

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. The legislature hereby finds and declares that:

2 (1) The United States Congress has authorized states under  
3 the federal National Highway System Designation Act of 1995 and  
4 the federal Safe, Accountable, Flexible, Efficient  
5 Transportation Equity Act: A Legacy for Users (Public Law 109-  
6 59) to issue "GARVEE Bonds," which are tax-exempt revenue  
7 anticipation notes or bonds backed by annual federal  
8 appropriations for federal-aid highway program transportation  
9 projects.

10 (2) Utilizing revenue anticipation notes and bonds to  
11 finance federal transportation projects can greatly accelerate  
12 projects and can result in significant cost savings to the  
13 State, since those transportation projects can be completed at  
14 present-day costs.

15 (3) Funding transportation projects with revenue  
16 anticipation notes or bonds can also deliver projects to the  
17 public significantly sooner than traditional funding mechanisms.

1 (4) Therefore, it is in the best interest of the State of  
2 Hawaii to develop these new and innovative methods for funding  
3 and accelerating critical transportation infrastructure  
4 projects.

5 SECTION 2. Chapter 264, Hawaii Revised Statutes, is  
6 amended by adding a new part to be appropriately designated and  
7 to read as follows:

8 **"PART FEDERAL HIGHWAY REVENUE**  
9 **ANTICIPATION NOTES AND BONDS**

10 § 264- Definitions. Whenever used in this part, unless a  
11 different meaning clearly appears from the context:

12 "Department" means the department of transportation.

13 "Director" means the director of transportation.

14 "Federal transportation funds" means any funds apportioned  
15 to the state by the United States Department of Transportation,  
16 including, but not limited to, funds paid pursuant to the Safe,  
17 Accountable, Flexible, Efficient Transportation Equity Act: A  
18 Legacy for Users (Public Law 109-59) and any successor federal-  
19 aid highway program authorization act or acts, and includes  
20 federal reimbursements and grants with respect to qualified  
21 federal-aid highway program transportation projects.

1 "Qualified federal-aid highway program transportation  
2 project" means any project that may be financed, in whole or in  
3 part, with federal transportation funds.

4 "Revenue anticipation notes" or "notes" means revenue  
5 anticipation notes or bonds authorized by and issued by the  
6 department in accordance with this part.

7 "State matching funds" means revenues other than federal  
8 transportation funds that are credited to the state highway  
9 special fund in accordance with section and that may be used by  
10 the department to pay the costs of any qualified federal-aid  
11 highway program transportation projects.

12 **§ 264- Transportation financing account.** There is hereby  
13 created as a special trust fund in the state highway fund the  
14 transportation financing account, which shall be administered by  
15 the department. The proceeds of the sale of revenue  
16 anticipation notes shall be deposited into the transportation  
17 financing account. The funds in the transportation financing  
18 Account shall be available for use with respect to qualified  
19 federal-aid highway program transportation projects, subject to  
20 appropriation by the legislature, to pay the principal of and  
21 interest on notes, to fund reserve funds, to pay costs

1 associated with the issuance or further security of the notes or  
2 for capitalized interest of up to thirty-six months.

3       **§ 264- Selection of qualified federal-aid highway program**  
4 **transportation projects.** (a) The director may from time to time  
5 select and designate qualified federal-aid highway program  
6 transportation projects to be funded from the proceeds of notes,  
7 if financing of the project from the proceeds of notes has been  
8 approved by the federal highway administration and the regional  
9 transportation planning agency, and the project has completed  
10 environmental clearance and project design, and shall submit the  
11 list of such projects, together with the anticipated cost  
12 thereof, to the legislature as part of the department's annual  
13 budget, together with the request that the legislature authorize  
14 the issuance of notes and appropriate the proceeds thereof to  
15 such projects in accordance with part III of chapter 39.

16       (b) On or before April 1 of each year, the department, in  
17 conjunction with the department of budget and finance, shall  
18 prepare an annual analysis of the bonding capacity of federal  
19 transportation funds deposited in the state highway fund.

20       (c) The department shall establish guidelines for  
21 eligibility for funding allocations under this part. The  
22 guidelines shall be nondiscriminatory and shall be designed to

1 allow as many counties as possible to establish eligibility for  
2 funding allocations under this part, regardless of the  
3 population or geographic location of the county.

4       **§ 264- Issuance of revenue anticipation notes.** (a) The  
5 department, in order to provide for the financing of selected  
6 qualified federal-aid highway program transportation projects,  
7 may issue revenue anticipation notes. The payment of the  
8 principal of, premium, if any, and interest on such revenue  
9 anticipation notes shall be secured by a pledge of future  
10 receipts of federal transportation funds, in accordance with  
11 part III of chapter 39, relating to revenue bonds. Revenue  
12 anticipation notes are hereby determined to be revenue bonds,  
13 and receipts of federal transportation funds are hereby  
14 determined to be revenues within the meaning of part III of  
15 chapter 39. The department:

16       (1) Shall comply with title 23, section 122, United States  
17 Code, when issuing revenue anticipation notes under  
18 this part;

19       (2) May issue tax-exempt or taxable revenue anticipation  
20 notes within the department's allowable debt to  
21 projected revenue ratio and within the State's debt  
22 limit, as approved by the director of finance;

1 provided that the director of finance may not  
2 authorize the issuance of revenue anticipation notes  
3 if the annual repayment obligations of all outstanding  
4 revenue anticipation notes in any fiscal year,  
5 determined as of the date of issuance of each series  
6 of notes, would exceed fifty percent of the total  
7 amount of federal highway funds apportioned to the  
8 State by the United States department of  
9 transportation during the fiscal year next preceding  
10 the fiscal year in which such series of notes is  
11 issued;

12 (3) Shall ensure that all qualified federal-aid highway  
13 program transportation projects to be funded by  
14 revenue anticipation notes are subject to legislative  
15 appropriation;

16 (4) Shall study the costs and risks associated with the  
17 proposed use of revenue anticipation notes before  
18 issuance in comparison to other funding mechanisms,  
19 including, but not limited to, pay-as-you-go, federal  
20 advance construction, federal incremental advance  
21 construction or other funding mechanisms authorized  
22 under federal law to achieve maximum efficiency from

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1 the State's federal allocation of transportation  
2 funds;

3 (5) May use alternative funding sources for revenue stream  
4 or insurance to back up potential shortfall in federal  
5 authorization or obligation; and

6 (6) Shall deposit the proceeds of the sale of revenue  
7 anticipation notes issued under this part and apply  
8 such proceeds as provided by section 264-.

9 (b) The department may use proceeds of revenue  
10 anticipation notes to accelerate construction of qualified  
11 federal-aid highway program transportation projects by:

12 (1) Using the federal moneys to pay the debt service for  
13 revenue anticipation notes; and

14 (2) Using the federal moneys received in connection with  
15 other federal-aid projects to pay debt service on the  
16 revenue anticipation notes, provided that, as  
17 permitted by title 23, United states Code, the debt-  
18 financed transportation projects for which federal  
19 reimbursements are used need not themselves be  
20 federal-aid projects.

21 **§ 264- Annual reports.** On or before December 1 of each  
22 year, the director shall prepare and submit an annual report

1 regarding the preceding fiscal year to the governor and the  
2 legislature. Each report shall compile and detail (1) the total  
3 amount of outstanding revenue anticipation notes issued pursuant  
4 to this part; (2) the qualified federal-aid highway program  
5 transportation projects funded by those outstanding revenue  
6 anticipation notes; (3) the amount of note proceeds expended on  
7 each project; (4) the status of each project; (5) the estimated  
8 date of completion for such projects not yet completed; (6) the  
9 total amount of federal transportation funds paid to the  
10 department since such revenue anticipation notes have been  
11 issued; and (7) the total amount of proceeds from the issuance  
12 of revenue anticipation notes, state matching funds and federal  
13 transportation funds applied by the department in each state  
14 fiscal year for the payment of such revenue anticipation notes  
15 and the costs associated with the issuance and administration of  
16 such notes."

17 SECTION 3. Section 39-51, Hawaii Revised Statutes, is  
18 amended by amending the definitions of "revenue" and "revenue  
19 bonds" to read as follows:

20 ""Revenue" means the moneys collected, including any moneys  
21 collected from the State or any department, or any county or  
22 board, agency or instrumentality thereof, from the rates,



1 rentals, fees, and charges prescribed for the use and services  
2 of, and the facilities and commodities furnished by, an  
3 undertaking or the use and services and benefits of a loan  
4 program; provided that the term shall include all insurance  
5 premium payments, assessments, surcharges, investment earnings  
6 and all other income of the Hawaii hurricane relief fund[-], and  
7 all reimbursements and grants received from the federal United  
8 States Department of Transportation with respect to federal-aid  
9 highway program transportation projects.

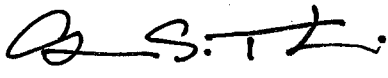
10 "Revenue bonds" means all bonds payable solely from and  
11 secured by the revenue, or user taxes, or any combination of  
12 both, of an undertaking or loan program or any loan made  
13 thereunder for which bonds are issued and as otherwise provided  
14 in this part; provided that the term shall include all bonds  
15 issued by the director of finance under the authority of  
16 section 10(a), Act 339, Session Laws of Hawaii 1993, as amended,  
17 for the purposes of the hurricane bond loan fund[-], and all  
18 revenue anticipation notes or bonds issued by the director of  
19 transportation under authority of section \_\_\_\_\_, Act \_\_\_\_\_,  
20 Session Laws of Hawaii \_\_\_\_\_, as amended, for the purposes of  
21 the transportation financing account of the highway special  
22 fund."

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1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval  
4 and upon ratification of the constitutional amendment to  
5 article VII, section 12, of the Hawaii State Constitution,  
6 authorizing the State to issue federal-aid highway  
7 transportation program revenue anticipation bonds payable from  
8 and secured in whole or in part by rates, rentals and charges  
9 consisting of payments, reimbursements and grants from the  
10 United States government and use the proceeds from the bonds to  
11 finance federal-aid highway program transportation projects.

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INTRODUCED BY:   
BY REQUEST

**Report Title:**

Transportation

**Description:**

Provide for the issuance of grant revenue anticipation revenue notes and bonds or "GARVEE Bonds," as provided for by the federal National Highway System Designation Act of 1995 (the "NHS Act") and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU") for legislatively appropriated transportation projects in the State

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO  
TRANSPORTATION.

PURPOSE: The purpose of the bill is to provide for the issuance of grant revenue anticipation revenue notes and bonds or "GARVEE Bonds," as provided for by the federal National Highway System Designation Act of 1995 (the "NHS Act") and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU") for legislatively appropriated transportation projects in the State. The federal GARVEE program permits states to leverage annual federal appropriations for federal-aid highway program transportation projects, with the result that the State may accelerate the construction and delivery of transportation projects, resulting in cost savings to the State and the greater convenience to the general public of having projects available for use earlier than would otherwise be the case. The bill provides that the federal-aid highway program reimbursements and grants are "revenues" within the meaning of part III, chapter 39, Hawaii Revised Statutes. The bill also creates a Transportation Financing Account in the Highway Special Fund for the purpose of receiving and disbursing federal-aid grants and the proceeds of the "GARVEE Bonds."

MEANS: Add a new Part to Chapter 264 and amend section 39-51, Hawaii Revised Statutes.

JUSTIFICATION:

The program arises out of the need to improve, rehabilitate, and renovate the State's transportation facilities. This need increases while federal, state, and local financial resources are constant or declining. State and local sources of transportation funding have not kept pace with the need for infrastructure. The issuance of GARVEE Bonds will improve the transportation infrastructure in the State by leveraging future receipts of federal-aid highway program reimbursements and grants to permit the construction of transportation projects earlier and at a lower cost to the State than would otherwise be possible.

The Department of Transportation, Highways Division needs enabling legislation to establish and implement a GARVEE bond program to take advantage of the federal program authorized by the NHS Act and SAFETEA-LU.

Impact on the public:

The proposed bill is meant to provide the traveling public a safe and efficient transportation system through the optimal use of existing and additional financial resources.

Impact on the department and other agencies:

The proposed bill is meant to provide a mechanism to significantly and permanently increase financing capacity for the transportation projects.

GENERAL FUND:

None.

OTHER FUNDS:

None.

PPBS PROGRAM

DESIGNATION: TRN 595.

OTHER AFFECTED

AGENCIES: Department of Transportation.

EFFECTIVE DATE: July 1, 2011.