

JAN 23 2009

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 ORGANIZATIONS**

5 **THAT SUPPORT CHARTER SCHOOLS**

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

8 "Charter schools" means schools established under chapter
9 302B.

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

11 "Project agreement" means any agreement entered into under
12 this part by the department with a project party providing for
13 the issuance of special purpose revenue bonds to finance
14 facilities of the project party or for the project party or to
15 loan the proceeds of such bonds to assist not-for-profit
16 organizations that support charter schools, including, without
17 limitation, on any loan agreement.



1 "Project party" means a not-for-profit organization that
2 supports charter schools.

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

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

15 **§39A-B Department powers as to organizations that support**
16 **charter schools.** In addition to powers that it may now have,
17 the department shall have all powers necessary or convenient to
18 accomplish the purposes of this part. The powers of the
19 department include but are not limited to the following:

20 (1) Notwithstanding and without compliance with section
21 103-7 and chapter 103D, but with the approval of the
22 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:
- 19 (A) Pledge, assign, hypothecate, or otherwise
- 20 encumber all or any part of the revenues and
- 21 receipts derived or to be derived by the
- 22 department under the project agreement for the



1 project for which the special purpose revenue
2 bonds are issued;

3 (B) Pledge and assign the interest and rights of the
4 department under the project agreement or other
5 agreement with respect to the project or the
6 special purpose revenue bonds;

7 (C) Pledge and assign any bond, debenture, note, or
8 other evidence of indebtedness received by the
9 department with respect to the project; or

10 (D) Any combination of the foregoing;

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

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

21 When the department finances or refines a project by the
22 issuance of special purpose revenue bonds as contemplated by



1 this part, the State shall not exercise the power of eminent
2 domain to acquire a project or any part of the project for lease
3 or transfer to a project party, nor shall the State operate a
4 project on behalf of a project party.

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

18 **§39A-D Conditions precedent to negotiating and entering**
19 **into a project agreement.** (a) Prior to entering into
20 negotiations with any project party, the department shall
21 require that the project party shall agree to pay all fees,
22 costs, and expenses (direct or indirect) assessed by the



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

9 (b) The department shall not enter into any project
10 agreement with respect to any project unless the department
11 shall determine that:

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

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



1 **§39A-E Project agreement.** No special purpose revenue
2 bonds shall be issued unless, at the time of issuance, the
3 department shall have entered into a project agreement with
4 respect to the project for the financing or refinancing of which
5 the revenue bonds are to be issued.

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

9 (1) Pay to the department during the period or term of the
10 project agreement, exclusive of any renewal or
11 extension thereof and whether or not the project is
12 used or occupied by the project party, the sum or
13 sums, at the time or times, and in the amounts that
14 shall be sufficient to:

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

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



1 (C) Pay all fees and expenses, including the fees and
2 expenses of the paying agents and trustees,
3 assessed in connection with the special purpose
4 revenue bonds; and

5 (D) Pay the fees, costs, and expenses (direct or
6 indirect) assessed by the department in
7 administering the bonds or in carrying out the
8 project agreement; and

9 (2) Operate, maintain, and repair the project as long as
10 it is used in the provision of the not-for profit
11 organization's support of charter schools, and to pay
12 all costs of its operation, maintenance, and repair.

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

16 **§39A-F Issuance of special purpose revenue bonds to**
17 **finance projects.** In addition to the other powers that it may
18 otherwise have, the department may issue special purpose revenue
19 bonds to finance or refinance the costs of facilities of or for
20 project parties or to loan the proceeds of such bonds to assist
21 project parties. All revenue bonds issued under this part are
22 special purpose revenue bonds, and the provisions of part III of



1 chapter 39 shall not apply. All special purpose revenue bonds
2 shall be issued in the name of the department and not in the
3 name of the State.

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



1 improvement, betterment, operation, or extension of the project;
2 the financing or refinancing of the project and placing the
3 project in operation; and the issuance of the special purpose
4 revenue bonds, whether incurred prior to or after the issuance
5 of such bonds.

6 The legislature finds and determines that the exercise of
7 the powers vested in the department by this part constitutes
8 assistance to not-for-profit organizations that support charter
9 schools and that the issuance of special purpose revenue bonds
10 to finance or refinance facilities of or for project parties or
11 to loan the proceeds of the bonds to assist project parties is
12 in the public interest.

13 **§39A-G Authorization of special purpose revenue bonds.**

14 (a) Special purpose revenue bonds for each single project or
15 multi-project program for not-for-profit organizations that
16 support charter schools shall be authorized by a separate act of
17 the legislature, by an affirmative vote of two-thirds of the
18 members to which each house is entitled; provided that the
19 legislature shall find that the issuance of such bonds is in the
20 public interest; provided further that no authorization shall be
21 made for a period exceeding five years of its enactment. Any
22 such special purpose revenue bond authorization, or any portion



1 of such special purpose revenue bond authorization, which has
2 not been issued at the close of the fiscal year for the period
3 for which the authorization is made, shall lapse. Special
4 purpose revenue bonds issued pursuant to this part may be in one
5 or more series for a single project, multiple projects, a
6 single-project party, or multiple-project parties pursuant to
7 the authority of one, or the combined authority of more than
8 one, separate act of the legislature.

9 The State may combine into a single issue of special
10 purpose revenue bonds two or more proposed issues of special
11 purpose revenue bonds to assist not-for-profit organizations
12 that support charter schools, separately authorized as
13 aforesaid, in the total amount of not exceeding the aggregate of
14 the proposed separate issues of special purpose revenue bonds.

15 The special purpose revenue bonds of each issue shall be
16 dated, shall bear interest at such rate or rates, shall mature
17 at such time or times (not to exceed forty years from their date
18 or dates), shall have such rank or priority, and may be made
19 redeemable before maturity at the option of the department, at
20 such price or prices and under such terms and conditions, all as
21 may be determined by the department. The department shall
22 determine the form of the special purpose revenue bonds,



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

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

20 (c) Should any bond issued under this part or any coupon
21 pertaining to such a bond become mutilated or be lost, stolen,
22 or destroyed, the department may cause a new bond or coupon of



1 like date, number, and tenor to be executed and delivered in
2 exchange and substitution for and upon the cancellation of the
3 mutilated bond or coupon, or in lieu of and in substitution for
4 the lost, stolen, or destroyed bond or coupon.

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

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

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

15 (3) Has furnished indemnity satisfactory to the
16 department.

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

20 (1) No such number shall constitute a part of the contract
21 evidenced by the particular bond upon which it is
22 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 bonds, because of
4 the numbers or their use, including any use made by
5 the department or any of its officers or agents, or
6 because of any inaccuracy, error, or omission with
7 respect thereto or in such use.

8 In its discretion, the department may require that all costs of
9 obtaining and imprinting such numbers shall be paid by the
10 purchaser of such 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 bonds and of the receipt
20 of the proceeds of sale thereof, for the purpose for which the
21 bonds have been authorized. All special purpose revenue bond
22 anticipation notes shall be authorized by the department, and



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

18 **§39A-I Powers with respect to and security for special**
19 **purpose revenue bonds.** To secure the payment of any of the
20 special purpose revenue bonds issued pursuant to this part,
21 including interest on the bonds, or in connection with the
22 bonds, the department shall have the power to:



1 (1) Pledge all or any part of the revenues derived by the
2 department from the project agreement to the punctual
3 payment of special purpose revenue bonds issued with
4 respect to the project financed or refinanced from
5 bond proceeds, including interest on the bonds, and to
6 covenant against pledging any such revenues or
7 receipts to any other bonds or any other obligations
8 of the department for any other purpose, except as
9 otherwise stated in the law providing for the issuance
10 of additional special purpose revenue bonds to be
11 equally and ratably secured by a lien upon such
12 revenues;

13 (2) Pledge and assign the interest of the department under
14 the project agreement and other related agreements and
15 the rights, duties, and obligations of the department
16 thereunder, including the right to receive revenues;

17 (3) Covenant as to the use and disposition of the proceeds
18 from the sale of the bonds;

19 (4) Covenant to set aside or pay over reserves and sinking
20 funds for the bonds and as to the disposition thereof;

21 (5) Covenant and prescribe as to what occurrences shall
22 constitute "events of default" and the terms and



1 conditions upon which any or all of the bonds shall
2 become or may be declared due before maturity and as
3 to the terms and conditions upon which such
4 declaration and its consequences may be waived;

5 (6) Covenant as to the rights, liabilities, powers, and
6 duties arising upon the breach by the department of
7 any covenant, condition, or obligation;

8 (7) Designate a national or state bank or trust company
9 within or without the State, incorporated in the
10 United States, to serve as trustee for the holders of
11 the special purpose revenue bonds and to enter into a
12 trust indenture or trust agreement or indenture of
13 mortgage with the trustee. The trustee may be
14 authorized by the department to receive and receipt
15 for, hold, and administer the proceeds of the special
16 purpose revenue bonds issued for the project and to
17 apply the proceeds to the purposes for which the bonds
18 are issued, or to receive and receipt for, hold, and
19 administer the revenues derived by the department
20 under the project agreement and to apply the revenues
21 to the payment of the principal and interest on the
22 bonds, or both, and any excess revenues to the payment



1 of expenses incurred by the State in administering the
2 bonds or in carrying out the project agreement. If a
3 trustee is appointed, any trust indenture or trust
4 agreement or indenture of mortgage entered into by the
5 department with the trustee may contain whatever
6 covenants and provisions as may be necessary,
7 convenient, or desirable to secure the bonds. The
8 department may pledge and assign to the trustee the
9 interest of the department under the project agreement
10 and other related agreements as well as the rights,
11 duties, and obligations of the department thereunder.
12 The department may appoint the trustee to serve as
13 fiscal agent for the payment of the principal and
14 interest and for the purchase, registration, transfer,
15 exchange, and redemption of the special purpose
16 revenue bonds. The department may also authorize and
17 empower the trustee to perform such functions with
18 respect to payment, purchase, registration, transfer,
19 exchange, and redemption as the department may deem
20 necessary, advisable, or expedient, including, without
21 limitation, the holding of the special purpose revenue
22 bonds and coupons that have been paid and the



1 supervision of the destruction of the bonds and
2 coupons according to the law;

3 (8) Execute all instruments necessary or convenient in the
4 exercise of the powers herein granted or in the
5 performance of its covenants and duties; and

6 (9) Make such covenants and perform any acts as may be
7 necessary, convenient, or desirable to secure the
8 bonds, although such covenants, acts, or items may not
9 be enumerated here.

10 The department shall have the power to do all things in the
11 issuance of the bonds and for their security that are consistent
12 with the Constitution of the State of Hawaii.

13 **§39A-J Security for special purpose revenue bonds.**

14 Special purpose revenue bonds shall be payable solely from the
15 revenues derived by the department from payments made to the
16 department under the project agreement, project agreements, or
17 other supplemental agreements entered into with respect to the
18 project or projects for the financing of which the special
19 purpose revenue bonds were issued. The special purpose revenue
20 bonds shall be secured solely by such revenues and by the
21 pledges and assignments authorized by this part. Subject to the
22 prior and superior rights of outstanding bonds, claims,



1 obligations, or mechanic's and materialman's liens, all special
2 purpose revenue bonds of the same issue shall have a prior and
3 paramount lien on the revenue derived from the project agreement
4 or agreements with respect to the project or projects for which
5 the bonds were issued. The lien shall be over and ahead of all
6 special purpose revenue bonds of any issue payable from the
7 revenues that may be subsequently issued and over and ahead of
8 any claims or obligations of any nature against the revenues
9 subsequently arising or subsequently incurred; provided that the
10 right and privilege may be reserved by the department in the
11 trust indenture securing an issue of special purpose revenue
12 bonds to issue subsequently additional special purpose revenue
13 bonds, subject to legislative authorization of the issue as
14 provided in section 39A-G. The department may also permit the
15 project party or another party on its behalf to incur debt, from
16 time to time, payable from the revenues derived from the project
17 agreement on a parity with the first issue of the special
18 purpose revenue bonds. Any subsequent issue of special purpose
19 revenue bonds and other debt issued or incurred in accordance
20 with the provisions of the trust indenture shall be secured
21 equally and ratably with the first issue of the special purpose
22 revenue bond by a lien on the revenues in accordance with this



1 part and without priority based on the date of sale, date of
2 execution, or date of delivery.

3 Notwithstanding any other provisions herein, all or part of
4 the property constituting the project and all interest of the
5 project party in the project and the revenues of the project
6 party therefrom may be subjected to the present and future lien
7 of any mortgage of the project party securing the project
8 party's bonds. The rights of the department and any trustee for
9 the holders of the special purpose revenue bonds and the holders
10 of the special purpose revenue bonds in the project and the
11 revenues therefrom may be made subject to the prior lien of the
12 project party's mortgage.

13 **§39A-K Special purpose revenue bonds not a general**
14 **obligation of the State.** No holder or holders of any special
15 purpose revenue bonds issued under this part shall ever have the
16 right to compel any exercise of the taxing power of the State to
17 pay such bonds or the interest on the bonds, and no moneys other
18 than the revenues pledged to such bonds shall be applied toward
19 their payment. Each special purpose revenue bond issued under
20 this part shall recite in substance that such bond, including
21 interest on the bond, is not a general obligation of the State
22 and is payable solely from the revenues pledged to the payment



1 thereof and that such bond is not secured directly or indirectly
2 by the full faith and credit of the State, by the general credit
3 of the State, or by any revenue or taxes of the State other than
4 the revenues specifically pledged thereto.

5 **§39A-L Validity of special purpose revenue bonds.** The
6 special purpose revenue bonds bearing the signature or facsimile
7 signature of officers on the date of the signing of the bonds
8 shall be valid and sufficient for all purposes, notwithstanding
9 that before the delivery of and payment for the bonds, all the
10 persons whose signatures appear on the bonds shall have ceased
11 to be officers of the department. The special purpose revenue
12 bonds shall contain a recital that they are issued pursuant to
13 this part, and the recital shall be conclusive evidence of their
14 validity and of the regularity of their issuance.

15 **§39A-M Use of revenues derived from project agreement.**

16 The department shall have the right to appropriate, apply, or
17 expend the revenues derived with respect to the project
18 agreement for a project for the following purposes:

- 19 (1) To pay when due all special purpose revenue bonds,
20 premium (if any), and interest on the bonds for the
21 payment of which the revenues are or have been



1 pledged, charged, or otherwise encumbered, including
2 reserves; and

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

6 Unless and until adequate provision has been made for the
7 foregoing purposes, the department shall not transfer the
8 revenues derived from the project agreement to the general fund
9 of the State.

10 **§39A-N Special purpose revenue bonds exempt from taxation.**

11 Special purpose revenue bonds and the income derived from the
12 bonds issued pursuant to this part shall be exempt from all
13 state, county, and municipal taxation, except for inheritance,
14 transfer, and estate taxes.

15 **§39A-O Federal tax-exempt status.** To the extent
16 practicable, special purpose revenue bonds issued pursuant to
17 this part shall be issued to comply with requirements imposed by
18 applicable federal law providing that the interest on the
19 special purpose revenue bonds shall be excluded from gross
20 income for federal income-tax purposes (except as certain
21 minimum taxes or environmental taxes may apply). The director
22 of finance may enter into agreements, establish funds or



1 accounts, and take any action required to comply with applicable
2 federal law. Nothing in this part shall be deemed to prohibit
3 the issuance of special purpose revenue bonds, the interest on
4 which may be included in gross income for federal income-tax
5 purposes.

6 **§39A-P Exemption from taxation of department property.**

7 All revenues derived by the department from any project or under
8 the project agreement pertaining to it shall be exempt from all
9 state, county, and municipal taxation. Any right, title, and
10 interest of the department in any project shall also be exempt
11 from all state, county, and municipal taxation.

12 Except as otherwise provided by law, the interest of the
13 project party or user of such project under the project
14 agreement or related agreement shall not be exempt from taxation
15 to a greater extent than it would be if the costs of the project
16 were directly financed by the project party or other user.

17 **§39A-Q Refunding special purpose revenue bonds.** The
18 legislature, by an act passed by an affirmative vote of two-
19 thirds of the members to which each house is entitled, may
20 authorize the issuance of refunding special purpose revenue
21 bonds for the purpose of refunding any special purpose revenue
22 bonds then outstanding and issued under this part, whether or



1 not such outstanding special purpose revenue bonds have matured
2 or are then subject to redemption.

3 The legislature is further authorized to provide, by an act
4 passed by an affirmative vote of two-thirds of the members to
5 which each house is entitled, for the issuance of a single issue
6 of special purpose revenue bonds for the combined purposes of:

7 (1) Financing or refinancing the cost of a project or
8 improvement or expansion of the project; and

9 (2) Refunding special purpose revenue bonds that shall
10 have been issued under this part and shall then be
11 outstanding, whether or not such outstanding special
12 purpose revenue bonds have matured or are then subject
13 to redemption.

14 Nothing in this section shall require or be deemed to require
15 the legislature to elect to redeem or prepay special purpose
16 revenue bonds being refunded. Moreover, nothing in this section
17 shall require or be deemed to require the legislature to elect
18 to redeem or prepay the special purpose revenue bonds being
19 refunded, which were issued in the form customarily known as
20 term bonds in accordance with any sinking fund installment
21 schedule specified in any law authorizing the issuance thereof,
22 or, in the event the department elects to redeem or prepay any



1 such bonds, to redeem or prepay as of any particular date or
2 dates. The issuance of such special purpose revenue bonds, the
3 maturities and other details regarding the bonds, the rights and
4 remedies of the bondholders, and the rights, powers, privileges,
5 duties, and obligations of the department with respect to the
6 bonds and bondholders, shall be governed by the foregoing
7 provisions of this part insofar as may be applicable.

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

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



1 eligible to secure the deposit of any and all public funds of
2 the State and of the counties or other political corporations or
3 subdivisions of the State. The bonds shall be lawful and
4 sufficient security for such deposits to the extent of their
5 value when accompanied by all unmatured coupons pertaining to
6 the bonds.

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

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



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

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

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

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

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



1 part are inconsistent with the provisions of any other law, this
2 part shall control."

3 SECTION 2. This Act shall take effect upon its approval
4 and upon ratification of constitutional amendments authorizing
5 the State to issue special purpose revenue bonds and use the
6 proceeds from the bonds to assist not-for-profit organizations
7 that support charter schools.

8

INTRODUCED BY:

Norma Sabera



Report Title:

Charter Schools; Special Purpose Revenue Bonds

Description:

Authorizes the issuance of special purpose revenue bonds to not-for-profit organizations that support charter schools.

