



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony for the
House Committee on Higher Education

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by

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SB 1154 SD2 RELATING TO THE UNIVERSITY OF HAWAII

Chair Chang and Members of the Committee:

The purpose of this bill is to grant additional flexibility to the University Board of Regents (BOR) in the financing and administration of capital projects within the jurisdiction of the University. We believe that passage of this bill will permit the University to become more responsive in attending to capital projects benefiting the students, faculty, and staff of the University community. Act 115, SLH 1998, commonly referred to as the "Autonomy Bill" granted the University of Hawaii substantial flexibility in managing its resources. Consistent with the Autonomy Bill, this bill would allow greater self-governance authority by expanding the Board's authority to borrow funds as part of the University's financing strategy.

We believe that the University has demonstrated the capability and competence to use its bonding authority responsibly and in the best interest of the University and the State. In October 2006, the University issued approximately \$130 million of revenue bonds which refunded bonds issued originally in 2002 to finance the construction of the John A. Burns School of Medicine. As a result of the refunding, the State and the University will be saving \$8.3 million in debt service payments. More recently, the University issued \$100 million of revenue bonds authorized by the Legislature for University Housing projects. Related to these bond issues, it should be noted that Moody's Investor's Service upgraded the underlying rating of the University's revenue bonds from A1 to Aa3 citing a number of positive factors including, ***"We believe the University's role as the sole provider of public higher education for the Aa2-rated State of Hawaii provides a fundamental underpinning for the Aa3-rating as it is likely to contribute to steady enrollment, consistent state support, and good research prospects."***

However, more capital financing is still necessary and the University has the financial capacity to support more bonds than is currently outstanding. This bill will give the Board the flexibility to supplement legislative appropriations to the extent it has the financial capacity to issue and repay the bonds.

In the hearing on this bill before the Senate Committee on Education, the Department of Budget and Finance and the Department of the Attorney General raised concerns and opposed the bill based on those concerns. Since then we have been working with both entities to resolve their concerns. Toward that end we recommended changes to the bill which were incorporated in SD1. Other changes were made by the Senate Ways and Means Committee in SD2 which I

discuss in the next paragraph below. Subsequently, we have met with both parties and based on those meetings I am requesting revisions which are indicated on the attached draft of the Bill. I believe these revisions address the concerns raised in their previous testimonies.

With regard to SD2, we respectfully submit that with the changes we are requesting as reflected on the attached, the revisions in that draft are not required. We are suggesting additional sections be added to the Bill which would limit the amount of the authorization for the University to issue revenue bonds under the Bill to \$100 million. Our bond underwriters estimate that the University can issue \$250 million to \$330 million of additional revenue bonds without adversely affecting its credit rating. Thus, while we believe the marketplace and the sophisticated buyers who purchase our bonds would dictate against any unwise over-borrowing, such a cap clearly limits any such risk well below any amount that would have a significant adverse impact on the University or the State. Also, based on our discussions with the Attorney General's office, we believe this allays their concern as to the constitutionality of the Bill. Finally, the requirement in SD2 for approval of the Legislature prior to issuance of revenue bonds would not accomplish the intent of the Bill, which is to provide flexibility to the University in facilities improvement and development to meet the needs of the University community. It would leave us in the same situation as currently, where if an opportunity for a needed capital improvement project arose, we would need to wait until after the next legislative session to begin to move forward on it.

Accordingly, the University respectfully requests the revisions reflected on the attached draft be made and we strongly support passage of this bill as so amended, as it would permit more flexibility in meeting our capital improvement needs.

Thank you for the opportunity to testify.

[PROPOSED NEW SECTION TO BE ADDED TO SB 1154]

SECTION __. The board of regents of the University of Hawaii, with the approval of the governor, is hereby authorized to issue revenue bonds from time to time to finance, in whole or in part, the costs of construction or the costs of maintenance of any university project, including reserves therefore as the board of regents may direct. The total principal amount of the revenue bonds authorized by this Act shall not exceed \$100,000,000; provided that neither revenue bonds issued to refund revenue bonds heretofore issued, to the extent that such refunding revenue bonds do not exceed the principal amount of the revenue bonds being refunded, nor revenue bonds of the board outstanding at the effective date of this Act shall cause the amount of the above authorization to be decreased. The revenue bonds shall be issued pursuant to the provisions of part VI of chapter 304A, Hawaii Revised Statutes. The principal and interest on the revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid solely from and secured solely by the revenue of the university as defined in section 304A-A, Hawaii Revised Statutes.

SECTION __. There is appropriated out of the revenue bond proceeds authorized by this Act the sum of \$100,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$100,000,000 or so much thereof as may be necessary for fiscal year 2008-2009 to carry out the purposes of this Act. The sums appropriated shall be expended by the board of regents of the University of Hawaii.

A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII.

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

1 SECTION 1. Chapter 304A, Hawaii Revised Statutes, is
2 amended by adding a new subpart to part VI to be appropriately
3 designated and to read as follows:

4 **"University Projects and Purposes**

5 **§304A-A Definitions and interpretations.** Whenever used in
6 this subpart:

7 "Appropriation" means moneys appropriated or allocated by
8 the legislature to the board, the university, any university
9 project, any university system, any network, or any combination
10 thereof, from any revolving or special fund that consist of
11 rates, rentals, and charges, or user taxes, which is permitted
12 to be expended for the cost of construction, cost of
13 maintenance, debt service on revenue bonds, or any combination
14 thereof.

15 "Board" or "board of regents" means the board of regents of
16 the University of Hawaii, which is hereby declared to be a
17 public corporation.



1 "Construction" or "construct" includes acquisition,
2 purchase, planning, construction, reconstruction, remodeling,
3 renovation, improvement, betterment, and extension.

4 "Cost of construction" includes all costs and estimated
5 costs related to construction, including but not limited to:

6 (1) All costs and estimated costs of the preparation and
7 issuance of revenue bonds and the obtaining of a loan;

8 (2) Costs of land acquisition;

9 (3) All costs and estimated costs related to construction
10 of a university project, university system, network,
11 or any combination thereof, including engineering,
12 architectural, supervisory, inspection, fiscal,
13 administrative, travel, and clerical fees, costs, and
14 expenses;

15 (4) Interest estimated to accrue during the construction
16 period and for six months thereafter on money obtained
17 by loan or through the issuance of revenue bonds;

18 (5) Moneys necessary to establish or increase reserves;

19 (6) Costs of utilities, equipment, fixtures, and apparatus
20 necessary or convenient for the use and occupancy of
21 the university project, university system, or

22 ~~university~~ network or any combination thereof; and



1 (7) The initial furnishings of the university project,
2 university system, or network, or any combination
3 thereof in the determination of the board.

4 "Cost of maintenance" includes all costs or estimated costs
5 of the maintenance of a university project, university system,
6 or network or any combination thereof; including but not limited
7 to, salaries, wages, and fees of officers, employees, and
8 contractors of the board engaged in the maintenance of a
9 university project, university system, or network or any
10 combination thereof, the cost of all supplies and equipment, and
11 all operational and administrative expenses.

12 "CUSIP" means the numbering system adopted by the Committee
13 for Uniform Security Identification Procedures formed by the
14 Securities Industry Association.

15 "Maintenance" or "maintain" includes repairs, upkeep,
16 replacement, renewals, maintenance, operation, and
17 administration.

18 "Network" means two or more university projects, university
19 systems, or university projects and university systems that, at
20 the election of the board, are combined into a single network.
21 A network may include various university projects in any one or
22 more of the areas under the jurisdiction of the board.



1 "Reserves" means reserves required or permitted in the
2 covenants in the resolution or resolutions of the board
3 authorizing the obtaining of loans or issuance of revenue bonds
4 under this subpart.

5 "Revenue bonds" means revenue bonds, interim certificates,
6 commercial paper, notes, debentures, or other evidence of
7 indebtedness of the board authorized by or issued under this
8 subpart.

9 "Revenue of the university" means all income, receipts,
10 revenue, and moneys of whatever nature received by the
11 university, or that it is entitled to receive, from its
12 ownership or operation and management of the university,
13 including any appropriation, other than general appropriations
14 or gifts the terms of which preclude their being used for
15 payment of the cost of construction or cost of maintenance of a
16 university project, a university system, or a network or any
17 combination thereof.

18 "University" means the University of Hawaii, every
19 community college established and governed by the board under
20 this chapter, and any and every other educational institution
21 under the jurisdiction of the board.



1 "University project" means any undertaking or improvement
2 that is constructed or maintained by the university in
3 furtherance of a university purpose. A university project
4 includes, but is not limited to, land, fixtures, appurtenances,
5 improvements, utilities, equipment, and furnishings necessary or
6 convenient for the use and occupancy of a university project for
7 the purposes for which it was constructed or is used.

8 "University system" means two or more university projects
9 from which the university generates revenue of the university,
10 other than appropriation, operated and maintained jointly as a
11 system.

12 **§304A-B Powers of the board.** Notwithstanding any law to
13 the contrary, the board may:

14 (1) Designate as a university project, any undertaking,
15 improvement, or facility on any one or more of the
16 areas in one or more of the educational institutions
17 under the jurisdiction of the board;

18 (2) Without further authorization or approval, ~~of the~~
19 ~~governor, but with the approval of the legislature,~~
20 construct and maintain a university project;

21 (3) Combine two or more university projects into a
22 university system on one or more of the areas on any



1 one or more of the educational institutions under the
2 jurisdiction of the board, and to maintain the system;

3 (4) Combine ^{two} ~~one~~ or more university projects, university
4 systems, or university projects and university systems
5 into a network, on any one or more of the areas on any
6 one or more of the educational institutions under the
7 jurisdiction of the board, and to maintain the
8 network;

9 (5) Prescribe and collect rents, fees, and charges for the
10 use of or services furnished by any university project
11 and the facilities thereof, and pledge any
12 appropriation to any university project and the
13 facilities thereof that in aggregate, produces revenue
14 of the university at least sufficient to comply with
15 section 304A-K;

16 (6) Without further authorization or approval ~~of the~~
17 ~~governor, but with the approval of the legislature,~~
18 ~~issue and there are hereby authorized,~~ revenue bonds
19 under this subpart in ^{such} principal amount as may be
20 ~~required~~ to finance in whole or in part the cost of
21 construction or the cost of maintenance of any
authorized by the Legislature from time to time

1 university project, including funding reserves
2 therefor;

3 (7) Pledge to the punctual payment of revenue bonds and
4 interest thereon, all or any part of the revenue of
5 the university, including any appropriation, in an
6 amount sufficient to pay the revenue bonds and
7 interest as the same become due and to create and
8 maintain reasonable reserves therefor;

9 (8) Establish a loan program or a commercial paper program
10 upon terms and conditions that the board may
11 determine; and

12 (9) Advance moneys of the university, not otherwise
13 required, and do any and all other lawful acts as may
14 be necessary, convenient, or desirable, for carrying
15 into execution and administering this subpart.

16 **§304A-C Designation and authorization of university**
17 **projects, university systems, networks; authorization of revenue**
18 **bonds.** The designation and authorization of construction and
19 maintenance of a university project, university system, or
20 network, and the authorization for issuance of revenue bonds
21 under this subpart shall be by resolution of the board by a
22 majority of all the members of the board then in office. Any



1 resolution may be adopted at the same meeting at which it is
2 introduced and shall take effect immediately upon adoption.

3 **§304A-D Revenue bonds; details, sale, legal investment.**

4 (a) Revenue bonds:

5 (1) Shall be issued in the name of the board;

6 (2) May bear interest at a rate payable at such time or
7 times;

8 (3) May be issued in one or more series;

9 (4) May be in a denomination or denominations;

10 (5) May bear a date or dates;

11 (6) May mature at such time not exceeding fifty years from
12 their respective dates;

13 (7) May be payable in a medium of payment and at a place
14 within or without the State;

15 (8) May carry registration privileges;

16 (9) May be subject to terms and conditions of redemption
17 or to tenders for purchase or to purchase prior to the
18 stated maturity, at the option of the board or the
19 holder;

20 (10) May contain terms, covenants, and conditions; and

21 (11) May be in any form and printed in any manner including
22 typewritten;



1 as the resolution authorizing the issuance of the revenue bonds
2 may provide.

3 (b) The board may acquire policies of insurance and enter
4 into banking arrangements upon any terms and conditions that the
5 board deems appropriate, at the time of delivery of an issue of
6 revenue bonds or at a later date that the board deems in the
7 best interest of the university, including but not limited to,
8 contracting for a support facility under section 304A-E, and
9 contracting for interest rate swaps, swaptions, interest rate
10 floors, and other similar contracts to hedge or reduce the
11 amount or duration of payment, rate, spread, or similar risk or
12 to reduce the cost of borrowing when used in conjunction with
13 revenue bonds issued pursuant to this subpart.

14 (c) The board may make appropriate arrangements for the
15 sale of each issue of revenue bonds or part thereof as are
16 issued pursuant to this subpart, including but not limited to,
17 arranging for the preparation and printing of the revenue bonds,
18 the official statement, and any other documents or instruments
19 deemed required for the issuance and sale of revenue bonds and
20 retaining financial, accounting, and legal consultants, all upon
21 terms and conditions as the board deems advisable and in the
22 best interest of the State and the university. The board may



1 offer the revenue bonds at competitive sale or may negotiate the
2 sale of the revenue bonds to any person or group of persons, to
3 the United States of America, or any board, agency,
4 instrumentality, or corporation thereof, to the employees'
5 retirement system of the State, to any political subdivision of
6 the State, or to any board, agency, instrumentality, public
7 corporation, or other governmental organization of the State or
8 of any political subdivision of the State.

9 The sale of the revenue bonds by the board by negotiation
10 shall be at the price and upon the terms and conditions, and the
11 revenue bonds shall bear interest at the rate or varying rates
12 determined from time to time in the manner, as approved by the
13 board.

14 The sale of the revenue bonds by the board at competitive
15 sale shall be at the price and upon terms and conditions, and
16 the revenue bonds shall bear interest at the rate or rates or
17 varying rates determined from time to time in the manner as
18 specified by the successful bidder. The revenue bonds shall be
19 sold in the manner provided in section 39-55.

20 (d) The board may delegate the responsibility for the sale
21 and the fixing of the terms and details of revenue bonds and
22 such other determinations or actions, as may be provided by



1 resolution of the board, to the chairman, the president, or
2 another designated officer.

3 (e) The purpose of this subsection is to authorize any
4 person, firm, corporation, association, political subdivision,
5 body, or officer, public or private, to use any funds owned or
6 controlled by them, including sinking, insurance, investment,
7 retirement, compensation, pension, trust funds, and funds held
8 on deposit, for the purchase of any revenue bonds issued under
9 this subpart. All public officers and bodies of the State, all
10 political subdivisions, all insurance companies and
11 associations, all banks, savings banks, and savings
12 institutions, including building or savings and loan
13 associations, all credit unions, all trust companies, all
14 personal representatives, guardians, trustees, and all other
15 persons and fiduciaries in the State who are regulated by law as
16 to the character of their investment, may legally invest funds
17 within their control and available for investment in revenue
18 bonds issued under this subpart.

19 **§304A-E Support facility for variable rate revenue bonds.**

20 If revenue bonds issued pursuant to this subpart are issued
21 bearing interest at a rate that varies from time to time or with
22 a right of holders to tender the revenue bonds for purchase, or



1 both, the board may contract for the support facility and
2 remarketing arrangements as are required to market the revenue
3 bonds to the greatest advantage of the board and the university
4 upon terms and conditions that the board deems necessary and
5 proper.

6 The board may enter into contracts or agreements with the
7 entity providing a support facility; provided that any contract
8 or agreement shall provide that any amount due and owing by the
9 board under the contract or agreement on an annual basis shall
10 be payable from the revenue of the university; provided further
11 that any obligation issued or arising pursuant to the terms of
12 the contract or agreement in the form of revenue bonds, notes,
13 or other evidences of indebtedness shall only arise at such time
14 as:

- 15 (1) Moneys or securities have been irrevocably set aside
16 for the full payment of a like principal amount of
17 revenue bonds issued pursuant to this subpart; or
- 18 (2) A like principal amount of the issue or series of
19 revenue bonds to which the support facility relates
20 are held in escrow by the entity or entities providing
21 the support facility.



1 **§304A-F CUSIP identification numbers.** The board may
2 provide that CUSIP identification numbers shall be printed on
3 revenue bonds issued under this subpart. If numbers are printed
4 on any such revenue bonds:

5 (1) No number shall constitute a part of the contract
6 evidenced by the particular revenue bond upon which it
7 is printed; and

8 (2) No liability shall attach to the board or any officer
9 or agent thereof or the State or any officer thereof,
10 including any fiscal agent, paying agent, or registrar
11 for revenue bonds, by reason of the numbers or any use
12 made thereof, including any use thereof made by the
13 board or any officer or agent thereof, the State, any
14 officer or agent thereof, or by reason of any
15 inaccuracy, error, or omission.

16 The board may require that all cost of obtaining and
17 printing the CUSIP identification numbers shall be paid by the
18 purchaser of the revenue bonds.

19 **§304A-G Covenants in resolution authorizing revenue bonds.**

20 Any resolution authorizing the issuance of revenue bonds under
21 this subpart may contain covenants as to:



- 1 (1) The purpose to which the proceeds of the sale of the
- 2 revenue bonds may be applied; the use and disposition
- 3 of the proceeds; the investment thereof pending the
- 4 use and disposition; and the use and disposition of
- 5 the income from the investment;
- 6 (2) The use and disposition of the revenue of the
- 7 university pledged to the payment of the revenue
- 8 bonds, including the creation and maintenance of
- 9 reserves; the investment of the revenues and of the
- 10 moneys in the reserves; and the use and disposition of
- 11 the income from the investments;
- 12 (3) The minimum amount of revenue of the university to be
- 13 produced by the university project, university system,
- 14 or network or any combination thereof over and above
- 15 the amount required to be produced by section 304A-K;
- 16 (4) The use and disposition of the proceeds of the sale of
- 17 any university project, university system, or network
- 18 or any part thereof;
- 19 (5) The construction ^{or} ~~and~~ maintenance of any university
- 20 project, university system, or network or any
- 21 combination thereof for the construction or
- 22 maintenance ^{of} ~~for~~ which revenue bonds are issued, or ^{any} ~~the~~



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university system or network in which ~~later~~

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university projects constructed ~~and~~ ^{or} maintained are *later*

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included;

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(6) The issuance of other or additional revenue bonds and

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the revenue of the university from which additional

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revenue bonds shall be payable;

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(7) The maintenance of the university projects, university

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system, or network or any combination thereof,

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including the creation by the board of supervisory

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positions, which shall not be subject to chapter 76,

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as are necessary to facilitate the issuance of revenue

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bonds to ensure the adequacy of revenue of the

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university;

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(8) The insurance on a university project, university

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system, or network or any combination thereof, and the

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use and disposition of insurance moneys;

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(9) Books of account and inspection and audit thereof;

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(10) A procedure by which the terms and conditions of the

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resolution may be subsequently amended or modified by

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the board with or without the consent of the holders

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of revenue bonds or any proportion of the holders, or

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any trustee thereof; and



1 (11) The terms and conditions upon which the holders of
2 revenue bonds, or any proportion of the holders, or
3 any trustee thereof, shall be entitled to the
4 appointment of a receiver by any court of competent
5 jurisdiction, and the receiver may enter and take
6 possession of the university project, university
7 system, or network, maintain them, prescribe rents,
8 fees, and charges, and collect, receive, and apply all
9 revenue of the university thereafter arising therefrom
10 in the same manner as the board itself may do;
11 provided that the receiver shall have no power, to
12 mandate appropriations, or to use, or permit the use
13 of, any university project, university system, or
14 network or any combination thereof, other than in a
15 manner consistent with and in furtherance of the
16 purposes of the university.

17 This subpart and any resolution shall be deemed a contract
18 with the holders of revenue bonds issued under this subpart.
19 The duties of the board and any resolution shall be enforceable
20 by any bondholder by mandamus or other appropriate suit, action,
21 or proceeding in any court of competent jurisdiction.



1 **§304A-H Execution and validity of revenue bonds.** Revenue
2 bonds issued under this subpart shall bear the manual signatures
3 or facsimile of the signatures of the chairperson and secretary
4 of the board, and shall be sealed with the seal of the board or
5 in lieu thereof shall bear a facsimile of seal. If the board
6 designates a registrar other than itself for the revenue bonds,
7 the resolution authorizing the revenue bonds may provide that
8 none of the revenue bonds shall be valid or obligatory for any
9 purpose unless authenticated by the registrar. If the
10 resolution provides, all signatures of the board upon the
11 revenue bonds may be facsimiles of the signatures, and the
12 revenue bonds shall be valid and obligatory only if
13 authenticated by the manual signature of an authorized officer
14 or signatory of the registrar. Revenue bonds bearing the
15 signature of officers in office at the date of the signing
16 thereof shall be valid obligations, notwithstanding that before
17 the delivery thereof and payment therefor any or all of the
18 persons whose signatures appear thereon shall have ceased to be
19 officers. The validity of the bonds shall not depend on or be
20 affected by the validity or regularity of any proceedings
21 relating to the construction or maintenance of the university
22 project, university system, or network for which the revenue



1 bonds were issued. The resolution authorizing the issuance of
2 revenue bonds may provide that the bonds shall contain a recital
3 that they are issued pursuant to this subpart, which recital
4 shall be conclusive evidence of their validity and of the
5 regularity of their issuance.

6 **§304A-I Pledge of revenue of the university.** The
7 resolution authorizing the issuance of revenue bonds may pledge
8 to the payment thereof all or any part of the revenue of the
9 university, and the pledge shall constitute a lien on revenue of
10 the university to the extent and in the manner provided in the
11 resolution prior and paramount to any claim or other obligation
12 of any nature against the revenue of the university so pledged
13 subsequently arising or incurred. The board may provide in the
14 resolution that all revenue bonds of the same issue be equally
15 and ratably secured without priority by reason of number, date,
16 or maturity of the bonds, date of sale, execution, or delivery
17 thereof. Any pledge of revenue of the university contained in
18 any resolution adopted under this subpart shall be valid from
19 and after the adoption of the resolution without physical
20 delivery of the revenue of the university pledged or the
21 necessity of any further action by the State or the board, or
22 any officer or agent of the State or the board.



1 **§304A-J Payment and security of revenue bonds; revenue**
2 **bonds not a debt of the State.** Revenue bonds issued under this
3 subpart shall be payable from and secured by the revenue of the
4 university pledged to the payment thereof, and the revenue of
5 the university shall be applied to the payment in accordance
6 with this subpart and the resolution authorizing the issuance of
7 the revenue bonds. The university, or any university project,
8 university system, or network shall constitute a public
9 undertaking, improvement, or system, and any appropriation shall
10 constitute revenue of the university under the constitution and
11 laws of the State. No holder of any revenue bonds issued under
12 this subpart may compel any exercise of the taxing power of the
13 State or the making of any appropriation to pay the revenue
14 bonds, or interest thereon. Each revenue bond shall recite in
15 substance that the revenue bond, including interest thereon, is
16 payable from and secured by the revenue of the university
17 pledged to the payment thereof, and that the revenue bond does
18 not constitute a general or moral obligation or indebtedness of
19 the State within the meaning of any law.

20 **§304A-K Imposition of rates, rents, fees, and charges;**
21 **pledge, allocation of appropriation.** (a) The board shall
22 impose and collect rates, rents, fees, and charges for the use



1 or enjoyment and services of the facilities of each university
 2 project, and shall revise rates, rents, fees, and charges
 3 whenever necessary, or allocate all or any portion of
 4 appropriation for each university project, so that, in
 5 aggregate, the revenue of the university with respect to all
 6 university projects, university systems, or networks shall
 7 produce revenue of the university at least sufficient:

- 8 (1) To pay the cost of maintenance of all university
 9 projects, university system^s or network^s or any
 10 combination thereof, including reserves therefor^e;
- 11 (2) To pay when due all revenue bonds and interest
 12 thereon, for the payment of which all or any part of
 13 the revenue of the university is or has been pledged,
 14 charged, or otherwise encumbered, including reserves
 15 therefor;
- 16 (3) To reimburse the general fund of the State for
 17 principal and interest on general obligation bonds
 18 issued for university project^s, university system^s or
 19 network^s or any combination thereof, or to refund
 20 general obligation bonds, to the extent required by
 21 law; and



1 (4) To carry out all covenants and provisions of the
2 resolution authorizing the issuance of revenue bonds.

3 (b) Nothing in this subpart shall preclude the making of
4 appropriations to the university or board, including any
5 appropriation, or the acceptance of gifts by the board or the
6 use of funds derived from the sale of stocks, bonds, or other
7 assets in the possession of the board to pay all or part of the
8 cost of construction or maintenance of any or all university
9 projects, university systems, or networks.

10 **§304A-L Revenue bond anticipation notes.** In anticipation
11 of the issuance under this subpart of revenue bonds and of the
12 receipt of the proceeds of sale of revenue bonds, the board may
13 issue and sell, without further authorization or approval, bond
14 anticipation notes for the purposes for which the revenue bonds
15 have been authorized, the maximum principal amount of which
16 notes shall not exceed the authorized principal amount of the
17 revenue bonds. The notes shall be payable from and secured by
18 the proceeds of the sale of the bonds in anticipation of which
19 the notes are issued, or the revenues of the university from
20 which would be payable and by which the revenue bonds would be
21 secured, or any combination thereof; provided that to the extent
22 the principal of the notes is paid from moneys other than the



1 proceeds of sale of the revenue bonds, the maximum amount of
2 revenue bonds in anticipation of which the notes are issued that
3 has been authorized shall be reduced by the amount of the notes
4 paid in such manner. The issuance of the notes and the details
5 thereof shall be governed by this subpart with respect to
6 revenue bonds insofar as applicable; provided that:

- 7 (1) Each note, together with all renewals and extensions
8 thereof, or refunds thereof by other notes issued
9 under this section, shall mature within five years
10 from the date of the original note; and
11 (2) The notes may be sold at public or private sale, as
12 the board may determine.

13 **§304A-M University project, university system, networks,**
14 **and revenue bonds exempt from taxation.** The revenue of the
15 university and the property of any university project,
16 university system, or network shall be exempt from all taxation
17 and assessments by the State or any county or other political
18 subdivision thereof. Revenue bonds issued under this subpart
19 and all income therefrom shall be exempt from all taxation by
20 the State or any county or other political subdivision thereof,
21 except inheritance, transfer, and estate taxes.



1 **§304A-N Powers additional to other powers.** The powers
2 conferred by this subpart shall be in addition and supplemental
3 to the powers conferred by any other law concerning any
4 university project, university system, or network or any
5 combination thereof, or the issuance of revenue bonds. Revenue
6 bonds may be issued pursuant to this subpart for those purposes
7 notwithstanding that any other law may provide for the
8 acquisition, purchase, construction, reconstruction,
9 improvement, betterment, or extension of a like undertaking or
10 the establishment, maintenance, or extension of a like
11 university project, university system, or network or any
12 combination thereof, or the issuance of revenue bonds, without
13 regard to the requirements, restrictions, limitations, or other
14 provisions contained in any other law. Except as expressly
15 provided in any other law, this subpart shall control.

16 **§304A-O ~~Issuance and~~ Refunding revenue bonds; authorization**
17 **and purpose.** (a) The board, without further authorization or
18 approval, ~~of the legislature, but with the approval of the~~
19 ~~governor,~~ may provide for the issuance of revenue bonds (herein
20 referred to as refunding bonds) for the purpose of refunding,
21 redeeming, or retiring at or at any time before maturity or at
22 any time before the first date upon which the outstanding



1 revenue bonds to be refunded may be called for redemption, any
2 revenue bonds issued under this subpart, including any revenue
3 bonds that the holders may consent to be paid or refunded even
4 though the revenue bonds are not matured or are not callable or
5 redeemable, and for the purpose of funding indebtedness not
6 evidenced by revenue bonds but that was incurred for purposes
7 for which revenue bonds may be issued pursuant to this subpart.
8 The rate of interest borne by the refunding bonds shall not be
9 affected or limited by the rate of interest borne by the revenue
10 bonds to be refunded or the indebtedness to be funded.

11 All provisions of this subpart applicable to the issuance
12 of revenue bonds shall be complied with in the issuance of
13 refunding bonds. Refunding bonds shall be sold as provided in
14 section 304A-D, or the board may provide for the exchange of
15 refunding bonds for a like principal amount of outstanding
16 revenue bonds for the refunding of which the issuance of the
17 refunding bonds has been authorized, whether or not the interest
18 rate on the refunding bonds is higher than the interest rate on
19 the bonds refunded.

20 (b) Refunding bonds may be issued in a principal amount
21 sufficient to provide funds for the payment of all revenue bonds
22 or indebtedness to be funded or refunded, and for the payment of



1 all expenses paid or incurred in connection with the calling,
2 redeeming, retiring, or paying of indebtedness or outstanding
3 revenue bonds, and the issuance of refunding bonds. The
4 expenses may include the amount necessary for the payment of
5 interest upon the indebtedness to be funded or the revenue bonds
6 to be refunded to the maturity or redemption date thereof, the
7 amount necessary for the payment of interest upon the refunding
8 bonds from the date of delivery thereof to the date upon which
9 the principal of the outstanding revenue bonds to be refunded
10 will be paid whether at maturity or pursuant to a call for
11 redemption thereof, or pursuant to agreement with the holders
12 thereof, plus in any case the amount of any premium required to
13 be paid in order to call or retire the revenue bonds.

14 **§304A-P Fiscal agents.** The director of finance of the
15 State, when requested by the board, shall render full and
16 complete assistance to the board in the preparation and sale of
17 revenue bonds issued pursuant to this subpart. The director of
18 finance shall be the fiscal agent of the board for the payment
19 of all principal and interest, and for the transfer, of revenue
20 bonds. Sections 36-3 and 39-12 shall apply to this subpart.
21 The director of finance shall set up in the treasury of the
22 State suitable accounts for:



- 1 (1) Deposit of all revenues of university projects,
2 university systems, or networks and for the payment of
3 all revenue bonds and the interest thereon;
- 4 (2) Deposit of all other payments provided or required by
5 this subpart, or any resolution or resolutions of the
6 board; and
- 7 (3) Holding of all reserves created under this subpart, or
8 pursuant to any resolution of the board.

9 **§304A-Q Validation of proceedings.** All proceedings taken
10 with respect to the contracting of revenue bonded indebtedness
11 and the issuance, sale, execution, and delivery of revenue bonds
12 by the board are deemed validated, ratified, approved, and
13 confirmed, notwithstanding any defects or irregularities in any
14 proceedings or in the issuance, execution, sale, or delivery,
15 The revenue bonds so issued or to be issued are and shall be
16 valid obligations of the board.

17 **§304A-R Limitation of authority.** Notwithstanding any law
18 to the contrary, nothing in this subpart shall be construed to
19 authorize the board to incur any indebtedness contrary to the
20 State constitution or to incur any indebtedness that would be
21 required to be included in the calculation of the total
22 indebtedness of the State."



1 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is
2 amended by adding a new section to part V, subpart C, to be
3 appropriately designated and to read as follows:

4 "§304A- University revenue-undertakings fund. (a)

5 There is established a special fund for the University of Hawaii
6 to be known as the university revenue-undertakings fund into
7 which all revenue of the university under subpart of part VI,
8 including any appropriation allocated pursuant to section
9 304A- , received from, or related to, university projects,
10 university systems, or networks or any combination thereof,
11 constructed or maintained by the board under subpart of part
12 VI shall be deposited. At the direction of the board, there may
13 be established accounts in the university revenue-undertakings
14 fund as required by the resolution authorizing revenue bonds.

15 If revenue bonds are issued under subpart of part VI
16 payable from the revenue of a university parking facility or the
17 revenue of a university system that includes a university
18 parking facility, the board in the resolution authorizing
19 revenue bonds may direct that all or any part of the moneys
20 required by this chapter to be paid into the university parking
21 revolving fund created by section 304A-2275 shall be deposited



1 in the university revenue-undertakings fund in lieu of being
2 deposited in the university parking revolving fund.

3 (b) All moneys in the university revenue-undertakings fund
4 shall be applied in accordance with the resolution of the board
5 authorizing the issuance of revenue bonds under subpart of
6 part VI, as follows:

7 (1) To provide for all costs of construction, operation,
8 repair, and maintenance of a university project,
9 university system, network, or any combination
10 thereof, including reserves therefor;

11 (2) To pay when due all revenue bonds and interest
12 thereon, for the payment of which all or any part of
13 the revenue of the university is or has been pledged,
14 charged, or otherwise encumbered, including reserves
15 therefor;

16 (3) To reimburse the university for all moneys advanced to
17 pay the expenses incurred in making the preparation
18 for the initial issuance of revenue bonds under
19 subpart of part VI;

20 (4) To reimburse the general fund of the State for
21 principal and interest on general obligation bonds
22 issued for a "university project," university system



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network^s or any combination thereof, or issued to
refund any of ^{such} general obligation bonds, to the extent
required by law; and

(5) To provide a reserve for betterments and improvements
to and renewals and replacements of, university
projects, university systems, networks, or any
combination thereof.

If adequate provision is made for all the foregoing
purposes, and if permitted by law and the covenants in the
resolution authorizing the issuance of revenue bonds under
subpart of part VI, any moneys remaining in the university
revenue-undertakings fund at the end of a fiscal year may be
expended by the board in subsequent years in furtherance of any
of the purposes of the university.

(c) The following terms used in this section shall be as
defined in section 304A-A: "appropriation", "board",
"construction", "cost of construction", "maintenance",
"network", "reserves", "revenue bonds", "revenue of the
university", "university project", and "university system".

SECTION 3. Section 304A-2167, Hawaii Revised Statutes, is
repealed.

1 ~~["{S304A-2167} University revenue undertakings fund. (a)~~
2 ~~There is hereby created a special fund to be administered by the~~
3 ~~university and shall be known as the university revenue-~~
4 ~~undertakings fund, into which all revenue derived from a~~
5 ~~university project or university system under subpart A of part~~
6 ~~VI shall be deposited. The university may deposit other revenue~~
7 ~~of the university into the fund. At the direction of the board,~~
8 ~~there may be established such accounts in the university~~
9 ~~revenue undertakings fund as required by the resolution or~~
10 ~~resolutions authorizing revenue bonds. In the event that~~
11 ~~revenue bonds are issued under subpart A of part VI payable from~~
12 ~~the revenues of a university parking unit or the revenues of a~~
13 ~~university system that includes a university parking unit, the~~
14 ~~board in the resolution or resolutions authorizing such revenue~~
15 ~~bonds may direct that all or any part of the moneys required by~~
16 ~~sections {304A-2275} and {304A-2602} to be paid into the~~
17 ~~university parking revolving fund created by section {304A-2275}~~
18 ~~shall be deposited in the university revenue undertakings fund~~
19 ~~in lieu of being deposited in the university parking revolving~~
20 ~~fund, and thereafter all such moneys or such part thereof as the~~
21 ~~board has directed shall be deposited in the university revenue-~~
22 ~~undertakings fund in lieu of being deposited in the university~~



1 ~~parking revolving fund. All moneys in the university revenue-~~
2 ~~undertakings fund are appropriated and shall be applied in~~
3 ~~accordance with the provisions of the resolution or resolutions~~
4 ~~of the board authorizing the issuance of revenue bonds under~~
5 ~~subpart A of part VI.~~

6 ~~(1) To provide for all costs of construction, operation,~~
7 ~~repair, and maintenance of university projects or~~
8 ~~university systems, including reserves therefor,~~

9 ~~(2) To pay when due all revenue bonds and interest~~
10 ~~thereon, for the payment of which the revenue is or~~
11 ~~has been pledged, charged, or otherwise encumbered,~~
12 ~~including reserves therefor,~~

13 ~~(3) To reimburse the university for all moneys advanced to~~
14 ~~pay the expenses incurred in making the preparation~~
15 ~~for the initial issuance of revenue bonds under~~
16 ~~subpart A of part VI,~~

17 ~~(4) To reimburse the general fund of the State for all~~
18 ~~bond requirements for general obligation bonds that~~
19 ~~are or shall have been issued for a university project~~
20 ~~or university system, or to refund any of those~~
21 ~~general obligation bonds, except insofar as the~~
22 ~~obligation of reimbursement has been or shall be~~



1 ~~canceled by the legislature, the bond requirements~~
2 ~~being the interest on term and serial bonds, sinking~~
3 ~~fund for term bonds, and principal of serial bonds~~
4 ~~maturing the following year,~~

5 ~~(5) To provide a reserve for betterments and improvements~~
6 ~~to, and renewals and replacements of, university~~
7 ~~projects or university systems. If adequate provision~~
8 ~~has been made for all the foregoing purposes, and if~~
9 ~~permitted by the covenants in the resolution or~~
10 ~~resolutions authorizing the issuance of revenue bonds~~
11 ~~under subpart A of part VI, any surplus moneys~~
12 ~~remaining in the university revenue undertakings fund~~
13 ~~at the end of any fiscal year may be expended by the~~
14 ~~board in subsequent years in furtherance of any or all~~
15 ~~of the purposes of the university.~~

16 ~~(b) The following terms used in this section shall be as~~
17 ~~defined in section [304A-2501]: "board", "cost of~~
18 ~~construction", "maintenance", "reserves", "revenue bonds",~~
19 ~~"revenue of the university project or university system",~~
20 ~~"university", "university parking unit", "university project",~~
21 ~~and "university system."]~~



1 SECTION 4. Chapter 304A, part VI, subpart A, Hawaii
2 Revised Statutes, is repealed.

3 SECTION 5. On the effective date of this Act, all moneys
4 deposited in the university revenue-undertakings fund
5 established pursuant to section 304A-2167, Hawaii Revised
6 Statutes, and any encumbrances thereon shall be transferred to
7 the university revenue-undertakings fund established pursuant to
8 section 2 of this Act.

9 SECTION 6. In codifying this Act, the revisor of statutes
10 shall substitute appropriate section numbers for the section
11 designations used in this Act.

12 SECTION 7. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

University of Hawaii Projects and Purposes

Description:

Enacts a new part in chapter 304A, University of Hawaii, to provide for facilities improvement and university development; repeals existing University of Hawaii facilities improvement and university development law. (SD2)

