

ACT 57

H.B. NO. 23

A Bill for an Act Relating to State Bonds.

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

SECTION 1. Section 39-51, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and by amending the definitions of “revenue” and “revenue bonds” to read as follows:

“ “Loan program” means the activities and policies undertaken by any department as authorized by law to provide assistance to members of the general public who are residents of the State by making loans or causing loans to be made available to them for such purposes as may be authorized by law.

“Revenue” means the moneys collected from the rates, rentals, fees, and charges prescribed for the use and services of, and the facilities and commodities furnished by, an undertaking or the use and services and benefits of a loan program.

“Revenue bonds” means all bonds payable from and secured by the revenue, or user taxes, or any combination of both, of an undertaking or loan program or any loan made thereunder for which such bonds are issued and as otherwise provided herein.”

SECTION 2. Sections 39-52 and 39-53, Hawaii Revised Statutes, are amended to read as follows:

“Sec. 39-52 Declaration of policy. It is declared to be the policy of the State that any department acquiring, purchasing, constructing, reconstructing, improving, bettering, or extending an undertaking or establishing or administering a loan program pursuant to this chapter shall manage the undertaking or loan program in the most efficient manner consistent with sound economy and public advantage, and consistent with the protection of bondholders.

Sec. 39-53 Additional powers of departments. In addition to the powers which it may otherwise have, any department shall have power under this part:

- (1) To construct, acquire by gift, purchase, or the exercise of the right of eminent domain, reconstruct, improve, better, or extend any undertaking within its jurisdiction, and to acquire by gift, purchase, or the exercise of the right of eminent domain, lands or rights in land or water rights in connection therewith or to undertake the establishment and administration

- of a loan program as authorized by law within its jurisdiction;
- (2) To operate and maintain any undertaking or administer, operate, and maintain a loan program as authorized by law, within its jurisdiction and furnish the services, facilities, and commodities thereof for its own use and for the use of public and private consumers;
- (3) To issue revenue bonds of the State in the amounts authorized by specific act or acts of the legislature of the State to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking or the establishment and administration of any loan program as authorized by law;
- (4) To impose, prescribe, and collect rates, rentals, fees, and charges for the use and services of, and the facilities and commodities furnished by, the undertaking or for the use and services of the loan program as authorized by law; and
- (5) To pledge the punctual payment of the revenue bonds and interest thereon, or to covenant to pay into any special funds from which any of the revenue bonds may be payable, the revenues of the undertaking or loan program, or of any part thereof, or the user taxes derived therefrom, or any combination of both (including improvements, betterments, or extensions thereto thereafter constructed or acquired) sufficient to pay the revenue bonds and interest as they shall become due and to create and maintain reasonable reserves to pay the principal and interest; provided that no user taxes shall be pledged to such payment unless the legislature in the specific act or acts authorizing the issuance of the revenue bonds shall have provided that such revenue bonds may be payable from and secured by such user taxes. The amount so pledged or covenanted to be paid may consist of all or any part or portion of such revenue, or of such user taxes, or any combination of both.

The department, in determining the cost, may include all costs and estimated costs of the issuance of the revenue bonds, all engineering, inspection, fiscal, and legal expenses, all costs of establishing or administering a loan program authorized by law, the cost of causing the payment of the principal or interest or both of the revenue bonds to be insured or guaranteed, and interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this part.”

SECTION 3. Section 39-53.1, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 39-53.1 Bond anticipation notes.** In anticipation of the issuance under this part of revenue bonds theretofore authorized by the legislature for an undertaking or a loan program and of the receipt of the proceeds of such bonds, the department having jurisdiction over the undertaking or loan program may, with the approval of the governor, issue and sell bond anticipation notes for the purposes for which such bonds have been authorized, the maximum principal amount of which shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of the sale of the bonds in anticipation of which they were issued and the revenues, or the user taxes, or a combination of both, from which would be payable and by which would be secured such bonds;

provided that to the extent the principal of the notes is 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 such notes paid in such manner. The issuance of such notes and the details thereof shall be governed by the provisions of this part with respect to bonds insofar as the same may be applicable, provided that (1) 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 and (2) the notes may be sold at public or private sale, as the department with the approval of the governor, may determine."

SECTION 4. Section 39-54, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 39-54 Authorization of undertaking, loan program; form and contents of revenue bonds. The issuance of revenue bonds for the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking or the establishment and administration of any loan program authorized by law shall be authorized:

- (1) By a resolution or resolutions of the governing body of the department, which may be adopted at the same meeting at which the same are introduced by a majority of all the members of the governing body of the department then in office, and shall take effect immediately upon filing with the director of finance of the State, or
- (2) By a certificate or certificates of a department head, which shall take effect immediately upon filing with the director of finance.

The revenue bonds shall bear interest at such rate or rates, payable semiannually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding thirty years from their respective dates, may be payable in such medium of payment and at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form, either coupon or registered, as the resolution or certificate, subsequent resolutions or certificates, may provide. The revenue bonds may be sold at private sale to the United States, or any agency, instrumentality, or corporation thereof, or to the state employees retirement system, or to any political subdivision of the State. Unless so sold at private sale, the revenue bonds shall be sold at public sale after notice of the sale published once at least five days prior to the sale in a newspaper circulating in the State and in a financial newspaper published in any of the cities of New York, Chicago, or San Francisco.

The revenue bonds shall be sold for not less than ninety-five per cent of the principal amount thereof. Pending the preparation of the definitive revenue bonds, interim receipts or certificates in such form and with such provisions as the department may determine may be issued to the purchaser or purchasers of revenue bonds sold pursuant to this chapter. The revenue bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all the purposes of chapter 490, Uniform Commercial Code."

SECTION 5. Sections 39-55 to 39-61, Hawaii Revised Statutes, are amended to read as follows:

“Sec. 39-55 Covenants in resolution or certificate authorizing issuance of revenue bonds. Any resolution or certificate authorizing the issuance of revenue bonds under this part may contain covenants as to:

- (1) The purpose or purposes to which the proceeds of sale of the revenue bonds shall be applied and the use and disposition thereof;
- (2) The use and disposition of the revenue of the undertaking or the loan program for which the revenue bonds are to be issued, or the user taxes derived therefrom, or both, to the extent pledged to the payment of the revenue bonds, including the creation and maintenance of reserves;
- (3) The issuance of other or additional bonds payable from the revenue of the loan program or of the undertaking, or the user taxes derived therefrom, or both revenues and user taxes, to the extent pledged to the payment of the revenue bonds;
- (4) The operation, maintenance, and repair of the undertaking or the administration, operation, and maintenance of the loan program;
- (5) The insurance to be carried on an undertaking or on the security for a loan program and the use and disposition of insurance moneys, the insurance being by this section authorized to be carried, and no undertaking shall have recourse to the state insurance fund for the repair or replacement of any property in the undertaking, or for payment of claims under chapter 386 (relating to workers' compensation);
- (6) Books of account and the inspection and audit thereof; and
- (7) The terms and conditions upon which the holders of the revenue bonds or any proportion of them or any trustee therefor shall be entitled to the appointment of a receiver by any court of competent jurisdiction, which court shall have jurisdiction in the proceedings, and which receiver may enter and take possession of the undertaking, operate, maintain, and repair the same, enforce or foreclose loans made under a loan program, impose and prescribe rates, rentals, fees or charges, collect, receive and apply all revenue, and receive and apply all user taxes, thereafter arising therefrom in the same manner and to the same extent as the department itself might do;

provided that all covenants shall be subject to review by the governor; and provided further the provisions of this section with respect to user taxes shall be applicable only if the legislature in the specific act or acts authorizing the issuance of the revenue bonds has provided that the revenue bonds may be paid from and secured by the user taxes derived from an undertaking.

The provisions of this part and any resolution or certificate shall be a contract with the holder or holders of the revenue bonds; and the duties of the department, its governing body and department head, under this part, and any resolution or certificate shall be enforceable by any bondholder, by mandamus or other appropriate suit, action, or proceeding in any court of competent jurisdiction.

Sec. 39-56 Validity of revenue bonds. The revenue bonds bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor

any or all the persons whose signatures appear thereon shall have ceased to be officers of the State or of the department. The validity of the revenue bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the undertaking or establishment or administration of the loan program authorized by law for which the revenue bonds are issued. The resolution or certificate authorizing the revenue bonds may provide that the 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.

Sec. 39-57 Lien and charge of revenue bonds. Unless otherwise provided in the resolution or certificate, all revenue bonds of the same issue shall, subject to the prior and superior rights of outstanding revenue bonds, claims, or obligations, have a prior and paramount lien and charge on the revenue, or the user taxes, or combination of both, pledged to the payment thereof, of the undertaking or loan program for which the revenue bonds have been issued, over and ahead of all bonds of any issue payable from such revenue, or user taxes, or combination of both, which may be subsequently issued and over and ahead of any claims or obligations of any nature against such revenue, or user taxes, or combination of both, subsequently arising or subsequently incurred. All revenue bonds of the same issue shall be equally and ratably secured without priority by reason of number, date of bonds, of sale, of execution, or of delivery, by a lien and charge on the revenue or user taxes, or combination of both, pledged to the payment thereof, in accordance with this chapter and the resolution or certificate authorizing the revenue bonds.

Sec. 39-58 Revenue bonds not a general obligation of State. Unless otherwise provided in this section, revenue bonds issued under this part shall be payable solely from and secured solely by the revenue, or the user taxes, or combination of both, pledged to the payment thereof, of the undertaking or loan program for which the bonds have been issued, or secured solely by and payable solely from a special fund to be maintained from such revenue, or user taxes, or combination of both, pledged to such special fund, and shall not constitute a general obligation of the State or a charge upon the general fund of the State, nor shall the full faith and credit of the State be pledged to the payment of the principal and interest thereof. Revenue bonds issued for the purpose of establishing and administering a loan program authorized by law may also be secured by a pledge of all or a portion of undertakings, mortgages, and other obligations held by the department as security for a loan made under such program. Each bond issued under this part shall recite in substance that the revenue bonds and the interest thereon are payable from and secured by the revenue, or the user taxes, or combination of both, pledged to the payment thereof, of the undertaking or loan program for which the revenue bond is issued, or secured by and payable from a special fund to be maintained from such revenue, or user taxes, or combination of both, pledged to such special fund, and that the revenue bond is not a general obligation of the State and the full faith and credit of the State are not pledged to the payment of such principal and interest.

Sec. 39-59 Undertakings and loan programs to be self-sustaining. The department issuing revenue bonds pursuant to this part shall impose, prescribe, and collect rates, rentals, fees, or charges for the use and services of, and the facilities and

commodities furnished by, the undertaking or for the use and services and benefits of the loan program for which the revenue bonds are issued, and shall revise such rates, rentals, fees, or charges from time to time whenever necessary, so that, together with the proceeds of the user taxes derived with respect to the undertaking pledged to the payment of such revenue bonds, such undertaking or loan program shall be and always remain self-sustaining. The rates, rentals, fees, or charges imposed and prescribed shall produce revenue which, together with the proceeds of such user taxes, will be at least sufficient:

- (1) To make the required payments of the principal of and interest on all bonds issued for the undertaking or loan program, including the payment of all bonds and interest thereon for the payment of which such revenue, or user taxes, or combination of both, are or shall have been pledged, charged, or otherwise encumbered, or which are otherwise payable from such revenue, or user taxes, or combination of both, or are payable from a special fund maintained, or to be maintained, from such revenue, or user taxes, or combination of both, including reserves therefor, and to maintain the special fund in an amount at least sufficient to pay when due all bonds and interest thereon which are payable from the special fund, including reserves therefor;
- (2) To pay the cost of operation, maintenance, and repair of the undertaking, or to pay the cost of the administration, operation, and maintenance of the loan program, including reserves therefor; and
- (3) To carry out the covenants of the resolution or resolutions or certificate or certificates authorizing the issuance of the revenue bonds, including any covenants approved by the governor as to the minimum amounts of revenue to be produced by the undertaking or loan program for which the revenue bonds are issued.

The legislature of the State hereby covenants, pledges, and obligates itself, whenever it shall have authorized the issuance for an undertaking or loan program of revenue bonds payable from and secured by the user taxes derived with respect to such undertaking, or payable from and secured by such user taxes and the revenue, or any combination of both, of such undertaking or loan program to impose, or continue to impose, user taxes with respect to the undertaking in amounts at least sufficient, together with the revenue of the undertaking or loan program pledged to such payment and security, so that the undertaking or loan program shall be and always remain self-sustaining and so that all payments referred to in the preceding paragraph of this section, including reserves therefor, may be made when due and so that the covenants referred to in such provisions may be complied with. *

Sec. 39-60 Use of revenue and user taxes of undertaking or loan program.

Whenever any revenue bonds have been issued under this part for an undertaking or a loan program, the revenue, or the user taxes, or combination of both, from which such revenue bonds are payable and by which they are secured of such undertaking or loan program shall be deposited in a special fund and shall be appropriated, applied, or expended, and the department shall have the right to appropriate, apply, or expend the same, in the amount necessary therefor for the following purposes and in the following order of priority:

- (1) To pay when due all revenue bonds and interest thereon issued for the undertaking or loan program, for the payment of which the revenue, or user taxes, or combination of both, is or shall have been pledged, charged, or otherwise encumbered, including reserves therefor;
- (2) To pay or provide for the payment of the cost of operation, maintenance, and repair of such undertaking, or to pay or provide for the payment of administering, operating, and maintaining such loan program, including reserves therefor;
- (3) For such purposes, within the jurisdiction, powers, duties, and functions of the department, including the creation and maintenance of reserves, as shall have been covenanted in any resolution or resolutions or certificate or certificates of the department providing for the issuance of revenue bonds;
- (4) To reimburse the general fund of the State for all bond requirements for general obligation bonds which are or shall have been issued for the undertaking or loan program, or to refund any of such general obligation bonds, except insofar as such obligation of reimbursement has been or shall be canceled by the legislature, such bond requirements being the interest on term and serial bonds, sinking fund for term bonds, and principal of serial bonds maturing the following year;
- (5) To provide for betterments and improvements to the undertaking or expansion of the loan program, including reserves therefor;
- (6) To provide such special reserve funds and other special funds as are or may be created by law.

Unless and until adequate provision has been made for the foregoing purposes, the State shall not have the right to transfer to its general fund or apply to any other purposes any part of the revenue, or user taxes, pledged to the payment of such revenue bonds, of such undertaking or loan program.

Sec. 39-61 Undertaking, loan program, and revenue bonds exempt from taxation. So long as the State owns any undertaking or administers a loan program, the property and revenue of the undertaking or loan program shall be exempt from all state, county, and municipal taxation; provided that any interest in property provided or given as security for a loan made under a loan program shall not be or be deemed to be property of a department for purposes of this section. 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.”

SECTION 6. Section 39-63, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 39-63 Construction.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law concerning any undertaking or loan program. An undertaking may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, and revenue bonds may be issued under this part for this purpose, notwithstanding that any other law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extension of a like undertaking, and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law. Insofar as the provisions of this part are inconsistent with the provisions of any other laws,

the provisions of this part shall be controlling.”

SECTION 7. Sections 39-65 to 39-67, Hawaii Revised Statutes, are amended to read as follows:

“Sec. 39-65 Duties of the director. The director of finance of the State, when requested by the department, shall render full and complete assistance to any department in the preparation and sale of revenue bonds issued pursuant to this part. The director shall be the fiscal agent of the department for the payment of all principal and interest, and for the transfer of bonds. The provisions of sections 36-3 and 39-12, relating to the appointment by the director of other fiscal agents and transfer agents, and to the status of funds held by these fiscal agents, to the extent that they may appropriately be applied, shall be deemed incorporated in this part.

The director shall cause to be set up in the treasury of the State suitable accounts for the deposit of all revenues of the undertaking or loan program, and for the payment of all revenue bonds and the interest thereon and for all other payments provided or required by this part, and for the holding of all reserves created under this part.

Sec. 39-66 Investment of reserves. The director of finance, with the approval of the department, may invest any money held as reserves, which in the department’s judgment are in excess of the amounts necessary for the meeting of immediate requirements, in bonds, notes, or other obligations of the United States, or of the State, or of any political or municipal corporation or subdivision of the State. Income derived therefrom shall be treated as revenue of the undertaking or loan program; expenses of purchase, safekeeping, sale, and redemption, and all other expenses attributable to the investments shall be proper expenses of the undertaking or loan program. Securities so purchased shall be considered as being deposited in the director’s custody or control by the department.

Sec. 39-67 Transfers to department. When there are moneys in the general, special, or revolving funds of the State which in the director of finance’s judgment are in excess of the amounts necessary for the immediate state requirements, the director may make temporary transfers of such moneys to the department for purposes for which bonds may be issued, if in his judgment the action will not impede or hamper the necessary financial operations of the State. The total of temporary transfers for any undertaking or loan program shall not exceed the sum of the unissued bonds authorized therefor by the legislature. The general, special, or revolving funds shall be reimbursed from the proceeds of sale of such bonds upon the eventual issuance and sale of such bonds. The sale of such bonds shall not be deferred beyond the date fixed by the director for reimbursement.

Likewise, the director may make temporary transfers from such funds to any account which has been set up in the treasury for the payment of revenue bonds, or the interest thereon, or to any other account which has been set up in the treasury for the making of such other payments as are provided or required in this part. Any transfer may be made when the account is first opened and prior to any payment therefrom, or prior to the issuance of revenue bonds for the undertaking or loan program, or at any time when the account may be temporarily depleted. No transfer shall be made unless, in the director’s judgment, the account to which the moneys are transferred will be

able to effect reimbursement on or before the date fixed by the director for reimbursement.

No interest shall be charged upon any transfer so made, and transfers shall be made only upon the request of the department.”

SECTION 8. Section 39-70, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 39-70 Refunding revenue obligations.** Whenever the State or any department thereof shall have outstanding any revenue bonds and the department, with the approval of the governor and the director of finance, determines that it will be financially sound and advantageous to the State to refund the outstanding revenue bonds, the department, with the approval of the governor, shall have the power to provide for the issuance of refunding revenue bonds with which to provide for the payment of the outstanding revenue bonds or any part thereof at or before the maturity or redemption date thereof, with the right to include various series and issues of the outstanding revenue bonds in a single issue of refunding revenue bonds, and to issue refunding revenue bonds to pay any redemption premium and interest to accrue and become payable on the outstanding revenue bonds being refunded and to establish reserves for the refunding revenue bonds, and also to issue revenue bonds partly to refund outstanding revenue bonds and partly for the construction or acquisition of improvements and additions to and extensions of the undertaking for the construction or acquisition of which the outstanding revenue bonds were issued or in the case of a loan program partly to extend the loan program.

The refunding revenue bond shall be payable solely from and secured solely by the revenue of the loan program or undertaking, or the user taxes derived with respect to such undertaking, or a combination of both, from which were payable and by which were secured the outstanding revenue bonds to be refunded, and shall be a valid claim only as against such revenue, or user taxes, or combination of both. Revenue bonds issued for the purpose of establishing and administering a loan program may also be secured by a pledge of all or a portion of undertakings, mortgages, and other obligations held by the department as security for a loan made under such program. The interest rate or rates on the refunding revenue bonds shall not be limited by the interest rate or rates borne by any of the revenue bonds to be refunded thereby. The refunding revenue bonds may in the discretion of the department, with the approval of the governor and the director of finance, be exchanged at par for the revenue bonds which are being refunded or may be sold at public or private sale in such manner and at such price or prices as the department shall deem for the best interests of the State and may be issued and delivered at any time prior to the date of maturity or redemption date of the revenue bonds to be refunded that the department determines to be in the best interest of the State. The refunding revenue bonds shall, except as specifically provided in this section, be issued in accordance with the provisions with respect to revenue bonds set forth in this part. Pending the time the proceeds derived from the sale of refunding bonds issued hereunder are required for the purposes for which they were issued, such proceeds, upon authorization or approval of the governor, may be invested in obligations of, or obligations unconditionally guaranteed by, the United States of America or in savings accounts, time deposits, or certificates of deposit of any bank or trust company within or without the State, to the extent that such savings

accounts, time deposits, or certificates of deposit are collaterally secured by a pledge of obligations of, or obligations unconditionally guaranteed by, the United States of America, and to further secure such refunding revenue bonds, or the revenue bonds being refunded, or both, the State may enter into a contract with any bank or trust company, within or without the State, with respect to the safekeeping and application of the proceeds of such refunding revenue bonds, and the safekeeping and application of the earnings of such investment. All revenue bonds so refunded and redeemed by the issue and sale or issue and exchange of refunding revenue bonds shall be canceled.

Nothing in this section shall require or be deemed to require the department to elect to redeem or prepay revenue bonds being refunded, or to redeem or prepay 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 proceedings 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 determination of the department with respect to the financial soundness and advantage of the issuance and delivery of refunding revenue bonds authorized hereby when approved by the governor and the director of finance shall be conclusive, but nothing herein shall require the holders of any outstanding revenue bonds being refunded to accept payment thereof otherwise than as provided in the revenue bonds to be refunded.”

SECTION 9. Part IV, chapter 39, Hawaii Revised Statutes, is repealed.

SECTION 10. Chapter 39, Hawaii Revised Statutes, is amended by adding a new part IV to read:

**“PART IV. STATE DEBT LIMIT STATEMENT AND
THE DETERMINATION OF TOTAL OUTSTANDING
INDEBTEDNESS,
THE EXCLUSIONS THEREFROM, AND CERTIFICATION
THEREOF**

Sec. 39-91 Definitions. As used in this part, the following words and terms shall have the following meanings:

“Fiscal year” means the twelve months’ period beginning on July 1 of one calendar year and ending on June 30 of the next succeeding calendar year.

“Net general fund revenues” means for any fiscal year the amount of moneys paid into the general fund in the fiscal year, less the amounts paid therein in the fiscal year (1) received as grants from the federal government and (2) in reimbursement of the payment therefrom during such year of the principal of and interest on reimbursable general obligation bonds of the State that are excluded in determining the power of the State to issue general obligation bonds for the purposes of section 13 of Article VII of the Constitution.

As used in this part, the words and terms “bonds”, “general obligation bonds”, “net revenue”, “net user tax receipts”, “person”, “reimbursable general obligation bonds”, “revenue bonds”, “special purpose revenue bonds”, and “user

tax" shall have the respective meanings and inclusions given to such words and terms in section 12 of Article VII of the Constitution.

Sec. 39-92 State debt limit statement. (a) The director of finance shall annually as of July 1 of each fiscal year and following each issuance of general obligation bonds of the State ascertain and set forth in a table or other summary a statement evidencing the power of the State to issue general obligation bonds. In preparing the statements required by this section, the director of finance may rely on the statement of total outstanding indebtedness of the State and the exclusions therefrom prepared pursuant to section 39-93 to the extent such statement is concurred to by the attorney general and the comptroller. The statement shall include the following:

- (1) The total principal and interest payable in the current fiscal year and in each future fiscal year on all outstanding general obligation indebtedness of the State including outstanding general obligation bonds, reimbursable general obligation bonds, and any other outstanding general obligation bonds. Principal and interest on bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor need not be included, but only to the extent the principal amount of such bonds does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under section 13 of Article VII of the Constitution; provided that the State shall have established and is maintaining a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State pursuant to law.
- (2) The total principal and interest payable in the current fiscal year and in each future fiscal year on all outstanding general obligation indebtedness of the State which may be excluded under section 13 of Article VII of the Constitution in determining the power of the State to issue general obligation bonds for the purposes of that section. There shall be itemized and shown the amounts which may be excluded under each of clauses 1 through 9 of section 13; in the case of reimbursable general obligation bonds, the undertaking, improvement, system, or political subdivision for which such bonds are issued, and, except as to such bonds issued for a political subdivision, the revenues, user taxes, or both, from which the reimbursement to the general fund for the payment of the principal and interest of such bonds is to be made.
- (3) The total principal and interest payable in the current fiscal year and in each future fiscal year on all outstanding general obligation indebtedness which may not be excluded in determining the power of the State to issue general obligation bonds for the purposes of section 13 of Article VII of the Constitution.
- (4) The net general fund revenues for each of the three preceding fiscal years, the average of such net general fund revenues and, until June 30, 1982, the figure which is twenty per cent of such average; and thereafter, the figure which is eighteen and one-half per cent of such average.

The items required above to be set forth in the statement may be disclosed in such manner or arrangement as the director of finance may deem advisable, and need not be separately stated if the captions, headings, or groupings disclose the information required to be set forth.

(b) The director of finance shall also prepare and attach to the statement such supporting schedules as may be required to set forth in detail the bonds included in the itemizations required by paragraphs (1) and (2) of subsection (a) of this section. The supporting schedules shall also set forth a finding and determination of the net general fund revenues for each of the preceding three fiscal years by setting forth the following for each such preceding fiscal year:

- (1) The total of the moneys paid into the general fund in such fiscal year;
- (2) The total of the moneys paid into the general fund in such fiscal year received as grants from the federal government;
- (3) The total of the moneys paid into the general fund in such fiscal year from revenues, or user taxes, or combination thereof derived from a public undertaking, improvement, or system, to the extent such payments into the general fund were made in reimbursement of the payment during such fiscal year from the general fund of the principal and interest of reimbursable general obligation bonds issued for such undertaking, improvement, or system which are to be excluded in determining the power of the State to issue general obligation bonds;
- (4) The total of the moneys paid into the general fund in such fiscal year from the revenue of a political subdivision, to the extent such payments into the general fund were made in reimbursement of the payment during such fiscal year from the general fund of the principal and interest of reimbursable general obligation bonds issued for the political subdivision which are to be excluded in determining the power of the State to issue general obligation bonds;
- (5) The difference obtained by subtracting from the total required to be set forth in the statement by paragraph (1) of this subsection, the totals required to be set forth in the statement by paragraphs (2), (3), and (4) of this subsection, which difference shall constitute the net general fund revenues of the State for such preceding fiscal year.

(c) If payments from the general fund were made in the immediately preceding fiscal year for interest or principal of reimbursable general obligation bonds issued for an undertaking, improvement, or system, the supporting schedules relating to such undertaking, improvement, or system shall also set forth in brief and summary form the following with respect to such undertaking, improvement, or system:

- (1) The revenues or user taxes, or both, as follows:
 - (A) The amount of surplus revenues or surplus user taxes, or both, derived in prior fiscal years from or with respect to the undertaking, improvement, or system which are carried forward in the fiscal year, to the extent such surplus revenues or surplus user taxes, or both, are available in the fiscal year for the payment of costs for operation, maintenance, and repair of the undertaking, improvement, or system, the payment of interest and principal due on revenue bonds issued for the undertaking, improvement, or system, and payment into the general fund in reimbursement of the payment from the general fund of the principal and interest on reimbursable general obligation bonds issued for such undertaking, improvement, or system;

- (B) The amount of the revenues or user taxes, or both, derived in the fiscal year from or with respect to the undertaking, improvement, or system; and
- (C) The total of (A) and (B) of this paragraph.
- (2) The total of the costs of operation, maintenance, and repair of the undertaking, improvement, or system during the fiscal year;
 - (3) The total of payments made during the fiscal year of interest and principal on revenue bonds issued for the undertaking, improvement, or system;
 - (4) The total of the payments made during the fiscal year from the general fund for interest and principal on reimbursable general obligation bonds issued for such undertaking, improvement, or system;
 - (5) The amount paid into the general fund during the fiscal year from the total net revenues or net user tax receipts, or both, set forth in the schedule pursuant to paragraph (1)(C) of this subsection of the undertaking, improvement, or system; and
 - (6) The percentage obtained by dividing the figure required to be set forth in the schedule by paragraph (4) of this subsection into the figure required to be set forth by paragraph (5) of this subsection which percentage shall constitute the percentage of the reimbursable general obligation bonds issued for the undertaking, improvement, or system which may be excluded under clause 6 of section 13 of Article VII of the Constitution when determining the power of the State to issue general obligation bonds.
- (d) The director of finance shall also prepare and attach to the statement such supporting schedules as may be necessary to be set forth in such a manner or arrangement as the director of finance may deem advisable the following:
- (1) The principal amount of bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor which may be excluded under clause 8 of section 13 of Article VII of the Constitution when determining the power of the State to issue general obligation bonds;
 - (2) The total principal amount of all outstanding general obligation indebtedness of the State, including general obligation bonds, reimbursable general obligation bonds, and any other outstanding general obligation bonds;
 - (3) The total principal amount of outstanding general obligation indebtedness of the State which may be excluded under section 13 of Article VII of the Constitution. There shall be itemized and shown the amounts which may be excluded under each of clauses 1 through 9 of section 13; in the case of reimbursable general obligation bonds, the undertaking, improvement, system, or political subdivision for which such bonds are issued. The principal amount of reimbursable general obligation bonds issued for an undertaking, improvement, or system for the purposes of this paragraph shall be the product of the respective percentages obtained in subsection (c)(6) of this section and the total principal amount of outstanding reimbursable general obligation bonds issued for an undertaking, improvement, or system;
 - (4) The difference obtained by subtracting from the total required to be set forth in the statement by paragraph (2) of this subsection, the total required to be set forth in the statement by paragraph (3) of this subsection, which

difference shall constitute the principal amount of outstanding general obligation bonds not otherwise excluded under clause 8 of section 13 of Article VII of the Constitution;

- (5) The principal and interest and fraction thereof for the amount of bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor obtained from paragraph (1) of this subsection which is in excess of seven per cent of the amount obtained in paragraph (4) of this subsection shall be included in the schedule set forth in subsection (a)(1) of this section.

(e) Upon the preparation by the director of finance of any statement and supporting schedules required by this section, the director shall certify such statement and supporting schedules to the governor and the presiding officers of the legislature. The statement and schedules so certified shall be conclusive as to all items therein. The director of finance shall reproduce and deliver to the legislature a sufficient number of copies of such certified statements, so that a copy of each such statement may be distributed to each member of the legislature at the next regular session thereof. Only the statement itself shall be required to be reproduced, and the copies need not include any of the supporting schedules required by this section.

(f) Prior to the issuance of any general obligation bonds the director of finance shall prepare a finding to be set forth in such a manner as the director may deem advisable that such issuance shall not cause the debt limit of the State to be exceeded.

Sec. 39-93 Statement of total outstanding indebtedness of the State and the exclusions permitted therefrom. (a) The director of finance shall annually ascertain and set forth in a table or other summary a statement of the total outstanding indebtedness of the State and the exclusions therefrom, as of July 1 of each fiscal year. The statement shall include the following:

- (1) The total principal amount of outstanding indebtedness of the State, separately stating the outstanding principal amount of general obligation bonds less reimbursable general obligation bonds excludable under section 13 of Article VII of the Constitution, reimbursable general obligation bonds, revenue bonds, special purchase revenue bonds, and any other outstanding bonds; and, in the case of revenue bonds, the undertaking, improvement, system, or loan program for which such bonds are issued; and, in the case of reimbursable general obligation bonds, the undertaking, improvement, system, or political subdivision for which such bonds are issued, and, except as to such bonds issued for a political subdivision, the revenues, user taxes, or both, from which the reimbursement to the general fund for the payment of the principal and interest of such bonds is to be made; and, in the case of special purpose revenue bonds, the purpose for which such bonds were issued and the person with whom the State, or a department thereof, has contracted and who is obligated to make payments to the State;
- (2) The principal amount of outstanding bonds which may be excluded under section 13 of Article VII of the Constitution when determining the total indebtedness of the State, separately stating reimbursable general obligation bonds, revenue bonds, special purpose revenue bonds, and any other outstanding bonds which may be excluded; and, in the case of revenue

bonds, the undertaking, improvement, system, or loan program for which such bonds are issued; and, in the case of reimbursable general obligation bonds, the undertaking, improvement, system, or political subdivision for which such bonds are issued, and, except as to such bonds issued for a political subdivision, the revenues, user taxes, or both, from which the reimbursement to the general fund for the payment of the principal and interest of such bonds is to be made; and, in the case of special purpose revenue bonds, the purpose for which such bonds were issued and the person with whom the State, or a department thereof, has contracted and who is obligated to make payments to the State;

- (3) The principal amount of outstanding general obligation bonds of the State less reimbursable general obligation bonds of the State excludable under section 13 of Article VII of the Constitution that have matured, or that mature in the then current fiscal year, or that have been irrevocably called for redemption and the redemption date has occurred or will occur in the then fiscal year, or for the full payment of which moneys or securities have been irrevocably set aside.

The items required above to be set forth in the statement may be disclosed in such manner or arrangement as the director of finance may deem advisable, and need not be separately stated if the captions, headings, or groupings disclose the information required to be set forth.

(b) If payments from the general fund were made in the preceding fiscal year for interest or principal of reimbursable general obligation bonds issued for an undertaking, improvement, or system, the supporting schedules shall also set forth in brief and summary form the following with respect to each such undertaking, improvement, or system:

- (1) The total of the revenues or user taxes, or both, as follows:
 - (A) The amount of surplus revenues or surplus user taxes, or both, derived in prior fiscal years from or with respect to the undertaking, improvement, or system which are carried forward in the fiscal year, to the extent such surplus revenues or surplus user taxes, or both, are available in the fiscal year for the payment of costs for operation, maintenance, and repair of the undertaking, improvement, or system, the payment of interest and principal on revenue bonds issued for the undertaking, improvement, or system and payment into the general fund in reimbursement of the payment from the general fund of the principal and interest on reimbursable general obligation bonds issued for such undertaking, improvement, or system;
 - (B) The amount of the revenues or user taxes, or both, derived in the fiscal year from or with respect to the undertaking, improvement, or system; and
 - (C) The total of (A) and (B) of this paragraph.
- (2) The total of the costs of operation, maintenance, and repair of the undertaking, improvement, or system during the fiscal year;
- (3) The total of payments made during the fiscal year of interest and principal on revenue bonds issued for the undertaking, improvement, or system;
- (4) The total of the payments made during the fiscal year from the general fund

for interest and principal on reimbursable general obligation bonds issued for such undertaking, improvement, or system;

- (5) The amount paid into the general fund during the fiscal year from the total net revenues or net user tax receipts, or both, set forth in the schedule pursuant to paragraph (1)(C) of this subsection of the undertaking, improvement, or system; and
- (6) The percentage obtained by dividing the figure required to be set forth in the schedule by paragraph (4) of this subsection into the figure required to be set forth by paragraph (5) of this subsection which percentage shall constitute the percentage of the principal amount of reimbursable general obligation bonds which may be excluded under clause 6 of section 13 of Article VII of the Constitution when determining the total principal indebtedness of the State.

(c) Supporting schedules setting forth in brief and summary form the following with respect to the allowable exclusion for bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor; provided that the State shall have established and is maintaining a reserve in an amount in reasonable proportion to the outstanding loans guaranteed pursuant to law:

- (1) The principal amount of outstanding general obligation bonds less reimbursable general obligation bonds excludable under section 13 of Article VII of the Constitution as set forth in subsection (a)(1) of this section;
- (2) The amount for the purposes of this section which is seven per cent of the amount obtained in paragraph (1) of this subsection or the total of the outstanding principal amount of loans guaranteed by the State, whichever is less, shall be the exclusion for bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor; provided that the State shall have established and is maintaining a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State pursuant to law.

(d) Upon the preparation by the director of finance of any statement and supporting schedules required by this section, the director shall submit such statement and supporting schedules to the attorney general for concurrence as to all legal findings upon which such statement and supporting schedules are based, and to the comptroller for concurrence as to all matters therein. The attorney general and the comptroller shall notify the director of finance in writing of their concurrence in such statement and supporting schedules. If the attorney general or the comptroller shall disagree with any items included in the statement and supporting schedules, the attorney general or the comptroller, as the case may be, shall notify the director of finance in writing of concurrence as to all other items and as to items of disagreement and the reasons therefor. The director of finance shall thereupon certify the statement and supporting schedules to the governor and the presiding officers of the legislature, setting forth in such certification any items therein disagreed to by the attorney general or the comptroller. The statement and schedules so certified shall be conclusive as to all items therein concurred to by the attorney general and the comptroller.

The director of finance shall reproduce and deliver to the legislature by December 1 of each year a sufficient number of copies of the certified statement prepared as of July 1 of the then current fiscal year, so that a copy of the statement may be

distributed to each member of the legislature at the next regular session thereof. Only the statement itself shall be required to be reproduced, and the copies need not include any of the supporting schedules required by this section.

(e) In the event the certification by the director of finance of any statement and supporting schedules filed with the governor and the presiding officers of the legislature shall set forth therein that the attorney general or the comptroller has disagreed as to any item therein, the governor, at the governor's election, or the legislature at its election, may direct the attorney general to file a declaratory judgment action in the name of the State against the director of finance. Such action may be filed in any circuit court of the State, which courts are hereby vested with jurisdiction over such actions. If the items disagreed to concern only questions of law and all facts involved are stipulated to by the attorney general, comptroller, and director of finance, the attorney general at the attorney general's discretion may file such action in the supreme court, which court is hereby vested with original jurisdiction over such action. Upon any findings and determinations having been made by the court, the director of finance shall revise the latest statement and supporting schedules issued to reflect such findings and determinations and shall certify the revised statement and supporting schedules to the governor and the presiding officers of the legislature.

In the event the certification by the director of finance shall set forth therein that the attorney general or the comptroller has disagreed to any item therein, until such time as the disagreement is resolved by a declaratory judgment action (1) if the subject matter of the disagreement is concerned with whether certain revenues constitute general fund revenues, or whether such revenues must be deducted in determining net general fund revenues for the purposes of this part, such revenues shall not be considered to be general fund revenues, or shall be deducted in determining net general fund revenues, as the case may be; and (2) if the subject matter of the disagreement is concerned with whether bonds may be excluded under section 13 of Article VII of the Constitution in determining the total outstanding indebtedness of the State, the bonds shall be included in making such determination.

Sec. 39-94 Arrangement of statements and schedules and forms; incorporation. In preparing the statements and supporting schedules required by this part, the director of finance may arrange, group, and set forth such information and figures in such manner as the director deems necessary or advisable. Such information and figures need not be set out or arranged in the same order as is set forth in this part, so long as the information and figures required by this part are set forth.

All findings certified to in accordance with this part shall be deemed to be incorporated into subsequent statements and supporting schedules to the extent relevant thereto. Such findings need not be made again in any subsequent statement or supporting schedule, nor need the legal and financial basis for such findings be set forth again.

The state highway system established in part III of chapter 264 shall be deemed to be a public system that produces revenues and user tax receipts. All liquid fuel taxes as defined in section 243-1, other than taxes on aviation fuel as defined in that section, and all vehicle weight taxes as defined in section 249-33 which are paid into the state highway fund created by section 248-8 and which are not required by sections 243-6 and 248-9 to be paid to the counties shall be deemed to be user taxes

derived in the utilization of the functions and services furnished by the state highway system.

Amounts received from the federal government for the payment or reimbursement of costs of operation, maintenance, and repair of a public undertaking, improvement, or system or for the payment of the principal and interest of bonds issued for such public undertaking, improvement, or system, and for the payment or reimbursement of costs of administering, operating, and maintaining a loan program or for the payment of subsidies for a loan program, may be considered and treated as revenues of such undertaking, improvement, system, or loan program. If such amounts are deposited in the general fund immediately upon their receipt by the State, such amounts shall be deducted from the general fund revenues when determining the net general fund revenues for the purposes of this part, to the extent such amounts are utilized to justify or support a determination that bonds of the State may be excluded when determining the total outstanding indebtedness of the State for the purposes of section 13 of Article VII of the Constitution.

The director of finance may compose and adopt and have printed or otherwise reproduced any forms the director deems will facilitate the preparation and understanding of statements and supporting schedules required by this part.

All departments, boards, authorities, and officers of the State shall cooperate with the director of finance to the extent required to enable the director to prepare the statements and supporting schedules required by this part.”

SECTION 11. Chapter 39, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

**“PART . STATEMENT ON SPECIAL
PURPOSE REVENUE BONDS**

Sec. 39-101 Statement on special purpose revenue bonds. The governor shall transmit to the legislature on or before November 30 of each year a report on special purpose revenue bonds, defined in section 12 of Article VII of the Constitution, as of July 1 of the then current fiscal year. The report shall state the purpose for which such bonds were authorized, the person or persons with whom the State, or a department thereof, has contracted and who is obligated to make payments to the State, the amount of special purpose revenue bonds authorized and issued, and other such information as may be deemed necessary.”

SECTION 12. Chapter 39, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

**“PART . LEGISLATIVE
DETERMINATION AND LEGISLATIVE
CERTIFICATION AS TO BONDS ISSUED
FOR ASSESSABLE IMPROVEMENTS**

Sec. 39-111 Legislative determination. The provisions of this section shall be applicable to all computations and determinations required in the declaration of

findings required of the legislature for the purposes of section 13 of Article VII of the Constitution.

In determining whether an authorization of bonds when issued would cause to be exceeded the limitations on the total outstanding indebtedness of the State set forth in section 13 of Article VII of the Constitution, or whether such bonds may be excluded from such total outstanding indebtedness under clause 3, 4, 5, 8, or 9 of that section, the "time of issuance" thereof shall be deemed to be the same fiscal year in which the bonds are dated even though the date of delivery of the bonds may occur or be in the next succeeding fiscal year by reason of the definition of "fiscal year" set forth in section 39-91.

Sec. 39-112 Legislative certification as to bonds issued for assessable improvements. The legislature finds, determines, and certifies that (1) there are no bonds of the State issued, the only security for which is the properties benefited or improved or the assessments thereon; and (2) there are no general obligation bonds of the State issued for improvements, the costs of which are to be assessed in whole or in part against properties benefited or improved by such improvements."

SECTION 13. Part V of chapter 39, Hawaii Revised Statutes, is repealed.

SECTION 14. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 15. This Act shall take effect upon its approval.

(Approved May 16, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.