

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 Act 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, into which shall be deposited:

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

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

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



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

3 (c) The department of education shall administer the new
4 school construction special fund."

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

7 "**§37D-2 Financing agreements.** (a) There is hereby
8 established and authorized the financing agreement program of
9 the State. Any agency desiring to acquire or improve projects
10 through the financing agreement program established and
11 authorized by this chapter shall submit a written request to the
12 department providing such information as the department shall
13 require. Notwithstanding any other law to the contrary, and
14 except for the Hawaii health systems corporation, only with the
15 approval by the attorney general as to form and legality and
16 upon the written request of one or more participating agencies
17 may the department enter into a financing agreement in
18 accordance with this chapter, except that the department of
19 education may enter into a financing agreement in accordance
20 with this chapter without the approval of the director but with
21 the approval of the attorney general as to form and legality,
22 and except that the board of regents of the University of Hawaii



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



1 (1) The department's costs of administration of the
2 financing agreement program; and
3 (2) The financing costs, including the principal and
4 interest components of the financing agreement and
5 insurance premiums;
6 on a monthly or other periodic basis, and may deposit payments
7 received in connection with the billings with a trustee as
8 security for a financing agreement. Any participating agency
9 receiving such a bill shall be authorized and shall pay the
10 amounts billed from the available moneys.

11 (b) Financing agreements shall be subject to the following
12 limitations:

13 (1) Amounts payable by a participating agency to or upon
14 the direction of the department in respect to a
15 project and by the department under a financing
16 agreement shall be limited to available moneys. In no
17 circumstance shall the department be obligated to pay
18 amounts due under a financing agreement from any
19 source other than available moneys. If, by reason of
20 insufficient available moneys or other reason, amounts
21 due under a financing agreement are not paid when due,
22 the lender may exercise any property right that the



1 department has granted to it in the financing
2 agreement, against the property that was purchased
3 with the proceeds of the financing agreement, and
4 apply the amounts so received toward payments
5 scheduled to be made by the department under the
6 financing agreement;

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

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



1 SECTION 14. 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 repair
4 and maintenance of buildings and facilities of the University of
5 Hawaii.

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

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

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

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

21 SECTION 18. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2006-2007 for the
2 operations of the University of Hawaii.

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

5 PART IV

6 SECTION 19. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 20. This Act shall take effect on July 1, 2006.
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Report Title:

Fix Hawaii's Schools Act

SB. NO. 2956

Description:

Makes appropriations for operations of, and repair and maintenance for the Department of Education (DOE) and the University of Hawaii. Authorizes DOE to use certificates of participation to finance the construction of new schools.

