



GOV. MSG. NO. 802

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

April 26, 2007

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 26, 2007, the following bill was signed into law:

SB1370 SD1 HD1

A BILL FOR AN ACT RELATING TO SPECIAL  
PURPOSE REVENUE BONDS.  
(ACT 044)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

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# A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE REVENUE BONDS.

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

1 SECTION 1. Section 39A-34, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3 "~~§39A-34~~ **Conditions precedent to negotiating and entering**  
4 **into a project agreement.** (a) The department, prior to  
5 entering into negotiations with any project party, shall require  
6 that the ~~[State shall be reimbursed for any and]~~ project party  
7 shall agree to pay all fees, costs, and expenses (direct or  
8 indirect) ~~[incurred]~~ assessed by ~~[it]~~ the department in  
9 implementing and administering this part, as determined by the  
10 department, even though a project agreement may not be entered  
11 into and may further require the deposit of moneys with the  
12 department ~~[for such reimbursement.]~~ to pay for fees, costs, and  
13 expenses. Any amount of ~~[such]~~ the deposit in excess of the  
14 amount required to ~~[reimburse]~~ pay the State shall be returned  
15 by the department to the party ~~[which has]~~ that made ~~[such]~~ the  
16 deposit. The State shall not be required to pay to the project  
17 party any interest or earnings on ~~[such]~~ the deposit.



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

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

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

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

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



- 1 (1) To pay to the department during the period or term of  
2 the project agreement, exclusive of any renewal or  
3 extension thereof and whether or not the project is  
4 used or occupied by the project party, [~~such~~] the sum  
5 or sums, at [~~such~~] the time or times, and in [~~such~~]  
6 the amounts that [~~will~~] shall be [~~at least~~]  
7 sufficient:
- 8 (A) To pay the principal and interest on all special  
9 purpose revenue bonds issued with respect to the  
10 project as [~~and when the same~~] the bonds become  
11 due, including any premium payable upon any  
12 required redemption of [~~such~~] the bonds;
- 13 (B) To establish or maintain [~~such~~] a reserve, if  
14 any, as may be required by the instrument  
15 authorizing or securing the special purpose  
16 revenue bonds;
- 17 (C) To pay all fees and expenses (including the fees  
18 and expenses of the paying agents and trustees)  
19 [~~incurred~~] assessed in connection with [~~such~~] the  
20 special purpose revenue bonds; and
- 21 (D) To pay the fees, costs, and expenses (direct or  
22 indirect) [~~incurred~~] assessed by the [~~State, as~~



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

4 and

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

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

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

15 "**§39A-74 Conditions precedent to negotiating and entering**  
16 **into a project agreement.** (a) The department, prior to  
17 entering into negotiations with respect to a project agreement  
18 or at any time during ~~[such]~~ the negotiations, shall require  
19 that as a condition to ~~[such]~~ the negotiations or the  
20 continuation thereof the ~~[State shall be reimbursed for any and]~~  
21 project party shall agree to pay all fees, costs, and expenses  
22 [incurred] (direct or indirect) assessed by [it] the department



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

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

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

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



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

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

5 "**§39A-75 Project agreement.** No special purpose revenue  
6 bonds shall be issued unless at the time of issuance the  
7 department shall have entered into a project agreement with  
8 respect to the project for the financing of which [~~such~~] the  
9 revenue bonds are to be issued. Any project agreement entered  
10 into by the department shall contain provisions unconditionally  
11 obligating the project party:

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

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



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





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

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

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



1       **(b)** The department shall not enter into any project  
2 agreement with respect to any project unless the legislature  
3 shall have first authorized the issuance of special purpose  
4 revenue bonds to finance such project pursuant to section  
5 39A-117 and the department has [~~thereafter found and~~] determined  
6 [~~either~~] that [~~the~~]:

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

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

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

19       "**§39A-115 Project agreement.** No special purpose revenue  
20 bonds shall be issued unless at the time of issuance the  
21 department shall have entered into a project agreement with  
22 respect to the project for the financing of which [~~such~~] the



1 revenue bonds are to be issued. Any project agreement entered  
2 into by the department shall contain provisions unconditionally  
3 obligating the project party:

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

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

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

20 (C) To pay all fees and expenses (including the fees  
21 and expenses of the paying agents and trustees)



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

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

8            and

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

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

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

18           "**§39A-154 Conditions precedent to negotiating and entering**  
19           **into a project agreement.** (a) The department, prior to  
20           entering into negotiations with respect to a project agreement  
21           or at any time during [~~such~~] negotiations, shall require that as  
22           a condition to [~~such~~] the negotiations or the continuation



1 thereof, the ~~[State shall be reimbursed for any and]~~ project  
2 party shall agree to pay all fees, costs, and expenses  
3 [incurred] (direct or indirect) assessed by [it] the department  
4 even though a project agreement may not be entered into and may  
5 further require the deposit of moneys with the department [as  
6 ~~security for such reimbursement.] to pay for fees, costs, and~~  
7 expenses. Any amount of ~~[such]~~ the deposit in excess of the  
8 amount required to reimburse the State shall be returned by the  
9 department to the party ~~[which has]~~ that made ~~[such]~~ the  
10 deposit. The State shall not be required to pay to the project  
11 party any interest or earnings on the deposit.

12 (b) The department shall not enter into any project  
13 agreement with respect to any project unless the legislature  
14 shall have first authorized the issuance of special purpose  
15 revenue bonds to finance ~~[such]~~ the project pursuant to section  
16 39A-157 and the department has ~~[thereafter found and]~~ determined  
17 ~~[either]~~ that ~~[the]~~:

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





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



1 agreement and to pay all costs of [~~such~~] the  
2 operation, maintenance, and repair.

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

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

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





1 to pay to the project party any interest or earnings on [~~such~~]  
2 the deposit.

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

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

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

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

18 "**§39A-195 Project agreement.** No special purpose revenue  
19 bonds shall be issued unless at the time of issuance the  
20 department shall have already entered into a project agreement  
21 with respect to the energy project for the financing of which  
22 [~~such~~] the bonds are to be issued. Any project agreement



1 entered into by the department shall contain provisions  
2 unconditionally obligating the project party:

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

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

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

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



1 (D) To pay the fees, costs, and expenses (direct or  
2 indirect) [~~incurred~~] assessed by the [~~State,~~]  
3 department in administering [~~such~~] the bonds or  
4 in carrying out the project agreement, as  
5 determined by the department[~~;~~];

6 and

7 (2) To operate, maintain, and repair the energy project as  
8 long as [~~the same~~] it is used in the business of local  
9 furnishing of electric energy or gas, and to pay all  
10 costs of [~~such~~] the operation, maintenance, and  
11 repair.

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

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

17 "~~[§]39A-224[§]~~ **Conditions precedent to negotiating and**  
18 **entering into a project agreement.** (a) The department, prior  
19 to entering into negotiations with any project party, shall  
20 require that the [~~State shall be reimbursed for any and~~] project  
21 party shall agree to pay all fees, costs, and expenses (direct  
22 or indirect) [~~incurred~~] assessed by [~~it~~] the department in



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

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

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

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



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

3 "[~~f~~]**S39A-225**[~~f~~] **Project agreement.** No special purpose  
4 revenue bonds shall be issued unless at the time of issuance the  
5 department shall have entered into a project agreement with  
6 respect to the project for the financing or refinancing of which  
7 [~~such~~] the revenue bonds are to be issued. Any project  
8 agreement entered into by the department shall contain  
9 provisions unconditionally obligating the project party:

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

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



- 1 (B) To establish or maintain [~~such~~] a reserve, if  
2 any, as may be required by the instrument  
3 authorizing or securing the special purpose  
4 revenue bonds;
- 5 (C) To pay all fees and expenses (including the fees  
6 and expenses of the paying agents and trustees)  
7 [~~incurred~~] assessed in connection with [~~such~~] the  
8 special purpose revenue bonds; and
- 9 (D) To pay the fees, costs, and expenses (direct or  
10 indirect) [~~incurred~~] assessed by the [~~State, as~~  
11 ~~determined by the~~] department[~~;~~] in administering  
12 [~~such~~] the bonds or in carrying out the project  
13 agreement[~~;~~];

14 and

- 15 (2) To operate, maintain, and repair the project as long  
16 as [~~the same~~] it is used in the provision of early  
17 childhood education and care to the general public,  
18 and to pay all costs of [~~such~~] the operation,  
19 maintenance, and repair.

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



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

3 "~~[+]§39A-254[+]~~ **Conditions precedent to negotiating and**  
4 **entering into a project agreement.** (a) Prior to entering into  
5 negotiations with any project party, the department shall  
6 require that the ~~[State be reimbursed for any]~~ project party  
7 shall agree to pay all fees, costs, and expenses (direct or  
8 indirect) ~~[incurred]~~ assessed by [it] the department in  
9 implementing and administering this part, as determined by the  
10 department, even though a project agreement may not be entered  
11 into. The department may further require the deposit of moneys  
12 with it ~~[for such reimbursement.]~~ to pay for fees, costs, and  
13 expenses. The department shall return any amount of the deposit  
14 exceeding the amount required to reimburse the State to the  
15 party that made the deposit. The State shall not be required to  
16 pay to the project party any interest or earnings on the  
17 deposit.

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

21 (1) The project party is a responsible party, whether by  
22 reason of economic assets or experience in the type of



1 enterprise to be undertaken through the project, or  
2 some other reason[7]; or [~~that~~the]

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

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

11 "[~~f~~]**\$39A-255**[~~f~~] **Project agreement.** No special purpose  
12 revenue bonds shall be issued unless, at the time of issuance,  
13 the department shall have entered into a project agreement with  
14 respect to the project for the financing or refinancing of which  
15 [~~such~~] the revenue bonds are to be issued.

16 Any project agreement entered into by the department shall  
17 contain provisions unconditionally obligating the project party  
18 to:

19 (1) Pay to the department during the period or term of the  
20 project agreement, exclusive of any renewal or  
21 extension thereof and whether or not the project is  
22 used or occupied by the project party, [~~such~~] the sum





1 at ~~[such]~~ the time in ~~[such]~~ the amount that ~~[will]~~  
2 shall be ~~[at-least]~~ sufficient to:

- 3 (A) Pay the principal and interest on all special  
4 purpose revenue bonds issued with respect to the  
5 project as ~~[and-when]~~ they become due, including  
6 any premium payable upon any required redemption  
7 of ~~[such]~~ the bonds;
- 8 (B) Establish or maintain ~~[such]~~ a reserve, if any,  
9 as may be required by the instrument authorizing  
10 or securing the special purpose revenue bonds;
- 11 (C) Pay all fees and expenses, including the fees and  
12 expenses of the paying agents and trustees,  
13 ~~[incurred]~~ assessed in connection with ~~[such]~~ the  
14 special purpose revenue bonds; and
- 15 (D) Pay the fees, costs, and expenses (direct or  
16 indirect) ~~[incurred]~~ assessed by the ~~[State, as~~  
17 ~~determined by the]~~ department~~[+]~~ in administering  
18 ~~[such]~~ the bonds or in carrying out the project  
19 agreement;

20 and

- 21 (2) Operate, maintain, and repair the project as long as  
22 it is used in the provision of not-for-profit private



1 nonsectarian and sectarian elementary, secondary,  
2 college-level, and university-level education to the  
3 general public, and to pay all costs of its operation,  
4 maintenance, and repair.

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

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

10 "[~~f~~]§39A-284[~~f~~] **Conditions precedent to negotiating and**  
11 **entering into a project agreement.** (a) Prior to entering into  
12 negotiations with any project party, the department shall  
13 require that the project party [~~reimburse the State for any and~~]  
14 shall agree to pay all fees, costs, and expenses, [direct or  
15 indirect, incurred] (direct or indirect) assessed by the [State]  
16 department in implementing and administering this part, as  
17 determined by the department, even though a project agreement  
18 may not be entered into [~~and~~]. The department may further  
19 require the deposit of moneys with the department [~~for~~  
20 ~~reimbursement.~~] to pay for fees, costs, and expenses. The  
21 department shall return any amount of the deposit exceeding the  
22 amount required to reimburse the State to the party that made



1 the deposit. The State shall not be required to pay to the  
2 project party any interest or earnings on the deposit.

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

6 (1) The project party is a responsible party, whether by  
7 reason of economic assets or experience in the type of  
8 enterprise to be undertaken through the project or  
9 some other reason; or

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

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

18 "[~~+~~]**§39A-285**[~~+~~] **Project agreement.** No special purpose  
19 revenue bonds shall be issued unless, at the time of issuance,  
20 the department shall have entered into a project agreement with  
21 respect to the project for the financing or refinancing of which  
22 the bonds are to be issued. Any project agreement entered into



1 by the department shall contain provisions unconditionally  
2 obligating the project party to:

3 (1) Pay to the department during the period or term of the  
4 project agreement, exclusive of any renewal or  
5 extension thereof and whether or not the project is  
6 used or occupied by the project party, a sum, at a  
7 time, and in an amount that shall be [~~at least~~]  
8 sufficient to:

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

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

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

21 (D) Pay the fees, costs, and expenses [~~, direct or~~  
22 ~~indirect, incurred~~] (direct or indirect) assessed



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

4 and

5 (2) Operate, maintain, and repair the project as long as  
6 it is used to provide low- and moderate-income  
7 housing, and to pay all costs of operation,  
8 maintenance, and repair.

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

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

14 "**§39A-314 Conditions precedent to negotiating and entering**  
15 **into a project agreement.** (a) Prior to entering into  
16 negotiations with respect to a project agreement or at any time  
17 during the negotiations, the department shall require that as a  
18 condition to the negotiations or the continuation thereof, the  
19 [~~State shall be reimbursed for any and~~] project party shall  
20 agree to pay all fees, costs, and expenses [incurred] assessed  
21 by [it] the department even though a project agreement may not  
22 be entered into [~~and~~]. The department may further require the



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

8 (b) The department shall not enter into any project  
9 agreement with respect to any project unless the legislature  
10 shall have first authorized the issuance of special purpose  
11 revenue bonds to finance the project pursuant to section 39A-317  
12 and the department has [~~thereafter found and~~] determined  
13 [~~either~~] that [~~the~~]:

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

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



1 enterprise to be undertaken through the project, or  
2 otherwise."

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

5 "**§39A-315 Project agreement.** No special purpose revenue  
6 bonds shall be issued unless at the time of issuance the  
7 department shall have entered into a project agreement with  
8 respect to the project for the financing of which the special  
9 purpose revenue bonds are to be issued. Any project agreement  
10 entered into by the department shall contain provisions  
11 unconditionally obligating the project party:

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

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



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

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

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

13 and

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

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

21 SECTION 19. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



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



GOVERNOR OF THE STATE OF HAWAII

Approved this day: APR 26 2007

