

JAN 24 2013

---

---

## A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST AGRICULTURAL ENTERPRISES.

**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 AGRICULTURAL ENTERPRISES**

5           **§39A- Definitions.** Whenever used in this part, unless  
6 a different meaning clearly appears from the context:

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

8           "Project" means any combination of land, buildings, and  
9 other improvements thereon, including without limitation  
10 irrigation systems and infrastructure, for use of, or for, or to  
11 assist an agricultural enterprise in the growing or processing  
12 of crops, vegetables and fruits, including aquaculture or  
13 aquaponics crops, the processing of agricultural products, and  
14 the production of livestock or poultry, including without  
15 limiting the generality of the foregoing, machinery, equipment,  
16 furnishings, and apparatus that are deemed necessary, suitable,  
17 or useful to the enterprise.



1 "Project agreement" means any agreement entered into under  
2 this part by the department with a project party to finance,  
3 construct, operate, or maintain a project from the proceeds of  
4 special purpose revenue bonds, or to lend the proceeds of  
5 special purpose revenue bonds to assist an agricultural  
6 enterprise, including without limitation any loan agreement.

7 "Project party" means a person, firm, or corporation  
8 qualified to do business in this State and conducting or  
9 proposing to conduct an agricultural enterprise in this State.

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

13 **§39A- Department powers as to agricultural industries.**

14 (a) In addition to powers that it may now have, the department  
15 shall have all powers necessary or convenient to accomplish the  
16 purposes of this part. The powers of the department include but  
17 are not limited to the following:

- 18 (1) Notwithstanding and without compliance with section  
19 103-7 and chapter 103D, and with the approval of the  
20 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, maintenance of a
- 15                    project, or refinancing of outstanding obligations
- 16                    related to a project;
- 17           (4) As security for the payment of the principal, premium,
- 18                    if any, and interest of the special purpose revenue
- 19                    bonds issued for a project, to:
- 20                    (A) Pledge, assign, and hypothecate, or otherwise
- 21                            encumber all or any part of the revenues and
- 22                            receipts derived or to be derived by the



1 department under the project agreement for the  
2 project for which the 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 thereto; provided that any renewal  
13 or extension shall be subject to the approval of the  
14 governor unless made in accordance with provisions for  
15 the extension or renewal contained in a project  
16 agreement or related agreement previously approved by  
17 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 (b) When the department finances or refinances a project  
22 by the issuance of special purpose revenue bonds as contemplated



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

5       **§39A- Compliance with state and local law.** (a) The  
6 issuance of special purpose revenue bonds with respect to any  
7 project under this part shall not relieve any project party or  
8 other user of the project from the laws, ordinances, and rules  
9 of the State or any political subdivision thereof, or any  
10 departments or boards thereof with respect to:

- 11       (1) The construction, operation, and maintenance of  
12            projects;  
13       (2) Compliance with zoning laws or regulations;  
14       (3) Obtaining of building permits; and  
15       (4) Compliance with building and health codes and other  
16            laws, ordinances, or rules and regulations of similar  
17            nature pertaining to the project.

18       (b) These laws shall be applicable to the party or any  
19 other user to the same extent they would be if the costs of the  
20 project were directly financed by the project party.

21       **§39A- Conditions precedent to negotiating and entering**  
22 **into a project agreement.** (a) Prior to entering into



1 negotiations with respect to a project agreement or at any time  
2 during the negotiations, the department shall require that as a  
3 condition to the negotiations or the continuation thereof, the  
4 State shall be reimbursed for any and all costs and expenses  
5 incurred by it even though a project agreement may not be  
6 entered into. The department may further require the deposit of  
7 moneys with the department as security for the reimbursement.  
8 Any amount of the deposit in excess of the amount required to  
9 reimburse the State shall be returned by the department to the  
10 party that has made the deposit. The State shall not be  
11 required to pay to the project party any interest or earnings on  
12 the deposit;

13 (b) The department shall not enter into any project  
14 agreement with respect to any project unless the legislature  
15 shall have first authorized the issuance of special purpose  
16 revenue bonds to finance the project pursuant to section 39A-G  
17 and the department has thereafter found and determined either  
18 that:

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 the project, or  
22 otherwise; or



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 the project, or  
6           otherwise.

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

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

20          (A) To pay the principal and interest on all special  
21          purpose revenue bonds issued with respect to the  
22          project as and when the same become due,



1 including any premium payable upon any required  
2 redemption of the bonds;

3 (B) To establish or maintain a reserve, if any, that  
4 may be required by the instrument authorizing or  
5 securing the special purpose revenue bonds;

6 (C) To pay all fees and expenses, including the fees  
7 and expenses of the paying agents and trustees,  
8 incurred in connection with the special purpose  
9 revenue bonds; and

10 (D) To pay the expenses, direct or indirect, incurred  
11 by the State, as determined by the department, in  
12 administering the bonds or in carrying out the  
13 project agreement; and

14 (2) To operate, maintain, and repair the project as long  
15 as it is used, as provided in the project agreement,  
16 and to pay all costs of the operation, maintenance,  
17 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 **§39A- Issuance of special purpose revenue bonds to**  
22 **finance projects.** In addition to the other powers that it may





1 otherwise have, the department may issue special purpose revenue  
2 bonds to finance or refinance, in whole or in part, the costs of  
3 facilities of, or for, or to loan the proceeds of the bonds to  
4 assist project parties. All revenue bonds issued under this  
5 part are special purpose revenue bonds and the provisions of  
6 part III of chapter 39 shall not apply thereto. All special  
7 purpose revenue bonds shall be issued in the name of the  
8 department and not in the name of the State.

9 In determining the cost of any project, the department may  
10 also include the following:

- 11 (1) Financing charges, fees, and expenses of any trustee  
12 and paying agents for special purpose revenue bonds  
13 issued to pay the cost of the project;
- 14 (2) Interest on the bonds and the expenses of the State in  
15 connection with the bonds and the project to be  
16 financed from the proceeds of the bonds accruing or  
17 incurred prior to and during the estimated period of  
18 construction and for the period not exceeding twelve  
19 months thereafter;
- 20 (3) Amounts necessary to establish or increase reserves  
21 for the special purpose revenue bonds;



- 1           (4) The cost of plans, specifications, studies, surveys,  
2                   and estimates of costs and of revenues;
- 3           (5) Other expenses incidental to determining the  
4                   feasibility or practicability of the project;
- 5           (6) Administrative expenses;
- 6           (7) Legal, accounting, consulting, and other special  
7                   service fees;
- 8           (8) Interest cost incurred by the project party with  
9                   respect to the project prior to the issuance of the  
10                  special purpose revenue bonds; and
- 11          (9) Other costs, commissions, and expenses incidental to  
12                  the construction, acquisition, reconstruction,  
13                  renovation, rehabilitation, improvement, betterment,  
14                  operation, maintenance, or extension of the project,  
15                  the financing or refinancing thereof, placing of same  
16                  in operation, and the issuance of the special purpose  
17                  revenue bonds, whether incurred prior to or after the  
18                  issuance of the bonds.

19           The legislature finds and determines that the exercise of  
20 the powers vested in the department by this part constitutes  
21 assistance to an agricultural enterprise and that the issuance  
22 of special purpose revenue bonds to finance facilities of, or



1 for, or to loan the proceeds of the bonds to assist project  
2 parties is in the public interest.

3 **§39A- Authorization of special purpose revenue bonds.**

4 (a) Special purpose revenue bonds for each project or multi  
5 project program shall be authorized by a separate act of the  
6 legislature, by an affirmative vote of two-thirds of the members  
7 to which each house is entitled; provided that the legislature  
8 shall find that the issuance of the bonds is in the public  
9 interest; provided further that no authorization shall be made  
10 for a period exceeding five years of its enactment. Any special  
11 purpose revenue bond authorization, or any portion of the  
12 special purpose revenue bond authorization that has not been  
13 issued at the close of the fiscal year for the period for which  
14 the authorization is made, shall lapse. Special purpose revenue  
15 bonds issued pursuant to this part may be in one or more series  
16 for each project. The special purpose revenue bonds of each  
17 issue shall be dated, shall bear interest at a rate or rates,  
18 shall mature at a time or times not exceeding forty years from  
19 their date or dates, shall have a rank or priority and may be  
20 made redeemable before maturity at the option of the department,  
21 at a price or prices and under terms and conditions, all as may  
22 be determined by the department. The department shall determine



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

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

21 (c) Should any bond issued under this part or any coupon  
22 appertaining thereto become mutilated or be lost, stolen, or



1 destroyed, the department may cause a new bond or coupon of like  
2 date, number, and tenor to be executed and delivered in exchange  
3 and substitution for, and upon the cancellation of the mutilated  
4 bond or coupon, or in lieu of and in substitution for a lost,  
5 stolen, or destroyed bond or coupon. The new bond or coupon  
6 shall not be executed or delivered until the holder of the  
7 mutilated, lost, stolen, or destroyed bond or coupon has:

8 (1) Paid the reasonable expense and related charges;  
9 (2) In the case of a lost, stolen, or destroyed bond or  
10 coupon, filed with the department or its fiduciary  
11 evidence satisfactory to the department or its  
12 fiduciary that the bond or coupon was lost, stolen, or  
13 destroyed and that the holder was the owner of the  
14 bond; and

15 (3) Furnished indemnity satisfactory to the department.

16 (d) The department may provide that CUSIP identification  
17 numbers be printed on the special purpose revenue bonds. If  
18 numbers are imprinted on the bonds:

19 (1) No CUSIP identification number shall constitute a part  
20 of the contract evidenced by the particular bond upon  
21 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 bonds, by reason of  
4           the numbers or any use made thereof, including any use  
5           made by the department, any officer, or any agent, or  
6           by reason of any inaccuracy, error, or omission with  
7           respect thereto or in any use.

8           The department may require that all costs of obtaining and  
9           imprinting the numbers shall be paid by the purchaser of the  
10          bonds. For the purpose of this subsection, the term "CUSIP  
11          identification numbers" means the numbering system adopted by  
12          the Committee for Uniform Security Identification Procedures  
13          formed by the Securities Industry Association.

14           **§39A-           Special purpose revenue bond anticipation notes.**

15          Whenever the department has authorized the issuance of special  
16          purpose revenue bonds under this part, special purpose revenue  
17          bond anticipation notes of the department may be issued in  
18          anticipation of the issuance of the bonds and of the receipt of  
19          the proceeds of sale of the bonds, for the purposes for which  
20          the bonds have been authorized. All special purpose revenue  
21          bond anticipation notes shall be authorized by the department,  
22          and the maximum principal amount of the notes shall not exceed



1 the authorized principal amount of the bonds. The notes shall  
2 be payable solely from and secured solely by the proceeds of  
3 sale of the special purpose revenue bonds in anticipation of  
4 which the notes are issued and the revenues from which would be  
5 payable and by which the bonds would be secured; provided that  
6 to the extent that the principal of the notes shall be paid from  
7 moneys other than the proceeds of sale of the bonds, the maximum  
8 amount of bonds in anticipation of which the notes are issued  
9 that has been authorized shall be reduced by the amount of notes  
10 paid in such manner. The authorization, issuance, and the  
11 details of the notes shall be governed by this part with respect  
12 to special purpose revenue bonds insofar as the same may be  
13 applicable; provided that each note, together with all renewals  
14 and extensions thereof, or refundings thereof by other notes  
15 issued under this section, shall mature within five years from  
16 the date of the original note.

17 **§39A- Powers with respect to and security for special**  
18 **purpose revenue bonds.** (a) To secure the payment of any of the  
19 special purpose revenue bonds issued pursuant to this part and  
20 interest thereon, or in connection with the bonds, the  
21 department shall have the power:



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





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



1 to the payment of the principal and interest on the  
2 bonds, or both, and any excess revenues to the payment  
3 of expenses incurred by the State in administering the  
4 bonds or in carrying out the project agreement. If a  
5 trustee is appointed, any trust indenture or trust  
6 agreement or indenture of mortgage entered into by the  
7 department with the trustee may contain whatever  
8 covenants and provisions as may be necessary or  
9 convenient or desirable to secure the bonds. The  
10 department may pledge and assign to the trustee the  
11 interest of the department under the project agreement  
12 and other agreements related thereto and the rights,  
13 duties, and obligations of the department thereunder,  
14 including the right to receive revenues thereunder.  
15 he department may appoint the trustee to serve as  
16 fiscal agent for the payment of the principal and  
17 interest, and for the purchase, registration,  
18 transfer, exchange, and redemption of the special  
19 purpose revenue bonds. The department may also  
20 authorize and empower the trustee to perform these  
21 functions with respect to the payment, purchase,  
22 registration, transfer, exchange, and redemption, as



1 the department may deem necessary, advisable, or  
2 expedient, including without limitation the holding of  
3 the special purpose revenue bonds and coupons that  
4 have been paid and the supervision of the destruction  
5 thereof in accordance with law;

6 (8) To execute all instruments necessary or convenient in  
7 the exercise of the powers herein granted or in the  
8 performance of its covenants and duties; and

9 (9) To make covenants and do any and all acts as may be  
10 necessary, convenient, or desirable to secure the  
11 bonds, notwithstanding that the covenants, acts, or  
12 items may not be enumerated herein.

13 (b) The department shall have the power to do all things  
14 in the issuance of the bonds and for their security that are  
15 consistent with the Constitution of the State of Hawaii.

16 **§39A- Security for special purpose revenue bonds.** (a)  
17 Special purpose revenue bonds shall be payable solely from the  
18 revenues derived by the department from payments made to the  
19 department under the project agreement or other supplemental  
20 agreements entered into with respect to the project and shall be  
21 secured solely by the bond revenues and by the pledges and  
22 assignments authorized by this part. Subject to the prior and



1 superior rights of outstanding bonds, claims, obligations, or  
2 mechanic's and materialman's liens, all special purpose revenue  
3 bonds of the same issue shall have a prior and paramount lien on  
4 the revenues derived from the project agreement with respect to  
5 the project, for which the bonds have been issued, over and  
6 ahead of all special purpose revenue bonds of any issue payable  
7 from the revenues that may be subsequently issued and over and  
8 ahead of any claims or obligations of any nature against the  
9 revenues subsequently arising or subsequently incurred; provided  
10 that the department may reserve the right and privilege to  
11 subsequently issue additional series of special purpose revenue  
12 bonds, from time to time, payable from the revenues derived from  
13 the project agreement on a parity with the special purpose  
14 revenue bonds previously issued, and the subsequently issued  
15 series of special purpose revenue bonds may be secured, without  
16 priority by reason of date of sale, date of execution, or date  
17 of delivery, by a lien on the revenues in accordance with law,  
18 including this part.

19 (b) Notwithstanding any other provisions herein, all or  
20 part of the property constituting the project and all interest  
21 of the project party in the project and the revenues of the  
22 project party therefrom may be subjected to the present and



1 future lien of any mortgage of the project party securing the  
2 project party's bonds, and the rights of the department and any  
3 trustee for the holders of the special purpose revenue bonds and  
4 the holders of the special purpose revenue bonds in the project  
5 and the revenues therefrom may be made subject to the prior lien  
6 of the project party's mortgage.

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

21       **§39A- Validity of special purpose revenue bonds.** The  
22 special purpose revenue bonds bearing the signature or facsimile



1 signature of officers in office on the date of the signing  
2 thereof shall be valid and sufficient for all purposes,  
3 notwithstanding that before the delivery thereof and payment  
4 therefor, any or all the persons whose signatures appear thereon  
5 shall have ceased to be officers of the department. Special  
6 purpose revenue bonds shall contain a recital that they are  
7 issued pursuant to this part, which recital shall be conclusive  
8 evidence of their validity and of the regularity of their  
9 issuance.

10 **§39A- 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 premiums if any, and interest thereon, for the payment  
16 of which the revenues are or have been pledged,  
17 charged, or otherwise encumbered, including reserves  
18 therefor; and

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



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

10       **§39A- 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 of  
17 finance may enter into agreements, establish funds or accounts,  
18 and take any action required to comply with applicable federal  
19 law. Nothing in this part shall be deemed to prohibit the  
20 issuance of special purpose revenue bonds, the interest on which  
21 may be included in gross income for federal income tax purposes.



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

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

7           Except as otherwise provided by law, the interest of the  
8 project party or user of the 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-           Refunding special purpose revenue bonds.** By act  
13 enacted by an affirmative vote of two-thirds of the members to  
14 which each house is entitled, the legislature may authorize the  
15 issuance of refunding special purpose revenue bonds for the  
16 purpose of refunding any special purpose revenue bonds then  
17 outstanding and issued under this part, whether or not the  
18 outstanding special purpose revenue bonds have matured or are  
19 then subject to redemption. By act enacted by an affirmative  
20 vote of two-thirds of the members to which each house is  
21 entitled, the legislature may provide for the issuance of a





1 single issue of special purpose revenue bonds for the combined  
2 purposes of:

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

10 Nothing in this section shall require or be deemed to require  
11 the department to elect to redeem or prepay special purpose  
12 revenue bonds being refunded, or to redeem or prepay special  
13 purpose revenue bonds being refunded that were issued in the  
14 form customarily known as term bonds in accordance with any  
15 sinking fund installment schedule specified in any instruments  
16 providing for the issuance thereof, or, if the department elects  
17 to redeem or prepay any bonds, to redeem or prepay as of any  
18 particular date or dates. The issuance of refunding special  
19 purpose revenue bonds, the maturities and other details thereof,  
20 the rights and remedies of the holders thereof, and the rights,  
21 powers, privileges, duties, and obligations of the department



1 with respect to the same, shall be governed by the foregoing  
2 provisions of this part insofar as the same may be applicable.

3       **§39A- Status of special purpose revenue bonds under the**  
4 **Uniform Commercial Code.** Notwithstanding any of the provisions  
5 of this part or any recitals in any special purpose revenue  
6 bonds issued under this part, all special purpose revenue bonds  
7 shall be deemed to be investment securities under the Uniform  
8 Commercial Code, chapter 490, subject only to the provisions of  
9 the special purpose revenue bonds pertaining to registration.

10       **§39A- Special purpose revenue bonds as legal**  
11 **investments and lawful security.** Special purpose revenue bonds  
12 issued pursuant to this, part shall be and are declared to be  
13 legal and authorized investments for banks, savings banks, trust  
14 companies, savings and loan associations, insurance companies,  
15 credit unions, fiduciaries, trustees, guardians, and for all  
16 public funds of the State or other political corporations or  
17 subdivisions of the State. The special purpose revenue bonds  
18 shall be eligible to secure the deposit of any and all public  
19 funds of the State and any and all public funds of counties or  
20 other political corporations or subdivisions of the State, and  
21 the bonds shall be lawful and sufficient security for public



1 fund deposits to the extent of their value when accompanied by  
2 all unmatured coupons appertaining thereto.

3       **§39A- Access to and public disclosure of financial**  
4 **records of project party.** (a) Each project party with a  
5 project agreement with the department shall allow the department  
6 full access to the project party's financial records. Upon the  
7 request of the department for the examination of any financial  
8 record, the project party shall allow the department to examine  
9 the requested records within a reasonably prompt time from the  
10 date of the request. If the department requests copies of the  
11 records, the project party shall provide the copies.

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

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

21       **§39A- Estimate of benefits.** (a) Each project party  
22 with a project agreement with the department shall estimate the



1 benefits derived from the use of the proceeds of special purpose  
2 revenue bonds. The benefits estimated shall be based on the  
3 creation of new jobs and potential effect on tax receipts. The  
4 format of and method for determining the estimates shall be  
5 established by the department and shall be uniform for each  
6 project party.

7 (b) To promote public understanding of the role played by  
8 special purpose revenue bonds in providing benefits to the  
9 general public, the department shall take appropriate steps to  
10 ensure public access to and scrutiny of the estimates determined  
11 under subsection (a).

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

14 **§39A- Construction of this part.** The powers conferred  
15 by this part shall be in addition and supplemental to the powers  
16 conferred by any other law. Insofar as the provisions of this  
17 part are inconsistent with the provisions of any other law, this  
18 part shall control."

19 SECTION 2. This Act shall take effect on July 1, 2013, and  
20 upon the ratification of constitutional amendments authorizing

21



1 the State to issue special purpose revenue bonds and to use the  
2 proceeds from the bonds to assist agricultural enterprises.  
3

INTRODUCED BY: Clarence K. Smith

John G. ...

Erzanne Chun Caldwell

S.C. Kirk-Young



**Report Title:**

Special Purpose Revenue Bonds; Agricultural Enterprises

**Description:**

Assists agricultural enterprises in the State by authorizing the State to issue special purpose revenue bonds for their benefit. Contingent upon ratification of constitutional amendment authorizing the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist agricultural enterprises.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

