

---

---

# A BILL FOR AN ACT

RELATING TO THE STATE BUDGET.

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

1           SECTION 1. (a) The purpose of this Act is to authorize  
2 the issuance of general obligation bonds by the State; authorize  
3 the borrowing of moneys from the Municipal Liquidity Facility  
4 under section 13(3) of the Federal Reserve Act, 12 U.S.C.  
5 §343(3); and declare the legislature's findings with respect to  
6 these bond authorizations as required by article VII, section 13  
7 of the Constitution of the State of Hawaii.

8           The legislature finds that the Federal Reserve has  
9 authorized the establishment and operation of the Municipal  
10 Liquidity Facility under section 13(3) of the Federal Reserve  
11 Act, enumerated in 12 U.S.C. §343(3), to facilitate access to  
12 credit and liquidity in order for state, city, and county  
13 governments to better manage periods of dislocation related to  
14 the coronavirus disease 2019, or COVID-19, pandemic. By  
15 enabling the Municipal Liquidity Facility, the Federal Reserve  
16 has engaged its full range of tools to support the flow of  
17 credit to households, businesses, and communities to counter the



1 economic impact of the COVID-19 pandemic and promote a swift  
2 recovery once disruption related to the pandemic abates. The  
3 legislature intends that the:

4 (1) Municipal Liquidity Facility be utilized at levels  
5 that are prudent and do not adversely affect the  
6 State; and

7 (2) Amount authorized for the Municipal Liquidity Facility  
8 contained herein reflects flexibility and balances the  
9 executive branch's prerogative to prudently execute  
10 the State's economic recovery with the means  
11 authorized by the legislature.

12 Presently, this Act authorizes borrowings in excess of the  
13 debt limit. Pursuant to Article VII, Section 13 of the  
14 Constitution of the State of Hawaii, the State may exceed the  
15 debt limit if an emergency condition is declared by the governor  
16 and concurred to by a two-thirds vote of the legislature. This  
17 provision is to allow the governor and the legislature by mutual  
18 agreement to exceed the debt ceiling when an extraordinary  
19 emergency exists. Although the governor issued a proclamation  
20 declaring that the effects of the COVID-19 pandemic created an  
21 emergency condition in the State and issued nine supplemental



1 emergency proclamations to deal with the pandemic, none of these  
2 proclamations address the State's need to exceed the debt limit.

3 To permit this Act to exceed the State's debt limit, the  
4 governor has declared that an emergency condition exists due to  
5 the COVID-19 pandemic and has requested that each house of the  
6 legislature by a two-thirds vote concur with this declaration.

7 (b) Declaration of findings with respect to the general  
8 obligation bonds authorized by this Act. Pursuant to article  
9 VII, section 13, of the state constitution, which states:

10 "Effective July 1, 1980, the legislature shall include a  
11 declaration of findings in every general law authorizing the  
12 issuance of general obligation bonds that the total amount of  
13 principal and interest, estimated for such bonds and for all  
14 bonds authorized and unissued and calculated for all bonds  
15 issued and outstanding, will not cause the debt limit to be  
16 exceeded at the time of issuance", the legislature finds and  
17 declares as follows:

18 (1) The debt limit of the State will be exceeded by the  
19 general obligation bonds authorized by this Act;

20 (2) Limitation on general obligation debt. The debt limit  
21 of the State is set forth in article VII, section 13,



1 of the state constitution, which states in part:  
2 "General obligation bonds may be issued by the State;  
3 provided that such bonds at the time of issuance would  
4 not cause the total amount of principal and interest  
5 payable in the current or any future fiscal year,  
6 whichever is higher, on such bonds and on all  
7 outstanding general obligation bonds to exceed: a sum  
8 equal to twenty percent of the average of the general  
9 fund revenues of the State in the three fiscal years  
10 immediately preceding such issuance until June 30,  
11 1982; and thereafter, a sum equal to eighteen and one-  
12 half percent of the average of the general fund  
13 revenues of the State in the three fiscal years  
14 immediately preceding such issuance." Article VII,  
15 section 13, of the state constitution also provides  
16 that, in determining the power of the State to issue  
17 general obligation bonds, certain bonds are  
18 excludable, including "[r]eimburseable general  
19 obligation bonds issued for a public undertaking,  
20 improvement or system but only to the extent that  
21 reimbursements to the general fund are in fact made



1 from the net revenue, or net user tax receipts, or  
2 combination of both, as determined for the immediately  
3 preceding fiscal year" and bonds constituting  
4 instruments of indebtedness under which the State  
5 incurs a contingent liability as a guarantor, but only  
6 to the extent the principal amount of the bonds does  
7 not exceed seven per cent of the principal amount of  
8 outstanding general obligation bonds not otherwise  
9 excluded under article VII, section 13, of the state  
10 constitution.

- 11 (3) Actual and estimated debt limits. The limit on  
12 principal and interest of general obligation bonds  
13 issued by the State, actual for fiscal year 2019-2020  
14 and estimated for each fiscal year from 2020-2021 to  
15 2022-2023, is as follows:



	<u>Fiscal</u>	<u>Net General</u>	
	<u>Year</u>	<u>Fund Revenues</u>	<u>Debt Limit</u>
1	2016-2017	\$7,346,008,625	
2	2017-2018	7,656,001,540	
3	2018-2019	7,910,649,595	
4	2019-2020	7,567,600,000	\$1,412,947,352
5	2020-2021	6,614,801,000	1,426,612,153
6	2021-2022	7,333,031,000	1,362,404,787
7	2022-2023	(not applicable)	1,326,784,973

10 For fiscal years 2019-2020, 2020-2021, 2021-2022, and  
11 2022-2023, respectively, the debt limit is derived by  
12 multiplying the average of the net general fund  
13 revenues for the three preceding fiscal years by  
14 eighteen and one-half per cent. The net general fund  
15 revenues for fiscal years 2016-2017, 2017-2018, and  
16 2018-2019 are actual, as presented in the Statement of  
17 the Debt Limit of the State of Hawaii as of July 1,  
18 2019, dated November 18, 2019. The net general fund  
19 revenues for fiscal years 2019-2020 to 2021-2022 are  
20 estimates, based on general fund revenue estimates  
21 made as of May 28, 2020, by the council on revenues,  
22 the body assigned by article VII, section 7, of the  
23 state constitution to make such estimates, and based  
24 on estimates made by the department of budget and



1 finance of those receipts that cannot be included as  
2 general fund revenues for the purpose of calculating  
3 the debt limit, all of which estimates the legislature  
4 finds to be reasonable.

5 (4) Principal and interest on outstanding bonds applicable  
6 to the debt limit.

7 (A) The total amount of principal and interest on  
8 outstanding general obligation bonds, after the  
9 exclusions permitted by article VII, section 13,  
10 of the state constitution, for determining the  
11 power of the State to issue general obligation  
12 bonds within the debt limit as of June 1, 2020,  
13 is as follows for fiscal year 2020-2021 to fiscal  
14 year 2026-2027:

15	Fiscal	Principal
16	<u>Year</u>	<u>and Interest</u>
17	2020-2021	\$768,823,622
18	2021-2022	753,610,056
19	2022-2023	725,933,034
20	2023-2024	712,063,283
21	2024-2025	672,615,397
22	2025-2026	649,837,432
23	2026-2027	601,561,400
24		



1           The amount of principal and interest on  
2           outstanding bonds applicable to the debt limit  
3           generally continues to decline each year from  
4           fiscal year 2027-2028 to fiscal year 2038-2039  
5           when the final installment of \$37,533,250 shall  
6           be due and payable.

7           (B) The outstanding principal amount of bonds  
8           constituting instruments of indebtedness under  
9           which the State may incur a contingent liability  
10          as a guarantor is \$233,500,000, all or part of  
11          which is excludable in determining the power of  
12          the State to issue general obligation bonds,  
13          pursuant to article VII, section 13, of the state  
14          constitution.

15          (5) Amount of authorized and unissued general obligation  
16          bonds and guaranties and proposed bonds and  
17          guaranties.

18          (A) As calculated from the state comptroller's bond  
19          fund report as of April 30, 2020, adjusted for:  
20          (i) Appropriations to be funded by general  
21          obligation bonds or reimbursable general





1 obligation bonds as provided in Act 40,  
2 Session Laws of Hawaii 2019 (the General  
3 Improvement Act of 2019) and Act 189,  
4 Session Laws of Hawaii 2019, to be expended  
5 in fiscal year 2020-2021, adjusted for  
6 additional appropriations provided in House  
7 Bill No. 2725, H.D. 1, S.D. 1 (the  
8 Supplemental Improvements Act of 2020), as  
9 amended by Senate Bill No. 126 H.D.1, S.D.1,  
10 C.D.1, Senate Bill No. 3139, S.D. 1, H.D. 1,  
11 as amended by Senate Bill No. 126 H.D.1,  
12 S.D.1, C.D.1, Senate Bill No. 75, S.D. 2,  
13 H.D. 1, as amended by Senate Bill No. 126  
14 H.D.1, S.D.1, C.D.1, Act 12, Session Laws of  
15 Hawaii 2018, as amended by Act 35, Session  
16 Laws of Hawaii 2019, as amended by Senate  
17 Bill No. 126 H.D.1, S.D.1, C.D.1, and Senate  
18 Bill No. 126 H.D.1, S.D.1, C.D.1;  
19 (ii) Lapses as provided in House Bill No. 2725,  
20 H.D. 1, S.D. 1 (the Supplemental



1                                   Improvements Act of 2020), as amended by  
2                                   Senate Bill No. 126 H.D.1, S.D.1, C.D.1;  
3                   (iii) Appropriations to be funded by general  
4                                   obligation bonds or reimbursable general  
5                                   obligation bonds as provided in Act 38,  
6                                   Session Laws of Hawaii 2019 (the Judiciary  
7                                   Appropriations Act of 2019) to be expended  
8                                   in fiscal year 2020-2021, adjusted for  
9                                   additional appropriations provided in Senate  
10                                  Bill No. 3080, S.D. 3, H.D. 1 (the Judiciary  
11                                  Supplemental Appropriations Act of 2020);  
12                                  and  
13                   (iv) Lapses as provided in Senate Bill No. 3080,  
14                                  S.D. 3, H.D. 1 (the Judiciary Supplemental  
15                                  Appropriations Act of 2020);  
16                                  the total amount of authorized but unissued  
17                                  general obligation bonds is \$3,920,402,480. The  
18                                  total amount of general obligation bonds  
19                                  authorized in this Act is \$3,073,991,000. The  
20                                  total amount of general obligation bonds  
21                                  previously authorized and unissued, as adjusted,



1                   and the general obligation bonds authorized in  
2                   this Act is \$6,994,393,480.

3           (B)   The outstanding principal amount of bonds  
4                   constituting instruments of indebtedness under  
5                   which the State may incur a contingent liability  
6                   as a guarantor is \$233,500,000, all or part of  
7                   which is excludable in determining the power of  
8                   the State to issue general obligation bonds,  
9                   pursuant to article VII, section 13, of the state  
10                  constitution.

11           (6)   Proposed general obligation bond issuance.  As  
12                   reported therein for the fiscal years 2020-2021,  
13                   2021-2022, and 2022-2023, the State proposes to issue  
14                   \$3,475,000,000 in general obligation bonds (which  
15                   includes \$2,100,000,000 in working capital  
16                   indebtedness or Municipal Liquidity Facility  
17                   indebtedness) during the first half of fiscal year  
18                   2020-2021, \$675,000,000 in general obligation bonds  
19                   during the second half of fiscal year 2020-2021,  
20                   \$675,000,000 in general obligation bonds during the  
21                   first half of fiscal year 2021-2022, \$675,000,000 in



1           general obligation bonds during the second half of  
2           fiscal year 2021-2022, \$715,000,000 in general  
3           obligation bonds during the first half of fiscal year  
4           2022-2023, and \$815,000,000 in general obligation  
5           bonds during the second half of fiscal year 2022-2023.  
6           Except for the working capital indebtedness and  
7           Municipal Liquidity Facility indebtedness, the State  
8           anticipates issuing a combination of twenty-year  
9           serial bonds with principal repayments beginning the  
10          third and fifth years and ten-year serial bonds with  
11          principal repayments beginning the first year, payable  
12          in substantially equal annual installments of  
13          principal and interest payment with interest payments  
14          commencing six months from the date of issuance and  
15          being paid semi-annually thereafter. It is assumed  
16          that this practice will continue to be applied to the  
17          bonds that are proposed to be issued. The working  
18          capital indebtedness and Municipal Liquidity Facility  
19          indebtedness is anticipated to be for a term of three  
20          years, payable in substantially equal annual



1 installments of principal payments, with interest  
2 repaid at the end of the three-year term.

3 (7) Sufficiency of proposed general obligation bond  
4 issuance to meet the requirements of authorized and  
5 unissued bonds, as adjusted, and bonds authorized by  
6 this Act. From the schedule reported in paragraph  
7 (6), the total amount of general obligation bonds that  
8 the State proposes to issue during the fiscal years  
9 2020-2021 to 2021-2022 is \$5,500,000,000. An  
10 additional \$1,530,000,000 is proposed to be issued in  
11 fiscal year 2022-2023. The total amount of  
12 \$5,500,000,000 that is proposed to be issued through  
13 fiscal year 2021-2022 is sufficient to meet the  
14 requirements of the authorized and unissued bonds, as  
15 adjusted, the total amount of which is \$6,994,393,480  
16 reported in paragraph (5), except for \$1,494,393,480.  
17 It is assumed that the appropriations to which an  
18 additional \$1,494,393,480 in bond issuance needs to be  
19 applied will have been encumbered as of June 30, 2022.  
20 The \$1,530,000,000 that is proposed to be issued in  
21 fiscal year 2022-2023 will be sufficient to meet the



1 requirements of the June 30, 2022, encumbrances in the  
2 amount of \$1,494,393,480. The amount of assumed  
3 encumbrances as of June 30, 2022, is reasonable and  
4 conservative, based upon an inspection of June 30  
5 encumbrances of the general obligation bond fund as  
6 reported by the state comptroller. Thus, taking into  
7 account the amount of authorized and unissued bonds,  
8 as adjusted, and the bonds authorized by this Act  
9 versus the amount of bonds proposed to be issued by  
10 June 30, 2022, and the amount of June 30, 2022,  
11 encumbrances versus the amount of bonds proposed to be  
12 issued in fiscal year 2022-2023, the legislature finds  
13 that, in the aggregate, the amount of bonds proposed  
14 to be issued is sufficient to meet the requirements of  
15 all authorized and unissued bonds and the bonds  
16 authorized by this Act.

17 (8) Bonds excludable in determining the power of the State  
18 to issue bonds. As noted in paragraph (2), certain  
19 bonds are excludable in determining the power of the  
20 State to issue general obligation bonds.



1 (A) General obligation reimbursable bonds can be  
2 excluded under certain conditions. It is not  
3 possible to make a conclusive determination as to  
4 the amount of reimbursable bonds that are  
5 excludable from the amount of each proposed bond  
6 issued because:

7 (i) It is not known exactly when projects for  
8 which reimbursable bonds have been  
9 authorized in prior acts and in this Act  
10 will be implemented and will require the  
11 application of proceeds from a particular  
12 bond issue; and

13 (ii) Not all reimbursable general obligation  
14 bonds may qualify for exclusion.

15 However, the legislature notes that with respect  
16 to the principal and interest on outstanding  
17 general obligation bonds, according to the  
18 department of budget and finance, the average  
19 proportion of principal and interest that is  
20 excludable each year from the calculation against  
21 the debt limit is 0.74 per cent for approximately



1 ten years from fiscal year 2019-2020 to fiscal  
2 year 2028-2029. For the purpose of this  
3 declaration, the assumption is made that 0.50 per  
4 cent of each bond issue will be excludable from  
5 the debt limit, an assumption that the  
6 legislature finds to be reasonable and  
7 conservative.

8 (B) Bonds constituting instruments of indebtedness  
9 under which the State incurs a contingent  
10 liability as a guarantor can be excluded but only  
11 to the extent the principal amount of those  
12 guaranties does not exceed seven per cent of the  
13 principal amount of outstanding general  
14 obligation bonds not otherwise excluded under  
15 subparagraph (A); provided that the State shall  
16 establish and maintain a reserve in an amount in  
17 reasonable proportion to the outstanding loans  
18 guaranteed by the State as provided by law.  
19 According to the department of budget and finance  
20 and the assumptions presented herein, the total  
21 principal amount of outstanding general





1 obligation bonds and general obligation bonds  
 2 proposed to be issued, which are not otherwise  
 3 excluded under article VII, section 13, of the  
 4 state constitution for the fiscal years  
 5 2019-2020, 2020-2021, 2021-2022, and 2022-2023  
 6 are as follows:

11	<u>Fiscal Year</u>	Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13, <u>of the State Constitution</u>
12	2019-2020	6,704,598,064
13	2020-2021	10,844,348,064
14	2021-2022	12,187,598,064
15	2022-2023	13,709,948,064

16  
 17 Based on the foregoing and based on the assumption  
 18 that the full amount of a guaranty is immediately due  
 19 and payable when the guaranty changes from a  
 20 contingent liability to an actual liability, the  
 21 aggregate principal amount of the portion of the  
 22 outstanding guaranties and the guaranties proposed to  
 23 be incurred, which does not exceed seven per cent of  
 24 the average amount set forth in the last column of the  
 25 above table and for which reserve funds have been or



1 will have been established as heretofore provided, can  
2 be excluded in determining the power of the State to  
3 issue general obligation bonds. As it is not possible  
4 to predict with a reasonable degree of certainty when  
5 a guaranty will change from a contingent liability to  
6 an actual liability, it is assumed in conformity with  
7 fiscal conservatism and prudence, that all guaranties  
8 not otherwise excluded pursuant to article VII,  
9 section 13, of the state constitution will become due  
10 and payable in the same fiscal year in which the  
11 greatest amount of principal and interest on general  
12 obligation bonds, after exclusions, occurs. Thus,  
13 based on these assumptions and on the determination in  
14 paragraph (9), all of the outstanding guaranties can  
15 be excluded.

16 (9) Determination whether the debt limit will be exceeded  
17 at the time of issuance. From the foregoing and on  
18 the assumption that all of the bonds identified in  
19 paragraph (6) will be issued at an interest rate not  
20 to exceed 5.75 per cent in fiscal years 2021 through  
21 2023, it can be determined from the following schedule



1 that the bonds that are proposed to be issued, which  
 2 include all authorized and unissued bonds previously  
 3 authorized, as adjusted, general obligation bonds, and  
 4 instruments of indebtedness under which the State  
 5 incurs a contingent liability as a guarantor  
 6 authorized in this Act, will cause the debt limit to  
 7 be exceeded at the time of the bond issuance:

8				Greatest Amount
9	Time of Issuance			and Year of
10	and Amount to be	Debt Limit		Highest Principal
11	Counted Against	at Time of		and Interest
12	<u>Debt Limit</u>	<u>Issuance</u>		<u>on Bonds and Guaranties</u>
13	1st half FY 2020-2021			
14	\$3,468,125,000	1,426,612,153	1,594,188,551	(2021-2022)
15	2nd half FY 2020-2021			
16	\$671,625,000	1,426,612,153	1,632,806,988	(2021-2022)
17	1st half FY 2021-2022			
18	\$671,625,000	1,362,404,787	1,652,116,207	(2021-2022)
19	2nd half FY 2021-2022			
20	\$671,625,000	1,362,404,787	1,682,370,181	(2022-2023)
21	1st half FY 2022-2023			
22	\$711,425,000	1,326,784,973	1,730,621,623	(2023-2024)
23	2nd half FY 2022-2023			
24	\$810,925,000	1,326,784,973	1,802,149,811	(2023-2024)

25  
 26 (10) Overall and concluding finding. From the facts,  
 27 estimates, and assumptions stated in this declaration  
 28 of findings, the conclusion is reached that the total  
 29 amount of principal and interest estimated for the



1           general obligation bonds authorized in this Act, and  
 2           for all bonds authorized and unissued, and calculated  
 3           for all bonds issued and outstanding, and all  
 4           guaranties, will cause the debt limit to be exceeded  
 5           at the time of issuance.

6           SECTION 2. The legislature finds the bases for the  
 7           declaration of findings set forth in this Act are reasonable.  
 8           The assumptions set forth in this Act with respect to the  
 9           principal amount of general obligation bonds that will be  
 10          issued, the amount of principal and interest on reimbursable  
 11          general obligation bonds that are assumed to be excludable, and  
 12          the assumed maturity structure shall not be deemed to be  
 13          binding, it being the understanding of the legislature that  
 14          these matters must remain subject to substantial flexibility.

15          SECTION 3. Authorization for issuance of general  
 16          obligation bonds. General obligation bonds may be issued as  
 17          provided by law in an amount that may be necessary to finance  
 18          projects authorized in House Bill No. 2725, H.D. 1, S.D. 1 (the  
 19          Supplemental Improvements Act of 2020), as amended by Senate  
 20          Bill No. 126 H.D.1, S.D.1, C.D.1, Senate Bill No. 3080, S.D. 3,  
 21          H.D. 1 (the Judiciary Supplemental Appropriations Act of 2020),



1 Senate Bill No. 3139, S.D. 1, H.D. 1, as amended by Senate Bill  
2 No. 126 H.D.1, S.D.1, C.D.1, Senate Bill No. 75, S.D. 2, H.D. 1,  
3 as amended by Senate Bill No. 126 H.D.1, S.D.1, C.D.1, Act 12,  
4 Session Laws of Hawaii 2018, as amended by Act 35, Session Laws  
5 of Hawaii 2019, as amended by Senate Bill No. 126 H.D.1, S.D.1,  
6 C.D.1, and Senate Bill No. 126 H.D.1, S.D.1, C.D.1; passed by  
7 the legislature during the regular session of 2020 and  
8 designated to be financed from the general obligation bond fund  
9 and from the general obligation bond fund with debt service cost  
10 to be paid from special funds; provided that the sum total of  
11 general obligation bonds issued under the authority established  
12 in this section shall not exceed \$3,073,991,000.

13 Any law to the contrary notwithstanding, general obligation  
14 bonds may be issued from time to time in accordance with section  
15 39-16, Hawaii Revised Statutes, in a principal amount as may be  
16 required to refund any general obligation bonds of the State of  
17 Hawaii heretofore or hereafter issued pursuant to law.

18 SECTION 4. Working capital indebtedness. Instruments of  
19 indebtedness may be issued as provided by law in an amount that  
20 may be necessary to finance any permitted purpose under House  
21 Bill No. 2200, H.D. 1, S.D. 1, passed by the legislature during



1 the regular session of 2020; provided that the sum total of  
2 these instruments of indebtedness issued under the authority  
3 established in this section, together with any instruments of  
4 indebtedness issued under the authority established in  
5 section 5, shall not, in the aggregate, exceed \$2,100,000,000.

6 SECTION 5. Municipal liquidity facility. Instruments of  
7 indebtedness may be issued as provided by law in an amount that  
8 may be necessary to finance any permitted purpose under  
9 section 13(3) of the Federal Reserve Act, authorized in House  
10 Bill No. 2200, H.D. 1, S.D. 1, passed by the legislature during  
11 the regular session of 2020; provided that the sum total of  
12 these instruments of indebtedness issued under the authority  
13 established in this section, together with any instruments of  
14 indebtedness issued under the authority established in  
15 section 4, shall not, in the aggregate, exceed \$2,100,000,000.

16 SECTION 6. The provisions of this Act are declared to be  
17 severable and if any portion thereof is held to be invalid for  
18 any reason, the validity of the remainder of this Act shall not  
19 be affected.



1           SECTION 7. In printing this Act, the revisor of statutes  
2 shall substitute in sections 1, 3, 4, and 5 the corresponding  
3 act numbers for bills identified therein.

4           SECTION 8. This Act shall take effect upon its approval.



**Report Title:**

State Bonds; State Budget

**Description:**

Authorizes issuance of general obligation bonds. Authorizes issuance of instruments of indebtedness in an amount that may be necessary to finance any permitted purpose under the House Bill No. 2200, H.D. 1, S.D. 1 and section 13(3) of the Federal Reserve Act. Makes findings required by article VII, section 13, of the state constitution regarding the issuance of authorized bonds and the debt limit. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

