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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. This Act shall be known as the "Fix Our Schools  
2 Act of 2006."

3 SECTION 2. The legislature finds that Hawaii's future  
4 depends on our youth, and the investments we make in our young  
5 people today will determine the course of our state in the years  
6 to come. One of the greatest investments we can make is to  
7 provide our youth with the best possible opportunities in  
8 education, and therefore the purpose of this Act is to provide:

- 9 (1) Resources for operations and for repair and  
10 maintenance of Hawaii's educational facilities; and  
11 (2) Flexibility to the department of education for the  
12 construction of new schools.

13 PART I

14 SECTION 3. It has been proven that a proper scholastic  
15 environment--one that is safe, secure, well-maintained, and  
16 clean--is a key contributor to a child's capacity to learn.

17 However, the legislature finds that there is a continuing  
18 backlog of repair and maintenance projects for Hawaii's public



1 schools. In 2001, the Hawaii Opinion Poll on Public Education  
2 found that rundown, poorly kept, or inadequate facilities ranked  
3 third in the ten biggest problems facing our schools. Student  
4 leaders at the 2005 Hawaii Secondary Student Conference passed a  
5 resolution supporting the expenditure of funds to relieve the  
6 backlog.

7 It has become increasingly clear that the condition of our  
8 schools depends on the availability of funds and effective  
9 management of facility needs.

10 It is equally important that our schools be provided with  
11 sufficient funds for their operations, which also directly  
12 affect student achievement. Hence, the purpose of this part is  
13 to provide resources for both the operations and repair and  
14 maintenance of Hawaii's public schools.

15 SECTION 4. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$100,000,000 or so  
17 much thereof as may be necessary for fiscal year 2006-2007 for  
18 repair and maintenance of department of education school  
19 facilities.

20 The sum appropriated shall be expended by the department of  
21 education for the purposes of this part.



1 SECTION 5. The director of finance is authorized to issue  
2 general obligation bonds in the sum of \$50,000,000 or so much  
3 thereof as may be necessary, and the same sum or so much thereof  
4 as may be necessary is appropriated for fiscal year 2006-2007  
5 for the purpose of capital improvement projects for the  
6 department of education.

7 SECTION 6. The appropriation made for the capital  
8 improvement projects authorized by this part shall not lapse at  
9 the end of the fiscal year for which the appropriation is made;  
10 provided that all moneys from the appropriation unencumbered as  
11 of June 30, 2008, shall lapse as of that date.

12 SECTION 7. The sum appropriated shall be expended by the  
13 department of education for the purposes of this part.

14 SECTION 8. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$ or so much  
16 thereof as may be necessary for fiscal year 2006-2007 for  
17 operations of the department of education.

18 The sum appropriated shall be expended by the department of  
19 education for the purposes of this part.

20 PART II

21 SECTION 9. The legislature finds that the department of  
22 education may serve Hawaii's students more effectively if given



1 flexibility in certain areas of its operations. The purpose of  
2 this part is to:

- 3 (1) Authorize the department to independently issue  
4 certificates of participation when initiating the  
5 construction of new schools; and  
6 (2) Establish a special fund from which lease back  
7 payments may be made.

8 SECTION 10. Chapter 302A, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11 **"§302A- New school construction special fund. (a)**

12 There is created in the state treasury the new school  
13 construction special fund, to be administered by the department,  
14 into which shall be deposited:

15 (1) Legislative appropriations, including designated  
16 appropriations made for the operations of the  
17 department of education; and

18 (2) All interest earnings accruing from moneys in the  
19 fund.

20 (b) Expenditures from the fund shall be limited to  
21 interest earnings and shall be solely for the purpose of making  
22 lease back payments for new schools constructed through



1 financing agreements entered into pursuant to chapter 37D,  
2 including agreements using certificates of participation.

3 (c) New schools constructed with moneys appropriated from  
4 the new school construction special fund shall meet energy-  
5 efficient design standards."

6 SECTION 11. Section 37D-2, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§37D-2 Financing agreements.** (a) There is hereby  
9 established and authorized the financing agreement program of  
10 the State. Any agency desiring to acquire or improve projects  
11 through the financing agreement program established and  
12 authorized by this chapter shall submit a written request to the  
13 department providing such information as the department shall  
14 require. Notwithstanding any other law to the contrary, and  
15 except for the Hawaii health systems corporation, only with the  
16 approval by the attorney general as to form and legality and  
17 upon the written request of one or more participating agencies  
18 may the department enter into a financing agreement in  
19 accordance with this chapter, except that the department of  
20 education may enter into a financing agreement in accordance  
21 with this chapter without the approval of the director but with  
22 the approval of the attorney general as to form and legality,



1 and the board of regents of the University of Hawaii may enter  
2 into a financing agreement in accordance with this chapter  
3 without the approval of the director and of the attorney general  
4 as to form and legality if the principal amount of the financing  
5 agreement does not exceed \$3,000,000. A financing agreement may  
6 be entered into by the department on behalf of one or more  
7 participating agencies at any time (before or after commencement  
8 or completion of any improvements or acquisitions to be  
9 financed) and shall be upon terms and conditions the department  
10 finds to be advantageous. In each case of a written request by  
11 the judiciary to participate in the financing agreement program,  
12 the department shall implement the request; provided that the  
13 related financing agreement shall be upon terms and conditions  
14 the department finds to be advantageous. Any financing  
15 agreement entered into by the department without the approval  
16 required by this section shall be void and of no effect. A  
17 single financing agreement may finance a single item or multiple  
18 items of property to be used by multiple agencies or may finance  
19 a single item or multiple items of property to be used by a  
20 single agency. The department shall bill any participating  
21 agency that benefits from property acquired with the proceeds of



1 a financing agreement for such participating agency's pro rata  
2 share of:

- 3 (1) The department's costs of administration of the  
4 financing agreement program; and  
5 (2) The financing costs, including the principal and  
6 interest components of the financing agreement, and  
7 insurance premiums;

8 on a monthly or other periodic basis, and may deposit payments  
9 received in connection with the billings with a trustee as  
10 security for a financing agreement. Any participating agency  
11 receiving such a bill shall be authorized and shall pay the  
12 amounts billed from the available moneys.

13 (b) Financing agreements shall be subject to the following  
14 limitations:

- 15 (1) Amounts payable by a participating agency to or upon  
16 the direction of the department in respect to a  
17 project and by the department under a financing  
18 agreement shall be limited to available moneys. In no  
19 circumstance shall the department be obligated to pay  
20 amounts due under a financing agreement from any  
21 source other than available moneys. If, by reason of  
22 insufficient available moneys or other reason, amounts



1 due under a financing agreement are not paid when due,  
2 the lender may exercise any property right that the  
3 department has granted to it in the financing  
4 agreement, against the property that was purchased  
5 with the proceeds of the financing agreement, and  
6 apply the amounts so received toward payments  
7 scheduled to be made by the department under the  
8 financing agreement;

9 (2) No property rights may be granted in property unless  
10 the property is being acquired, is to be substantially  
11 improved, is to be refinanced with the proceeds of a  
12 financing agreement, or is land on which the property  
13 is located;

14 (3) Notwithstanding any other law to the contrary, and  
15 except for the Hawaii health systems corporation and  
16 as otherwise provided in this section with respect to  
17 the department of education and the University of  
18 Hawaii, and except as provided in chapter 323F as to  
19 the Hawaii health systems corporation, an agency shall  
20 not have the power to enter into a financing  
21 agreement, except through the department as authorized  
22 by this chapter, and nothing in this chapter shall be





- 1 construed to authorize the sale, lease, or other  
2 disposition of property owned by an agency;
- 3 (4) Except as otherwise provided in this section with  
4 respect to the department of education and the  
5 University of Hawaii, the sale, assignment, or other  
6 disposition of any financing agreements, including  
7 certificates of participation relating thereto, shall  
8 require the approval of the director; and
- 9 (5) The department shall not be subject to chapter 103D  
10 and any and all other requirements of law for  
11 competitive bidding for financing agreements."

12 SECTION 12. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$50,000,000 or so  
14 much thereof as may be necessary for fiscal year 2006-2007 to be  
15 deposited into the new school construction special fund.

16 The sum appropriated shall be expended by the department of  
17 education for the purposes of this part.

18 PART III

19 SECTION 13. The legislature finds that while it is  
20 important to improve Hawaii's schools at the primary and  
21 secondary levels, it is also vital that we address the needs of  
22 Hawaii post-secondary school educational system. Therefore, the



1 purpose of this part is to provide funding for the operations  
2 and repair and maintenance of the University of Hawaii.

3 SECTION 14. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so much  
5 thereof as may be necessary for fiscal year 2006-2007 for repair  
6 and maintenance of buildings and facilities of the University of  
7 Hawaii.

8 The sum appropriated shall be expended by the University of  
9 Hawaii for the purposes of this part.

10 SECTION 15. The director of finance is authorized to issue  
11 general obligation bonds in the sum of \$ or so much thereof  
12 as may be necessary, and the same sum or so much thereof as may  
13 be necessary is appropriated for fiscal year 2006-2007 for the  
14 purpose of repair and maintenance of facilities of the  
15 University of Hawaii.

16 SECTION 16. The appropriation made for the capital  
17 improvement project authorized by this part shall not lapse at  
18 the end of the fiscal year for which the appropriation is made;  
19 provided that all moneys from the appropriation unencumbered as  
20 of June 30, 2008, shall lapse as of that date.

21 SECTION 17. The sum appropriated shall be expended by the  
22 University of Hawaii for the purposes of this part.



1 SECTION 18. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so much  
3 thereof as may be necessary for fiscal year 2006-2007 for the  
4 operations of the University of Hawaii.

5 The sum appropriated shall be expended by the University of  
6 Hawaii for the purposes of this part.

7 PART IV

8 SECTION 19. New statutory material is underscored.

9 SECTION 20. This Act shall take effect on July 1, 2020.

10



SB 2956  
SD2  
HD2

**Report Title:**

Fix Hawaii's Schools Act

**Description:**

Appropriates funds for DOE and UH operations and facility repair and maintenance. Authorizes the issuance of general obligation bonds for DOE capital improvement projects and the repair and maintenance of UH facilities. Authorizes DOE to use certificates of participation to finance the construction of new schools. Establishes and appropriates funds for the New School Construction Special Fund from which lease back payments can be made, and requires that new schools constructed with these funds meet energy-efficient design standards. (SB2956 HD2)

