
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. Section 39A-34, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§39A-34 Conditions precedent to negotiating and entering**
4 **into a project agreement.** (a) The department, prior to
5 entering into negotiations with any project party, shall require
6 that the [~~State shall be reimbursed for any and~~] project party
7 shall agree to pay all fees, costs, and expenses (direct or
8 indirect) [~~incurred~~] assessed by [~~it~~] the department in
9 implementing and administering this part, as determined by the
10 department, even though a project agreement may not be entered
11 into and may further require the deposit of moneys with the
12 department [~~for such reimbursement.~~] to pay for fees, costs, and
13 expenses. Any amount of [~~such~~] the deposit in excess of the
14 amount required to [~~reimburse~~] pay the State shall be returned
15 by the department to the party [~~which has~~] that made [~~such~~] the
16 deposit. The State shall not be required to pay to the project
17 party any interest or earnings on [~~such~~] the deposit.



1 (b) The department shall not enter into any project
2 agreement with respect to any project unless the department
3 shall [~~first find and~~] determine [~~either~~] that [~~the~~]:

4 (1) The project party is a responsible party, whether by
5 reason of economic assets or experience in the type of
6 enterprise to be undertaken through [~~such~~] the
7 project, or otherwise[~~r~~]; or [~~that the~~]

8 (2) The obligations of the project party under the project
9 agreement will be unconditionally guaranteed by a
10 person who is a responsible party, whether by reason
11 of economic assets or experience in the type of
12 enterprise to be undertaken through [~~such~~] the
13 project, or otherwise."

14 SECTION 2. Section 39A-35, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§39A-35 Project agreement.** No special purpose revenue
17 bonds shall be issued unless at the time of issuance the
18 department shall have entered into a project agreement with
19 respect to the project for the financing or refinancing of which
20 [~~such~~] the revenue bonds are to be issued. Any project
21 agreement entered into by the department shall contain
22 provisions unconditionally obligating the project party:



1 (1) To pay to the department during the period or term of
2 the project agreement, exclusive of any renewal or
3 extension thereof and whether or not the project is
4 used or occupied by the project party, ~~[such]~~ the sum
5 or sums, at ~~[such]~~ the time or times, and in ~~[such]~~
6 the amounts that ~~[will]~~ shall be ~~[at least]~~
7 sufficient:

8 (A) To pay the principal and interest on all special
9 purpose revenue bonds issued with respect to the
10 project as ~~[and when the same]~~ the bonds become
11 due, including any premium payable upon any
12 required redemption of ~~[such]~~ the bonds;

13 (B) To establish or maintain ~~[such]~~ a reserve, if
14 any, as may be required by the instrument
15 authorizing or securing the special purpose
16 revenue bonds;

17 (C) To pay all fees and expenses (including the fees
18 and expenses of the paying agents and trustees)
19 ~~[incurred]~~ assessed in connection with ~~[such]~~ the
20 special purpose revenue bonds; and

21 (D) To pay the fees, costs, and expenses (direct or
22 indirect) ~~[incurred]~~ assessed by the ~~[State, as~~



1 ~~determined by the~~ department~~[7]~~ in administering
2 ~~[such]~~ the bonds or in carrying out the project
3 agreement~~[7]~~; and

4 (2) To operate, maintain, and repair the project as long
5 as ~~[the same]~~ it is used in the provision of health
6 care to the general public, and to pay all costs of
7 ~~[such]~~ the operation, maintenance, and repair.

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

12 SECTION 3. Section 39A-74, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§39A-74 Conditions precedent to negotiating and entering**
15 **into a project agreement.** (a) The department, prior to
16 entering into negotiations with respect to a project agreement
17 or at any time during ~~[such]~~ the negotiations, shall require
18 that as a condition to ~~[such]~~ the negotiations or the
19 continuation thereof the ~~[State shall be reimbursed for any and]~~
20 project party shall agree to pay all fees, costs, and expenses
21 ~~[incurred]~~ (direct or indirect) assessed by ~~[it]~~ the department
22 even though a project agreement may not be entered into and may



1 further require the deposit of moneys with the department [~~as~~
2 ~~security for such reimbursement.~~] to pay for fees, costs, and
3 expenses. Any amount of [~~such~~] the deposit in excess of the
4 amount required to reimburse the State shall be returned by the
5 department to the party [~~which has~~] that made [~~such~~] the
6 deposit. The State shall not be required to pay to the project
7 party any interest or earnings on the deposit.

8 (b) The department shall not enter into any project
9 agreement with respect to any project unless the legislature
10 shall have first authorized the issuance of special purpose
11 revenue bonds to finance [~~such~~] the project pursuant to section
12 39A-77 and the department has [~~thereafter found and~~] determined
13 [~~either~~] that [~~the~~]:

14 (1) The project party is a responsible party, whether by
15 reason of economic assets or experience in the type of
16 enterprise to be undertaken through [~~such~~] the
17 project, or otherwise[~~r~~]; or [~~that the~~]

18 (2) The obligations of the project party under the project
19 agreement will be unconditionally guaranteed by a
20 person who is a responsible party, whether by reason
21 of economic assets or experience in the type of



1 enterprise to be undertaken through [~~such~~] the
2 project, or otherwise."

3 SECTION 4. Section 39A-75, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**S39A-75 Project agreement.** No special purpose revenue
6 bonds shall be issued unless at the time of issuance the
7 department shall have entered into a project agreement with
8 respect to the project for the financing of which [~~such~~] the
9 revenue bonds are to be issued. Any project agreement entered
10 into by the department shall contain provisions unconditionally
11 obligating the project party:

12 (1) To pay to the department during the period or term of
13 the project agreement, exclusive of any renewal or
14 extension thereof and whether or not the project is
15 used or occupied by the project party, [~~such~~] the sum
16 or sums, at [~~such~~] the time or times, and in [~~such~~]
17 the amounts that [~~will~~] shall be [~~at least~~]
18 sufficient:

19 (A) To pay the principal and interest on all special
20 purpose revenue bonds issued with respect to the
21 project as [~~and when the same~~] the bonds become



- 1 due, including any premium payable upon any
2 required redemption of [~~such~~] the bonds;
- 3 (B) To establish or maintain [~~such~~] a reserve, if
4 any, as may be required by the instrument
5 authorizing or securing the special purpose
6 revenue bonds;
- 7 (C) To pay all fees and expenses (including the fees
8 and expenses of the paying agents and trustees)
9 [~~incurred~~] assessed in connection with [~~such~~] the
10 special purpose revenue bonds; and
- 11 (D) To pay the fees, costs, and expenses (direct or
12 indirect) [~~incurred~~] assessed by the [~~State, as~~
13 ~~determined by the~~] department[~~r~~] in administering
14 [~~such~~] the bonds or in carrying out the project
15 agreement[~~r~~]; and
- 16 (2) To operate, maintain, and repair the project as long
17 as [~~the same~~] it is used as provided in the project
18 agreement and to pay all costs of [~~such~~] the
19 operation, maintenance, and repair.
- 20 Moneys received by the department pursuant to paragraph (1) (D)
21 shall not be, or be deemed to be, revenues of the project and
22 shall be paid into the general fund of the State."



1 SECTION 5. Section 39A-114, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§39A-114 Conditions precedent to negotiating and entering**
4 **into a project agreement.** (a) The department, prior to
5 entering into negotiations with respect to a project agreement
6 or at any time during ~~[such]~~ negotiations, shall require that as
7 a condition to ~~[such]~~ the negotiations or the continuation
8 thereof the ~~[State shall be reimbursed for any and]~~ project
9 party shall agree to pay all fees, costs, and expenses
10 [incurred] (direct or indirect) assessed by [it] the department
11 even though a project agreement may not be entered into and may
12 further require the deposit of moneys with the department ~~[as~~
13 ~~security for such reimbursement.]~~ to pay for fees, costs, and
14 expenses. Any amount of ~~[such]~~ the deposit in excess of the
15 amount required to reimburse the State shall be returned by the
16 department to the party ~~[which has]~~ that made ~~[such]~~ the
17 deposit. The State shall not be required to pay to the project
18 party any interest or earnings on the deposit.

19 (b) The department shall not enter into any project
20 agreement with respect to any project unless the legislature
21 shall have first authorized the issuance of special purpose
22 revenue bonds to finance such project pursuant to section



1 39A-117 and the department has [~~thereafter found and~~] determined
2 [~~either~~] that [~~the~~]:

3 (1) The project party is a responsible party, whether by
4 reason of economic assets or experience in the type of
5 enterprise to be undertaken through [~~such~~] the
6 project, or otherwise[~~r~~]; or [~~that the~~]

7 (2) The obligations of the project party under the project
8 agreement will be unconditionally guaranteed by a
9 person who is a responsible party, whether by reason
10 of economic assets or experience in the type of
11 enterprise to be undertaken through [~~such~~] the
12 project, or otherwise."

13 SECTION 6. Section 39A-115, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§39A-115 Project agreement.** No special purpose revenue
16 bonds shall be issued unless at the time of issuance the
17 department shall have entered into a project agreement with
18 respect to the project for the financing of which [~~such~~] the
19 revenue bonds are to be issued. Any project agreement entered
20 into by the department shall contain provisions unconditionally
21 obligating the project party:



1 (1) To pay to the department during the period or term of
2 the project agreement, exclusive of any renewal or
3 extension thereof and whether or not the project is
4 used or occupied by the project party, ~~[such]~~ the sum
5 or sums, at ~~[such]~~ the time or times, and in ~~[such]~~
6 the amounts that ~~[will]~~ shall be ~~[at least]~~
7 sufficient:

8 (A) To pay the principal and interest on all special
9 purpose revenue bonds issued with respect to the
10 project as ~~[and when the same]~~ the bonds become
11 due, including any premium payable upon any
12 required redemption of ~~[such]~~ the bonds;

13 (B) To establish or maintain ~~[such]~~ a reserve, if
14 any, as may be required by the instrument
15 authorizing or securing the special purpose
16 revenue bonds;

17 (C) To pay all fees and expenses (including the fees
18 and expenses of the paying agents and trustees)
19 ~~[incurred]~~ assessed in connection with ~~[such]~~ the
20 special purpose revenue bonds; and

21 (D) To pay the fees, costs, and expenses (direct or
22 indirect) ~~[incurred]~~ assessed by the ~~[State, as~~



1 ~~determined by the~~ department~~[7]~~ in administering
2 ~~[such]~~ the bonds or in carrying out the project
3 agreement~~[7]~~; and

4 (2) To operate, maintain, and repair the project as long
5 as ~~[the same]~~ it is used as provided in the project
6 agreement and to pay all costs of ~~[such]~~ the
7 operation, maintenance, and repair.

8 Moneys received by the department pursuant to paragraph (1)(D)
9 shall not be, or be deemed to be, revenues of the project and
10 shall be paid into the general fund of the State."

11 SECTION 7. Section 39A-154, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§39A-154 Conditions precedent to negotiating and entering**
14 **into a project agreement.** (a) The department, prior to
15 entering into negotiations with respect to a project agreement
16 or at any time during ~~[such]~~ negotiations, shall require that as
17 a condition to ~~[such]~~ the negotiations or the continuation
18 thereof the ~~[State shall be reimbursed for any and]~~ project
19 party shall agree to pay all fees, costs, and expenses
20 ~~[incurred]~~ (direct or indirect) assessed by [it] the department
21 even though a project agreement may not be entered into and may
22 further require the deposit of moneys with the department ~~[as~~



1 ~~security for such reimbursement.]~~ to pay for fees, costs, and
2 expenses. Any amount of [~~such~~] the deposit in excess of the
3 amount required to reimburse the State shall be returned by the
4 department to the party [~~which has~~] that made [~~such~~] the
5 deposit. The State shall not be required to pay to the project
6 party any interest or earnings on the deposit.

7 (b) The department shall not enter into any project
8 agreement with respect to any project unless the legislature
9 shall have first authorized the issuance of special purpose
10 revenue bonds to finance [~~such~~] the project pursuant to section
11 39A-157 and the department has [~~thereafter found and~~] determined
12 [~~either~~] that [~~the~~]:

13 (1) The project party is a responsible party, whether by
14 reason of economic assets or experience in the type of
15 enterprise to be undertaken through [~~such~~] the
16 project, or otherwise[~~7~~]; or [~~that the~~]

17 (2) The obligations of the project party under the project
18 agreement will be unconditionally guaranteed by a
19 person who is a responsible party, whether by reason
20 of economic assets or experience in the type of
21 enterprise to be undertaken through [~~such~~] the
22 project, or otherwise."



1 SECTION 8. Section 39A-155, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§39A-155 Project agreement.** No special purpose revenue
4 bonds shall be issued unless at the time of issuance the
5 department shall have entered into a project agreement with
6 respect to the project for the financing of which [~~such~~] the
7 revenue bonds are to be issued. Any project agreement entered
8 into by the department shall contain provisions unconditionally
9 obligating the project party:

10 (1) To pay to the department during the period or term of
11 the project agreement, exclusive of any renewal or
12 extension thereof and whether or not the project is
13 used or occupied by the project party, [~~such~~] the sum
14 or sums, at [~~such~~] the time or times, and in [~~such~~]
15 the amounts that [~~will~~] shall be [~~at least~~]
16 sufficient:

17 (A) To pay the principal and interest on all special
18 purpose revenue bonds issued with respect to the
19 project as [~~and when the same~~] the bonds become
20 due, including any premium payable upon any
21 required redemption of [~~such~~] the bonds;



1 (B) To establish or maintain [~~such~~] a reserve, if
2 any, as may be required by the instrument
3 authorizing or securing the special purpose
4 revenue bonds;

5 (C) To pay all fees and expenses (including the fees
6 and expenses of the paying agents and trustees)
7 [~~incurred~~] assessed in connection with [~~such~~] the
8 special purpose revenue bonds; and

9 (D) To pay the fees, costs, and expenses (direct or
10 indirect) [~~incurred~~] assessed by the [~~State, as~~
11 ~~determined by the~~] department [~~7~~] in administering
12 [~~such~~] the bonds or in carrying out the project
13 agreement [~~7~~]; and

14 (2) To operate, maintain, and repair the project as long
15 as [~~the same~~] it is used as provided in the project
16 agreement and to pay all costs of [~~such~~] the
17 operation, maintenance, and repair.

18 Moneys received by the department pursuant to paragraph (1) (D)
19 shall not be, or be deemed to be, revenues of the project and
20 shall be paid into the general fund of the State."

21 SECTION 9. Section 39A-194, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§39A-194** **Conditions precedent to negotiating and entering**
2 **into a project agreement.** (a) The department, prior to
3 entering into negotiations with any project party, shall require
4 that the [~~State shall be reimbursed for any and~~] project party
5 shall agree to pay all fees, costs, and expenses (direct or
6 indirect) [~~incurred~~] assessed by [~~it~~] the department in
7 implementing and administering this part, as determined by the
8 department, even though a project agreement may not be entered
9 into and may further require the deposit of moneys with the
10 department [~~for such reimbursement.~~] to pay for fees, costs, and
11 expenses. Any amount of [~~such~~] the deposit in excess of the
12 amount required to [~~reimburse~~] pay the State shall be returned
13 by the department to the party [~~which has~~] that made [~~such~~] the
14 deposit. The State shall not be required to pay to the project
15 party any interest or earnings on [~~such~~] the deposit.

16 (b) The department shall not enter into any project
17 agreement with respect to any energy project unless the
18 department shall [~~first find and~~] determine [~~either~~] that [~~the~~]:

19 (1) The project party is a responsible party, whether by
20 reason of economic assets or experience in the type of
21 enterprise to be undertaken through [~~such~~] the
22 project, or otherwise[~~7~~]; or [~~that the~~]



1 (2) The obligations of the project party under the project
2 agreement will be unconditionally guaranteed by a
3 person who is a responsible party, whether by reason
4 of economic assets or experience in the type of
5 enterprise to be undertaken through [~~such~~] the energy
6 project, or otherwise."

7 SECTION 10. Section 39A-195, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**S39A-195 Project agreement.** No special purpose revenue
10 bonds shall be issued unless at the time of issuance the
11 department shall have already entered into a project agreement
12 with respect to the energy project for the financing of which
13 [~~such~~] the bonds are to be issued. Any project agreement
14 entered into by the department shall contain provisions
15 unconditionally obligating the project party:

16 (1) To pay to the department during the period or term of
17 the project agreement, exclusive of any renewal or
18 extension thereof and whether or not the energy
19 project is used or occupied by the project party,
20 [~~such~~] the sum or sums, at [~~such~~] the time or times,
21 and in [~~such~~] the amount or amounts that [~~will~~] shall
22 be [~~at least~~] sufficient:



- 1 (A) To pay the principal and interest on all special
2 purpose revenue bonds issued to finance the
3 energy project as [~~and when~~] the bonds become
4 due, including any premium payable upon any
5 required redemption of [~~such~~] the bonds;
- 6 (B) To establish or maintain [~~such~~] a reserve, if
7 any, as may be required by the instrument
8 authorizing or securing the special purpose
9 revenue bonds;
- 10 (C) To pay all fees and expenses (including the fees
11 and expenses of the paying agents and trustees)
12 [~~incurred~~] assessed in connection with [~~such~~] the
13 special purpose revenue bonds; and
- 14 (D) To pay the fees, costs, and expenses (direct or
15 indirect) [~~incurred~~] assessed by the [~~State, as~~
16 ~~determined by the~~] department[~~]~~ in administering
17 [~~such~~] the bonds or in carrying out the project
18 agreement, as determined by the department[~~]~~;
19 and
- 20 (2) To operate, maintain, and repair the energy project as
21 long as [~~the same~~] it is used in the business of local
22 furnishing of electric energy or gas, and to pay all



1 costs of [~~such~~] the operation, maintenance, and
2 repair.

3 Moneys received by the department pursuant to paragraph (1)(D)
4 shall not be, nor be deemed to be, revenues of the energy
5 project and shall be paid into the general fund of the State."

6 SECTION 11. Section 39A-224, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~[+]§39A-224[+]~~ **Conditions precedent to negotiating and**
9 **entering into a project agreement.** (a) The department, prior
10 to entering into negotiations with any project party, shall
11 require that the [~~State shall be reimbursed for any and~~] project
12 party shall agree to pay all fees, costs, and expenses (direct
13 or indirect) [~~incurred~~] assessed by [~~it~~] the department in
14 implementing and administering this part, as determined by the
15 department, even though a project agreement may not be entered
16 into and may further require the deposit of moneys with the
17 department [~~for such reimbursement.~~] to pay for fees, costs, and
18 expenses. Any amount of [~~such~~] the deposit in excess of the
19 amount required to [~~reimburse~~] pay the State shall be returned
20 by the department to the party [~~which has~~] that made [~~such~~] the
21 deposit. The State shall not be required to pay to the project
22 party any interest or earnings on [~~such~~] the deposit.



1 (b) The department shall not enter into any project
2 agreement with respect to any project unless the department
3 shall [~~first find and~~] determine [~~either~~] that [~~the~~]:

4 (1) The project party is a responsible party, whether by
5 reason of economic assets or experience in the type of
6 enterprise to be undertaken through such project, or
7 otherwise[~~r~~]; or [~~that the~~]

8 (2) The obligations of the project party under the project
9 agreement will be unconditionally guaranteed by a
10 person who is a responsible party, whether by reason
11 of economic assets or experience in the type of
12 enterprise to be undertaken through [~~such~~] the
13 project, or otherwise."

14 SECTION 12. Section 39A-225, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~{}~~**\$39A-225**~~{}~~ **Project agreement.** No special purpose
17 revenue bonds shall be issued unless at the time of issuance the
18 department shall have entered into a project agreement with
19 respect to the project for the financing or refinancing of which
20 [~~such~~] the revenue bonds are to be issued. Any project
21 agreement entered into by the department shall contain
22 provisions unconditionally obligating the project party:



1 (1) To pay to the department during the period or term of
2 the project agreement, exclusive of any renewal or
3 extension thereof and whether or not the project is
4 used or occupied by the project party, ~~[such]~~ the sum
5 or sums, at ~~[such]~~ the time or times and in ~~[such]~~ the
6 amounts that ~~[will]~~ shall be ~~[at least]~~ sufficient:

7 (A) To pay the principal and interest on all special
8 purpose revenue bonds issued with respect to the
9 project as ~~[and when the same]~~ the bonds become
10 due, including any premium payable upon any
11 required redemption of ~~[such]~~ the bonds;

12 (B) To establish or maintain ~~[such]~~ a reserve, if
13 any, as may be required by the instrument
14 authorizing or securing the special purpose
15 revenue bonds;

16 (C) To pay all fees and expenses (including the fees
17 and expenses of the paying agents and trustees)
18 ~~[incurred]~~ assessed in connection with ~~[such]~~ the
19 special purpose revenue bonds; and

20 (D) To pay the fees, costs, and expenses (direct or
21 indirect) ~~[incurred]~~ assessed by the ~~[State, as~~
22 ~~determined by the]~~ department~~[7]~~ in administering



1 ~~[such]~~ the bonds or in carrying out the project
2 agreement ~~[+]~~; and

3 (2) To operate, maintain, and repair the project as long
4 as ~~[the same]~~ it is used in the provision of early
5 childhood education and care to the general public,
6 and to pay all costs of ~~[such]~~ the operation,
7 maintenance, and repair.

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

11 SECTION 13. Section 39A-254, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~[+]~~**\$39A-254**~~[+]~~ **Conditions precedent to negotiating and**
14 **entering into a project agreement.** (a) Prior to entering into
15 negotiations with any project party, the department shall
16 require that the ~~[State be reimbursed for any]~~ project party
17 shall agree to pay all fees, costs, and expenses (direct or
18 indirect) ~~[incurred]~~ assessed by ~~[it]~~ the department in
19 implementing and administering this part, as determined by the
20 department, even though a project agreement may not be entered
21 into. The department may further require the deposit of moneys
22 with it ~~[for such reimbursement.]~~ to pay for fees, costs, and



1 expenses. The department shall return any amount of the deposit
2 exceeding the amount required to reimburse the State to the
3 party that made the deposit. The State shall not be required to
4 pay to the project party any interest or earnings on the
5 deposit.

6 (b) The department shall not enter into any project
7 agreement with respect to any project unless the department
8 shall [~~first find and~~] determine [~~either~~] that [the]:

9 (1) The project party is a responsible party, whether by
10 reason of economic assets or experience in the type of
11 enterprise to be undertaken through the project, or
12 some other reason[~~r~~]; or [~~that the~~]

13 (2) The obligations of the project party under the project
14 agreement will be unconditionally guaranteed by a
15 person who is a responsible party, whether by reason
16 of economic assets or experience in the type of
17 enterprise to be undertaken through the project, or
18 some other reason."

19 SECTION 14. Section 39A-255, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§39A-255[+] **Project agreement.** No special purpose
22 revenue bonds shall be issued unless, at the time of issuance,



1 the department shall have entered into a project agreement with
2 respect to the project for the financing or refinancing of which
3 ~~[such]~~ the revenue bonds are to be issued.

4 Any project agreement entered into by the department shall
5 contain provisions unconditionally obligating the project party
6 to:

7 (1) Pay to the department during the period or term of the
8 project agreement, exclusive of any renewal or
9 extension thereof and whether or not the project is
10 used or occupied by the project party, ~~[such]~~ the sum
11 at ~~[such]~~ the time in ~~[such]~~ the amount that ~~[will]~~
12 shall be ~~[at least]~~ sufficient to:

13 (A) Pay the principal and interest on all special
14 purpose revenue bonds issued with respect to the
15 project as ~~[and when]~~ they become due, including
16 any premium payable upon any required redemption
17 of ~~[such]~~ the bonds;

18 (B) Establish or maintain ~~[such]~~ a reserve, if any,
19 as may be required by the instrument authorizing
20 or securing the special purpose revenue bonds;

21 (C) Pay all fees and expenses, including the fees and
22 expenses of the paying agents and trustees,



1 ~~incurred~~ assessed in connection with ~~such~~ the
2 special purpose revenue bonds; and

3 (D) Pay the fees, costs, and expenses (direct or
4 indirect) ~~incurred~~ assessed by the ~~State, as~~
5 ~~determined by the~~ department~~+~~ in administering
6 ~~such~~ the bonds or in carrying out the project
7 agreement; and

8 (2) Operate, maintain, and repair the project as long as
9 it is used in the provision of not-for-profit private
10 nonsectarian and sectarian elementary, secondary,
11 college-level, and university-level education to the
12 general public, and to pay all costs of its operation,
13 maintenance, and repair.

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

17 SECTION 15. Section 39A-284, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~+~~§39A-284~~+~~ **Conditions precedent to negotiating and**
20 **entering into a project agreement.** (a) Prior to entering into
21 negotiations with any project party, the department shall
22 require that the project party ~~reimburse the State for any and~~



1 shall agree to pay all fees, costs, and expenses, direct or
 2 indirect, [~~incurred~~] assessed by the [~~State~~] department in
 3 implementing and administering this part, as determined by the
 4 department, even though a project agreement may not be entered
 5 into [~~and~~]. The department may further require the deposit of
 6 moneys with the department [~~for reimbursement.~~] to pay for fees,
 7 costs, and expenses. The department shall return any amount of
 8 the deposit exceeding the amount required to reimburse the State
 9 to the party that made the deposit. The State shall not be
 10 required to pay to the project party any interest or earnings on
 11 the deposit.

12 (b) The department shall not enter into any project
 13 agreement with respect to any project unless the department
 14 shall [~~first find and~~] determine [~~either~~] that:

15 (1) The project party is a responsible party, whether by
 16 reason of economic assets or experience in the type of
 17 enterprise to be undertaken through the project or
 18 some other reason; or

19 (2) The obligations of the project party under the project
 20 agreement will be unconditionally guaranteed by a
 21 person who is a responsible party, whether by reason
 22 of economic assets or experience in the type of



1 enterprise to be undertaken through the project or
2 some other reason."

3 SECTION 16. Section 39A-285, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~+~~§39A-285~~+~~ **Project agreement.** No special purpose
6 revenue bonds shall be issued unless, at the time of issuance,
7 the department shall have entered into a project agreement with
8 respect to the project for the financing or refinancing of which
9 the bonds are to be issued. Any project agreement entered into
10 by the department shall contain provisions unconditionally
11 obligating the project party to:

12 (1) Pay to the department during the period or term of the
13 project agreement, exclusive of any renewal or
14 extension thereof and whether or not the project is
15 used or occupied by the project party, a sum, at a
16 time, and in an amount that shall be ~~[at least]~~
17 sufficient to:

18 (A) Pay the principal and interest on all special
19 purpose revenue bonds issued with respect to the
20 project as ~~[and when]~~ they become due, including
21 any premium payable upon any required redemption
22 of the bonds;



- 1 (B) Establish or maintain a reserve, if any, as may
2 be required by the instrument authorizing or
3 securing the special purpose revenue bonds;
- 4 (C) Pay all fees and expenses, including the fees and
5 expenses of the paying agents and trustees,
6 ~~[incurred]~~ assessed in connection with the
7 special purpose revenue bonds; and
- 8 (D) Pay the fees, costs, and expenses ~~[, direct or~~
9 ~~indirect, incurred]~~ (direct or indirect) assessed
10 by the ~~[State, as determined by the]~~
11 department ~~[,]~~ in administering the bonds or in
12 carrying out the project agreement; and
- 13 (2) Operate, maintain, and repair the project as long as
14 it is used to provide low- and moderate-income
15 housing, and to pay all costs of operation,
16 maintenance, and repair.

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

20 SECTION 17. Section 39A-314, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§39A-314** **Conditions precedent to negotiating and entering**
2 **into a project agreement.** (a) Prior to entering into
3 negotiations with respect to a project agreement or at any time
4 during the negotiations, the department shall require that as a
5 condition to the negotiations or the continuation thereof, the
6 ~~[State shall be reimbursed for any and]~~ project party shall
7 agree to pay all fees, costs, and expenses [incurred] assessed
8 by ~~[it]~~ the department even though a project agreement may not
9 be entered into ~~[and]~~. The department may further require the
10 deposit of moneys with the department as security ~~[for the~~
11 ~~reimbursement.]~~ to pay for fees, costs, and expenses. Any
12 amount of the deposit in excess of the amount required to
13 ~~[reimburse]~~ pay the State shall be returned by the department to
14 the party that has made the deposit. The State shall not be
15 required to pay to the project party any interest or earnings on
16 ~~[such]~~ the deposit.

17 (b) The department shall not enter into any project
18 agreement with respect to any project unless the legislature
19 shall have first authorized the issuance of special purpose
20 revenue bonds to finance the project pursuant to section 39A-317
21 and the department has ~~[thereafter found and]~~ determined
22 ~~[either]~~ that ~~[the]~~:



1 (1) The project party is a responsible party, whether by
2 reason of economic assets or experience in the type of
3 enterprise to be undertaken through the project, or
4 otherwise[~~r~~]; or [~~that the~~]

5 (2) The obligations of the project party under the project
6 agreement will be unconditionally guaranteed by a
7 person who is a responsible party, whether by reason
8 of economic assets or experience in the type of
9 enterprise to be undertaken through the project, or
10 otherwise."

11 SECTION 18. Section 39A-315, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§39A-315 Project agreement.** No special purpose revenue
14 bonds shall be issued unless at the time of issuance the
15 department shall have entered into a project agreement with
16 respect to the project for the financing of which the special
17 purpose revenue bonds are to be issued. Any project agreement
18 entered into by the department shall contain provisions
19 unconditionally obligating the project party:

20 (1) To pay to the department during the period or term of
21 the project agreement, exclusive of any renewal or
22 extension thereof and whether or not the project is



- 1 used or occupied by the project party, the sum or
 2 sums, at the time or times, and in the amounts that
 3 [~~will~~] shall be [~~at least~~] sufficient:
- 4 (A) To pay the principal and interest on all special
 5 purpose revenue bonds issued with respect to the
 6 project as [~~and when the same~~] the bonds become
 7 due, including any premium payable upon any
 8 required redemption of the bonds;
- 9 (B) To establish or maintain a reserve, if any, that
 10 may be required by the instrument authorizing or
 11 securing the special purpose revenue bonds;
- 12 (C) To pay all fees and expenses, including the fees
 13 and expenses of the paying agents and trustees,
 14 [~~incurred~~] assessed in connection with the
 15 special purpose revenue bonds; and
- 16 (D) To pay the fees, costs, and expenses [~~, direct or~~
 17 ~~indirect, incurred~~] (direct or indirect) assessed
 18 by the [~~State, as determined by the~~]
 19 department [~~]~~ in administering the bonds or in
 20 carrying out the project agreement; and
- 21 (2) To operate, maintain, and repair the project as long
 22 as [~~the same~~] it is used, as provided in the project



1 agreement, and to pay all costs of the operation,
2 maintenance, and repair.

3 Moneys received by the department pursuant to paragraph (1)(D)
4 shall not be, or be deemed to be, revenues of the project and
5 shall be paid into the general fund of the State."

6 SECTION 19. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 20. This Act shall take effect upon its approval.



Report Title:

Department of Budget and Finance; Special Purpose Revenue Bonds

Description:

Allows the department of budget and finance to assess fees for the administration of special purpose revenue bonds issued.

(SD1)

