

**ACT 280**

H.B. NO. 2692

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to propose amendments to Article VII, section 12 and Article X, section 1, of the Constitution of the State of Hawaii, and to chapter 39A, Hawaii Revised Statutes, to authorize the State to use the proceeds of special purpose revenue bonds to finance or assist not-for-profit corporations that provide early childhood education and care facilities serving the general public.

SECTION 2. Article VII, section 12, of the Constitution of the State of Hawaii is amended to read as follows:

**“DEFINITION; ISSUANCE OF INDEBTEDNESS**

**Section 12.** For the purposes of this article:

1. The term “bonds” shall include bonds, notes and other instruments of indebtedness.

2. The term “general obligation bonds” means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.

3. The term "net revenues" or "net user tax receipts" means the revenues or receipts derived from a public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made.

4. The term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.

5. The term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder.

6. The term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.

7. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law.

8. The term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.

9. The term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system.

The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds and shall prescribe the manner and procedure for such issuance. All such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist[, manufacturing,]:

1. Manufacturing, processing or industrial enterprises[, utilities];
2. Utilities serving the general public[, health];
3. Health care facilities provided to the general public by not-for-profit corporations [or low];
4. Early childhood education and care facilities provided to the general public by not-for-profit corporations; or
5. Low and moderate income government housing programs, each of which is hereinafter referred to in this paragraph as a special purpose entity.

The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. No special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person under contract or from any security for such contract or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the State be authorized to issue special purpose revenue bonds to assist not-for-profit corporations which provide early childhood education and care facilities to the general public?"

SECTION 4. Article X, section 1, of the Constitution of the State of Hawaii is amended to read as follows:

### **"PUBLIC EDUCATION**

**Section 1.** The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no discrimination in public educational institutions because of race, religion, sex or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or private educational institution[.], except that proceeds of special purpose revenue bonds authorized or issued under section 12 of Article VII may be appropriated to finance or assist not-for-profit corporations that provide early childhood education and care facilities serving the general public."

SECTION 5. The question to be printed on the ballot shall be as follows:

"Shall the State be authorized to use public funds in the form of proceeds of special purpose revenue bonds, to assist not-for-profit corporations that provide early childhood education and care facilities serving the general public?"

SECTION 6. Chapter 39A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . ASSISTING NOT-FOR-PROFIT CORPORATIONS  
THAT PROVIDE EARLY CHILDHOOD EDUCATION AND  
CARE FACILITIES SERVING THE GENERAL PUBLIC**

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

"Department" means the department of budget and finance.

"Early childhood education and care facility" means any property used primarily for the care and instruction of children from birth to age five; provided that it shall not include any property to be used primarily for sectarian instruction or study, or as a place for devotional activities or religious worship, or any property used primarily in connection with any part of a program of a school or department of divinity of any religious denomination.

"Project agreement" means any agreement entered into under this part by the department with a project party providing for the issuance of special purpose revenue bonds to finance facilities of a project party or for a project party or to loan the proceeds of such bonds to assist not-for-profit corporations that provide early childhood education and care facilities that serve the general public, including without limitation any loan agreement.

"Project party" means a not-for-profit corporation that provides an early childhood education and care facility that serves the general public.

"Refinancing of outstanding obligations" or "refinancing" means the liquidation, retirement, or provision for retirement with the proceeds of bonds issued by the State, of any indebtedness of a project party incurred to finance or aid in financing a lawful purpose of such project party not financed pursuant to this part which constitutes an early childhood education and care facility or consolidation of such indebtedness with indebtedness of the State incurred for an early childhood education and care facility related to the purpose for which the indebtedness of the project party was initially incurred.

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

**§39A- Department powers as to early childhood education and care facilities.** In addition to powers which it may now have, the department shall have all powers necessary or convenient to accomplish the purposes of this part. The powers of the department include, but are not limited to, the following:

- (1) Notwithstanding and without compliance with section 103-7, but with the approval of the governor, to enter into and carry out a project agreement, or an amendment or supplement to an existing project agreement, with a project party, and to enter into and carry out any agreement whereby the obligation of a project party under a project agreement will be unconditionally guaranteed by a person other than a project party.
- (2) To issue special purpose revenue bonds pursuant to and in accordance with this part.
- (3) To lend the proceeds of the special purpose revenue bonds issued for a project to the project party for use and application by the project party for the acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or refinancing of outstanding obligations related to a project.

- (4) As security for the payment of the principal of, premium, if any, and interest of the special purpose revenue bonds issued for this project, to pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the department under the project agreement for the project for which such bonds are issued; to pledge and assign the interest and rights of the department under the project agreement or other agreement with respect to such project or such special purpose revenue bonds; and to pledge and assign any bond, debenture, note, or other evidence of indebtedness received by the department with respect to such project; or any combination of the foregoing.
- (5) To extend or renew any project agreement or any other agreement related thereto; provided that any such renewal or extension shall be subject to the approval of the governor unless made in accordance with provisions for such extension or renewal contained in a project agreement or related agreement theretofore approved by the governor.
- (6) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this part.

When the department finances or refinances a project by the issuance of special purpose revenue bonds as contemplated by this part, the State shall not exercise the power of eminent domain to acquire a project or any part thereof for lease or transfer to a project party, nor shall the State operate a project on behalf of a project party.

**§39A- Compliance with state and local law.** The issuance of special purpose revenue bonds with respect to any project under this part shall not relieve any project party or other user of such project from the laws, ordinances, and rules of the State or any political subdivision thereof, or any departments or boards thereof with respect to the construction, operation, and maintenance of projects, compliance with early childhood education and care laws or regulations, or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules of similar nature pertaining to the project, and such laws shall be applicable to such party or such other user to the same extent it would be if the costs of the project were directly financed by the project party.

**§39A- Conditions precedent to negotiating and entering into a project agreement.** The department prior to entering into negotiations with any project party shall require that the State shall be reimbursed for any and all costs and expenses (direct or indirect) incurred by it in implementing and administering this part, as determined by the department, even though a project agreement may not be entered into and may further require the deposit of moneys with the department for such reimbursement. Any amount of such deposit in excess of the amount required to reimburse the State shall be returned by the department to the party which has made such deposit. The State shall not be required to pay to the project party any interest or earnings on such deposit.

The department shall not enter into any project agreement with respect to any project unless the department shall first find and determine either that the project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project, or otherwise, or that the obligations of the project party under the project agreement

will be unconditionally guaranteed by a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project or otherwise.

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

- (1) To pay to the department during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the project is used or occupied by the project party, such sum or sums, at such time or times and in such amounts that will be at least sufficient:
  - (A) To pay the principal and interest on all special purpose revenue bonds issued with respect to the project as and when the same become due, including any premium payable upon any required redemption of such bonds;
  - (B) To establish or maintain such reserve, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
  - (C) To pay all fees and expenses (including the fees and expenses of the paying agents and trustees) incurred in connection with such special purpose revenue bonds; and
  - (D) To pay the expenses (direct or indirect) incurred by the State, as determined by the department, in administering such bonds or in carrying out the project agreement.
- (2) To operate, maintain, and repair the project as long as the same is used in the provision of early childhood education and care to the general public, and to pay all costs of such operation, maintenance, and repair.

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

**§39A- Issuance of special purpose revenue bonds to finance projects.** In addition to the other powers which it may otherwise have, the department may issue special purpose revenue bonds to finance or refinance, the costs of facilities of, or for, or to loan the proceeds of such bonds to assist project parties. All revenue bonds issued under this part are special purpose revenue bonds and the provisions of part III of chapter 39 shall not apply thereto. All special purpose revenue bonds shall be issued in the name of the department and not in the name of the State.

The department in determining the cost of any project, may also include the following: financing charges, fees, and expenses of any trustee and paying agents for special purpose revenue bonds issued to pay the cost of such project; interest on such bonds and the expenses of the State in connection with such bonds and the project to be financed or refinanced from the proceeds of such bonds accruing or incurred prior to and during the period of construction and for not exceeding twelve months thereafter; amounts necessary to establish or increase reserves for the special purpose revenue bonds; the cost of plans, specifications, studies, surveys, and estimates of costs and of revenues; other expenses

incidental to determining the feasibility or practicability of the project; administration expenses; interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; fees and expenses incurred in connection with the refinancing of outstanding obligations; and such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, operation, or extension of the project, the financing or refinancing thereof, placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of such bonds.

The legislature finds and determines that the exercise of the powers vested in the department by this part constitutes assistance to not-for-profit corporations serving the general public and that the issuance of special purpose revenue bonds to finance or to refinance facilities of, or for, or to loan the proceeds of such bonds to assist, project parties, is in the public interest.

**§39A- Authorization of special purpose revenue bonds.** (a) Special purpose revenue bonds for each single project or multi-project program for early childhood education and care facilities serving the general public shall be authorized by a separate act of the legislature, by an affirmative vote of two-thirds of the members to which each house is entitled; provided that the legislature shall find that the issuance of such bonds is in the public interest. Special purpose revenue bonds issued pursuant to this part may be in one or more series for each project. The special purpose revenue bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty years from their date or dates, shall have such rank or priority and may be made redeemable before maturity at the option of the department, at such price or prices and under such terms and conditions, all as may be determined by the department. The department shall determine the form of the special purpose revenue bonds, including any interest coupons to be attached thereto, and the manner of execution of the special purpose revenue bonds, and shall fix the denomination or denominations of the special purpose revenue bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The special purpose revenue bonds may be issued in coupon or in registered form, or both, as the department may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The department may sell special purpose revenue bonds in such manner, either at public or private sale, and for such price as it may determine.

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

(c) Should any bond issued under this part or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the department may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon has (1) paid the reasonable expense and charges in connection therewith; (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the

department or its fiduciary evidence satisfactory to such department or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof; and (3) has furnished indemnity satisfactory to the department.

(d) The department in its discretion may provide that CUSIP identification numbers shall be printed on such bonds. In the event such numbers are imprinted on any such bonds (1) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted, and (2) no liability shall attach to the department or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds, by reason of such numbers or any use made thereof, including any use thereof made by the department, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The department in its discretion may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

**§39A- Special purpose revenue bond anticipation notes.** Whenever the department shall have authorized the issuance of special purpose revenue bonds under this part, special purpose revenue bond anticipation notes of the department may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All special purpose revenue bond anticipation notes shall be authorized by the department, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the special purpose revenue bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by the provisions of this part with respect to special purpose revenue bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note.

**§39A- Powers with respect to and security for special purpose revenue bonds.** In order to secure the payment of any of the special purpose revenue bonds issued pursuant to this part, and interest thereon, or in connection with such bonds, the department shall have the power as to such bonds:

- (1) To pledge all or any part of the revenues derived by the department from the project agreement to the punctual payment of special purpose revenue bonds issued with respect to the project financed or refinanced from proceeds thereof, and interest thereon, and to covenant against thereafter pledging any such revenues or receipts to any other bonds or any other obligations of the department for any other purpose, except as otherwise stated in the law providing for the issuance of additional special purpose revenue bonds to be equally and ratably secured by a lien upon such revenues.



- (2) To pledge and assign the interest of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, conditions, or obligation.
- (7) To designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the special purpose revenue bonds and to enter into a trust indenture or trust agreement or indenture of mortgage with such trustee. The trustee may be authorized by the department to receive and receipt for, hold, and administer the proceeds of the special purpose revenue bonds issued for the project and to apply the same to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues derived by the department under the project agreement and to apply such revenues to the payment of the principal and interest on such bonds, or both, and any excess revenues to the payment of expenses incurred by the State in administering such bonds or in carrying out the project agreement. In the event that such trustee shall be appointed, any trust indenture or trust agreement or indenture of mortgage entered into by the department with the trustee may contain whatever covenants and provisions as may be necessary or convenient or desirable in order to secure such bonds. The department may pledge and assign to the trustee the interest of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder. The department may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the special purpose revenue bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the department may deem necessary, advisable, or expedient, including without limitation the holding of the special purpose revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.
- (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (9) To make such covenants and do any and all acts and things as may be necessary or convenient or desirable in order to secure such

bonds, notwithstanding that such covenants, acts, or things may not be enumerated herein; it being the purpose hereof to give the department power to do all things in the issuance of such bonds and for their security that may be consistent with the Constitution of the State of Hawaii.

**§39A- Security for special purpose revenue bonds.** Special purpose revenue bonds shall be payable solely from the revenues derived by the department from payments made to the department under the project agreement or other supplemental agreements entered into with respect to the project, and shall be secured solely by such revenues and by the pledges and assignments authorized by this part. All special purpose revenue bonds of the same issue, subject to the prior and superior rights of outstanding bonds, claims, obligations, or mechanic's and materialman's liens, shall have a prior and paramount lien on the revenues derived from the project agreement with respect to the project, for which the bonds have been issued, over and ahead of all special purpose revenue bonds of any issue payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred; provided that the right and privilege may be reserved by the department in the trust indenture securing an issue of special purpose revenue bonds to subsequently issue additional special purpose revenue bonds, subject to legislative authorization of the issue as provided in section 39A- , or to permit the project party or another party on its behalf to incur debt, from time to time, payable from the revenues derived from such project agreement on a parity with the first issue of the special purpose revenue bonds and any subsequent issue of special purpose revenue bonds and other debt issued or incurred in accordance with the provisions of the trust indenture shall be secured equally and ratably with the first issue of the special purpose revenue bond without priority by reason of the date of sale, date of execution, or date of delivery, by a lien on the revenues in accordance with this part.

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

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

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

date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor all the persons whose signatures appear thereon shall have ceased to be officers of the department. The special purpose revenue bonds shall contain a recital that they are issued pursuant to this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

**§39A- Use of revenues derived from project agreement.** The department shall have the right to appropriate, apply, or expend the revenues derived with respect to the project agreement for a project for the following purposes:

- (1) To pay when due all special purpose revenue bonds, premium, if any, and interest thereon, for the payment of which the revenues are or have been pledged, charged, or otherwise encumbered, including reserves therefor; and
- (2) To the extent not paid by the project party to provide for all expenses of administration, operation, and maintenance of the project, including reserves therefor.

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

**§39A- Special purpose revenue bonds exempt from taxation.** Special purpose revenue bonds and the income therefrom issued pursuant to this part shall be exempt from all state, county, and municipal taxation except inheritance, transfer, and estate taxes.

**§39A- Exemption from taxation of department property.** All revenues derived by the department from any project or under the project agreement pertaining thereto shall be exempt from all state, county, and municipal taxation. Any right, title, and interest of the department in any project shall also be exempt from all state, county, and municipal taxation. Except as otherwise provided by law, the interest of the project party or user of such project in a project or under the project agreement or related agreement shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the project party or other user.

**§39A- Refunding special purpose revenue bonds.** The legislature, by act enacted by an affirmative vote of two-thirds of the members to which each house is entitled, may authorize the issuance of refunding special purpose revenue bonds for the purpose of refunding any special purpose revenue bonds then outstanding and issued under this part, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. The legislature is further authorized to provide, by act finally enacted by an affirmative vote of two-thirds of the members to which each house is entitled, for the issuance of a single issue of special purpose revenue bonds for the combined purposes of (1) financing or refinancing the cost of a project or improvement or expansion thereof, and (2) refunding special purpose revenue bonds which shall theretofore have been issued under this part and shall then be outstanding, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. Nothing in this section shall require or be deemed to require the legislature to elect to redeem or prepay special purpose revenue bonds being refunded, or to redeem or prepay special purpose revenue

bonds being refunded which were issued in the form customarily known as term bonds in accordance with any sinking fund installment schedule specified in any law authorizing the issuance thereof, or, in the event the department elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such special purpose revenue bonds, the maturities and other details thereof, and the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the department with respect to the same, shall be governed by the foregoing provisions of this part insofar as the same may be applicable.

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

**§39A- Special purpose revenue bonds as legal investments and lawful security.** The special purpose revenue bonds issued pursuant to this part shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, credit unions, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such special purpose revenue bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

**§39A- Access to and public disclosure of financial records of project party.** (a) Each project party with a project agreement with the department shall allow the department full access to its financial records. Upon the request of the department for the examination of any such financial records, the project party shall allow the department to examine the requested records within a reasonably prompt time from the date of the request. If the department requests copies of the records, the project party shall provide the copies.

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

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

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

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

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

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

**§39A- Sunset provision.** After June 30, 2015, no new special purpose revenue bonds shall be issued under this part.”

SECTION 7. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 8. Sections 2, 3, 4, and 5 of this Act shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii; and section 6 of this Act, upon its approval, shall take effect upon ratification of the constitutional amendments proposed by sections 2 and 4 of this Act.

(Approved July 6, 1994.)