



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

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 "**S39A-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~~[7]~~;

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~~[,]~~; 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[~~er~~];

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 " ~~[†]~~ §39A-225 ~~[†]~~ **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 "[~~+~~]**\$39A-255**[~~+~~] **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 "~~[§]39A-284[§]~~ **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[~~;~~]; 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

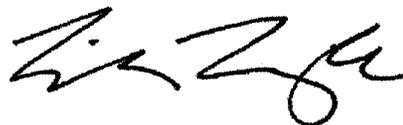
14 (2) To operate, maintain, and repair the project as long
15 as [~~the same~~] it is used, as provided in the project
16 agreement, and to pay all costs of the operation,
17 maintenance, and repair.

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

