request) and a reduction of \$2,700,000 from the original request of \$3,200,000 (\$500,000 total request) in federal funds for design, land acquisition and construction for remediation of eroded portions along various state routes on the island of Kauai caused by storm damage. These costs reflect additional expenses incurred during the second half of March and updated assessments of recovery costs.

Attached is a proposed C.D. 1 of House Bill No. 970 that sets forth the above mentioned additional appropriation requirements in the emergency appropriation bill format. Please note that the proposed C.D. 1 also includes the following technical amendments:

- An expanded purpose description in Section 2 to reflect the appropriations contained in this emergency appropriation measure.
- A new public purpose declaration in Section 2 to avoid constitutional issues regarding the use of public monies for private parties. This public purpose declaration was recommended by the Department of the Attorney General.
- A new proviso in Section 22 to authorize the Governor to approve expenditures of federal funds for purposes of this measure in excess of levels specified. This proviso would allow use of unbudgeted federal funds should such funds become available in the future.
- New general obligation bond declaration of findings and bond issuance authorization provisions in Sections 23-25 to comply with Article VII, Section 13 of the State Constitution. This bond declaration was recommended by the Department of the Attorney General.
- A new severability clause to ensure validity of non-affected appropriations in the event any portion of this measure is held to be invalid. This severability clause was recommended by the Department of the Attorney General.

The general fund recommendations included in this measure have been made in accordance with the statutorily defined appropriation ceiling for the Executive Branch pursuant to Section 37-92, HRS. Including appropriations made up to and including the regular and special sessions of 2005, the Executive Branch appropriation ceiling for FY 2005-06 has already been exceeded by \$165,665,981 or 3.83 percent. Funding requested in this measure for the February and March 2006 storm recovery and mitigation efforts, to assess the structural integrity of dams and reservoirs statewide and recommend long-term plans to ensure dam safety, and to investigate legal issues related to dam and reservoir failures will result in the appropriation ceiling for the Executive Branch to now be exceeded in FY 2005-06 by \$11,503,257, or 0.27 percent. This current declaration takes into account additional general fund appropriations authorized for FY 2005-06 in this measure only, and does not include other general fund appropriations for FY 2005-06 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session of 2006.

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We appreciate your prompt attention to this matter. The Departments of Agriculture, Land and Natural Resources, and Transportation will be available to answer any questions you may have on this amended request.

Sincerely,



LINDA LINGLE

Attachment

c: Honorable Brian T. Taniguchi

A BILL FOR AN ACT

RELATING TO EMERGENCY RELIEF FOR NATURAL DISASTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act is recommended by the governor for
2 immediate passage in accordance with section 9 of article VII of
3 the Constitution of the state of Hawaii.

4 SECTION 2. The purpose of this Act is to appropriate funds
5 to: 1) cover the costs of recovery and remediation efforts as a
6 result of storms that have occurred in February and March 2006;
7 2) stabilize and repair storm damaged slopes, drainage ways and
8 drainage systems to restore functionality and prevent future
9 damages; 3) hire consultants to determine the structural
10 integrity of dams and reservoirs statewide, to assess potential
11 immediate risks, and to recommend long-term plans to ensure dam
12 safety; and 4) investigate and review legal issues related to
13 dam and reservoir failures and issues relating to the safety of
14 existing dams and reservoirs. The legislature finds and
15 declares that the appropriations under this Act are in the
16 public interest and for the public health, safety, and general
17 welfare of the state.

18 SECTION 3. There is appropriated out of the general
19 revenues of the state of Hawaii the sum of \$50,000, or so much

1 thereof as may be necessary, for fiscal year 2005-2006 for staff
2 expenses and to hire consultants to assess the impact existing
3 dams and reservoirs have on agricultural operations and the
4 impact if existing dams and reservoirs were removed.

5 The sum appropriated shall be expended by the department of
6 agriculture.

7 SECTION 4. The director of finance is authorized to issue
8 general obligation bonds in the sum of \$2,500,000, or so much
9 thereof as may be necessary, and the same sum, or so much
10 thereof as may be necessary, is appropriated for fiscal
11 year 2005-2006, for plans, land acquisition, design and
12 construction of a controlled breach of the Kailua reservoir dam,
13 Oahu. Work includes: excavation and removal of a section of
14 the dam; realignment of the existing stream; restoration of a
15 fifteen foot wide by twenty foot deep sinkhole; surveying work;
16 installation of slope protection measures; regrading of the
17 reservoir to prevent retainage of storm water; and other
18 necessary improvements.

19 The sum appropriated shall be expended by the department of
20 agriculture.

21 SECTION 5. There is appropriated out of the general
22 revenues of the state of Hawaii the sum of \$1,000,000, or so
23 much thereof as may be necessary, for fiscal year 2005-2006 for
24 overtime, travel and other expenses for existing staff, and to

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1 hire consultants and experts to review legal issues related to
2 dam and reservoir failures and issues relating to the safety of
3 existing dams and reservoirs. Funds may also be used for
4 expenses related to possible litigation concerning dam and
5 reservoir failures.

6 The sum appropriated shall be expended by the department of
7 the attorney general.

8 SECTION 6. There is appropriated out of the general
9 revenues of the state of Hawaii the sum of \$2,000,000, or so
10 much thereof as may be necessary, for fiscal year 2005-2006 to
11 cover operational expenses associated with storm recovery
12 efforts, including, but not limited to, state civil defense
13 24-hour emergency operations center overtime costs expended by
14 civil defense workers, contractors that are helping to pump
15 reservoirs to maintain safer water levels, national guard
16 personnel on state active duty status, and Blackhawk helicopter
17 operating expenses.

18 The sum appropriated shall be expended by the department of
19 defense.

20 SECTION 7. There is appropriated out of the general
21 revenues of the state of Hawaii the sum of \$5,000,000, or so
22 much thereof as may be necessary, for fiscal year 2005-2006 for
23 staff and operational expenses, and to hire consultants to
24 conduct surveys, studies and assessments of private and

1 government owned dams and reservoirs statewide to determine
2 their current physical integrity. Assessments will include
3 recommendations for future structural needs and identification
4 of potential impacts or threat to areas around and downstream of
5 the dams and reservoirs.

6 The sum appropriated shall be expended by the department of
7 land and natural resources.

8 SECTION 8. The director of finance is authorized to issue
9 general obligation bonds in the sum of \$7,000,000, or so much
10 thereof as may be necessary, and the same sum, or so much
11 thereof as may be necessary, is appropriated for fiscal
12 year 2005-2006, for plans, design and construction of roadway
13 and slope stabilization measures along Round Top drive, Oahu,
14 and within Maunalaha valley, Oahu. Work includes: installation
15 of drainage systems; installation of retaining walls; grading;
16 removal of sediment and debris; and installation of other soil
17 stabilization measures and other related work.

18 The sum appropriated shall be expended by the department of
19 land and natural resources.

20 SECTION 9. The director of finance is authorized to issue
21 general obligation bonds in the sum of \$3,000,000, or so much
22 thereof as may be necessary, and the same sum, or so much
23 thereof as may be necessary, is appropriated for fiscal
24 year 2005-2006, for plans, design and construction of slope

1 stabilization measures within and adjacent to forest reserve
2 areas of Round Top drive, Oahu, in the Tantalus and Manoa valley
3 areas. Work includes: installation of drainage systems;
4 installation of retaining walls; grading; removal of sediment
5 and debris; and installation of other soil stabilization
6 measures and other related work.

7 The sum appropriated shall be expended by the department of
8 land and natural resources.

9 SECTION 10. The director of finance is authorized to issue
10 general obligation bonds in the sum of \$3,000,000, or so much
11 thereof as may be necessary, and the same sum, or so much
12 thereof as may be necessary, is appropriated for fiscal
13 year 2005-2006, for plans, design and construction of roadway
14 and slope stabilization measures along a portion of Round Top
15 drive, Oahu, above Puuhonua street in Manoa valley. Work
16 includes: installation of drainage systems; installation of
17 retaining walls; grading; removal of sediment and debris; and
18 installation of other soil stabilization measures and other
19 related work.

20 The sum appropriated shall be expended by the department of
21 land and natural resources.

22 SECTION 11. There is appropriated out of the general
23 revenues of the state of Hawaii the sum of \$1,275,000, or so
24 much thereof as may be necessary, for fiscal year 2005-2006 for

1 the engineering division to hire consultants and contractors to
2 assess, respond to and clean up storm damage, and to reimburse
3 the United States Army Corps of Engineers and United States
4 geological survey for work performed and equipment utilized in
5 dam inspections.

6 The sum appropriated shall be expended by the department of
7 land and natural resources.

8 SECTION 12. There is appropriated out of the general
9 revenues of the state of Hawaii the sum of \$260,750, or so much
10 thereof as may be necessary, for fiscal year 2005-2006 for the
11 division of forestry and wildlife for staff and operating
12 expenses and to hire consultants and contractors to assess,
13 respond to, clean up and repair storm damage, and to undertake
14 storm related landslide, rockfall and hazard tree mitigation
15 measures on forestry lands.

16 The sum appropriated shall be expended by the department of
17 land and natural resources.

18 SECTION 13. There is appropriated out of the general
19 revenues of the state of Hawaii the sum of \$1,646,500, or so
20 much thereof as may be necessary, for fiscal year 2005-2006 for
21 the division of state parks for staff and operating expenses and
22 to hire consultants and contractors to assess, respond to, clean
23 up and repair storm damage, and to undertake rock fall
24 mitigation measures on state park lands.

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1 The sum appropriated shall be expended by the department of
2 land and natural resources.

3 SECTION 14. There is appropriated out of the general
4 revenues of the state of Hawaii the sum of \$155,207, or so much
5 thereof as may be necessary, for fiscal year 2005-2006 for the
6 division of boating and ocean recreation for staff and operating
7 expenses and to hire contractors to respond to, clean up and
8 repair storm damage at small boat harbors, and to clean up the
9 Ala Wai canal, Oahu.

10 The sum appropriated shall be expended by the department of
11 land and natural resources.

12 SECTION 15. The director of finance is authorized to issue
13 general obligation bonds in the sum of \$1,200,000, or so much
14 thereof as may be necessary, and the same sum, or so much
15 thereof as may be necessary, is appropriated for fiscal
16 year 2005-2006, for plans, design and construction to dredge the
17 channel and entrance leading to Wailoa small boat harbor,
18 Hawaii. Work includes: dredging; disposal of sediments; and
19 other related work.

20 The sum appropriated shall be expended by the department of
21 land and natural resources.

22 SECTION 16. The director of finance is authorized to issue
23 general obligation bonds in the sum of \$750,000, or so much
24 thereof as may be necessary, and the same sum, or so much

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1 thereof as may be necessary, is appropriated for fiscal
2 year 2005-2006, for plans, design and construction to dredge the
3 canal upstream and fronting Waikaea boat ramp, Kauai. Work
4 includes: dredging; disposal of sediments; and other related
5 work.

6 The sum appropriated shall be expended by the department of
7 land and natural resources.

8 SECTION 17. There is appropriated out of the general
9 revenues of the state of Hawaii the sum of \$115,800, or so much
10 thereof as may be necessary, for fiscal year 2005-2006 for the
11 division of conservation and resource enforcement for staff and
12 operating expenses to respond to the storm, and to replace a
13 damaged radio repeater on the island of Kauai.

14 The sum appropriated shall be expended by the department of
15 land and natural resources.

16 SECTION 18. There is appropriated out of the state highway
17 fund the sum of \$600,000 or so much thereof as may be necessary,
18 for fiscal year 2005-2006 in TRN 501 - Oahu Highways for
19 expenses, including, but not limited to, staff and operating and
20 maintenance expenditures resulting from storm damage on the
21 island of Oahu.

22 The sum appropriated shall be expended by the department of
23 transportation.

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1 SECTION 19. There is appropriated out of the state highway
2 fund the sum of \$3,500,000 or so much thereof as may be
3 necessary, for fiscal year 2005-2006 in TRN 561 - Kauai Highways
4 for expenses, including, but not limited to, staff and operating
5 and maintenance expenditures resulting from storm damage on the
6 island of Kauai.

7 The sum appropriated shall be expended by the department of
8 transportation.

9 SECTION 20. There is appropriated out of the state highway
10 fund (TRN 501) the sum of \$15,500,000, or so much thereof as may
11 be necessary, for fiscal year 2005-2006, and appropriated out of
12 federal funds the sum of \$500,000, or so much thereof as may be
13 necessary, for fiscal year 2005-2006, for design, land
14 acquisition and construction for remediation of eroded portions
15 along various state routes on the island of Oahu caused by storm
16 damage. Work includes: install temporary and permanent erosion
17 control measures; restore roadways, shoulders and utility
18 improvements; install guardrails; install slope and shoulder
19 stabilization measures; install retaining walls; upgrade
20 drainage structures; and install other miscellaneous
21 improvements.

22 The sums appropriated shall be expended by the department
23 of transportation.

1 SECTION 21. There is appropriated out of the state highway
2 fund (TRN 561) the sum of \$12,500,000, or so much thereof as may
3 be necessary, for fiscal year 2005-2006, and appropriated out of
4 federal funds the sum of \$500,000, or so much thereof as may be
5 necessary, for fiscal year 2005-2006, for design, land
6 acquisition and construction for remediation of eroded portions
7 along various state routes on the island of Kauai caused by
8 storm damage. Work includes: install temporary and permanent
9 erosion control measures; restore roadways, shoulders and
10 utility improvements; install guardrails; install slope and
11 shoulder stabilization measures; install retaining walls;
12 upgrade drainage structures; and install other miscellaneous
13 improvements.

14 The sums appropriated shall be expended by the department
15 of transportation.

16 SECTION 22. Provided that the governor may approve the
17 expenditure of federal funds for purposes of this act which are
18 in excess of levels authorized by the legislature; provided
19 further that the governor may allow for an increase in the
20 federal fund authorization ceiling for the various
21 appropriations in this act to accommodate the expenditure of
22 such funds.

23 SECTION 23. Declaration of findings with respect to the
24 general obligation bonds authorized by this Act. Pursuant to

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1 the clause in article VII, section 13 of the state Constitution
2 which states: "Effective July 1, 1980, the legislature shall
3 include a declaration of findings in every general law
4 authorizing the issuance of general obligation bonds that the
5 total amount of principal and interest, estimated for such bonds
6 and for all bonds authorized and unissued and calculated for all
7 bonds issued and outstanding, will not cause the debt limit to
8 be exceeded at the time of issuance," the legislature finds and
9 declares as follows:

10 (1) Limitation on general obligation debt. The debt limit of
11 the state is set forth in article VII, section 13 of the
12 state Constitution, which states in part: "General
13 obligation bonds may be issued by the state; provided that
14 such bonds at the time of issuance would not cause the
15 total amount of principal and interest payable in the
16 current or any future fiscal year, whichever is higher, on
17 such bonds and on all outstanding general obligation bonds
18 to exceed: a sum equal to twenty percent of the average of
19 the general fund revenues of the state in the three fiscal
20 years immediately preceding such issuance until June 30,
21 1982; and thereafter, a sum equal to eighteen and one-half
22 percent of the average of the general fund revenues of the
23 state in the three fiscal years immediately preceding such
24 issuance." article VII, section 13, also provides that in

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1 determining the power of the state to issue general
2 obligation bonds, certain bonds are excludable, including
3 "reimbursable general obligation bonds issued for a public
4 undertaking, improvement or system but only to the extent
5 that reimbursements to the general fund are in fact made
6 from the net revenue, or net user tax receipts, or
7 combination of both, as determined for the immediately
8 preceding fiscal year and bonds constituting instruments of
9 indebtedness under which the state incurs a contingent
10 liability as a guarantor, but only to the extent the
11 principal amount of such bonds does not exceed
12 seven percent of the principal amount of outstanding
13 general obligation bonds not otherwise excluded under said
14 article VII, section 13."

15 (2) Actual and estimated debt limits. The limit on principal
16 and interest of general obligation bonds issued by the
17 state, actual for fiscal year 2005-2006 and estimated for
18 each fiscal year from 2006-2007 to 2008-2009, is as
19 follows:

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	<u>Fiscal</u> <u>Year</u>	<u>Net General</u> <u>Fund Revenues</u>	<u>Debt Limit</u>
1			
2			
3	2002-2003	3,766,052,192	
4	2003-2004	3,894,091,730	
5	2004-2005	4,471,460,582	
6	2005-2006	4,781,446,000	748,115,611
7	2006-2007	5,071,922,000	810,731,563
8	2007-2008	5,421,156,000	883,364,429
9	2008-2009	(not applicable)	941,928,980

10 For fiscal years 2005-2006, 2006-2007, 2007-2008, and
11 2008-2009, respectively, the debt limit is derived by
12 multiplying the average of the net general fund revenues
13 for the three preceding fiscal years by eighteen and
14 one-half per cent. The net general fund revenues for
15 fiscal years 2002-2003, 2003-2004, and 2004-2005 are
16 actual, as certified by the director of finance in the
17 Statement of the Debt Limit of the State of Hawaii as of
18 July 1, 2005, dated November 30, 2005. The net general
19 fund revenues for fiscal years 2005-2006 to 2007-2008 are
20 estimates, based on general fund revenue estimates made as
21 of March 6, 2006, by the council on revenues, the body
22 assigned by article VII, section 7 of the state
23 Constitution to make such estimates, and based on estimates
24 made by the department of budget and finance of those
25 receipts which cannot be included as general fund revenues

1 for the purpose of calculating the debt limit, all of which
2 estimates the legislature finds to be reasonable.

- 3 (3) Principal and interest on outstanding bonds applicable to
4 the debt limit. (A) According to the department of budget
5 and finance, the total amount of principal and interest on
6 outstanding general obligation bonds, after the exclusions
7 permitted by article VII, section 13 of the state
8 Constitution, for determining the power of the state to
9 issue general obligation bonds within the debt limit as of
10 April 1, 2006, is as follows for fiscal year 2006-2007 to
11 fiscal year 2012-2013:

12	Fiscal	Principal
13	<u>Year</u>	<u>and Interest</u>
14	2006-2007	526,455,126
15	2007-2008	529,312,730
16	2008-2009	533,619,676
17	2009-2010	503,603,627
18	2010-2011	478,227,749
19	2011-2012	423,945,601
20	2012-2013	424,802,447

21 The department of budget and finance further reports that
22 the amount of principal and interest on outstanding bonds
23 applicable to the debt limit generally continues to decline
24 each year from fiscal year 2013-2014 to fiscal
25 year 2025-2026 when the final installment of \$20,486,031

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1 shall be due and payable. (B) The department of budget and
2 finance further reports that the outstanding principal
3 amount of bonds constituting instruments of indebtedness
4 under which the state may incur a contingent liability as a
5 guarantor is \$191,000,000, all or part of which is
6 excludable in determining the power of the state to issue
7 general obligation bonds, pursuant to article VII,
8 section 13 of the state Constitution.

- 9 (4) Amount of authorized and unissued general obligation bonds
10 and guaranties and proposed bonds and guaranties. (A) As
11 calculated from the state comptroller's bond fund report as
12 of January 31, 2006, adjusted for appropriations to be
13 funded by general obligation bonds or reimbursable general
14 obligation bonds as provided in Act 178, Session Laws of
15 Hawaii 2005 (the General Appropriations Act of 2005), to be
16 expended in fiscal year 2006-2007 and the issuance of
17 \$350,000,000 General Obligation Bonds of 2006, Series DI,
18 the total amount of authorized but unissued general
19 obligation bonds is \$1,137,597,550. The total amount of
20 general obligation bonds authorized by this Act is
21 \$17,450,000. The total amount of general obligation bonds
22 previously authorized and unissued and the general
23 obligation bonds authorized in this Act is \$1,155,047,550.
24 (B) As reported by the department of budget and finance the

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1 outstanding principal amount of bonds constituting
2 instruments of indebtedness under which the state may incur
3 a contingent liability as a guarantor is \$191,000,000, all
4 or part of which is excludable in determining the power of
5 the state to issue general obligation bonds, pursuant to
6 article VII, section 13 of the state Constitution.

7 (5) Proposed general obligation bond issuance. As reported
8 therein for the fiscal years 2006-2007, 2007-2008, and
9 2008-2009, the state proposed to issue \$250,000,000 in
10 general obligation bonds semi-annually during fiscal
11 years 2006-2007 and 2007-2008 and \$200,000,000
12 semi-annually during fiscal year 2008-2009. It has been
13 the practice of the state to issue twenty-year serial bonds
14 with principal repayments beginning the fifth year, the
15 bonds payable in substantially equal annual installments of
16 principal and interest payment with interest payments
17 commencing six months from the date of issuance and being
18 paid semi-annually thereafter. It is assumed that this
19 practice will continue to be applied to the bonds that are
20 proposed to be issued.

21 (6) Sufficiency of proposed general obligation bond issuance to
22 meet the requirements of authorized and unissued bonds, as
23 adjusted, and bonds authorized by this Act. From the
24 schedule reported in paragraph (5), the total amount of

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1 general obligation bonds which the state proposes to issue
2 during the fiscal years 2006-2007 to 2007-2008 is
3 \$1,000,000,000. An additional \$400,000,000 is proposed to
4 be issued in fiscal year 2008-2009. The total amount of
5 \$1,000,000,000 which is proposed to be issued through
6 fiscal year 2007-2008 is sufficient to meet the
7 requirements of the authorized and unissued bonds, as
8 adjusted, the total amount of which is \$1,155,047,550, as
9 reported in paragraph (4), except for \$155,047,550. It is
10 assumed that the appropriations to which an additional
11 \$155,047,550 in bond issuance needs to be applied will have
12 been encumbered as of June 30, 2008. The \$400,000,000,
13 which is proposed to be issued in fiscal year 2008-2009,
14 will be sufficient to meet the requirements of the June 30,
15 2008 encumbrances in the amount of \$155,047,550. The
16 amount of assumed encumbrances as of June 30, 2008, is
17 reasonable and conservative, based upon an inspection of
18 June 30 encumbrances of the general obligation bond fund as
19 reported by the state comptroller. Thus, taking into
20 account the amount of authorized and unissued bonds, as
21 adjusted, and the bonds authorized by this Act versus the
22 amount of bonds which is proposed to be issued by June 30,
23 2008, and the amount of June 30, 2008 encumbrances versus
24 the amount of bonds which is proposed to be issued in

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1 fiscal year 2008-2009, the legislature finds that in the
2 aggregate, the amount of bonds which is proposed to be
3 issued is sufficient to meet the requirements of all
4 authorized and unissued bonds and the bonds authorized by
5 this Act.

6 (7) Bonds excludable in determining the power of the state to
7 issue bonds. As noted in paragraph (1), certain bonds are
8 excludable in determining the power of the state to issue
9 general obligation bonds. (A) General obligation
10 reimbursable bonds can be excluded under certain
11 conditions. It is not possible to make a conclusive
12 determination as to the amount of reimbursable bonds, which
13 are excludable from the amount of each proposed bond issued
14 because:

15 (i) It is not known exactly when projects for which
16 reimbursable bonds have been authorized in prior acts
17 and in this Act will be implemented and will require
18 the application of proceeds from a particular bond
19 issue; and

20 (ii) Not all reimbursable general obligation bonds may
21 qualify for exclusion.

22 However, the legislature notes that with respect to the
23 principal and interest on outstanding general obligation
24 bonds, according to the department of budget and finance,

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1 the average proportion of principal and interest which is
2 excludable each year from the calculation against the debt
3 limit is 2.19 per cent for the ten years from fiscal
4 year 2006-2007 to fiscal year 2015-2016. For the purpose
5 of this declaration, the assumption is made that
6 one per cent of each bond issue will be excludable from the
7 debt limit, an assumption that the legislature finds to be
8 reasonable and conservative. (B) Bonds constituting
9 instruments of indebtedness under which the state incurs a
10 contingent liability as a guarantor can be excluded but
11 only to the extent the principal amount of such guaranties
12 does not exceed seven per cent of the principal amount of
13 outstanding general obligation bonds not otherwise excluded
14 under subparagraph (A) of this paragraph (7) and provided
15 that the state shall establish and maintain a reserve in an
16 amount in reasonable proportion to the outstanding loans
17 guaranteed by the state as provided by law. According to
18 the department of budget and finance and the assumptions
19 presented herein, the total principal amount of outstanding
20 general obligation bonds and general obligation bonds
21 proposed to be issued, which are not otherwise excluded
22 under article VII, section 13 of the state Constitution for
23 the fiscal years 2005-2006, 2006-2007, 2007-2008 and
24 2008-2009 are as follows:

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1	<u>Fiscal Year</u>	Total Amount of General Obligation Bonds not Otherwise Excluded by Article VII, Section 13 <u>of the State Constitution</u>
2	2005-2006	4,239,835,266
3	2006-2007	4,442,352,138
4	2007-2008	4,630,160,647
5	2008-2009	4,700,716,578
6	<p data-bbox="318 853 1458 1921">Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven per cent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided, can be excluded in determining the power of the state to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to article VII, section 13 of the state Constitution will become due and payable in the</p>	
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1 same fiscal year in which the greatest amount of principal
2 and interest on general obligation bonds, after exclusions,
3 occurs. Thus, based on such assumptions and on the
4 determination in paragraph (8), all of the outstanding
5 guaranties can be excluded.

6 (8) Determination whether the debt limit will be exceeded at
7 the time of issuance. From the foregoing and on the
8 assumption that all of the bonds identified in
9 paragraph (5) will be issued at an interest rate of not
10 more than six per cent, it can be determined from the
11 following schedule that the bonds which are proposed to be
12 issued, which include all authorized and unissued bonds
13 previously authorized, as adjusted, general obligation
14 bonds and instruments of indebtedness under which the state
15 incurs a contingent liability as a guarantor authorized in
16 this Act, will not cause the debt limit to be exceeded at
17 the time of such issuance:

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	<u>Time of Issuance and Amount to be Counted Against Debt Limit</u>	<u>Debt Limit at Time of Issuance</u>	<u>Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties</u>
1			
2			
3			
4			
5			
6	1 st half FY 2006-2007		
7	\$247,500,000	810,731,563	547,727,176 (2008-2009)
8	2 nd half FY 2006-2007		
9	\$247,500,000	810,731,563	561,834,676 (2008-2009)
10	1 st half FY 2007-2008		
11	\$247,500,000	883,364,429	569,259,676 (2008-2009)
12	2 nd half FY 2007-2008		
13	\$247,500,000	883,364,429	584,109,676 (2008-2009)
14	1 st half FY 2008-2009		
15	\$198,000,000	941,928,980	573,398,627 (2008-2009)
16	2 nd half FY 2008-2009		
17	\$198,000,000	941,928,980	585,278,627 (2009-2010)
18	(9) Overall and concluding finding. From the facts, estimates,		
19	and assumptions stated in this declaration of findings, the		
20	conclusion is reached that the total amount of principal		
21	and interest estimated for the general obligation bonds		
22	authorized in this Act, and for all bonds authorized and		
23	unissued, and calculated for all bonds issued and		
24	outstanding, and all guaranties, will not cause the debt		
25	limit to be exceeded at the time of issuance.		

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1 SECTION 24. The legislature finds the bases for the
2 declaration of findings set forth in this Act reasonable. The
3 assumptions set forth in this Act with respect to the principal
4 amount of general obligation bonds which will be issued, the
5 amount of principal and interest on reimbursable general
6 obligation bonds which are assumed to be excludable, and the
7 assumed maturity structure shall not be deemed to be binding, it
8 being the understanding of the legislature that such matters
9 must remain subject to substantial flexibility.

10 SECTION 25. Authorization for issuance of general
11 obligation bonds. General obligation bonds may be issued as
12 provided by law in an amount that may be necessary to finance
13 projects authorized in this Act, passed by this regular session
14 of 2006, designated to be financed from the general obligation
15 bond fund; provided that the sum total of general obligation
16 bonds so issued shall not exceed \$17,450,000.

17 Any law to the contrary notwithstanding, general obligation
18 bonds may be issued from time to time in accordance with
19 section 39-16, Hawaii Revised Statutes, in such principal amount
20 as may be required to refund any general obligation bonds of the
21 state of Hawaii heretofore or hereafter issued pursuant to law.

22 SECTION 26. The provisions of this Act are declared to be
23 severable and if any portion thereof is held to be invalid for

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1 any reason, the validity of the remainder of this Act shall not
2 be affected.

3 SECTION 27. Any provision of this Act to the contrary
4 notwithstanding, the appropriations authorized under this Act
5 shall not lapse at the end of the fiscal year for which the
6 appropriations were made. All unexpended and unencumbered
7 balances of the appropriations made in this Act as of the close
8 of business on June 30, 2007, shall lapse.

9 SECTION 28. This Act shall take effect upon its approval.