
A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE REVENUE BONDS.

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

1 SECTION 1. Chapter 39A, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . ASSISTING NOT-FOR-PROFIT PRIVATE ORGANIZATIONS**
5 **IN THE DEVELOPMENT OF LOW AND MODERATE INCOME HOUSING**

6 **§39A-A Definitions.** Whenever used in this part, unless a
7 different meaning clearly appears from the context:

8 "Department" means the department of budget and finance.

9 "Project agreement" means any agreement entered into under
10 this part by the department with a project party providing for
11 the issuance of special purpose revenue bonds to finance
12 facilities of the project party or for the project party or to
13 loan the proceeds of the special purpose revenue bonds to assist
14 not-for-profit private organizations in the development of low
15 and moderate income housing, including without limitation on any
16 loan agreement.

17 "Project party" means a not-for-profit private organization
18 engaged in the development of low and moderate income housing.



1 "Refinancing of outstanding obligations" or "refinancing"
 2 means: the liquidation; the retirement; the provision for
 3 retirement through the proceeds of bonds issued by the State of
 4 any indebtedness of a project party incurred to finance or help
 5 finance a lawful purpose of the project party not financed
 6 pursuant to this part; or the consolidation of the indebtedness
 7 with indebtedness of the State incurred by the project party
 8 related to the purpose for which the indebtedness of the project
 9 party was initially incurred.

10 "Special purpose revenue bonds" or "bonds" means bonds,
 11 notes, or other evidence of indebtedness of the State issued
 12 pursuant to this part.

13 **§39A-B Department powers as to not-for-profit private**
 14 **organizations in the development of low and moderate income**
 15 **housing.** In addition to powers that it may now have, the
 16 department shall have all powers necessary or convenient to
 17 accomplish the purposes of this part. The powers of the
 18 department include but are not limited to the following:

- 19 (1) Notwithstanding and without compliance with section
- 20 103-7, but with the approval of the governor, to:

1 (A) Enter into and carry out a project agreement or
2 an amendment or supplement to an existing project
3 agreement with a project party; and

4 (B) Enter into and carry out any agreement whereby
5 the obligation of a project party under a project
6 agreement will be unconditionally guaranteed by a
7 person other than a project party;

8 (2) To issue special purpose revenue bonds pursuant to and
9 in accordance with this part;

10 (3) To lend the proceeds of the special purpose revenue
11 bonds issued for a project to the project party for
12 use and application by the project party for the
13 acquisition, purchase, construction, reconstruction,
14 improvement, betterment, extension, or refinancing of
15 outstanding obligations related to a project;

16 (4) As security for the payment of the principal, premium,
17 if any, and interest of the special purpose revenue
18 bonds issued for this project, to pledge, assign,
19 hypothecate, or otherwise encumber all or any part of
20 the revenues and receipts derived or to be derived by
21 the department under the project agreement for the
22 project for which the special purpose revenue bonds

1 are issued; to pledge and assign the interest and
2 rights of the department under the project agreement
3 or other agreement with respect to the project or the
4 special purpose revenue bonds; and to pledge and
5 assign any bond, debenture, note, or other evidence of
6 indebtedness received by the department with respect
7 to the project; or any combination of the foregoing;

8 (5) To extend or renew any project agreement or any other
9 agreement related to the project agreement; provided
10 that any renewal or extension shall be subject to the
11 approval of the governor unless made in accordance
12 with provisions for the extension or renewal contained
13 in a project agreement or related agreement
14 theretofore approved by the governor; and

15 (6) To do any and all things necessary or convenient to
16 carry out its purposes and exercise the powers given
17 and granted in this part.

18 When the department finances or refinances a project by the
19 issuance of special purpose revenue bonds as contemplated by
20 this part, the State shall not exercise the power of eminent
21 domain to acquire a project or any part of the project for lease

1 or transfer to a project party, nor shall the State operate a
2 project on behalf of a project party.

3 **§39A-C Compliance with state and local law.** The issuance
4 of special purpose revenue bonds with respect to any project
5 under this part shall not relieve any project party or other
6 user of the project from the laws, ordinances, and rules of the
7 State or any of its political subdivisions, or any departments
8 or boards thereof, with respect to: the construction, operation,
9 and maintenance of projects; compliance with education or zoning
10 laws or regulations; obtaining of building permits; and
11 compliance with building codes, health codes, and other laws,
12 ordinances, or rules of a similar nature pertaining to the
13 project. The laws, ordinances, and rules of the State shall
14 apply to the party or another user to the same extent that they
15 would apply if the costs of the project were directly financed
16 by the project party.

17 **§39A-D Conditions precedent to negotiating and entering**
18 **into a project agreement.** Prior to entering into negotiations
19 with any project party, the department shall require that the
20 State be reimbursed for any costs and expenses (direct or
21 indirect) incurred by it in implementing and administering this
22 part, as determined by the department, even though a project



1 agreement may not be entered into. The department may further
2 require the deposit of moneys with it for the reimbursement.
3 The department shall return any amount of the deposit exceeding
4 the amount required to reimburse the State to the party that
5 made the deposit. The State shall not be required to pay to the
6 project party any interest or earnings on the deposit.

7 The department shall not enter into any project agreement
8 with respect to any project unless the department shall first
9 find and determine either that the project party is a
10 responsible party, whether by reason of economic assets or
11 experience in the type of enterprise to be undertaken through
12 the project, or some other reason, or that the obligations of
13 the project party under the project agreement will be
14 unconditionally guaranteed by a person who is a responsible
15 party, whether by reason of economic assets or experience in the
16 type of enterprise to be undertaken through the project, or some
17 other reason.

18 **§39A-E Project agreement.** No special purpose revenue
19 bonds shall be issued unless, at the time of issuance, the
20 department shall have entered into a project agreement with
21 respect to the project for the financing or refinancing of which
22 the special purpose revenue bonds are to be issued.



1 Any project agreement entered into by the department shall
2 contain provisions unconditionally obligating the project party
3 to:

4 (1) Pay to the department during the period or term of the
5 project agreement, exclusive of any renewal or
6 extension thereof, and whether or not the project is
7 used or occupied by the project party, the sum or sums
8 at the time or times and in the amount that shall be
9 at least sufficient to:

10 (A) Pay the principal and interest on all special
11 purpose revenue bonds issued with respect to the
12 project as and when they become due, including
13 any premium payable upon any required redemption
14 of the special purpose revenue bonds;

15 (B) Establish or maintain a reserve, if any, as may
16 be required by the instrument authorizing or
17 securing the special purpose revenue bonds;

18 (C) Pay all fees and expenses, including the fees and
19 expenses of the paying agents and trustees,
20 incurred in connection with the special purpose
21 revenue bonds; and



- 1 (D) Pay the expenses (direct or indirect) incurred by
- 2 the State, as determined by the department, in
- 3 administering the special purpose revenue bonds
- 4 or in carrying out the project agreement; and
- 5 (2) Operate, maintain, and repair the project as long as
- 6 it is used in the provision of low and moderate income
- 7 housing, and to pay all costs of its operation,
- 8 maintenance, and repair.

9 Moneys received by the department pursuant to paragraph (1) (D)
10 shall not be, nor be deemed to be, revenues of the project and
11 shall be paid into the general fund of the State.

12 **§39A-F Issuance of special purpose revenue bonds to**
13 **finance projects.** In addition to the other powers that it may
14 otherwise have, the department may issue special purpose revenue
15 bonds to finance or refinance the costs of facilities of or for
16 project parties or to loan the proceeds of the bonds to assist
17 project parties. All revenue bonds issued under this part are
18 special purpose revenue bonds, and part III of chapter 39 shall
19 not apply. All special purpose revenue bonds shall be issued in
20 the name of the department and not in the name of the State.

21 In determining the cost of any project, the department may
22 also include the following: financing charges, fees, the

1 expenses of trustees, and the cost of paying agents to issue
2 special purpose revenue bonds to fund the project; interest on
3 the bonds and the expenses of the State in connection with the
4 bonds and the project to be financed or refinanced from the
5 proceeds of the bonds, accruing or incurred prior to and during
6 the period of construction, not to exceed twelve months
7 thereafter; amounts necessary to establish or increase reserves
8 for the special purpose revenue bonds; the cost of plans,
9 specifications, studies, surveys, and estimates of costs and of
10 revenues; other expenses incidental to determining the
11 feasibility or practicability of the project; administration
12 expenses; the cost of interest incurred by the project party
13 with respect to the project prior to the issuance of the special
14 purpose revenue bonds; fees and expenses incurred in connection
15 with the refinancing of outstanding obligations; other costs,
16 commissions, and expenses incidental to the construction,
17 acquisition, reconstruction, renovation, rehabilitation,
18 improvement, betterment, operation, or extension of the project;
19 the financing or refinancing of the project and placing the
20 project in operation; and the issuance of the special purpose
21 revenue bonds, whether incurred prior to or after the issuance
22 of the special purpose revenue bonds.



1 The legislature finds and determines that the exercise of
2 the powers vested in the department by this part constitutes
3 assistance to not-for-profit private organizations in the
4 development of low and moderate income housing and that the
5 issuance of special purpose revenue bonds to finance or
6 refinance facilities of or for project parties or to loan the
7 proceeds of the special purpose revenue bonds to assist project
8 parties is in the public interest.

9 **§39A-G Authorization of special purpose revenue bonds.**

10 (a) Special purpose revenue bonds for each single project or
11 multi-project program for not-for-profit private organizations
12 engaged in the development of low and moderate income housing
13 shall be authorized by a separate act of the legislature, by an
14 affirmative vote of two-thirds of the members to which each
15 house is entitled; provided that the legislature shall find that
16 the issuance of the special purpose revenue bonds is in the
17 public interest; provided further that no authorization shall be
18 made for a period exceeding five years of enactment of the
19 legislative act. Any special purpose revenue bond
20 authorization, or any portion of a special purpose revenue bond
21 authorization, which has not been issued at the close of the
22 fiscal year for the period for which the authorization is made,



1 shall lapse. Special purpose revenue bonds issued pursuant to
2 this part may be in one or more series for a single project,
3 multiple projects, a single-project party, or multiple-project
4 parties pursuant to the authority of one, or the combined
5 authority of more than one, separate act of the legislature.

6 The State may combine into a single issue of special
7 purpose revenue bonds two or more proposed issues of special
8 purpose revenue bonds to assist not-for-profit private
9 organizations in the development of low and moderate income
10 housing, separately authorized as aforesaid, in the total amount
11 of not exceeding the aggregate of the proposed separate issues
12 of special purpose revenue bonds. The special purpose revenue
13 bonds of each issue shall be dated, shall bear interest at a
14 rate or rates, shall mature at a time or times (not to exceed
15 forty years from their date or dates), shall have a rank or
16 priority, and may be made redeemable before maturity at the
17 option of the department, at a price or prices and under terms
18 and conditions, all as may be determined by the department. The
19 department shall determine the form of the special purpose
20 revenue bonds, including any interest coupons to be attached,
21 and the manner of execution of the special purpose revenue
22 bonds. The department shall also fix the denomination or



1 denominations of the special purpose revenue bonds and the place
2 or places of payment of principal and interest, which may be at
3 any bank or trust company within or without the State. The
4 special purpose revenue bonds may be issued in coupon or in
5 registered form, or both, as the department may determine.
6 Provisions may be made for the registration of any coupon bonds
7 as to principal alone and also as to both principal and interest
8 and for the reconversion into coupon bonds of any bonds
9 registered as to both principal and interest. The department
10 may sell special purpose revenue bonds in a manner, either at
11 public or private sale, and for a price as it may determine.

12 (b) Prior to the preparation of definitive special purpose
13 revenue bonds, the department may issue interim receipts or
14 temporary bonds, with or without coupons, exchangeable for
15 definitive bonds when the special purpose revenue bonds have
16 been executed and are available for delivery.

17 (c) Should any special purpose revenue bond issued under
18 this part or any coupon pertaining to such a special purpose
19 revenue bond become mutilated or be lost, stolen, or destroyed,
20 the department may cause a new special purpose revenue bond or
21 coupon of like date, number, and tenor to be executed and
22 delivered in exchange and substitution for and upon the



1 cancellation of the mutilated special purpose revenue bond or
2 coupon, or in lieu of and in substitution for the lost, stolen,
3 or destroyed special purpose revenue bond or coupon.

4 The new special purpose revenue bond or coupon shall not be
5 executed or delivered until the holder of the mutilated, lost,
6 stolen, or destroyed special purpose revenue bond or coupon has:

7 (1) Paid the reasonable expense and charges in connection
8 therewith;

9 (2) In the case of a lost, stolen, or destroyed special
10 purpose revenue bond or coupon, filed with the
11 department or its fiduciary, evidence satisfactory to
12 the department or its fiduciary that the special
13 purpose revenue bond or coupon was lost, stolen, or
14 destroyed and that the holder was the owner; and

15 (3) Furnished indemnity satisfactory to the department.

16 (d) In its discretion, the department may direct that
17 CUSIP identification numbers shall be printed on the special
18 purpose revenue bonds. If the numbers are imprinted on the
19 special purpose revenue bonds:

20 (1) No such number shall constitute a part of the contract
21 evidenced by the particular special purpose revenue
22 bond upon which it is imprinted; and



1 (2) No liability shall attach to the department or any of
2 its officers or agents, including any fiscal agent,
3 paying agent, or registrar for the special purpose
4 revenue bonds, because of the numbers or their use,
5 including any use made by the department or any of its
6 officers or agents, or because of any inaccuracy,
7 error, or omission with respect thereto or in the use.

8 In its discretion, the department may require that all
9 costs of obtaining and imprinting the numbers shall be paid by
10 the purchaser of the special purpose revenue bonds.

11 For the purposes of this subsection, "CUSIP identification
12 numbers" means the numbering system adopted by the Committee for
13 Uniform Security Identification Procedures formed by the
14 Securities Industry Association.

15 **§39A-H Special purpose revenue bond anticipation notes.**

16 Whenever the department shall have authorized the issuance of
17 special purpose revenue bonds under this part, special purpose
18 revenue bond anticipation notes of the department may be issued
19 in anticipation of the issuance of the special purpose revenue
20 bonds and of the receipt of the proceeds of sale thereof, for
21 the purpose for which the special purpose revenue bonds have
22 been authorized. All special purpose revenue bond anticipation



1 notes shall be authorized by the department, and the maximum
2 principal amount of the notes shall not exceed the authorized
3 principal amount of the special purpose revenue bonds. The
4 notes shall be payable solely from and secured solely by the
5 proceeds of the sale of the special purpose revenue bonds in
6 anticipation of which the notes are issued and the revenues from
7 which would be payable and by which the special purpose revenue
8 bonds would be secured; provided that to the extent that the
9 principal of the notes shall be paid from moneys other than the
10 proceeds of sale of the special purpose revenue bonds, the
11 maximum amount of special purpose revenue bonds in anticipation
12 of which the notes are issued that has been authorized shall be
13 reduced by the amount of notes paid in that manner. The
14 authorization, issuance, and details of the notes shall be
15 governed by the provision of this part with respect to special
16 purpose revenue bonds insofar as the same may apply; provided
17 that each note, together with all renewals and extensions of the
18 note, or refundings of the note by other notes issued under this
19 section, shall mature within five years from the date of the
20 original note.

21 **§39A-I Powers with respect to and security for special**
22 **purpose revenue bonds.** To secure the payment of any of the



1 special purpose revenue bonds issued pursuant to this part,
2 including interest on the special purpose revenue bonds, or in
3 connection with the special purpose revenue bonds, the
4 department shall have the power to:

- 5 (1) Pledge all or any part of the revenues derived by the
6 department from the project agreement to the punctual
7 payment of special purpose revenue bonds issued with
8 respect to the project financed or refinanced from
9 special purpose revenue bond proceeds, including
10 interest on the special purpose revenue bonds, and to
11 covenant against pledging any revenues or receipts to
12 any other bonds or any other obligations of the
13 department for any other purpose, except as otherwise
14 stated in the law providing for the issuance of
15 additional special purpose revenue bonds to be equally
16 and ratably secured by a lien upon the revenues;
- 17 (2) Pledge and assign the interest of the department under
18 the project agreement and other related agreements and
19 the rights, duties, and obligations of the department
20 thereunder, including the right to receive revenues;
- 21 (3) Covenant as to the use and disposition of the proceeds
22 from the sale of the special purpose revenue bonds;



- 1 (4) Covenant to set aside or pay over reserves and sinking
2 funds for the special purpose revenue bonds and as to
3 the disposition thereof;
- 4 (5) Covenant and prescribe as to what occurrences shall
5 constitute "events of default" and the terms and
6 conditions upon which any or all of the special
7 purpose revenue bonds shall become or may be declared
8 due before maturity and as to the terms and conditions
9 upon which the declaration and its consequences may be
10 waived;
- 11 (6) Covenant as to the rights, liabilities, powers, and
12 duties arising upon the breach by the department of
13 any covenant, condition, or obligation;
- 14 (7) Designate a national or state bank or trust company
15 within or without the State, incorporated in the
16 United States, to serve as trustee for the holders of
17 the special purpose revenue bonds and to enter into a
18 trust indenture or trust agreement or indenture of
19 mortgage with the trustee. The trustee may be
20 authorized by the department to receive and receipt
21 for, hold, and administer the proceeds of the special
22 purpose revenue bonds issued for the project and to



1 apply the proceeds to the purposes for which the
2 special purpose revenue bonds are issued, or to
3 receive and receipt for, hold, and administer the
4 revenues derived by the department under the project
5 agreement and to apply the revenues to the payment of
6 the principal and interest on the special purpose
7 revenue bonds, or both, and any excess revenues to the
8 payment of expenses incurred by the State in
9 administering the special purpose revenue bonds or in
10 carrying out the project agreement. If a trustee is
11 appointed, any trust indenture or trust agreement or
12 indenture of mortgage entered into by the department
13 with the trustee may contain whatever covenants and
14 provisions as may be necessary, convenient, or
15 desirable to secure the special purpose revenue bonds.
16 The department may pledge and assign to the trustee
17 the interest of the department under the project
18 agreement and other related agreements as well as the
19 rights, duties, and obligations of the department
20 thereunder. The department may appoint the trustee to
21 serve as fiscal agent for the payment of the principal
22 and interest and for the purchase, registration,



1 transfer, exchange, and redemption of the special
2 purpose revenue bonds. The department may also
3 authorize and empower the trustee to perform functions
4 with respect to payment, purchase, registration,
5 transfer, exchange, and redemption as the department
6 may deem necessary, advisable, or expedient, including
7 without limitation the holding of the special purpose
8 revenue bonds and coupons that have been paid and the
9 supervision of the destruction of the special purpose
10 revenue bonds and coupons in accordance with law;

11 (8) Execute all instruments necessary or convenient in the
12 exercise of the powers herein granted or in the
13 performance of its covenants and duties; and

14 (9) Make covenants and perform any acts as may be
15 necessary, convenient, or desirable to secure the
16 bonds, although the covenants, acts, or items may not
17 be enumerated here.

18 The department shall have the power to do all things in the
19 issuance of the special purpose revenue bonds and for their
20 security that are consistent with the Constitution of the State
21 of Hawaii.



1 **§39A-J Security for special purpose revenue bonds.**

2 Special purpose revenue bonds shall be payable solely from the
3 revenues derived by the department from payments made to the
4 department under the project agreement, project agreements, or
5 other supplemental agreements entered into with respect to the
6 project or projects for the financing of which the special
7 purpose revenue bonds were issued. The special purpose revenue
8 bonds shall be secured solely by those revenues and by the
9 pledges and assignments authorized by this part. Subject to the
10 prior and superior rights of outstanding bonds, claims,
11 obligations, or mechanic's and materialman's liens, all special
12 purpose revenue bonds of the same issue shall have a prior and
13 paramount lien on the revenue derived from the project agreement
14 or agreements with respect to the project or projects for which
15 the special purpose revenue bonds were issued. The lien shall
16 be over and ahead of all special purpose revenue bonds of any
17 issue payable from the revenues that may be subsequently issued
18 and over and ahead of any claims or obligations of any nature
19 against the revenues subsequently arising or subsequently
20 incurred; provided that the right and privilege may be reserved
21 by the department in the trust indenture securing an issue of
22 special purpose revenue bonds to issue subsequently additional



1 special purpose revenue bonds, subject to legislative
2 authorization of the issue as provided in section 39A-G. The
3 department may also permit the project party or another party on
4 its behalf to incur debt, from time to time, payable from the
5 revenues derived from the project agreement on a parity with the
6 first issue of the special purpose revenue bonds. Any
7 subsequent issue of special purpose revenue bonds and other debt
8 issued or incurred in accordance with the provisions of the
9 trust indenture shall be secured equally and ratably with the
10 first issue of the special purpose revenue bond by a lien on the
11 revenues in accordance with this part, and without priority
12 based on the date of sale, date of execution, or date of
13 delivery.

14 Notwithstanding any other provisions herein, all or part of
15 the property constituting the project and all interest of the
16 project party in the project and the revenues of the project
17 party therefrom may be subjected to the present and future lien
18 of any mortgage of the project party securing the project
19 party's bonds. The rights of the department and any trustee for
20 the holders of the special purpose revenue bonds and the holders
21 of the special purpose revenue bonds in the project and the



1 revenues therefrom may be made subject to the prior lien of the
2 project party's mortgage.

3 **§39A-K Special purpose revenue bonds not a general**
4 **obligation of the State.** No holder or holders of any special
5 purpose revenue bonds issued under this part shall ever have the
6 right to compel any exercise of the taxing power of the State to
7 pay the special purpose revenue bonds or the interest on the
8 special purpose revenue bonds, and no moneys other than the
9 revenues pledged to the special purpose revenue bonds shall be
10 applied toward their payment. Each special purpose revenue bond
11 issued under this part shall recite in substance that the
12 special purpose revenue bond, including interest on the special
13 purpose revenue bond, is not a general obligation of the State
14 and is payable solely from the revenues pledged to the payment
15 thereof and that the special purpose revenue bond is not secured
16 directly or indirectly by the full faith and credit of the
17 State, by the general credit of the State, or by any revenue or
18 taxes of the State other than the revenues specifically pledged
19 thereto.

20 **§39A-L Validity of special purpose revenue bonds.** The
21 special purpose revenue bonds bearing the signature or facsimile
22 signature of officers on the date of the signing of the special



1 purpose revenue bonds shall be valid and sufficient for all
2 purposes, notwithstanding that before the delivery of and
3 payment for the special purpose revenue bonds, all the persons
4 whose signatures appear on the special purpose revenue bonds
5 shall have ceased to be officers of the department. The special
6 purpose revenue bonds shall contain a recital that they are
7 issued pursuant to this part, and the recital shall be
8 conclusive evidence of their validity and of the regularity of
9 their issuance.

10 **§39A-M Use of revenues derived from project agreement.**

11 The department shall have the right to appropriate, apply, or
12 expend the revenues derived with respect to the project
13 agreement for a project for the following purposes:

14 (1) To pay when due all special purpose revenue bonds,
15 premium (if any), and interest on the special purpose
16 revenue bonds for the payment of which the revenues
17 are or have been pledged, charged, or otherwise
18 encumbered, including reserves; and

19 (2) To the extent not paid by the project party to provide
20 for all expenses of administration, operation, and
21 maintenance of the project, including reserves.



1 Unless and until adequate provision has been made for the
2 foregoing purposes, the department shall not transfer the
3 revenues derived from the project agreement to the general fund
4 of the State.

5 **§39A-N Special purpose revenue bonds exempt from taxation.**

6 Special purpose revenue bonds and the income derived from the
7 special purpose revenue bonds issued pursuant to this part shall
8 be exempt from all state, county, and municipal taxation, except
9 for inheritance, transfer, and estate taxes.

10 **§39A-O Federal tax-exempt status.** To the extent
11 practicable, special purpose revenue bonds issued pursuant to
12 this part shall be issued to comply with requirements imposed by
13 applicable federal law providing that the interest on the
14 special purpose revenue bonds shall be excluded from gross
15 income for federal income tax purposes (except as certain
16 minimum taxes or environmental taxes may apply). The director
17 of finance may enter into agreements, establish funds or
18 accounts, and take any action required to comply with applicable
19 federal law. Nothing in this part shall be deemed to prohibit
20 the issuance of special purpose revenue bonds, the interest on
21 which may be included in gross income for federal income-tax
22 purposes.



1 **§39A-P Exemption from taxation of department property.**

2 All revenues derived by the department from any project or under
3 the project agreement pertaining to it shall be exempt from all
4 state, county, and municipal taxation. Any right, title, and
5 interest of the department in any project shall also be exempt
6 from all state, county, and municipal taxation.

7 Except as otherwise provided by law, the interest of the
8 project party or user of a project under the project agreement
9 or related agreement shall not be exempt from taxation to a
10 greater extent than it would be if the costs of the project were
11 directly financed by the project party or other user.

12 **§39A-Q Refunding special purpose revenue bonds.** The
13 legislature, by an act passed by an affirmative vote of two-
14 thirds of the members to which each house is entitled, may
15 authorize the issuance of refunding special purpose revenue
16 bonds for the purpose of refunding any special purpose revenue
17 bonds then outstanding and issued under this part, whether or
18 not the outstanding special purpose revenue bonds have matured
19 or are then subject to redemption.

20 The legislature is further authorized to provide, by an act
21 passed by an affirmative vote of two-thirds of the members to



1 which each house is entitled, for the issuance of a single issue
2 of special purpose revenue bonds for the combined purposes of:

- 3 (1) Financing or refinancing the cost of a project or
4 improvement or expansion of the project; and
5 (2) Refunding special purpose revenue bonds that shall
6 have been issued under this part and shall then be
7 outstanding, whether or not the outstanding special
8 purpose revenue bonds have matured or are then subject
9 to redemption.

10 Nothing in this section shall require or be deemed to require
11 the legislature to elect to redeem or prepay special purpose
12 revenue bonds being refunded. Moreover, nothing in this section
13 shall require or be deemed to require the legislature to elect
14 to redeem or prepay the special purpose revenue bonds being
15 refunded, which were issued in the form customarily known as
16 term bonds in accordance with any sinking fund installment
17 schedule specified in any law authorizing the issuance thereof,
18 or, if the department elects to redeem or prepay any special
19 purpose revenue bonds, to redeem or prepay as of any particular
20 date or dates. The issuance of the special purpose revenue
21 bonds, the maturities and other details regarding the bonds, the
22 rights and remedies of the bondholders, and the rights, powers,



1 privileges, duties, and obligations of the department with
2 respect to the special purpose revenue bonds and bondholders,
3 shall be governed by the foregoing provisions of this part
4 insofar as may be applicable.

5 **§39A-R Status of special purpose revenue bonds under**
6 **Uniform Commercial Code.** Notwithstanding any of the provisions
7 of this part or any recitals in any special purpose revenue
8 bonds issued under this part, all special purpose revenue bonds
9 shall be deemed to be investment securities under the Uniform
10 Commercial Code, chapter 490, subject only to the provisions of
11 the special purpose revenue bonds pertaining to registration.

12 **§39A-S Special purpose revenue bonds as legal investments**
13 **and lawful security.** The special purpose revenue bonds issued
14 pursuant to this part shall be and are declared to be legal and
15 authorized investments for banks, savings banks, trust
16 companies, savings and loan associations, insurance companies,
17 credit unions, fiduciaries, trustees, guardians, and for all
18 public funds of the State and its political corporations or
19 subdivisions. The special purpose revenue bonds shall be
20 eligible to secure the deposit of any and all public funds of
21 the State and of the counties or other political corporations or
22 subdivisions of the State. The special purpose revenue bonds



1 shall be lawful and sufficient security for deposits under this
2 section to the extent of their value when accompanied by all
3 unmatured coupons pertaining to the bonds.

4 **§39A-T Access to and public disclosure of financial**
5 **records of project party.** (a) Each project party with a
6 project agreement with the department shall allow the department
7 full access to its financial records. Upon the request of the
8 department for the examination of the financial records, the
9 project party shall allow the department to examine the
10 requested records within a reasonably prompt time from the date
11 of the request. If the department requests copies of the
12 records, the project party shall provide the copies.

13 (b) To provide the public with full knowledge of the use
14 of the proceeds and benefits derived from special purpose
15 revenue bonds issued under this part, the department shall
16 require each project party with a project agreement with the
17 department to make available to the public all relevant
18 financial records that pertain to the use of or savings
19 resulting from the use of special purpose revenue bonds.

20 (c) The department shall adopt rules under chapter 91 for
21 the purpose of this section.



1 **§39A-U Estimate of benefits.** (a) Each project party with
2 a project agreement with the department shall estimate the
3 benefits derived from the use of the proceeds of special purpose
4 revenue bonds. The benefits estimated shall be based on a
5 comparison between the use of the proceeds of the special
6 purpose revenue bonds instead of other means of financing and
7 shall be in terms of dollars projected to be or actually saved
8 by consumers of the services of the project party. The format
9 of and method for determining the estimates shall be established
10 by the department and shall be uniform for each project party.

11 (b) To promote public understanding of the role played by
12 special purpose revenue bonds in providing less costly services
13 by a project party to the general public, the department shall
14 take appropriate steps to ensure public access to and scrutiny
15 of the estimates determined under subsection (a).

16 (c) The department shall adopt rules under chapter 91 for
17 the purposes of this section.

18 **§39A-V Construction of this part.** The powers conferred by
19 this part shall be in addition and supplemental to the powers
20 conferred by any other law. Insofar as the provisions of this
21 part are inconsistent with the provisions of any other law, this



1 part shall control."

2 SECTION 2. In codifying the new sections added by section
3 1 of this Act, the revisor of statutes shall substitute
4 appropriate section numbers for the letters used in designating
5 the new sections in this Act.

6 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

SPRBs; Low and Moderate Income Housing

Description:

Assists not-for-profit private organizations in the development of low and moderate income housing by authorizing the State to issue special purpose revenue bonds for their benefit. Contingent upon ratification of constitutional amendment authorizing the same. Eff. 7/1/2050. (SD2)

