

JOSH GREEN, M.D.
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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

April 1, 2025
10:01a.m.

State Capitol, Room 211 & Videoconference

H.B. 990, H.D. 2, S.D. 1
MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS,
OR ITS EMPLOYEES

Senate Committee on Ways and Means Committee

The Hawaii Department of Transportation supports H.B. 990, H.D. 2, S.D. 1 that authorizes judgements and settlements for claims against the State.

We want to thank the State Attorney General office for all their support and hard work on completing these cases for the HDOT.

Thank you for the opportunity to provide testimony.

JOSH GREEN, M.D.
GOVERNOR



KEITH T. HAYASHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 04/01/2025

Time: 10:01 AM

Location: CR 211 & Videoconference

Committee: Senate Ways and Means

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Bill Title: HB 0990, HD2, SD1 MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

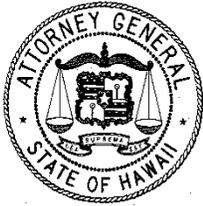
Purpose of Bill: Makes appropriations and approves payments for claims against the State, its officers, and its employees. Effective 4/23/2057. (SD1)

Department's Position:

The Hawaii State Department of Education (Department) supports HB990, HD2, SD1, which appropriates funds to satisfy claims against the State. This measure enables timely resolution of legal obligations, preventing unnecessary litigation and financial burdens.

By settling claims efficiently, this bill allows the Department to focus on its core mission of educating Hawaii's students. Appropriating these funds ensures fiscal responsibility and protects essential educational resources.

Thank you for the opportunity to provide testimony in support of this measure .



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 990, H.D. 2, S.D. 1, MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, April 1, 2025

TIME: 10:01 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Skyler G. Cruz,
Deputy Attorney General, at (808) 586-1494)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General (Department) supports this bill.

The purpose of this bill is to seek appropriations to satisfy claims against the State, its officers, or its employees, including claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

The bill contains twenty-three claims that total \$6,569,381.07. To satisfy this total amount, the following appropriations are needed:

- An appropriation in the amount of \$5,229,381.07, allocated among twenty claims to be paid from the general fund; and
- An appropriation in the amount of \$1,340,000.00, allocated among three claims to be paid from departmental funds.

Attachment "A" provides a brief description of each claim in this bill.

Since the bill was last amended, eight new claims were resolved that total \$1,285,077.67. To satisfy these additional claims, the Department requests that the bill be amended to increase the requested appropriation by the amount of \$1,285,077.67 allocated among eight claims as follows:

- An appropriation in the amount of \$1,215,077.67, allocated among seven claims to be paid from the general fund; and

- An appropriation in the amount of \$70,000.00, allocated to one claim to be paid from departmental funds.

Attachment "B" provides a brief description of the new claims.

Including the new claims, the appropriation request totals \$7,854,458.74 allocated among thirty-one claims, with the updated appropriation request as follows:

- An appropriation in the amount of \$6,444,458.74, allocated among twenty-seven claims to be paid from the general fund; and
- An appropriation in the amount of \$1,410,000.00, allocated among four claims to be paid from departmental funds.

The Department has a longstanding policy of advising agencies as to how to avoid claims such as those in this bill. The Department has complied with section 37-77.5, Hawaii Revised Statutes (HRS), which requires the Attorney General to develop and implement a procedure for advising our client agencies on how to avoid future claims.

We respectfully request passage of this bill with amendments to correct the errors described above and to add the new claims.

and experienced the cardiac episode. Plaintiffs alleged gross negligence against the State and certain HI-EMA employees.

DEPARTMENT OF EDUCATION:

B.R., M.A., and F.R. v. State of Hawaii
Civil No. 1CCV-20-0000549, First Circuit

\$ 330,000.00 (*General Fund*)
Settlement

Plaintiffs B.R., M.A., and F.R. sued the Department of Education (DOE) seeking damages for gross negligence pursuant to section 657-1.8, HRS, alleging that the DOE failed to protect them from sexual abuse perpetrated by a school security guard while they were students at the Highlands Intermediate School in the mid-1970s. The security guard led and supervised two school programs, an "Indian Dance Program" and a "Campus Police Officer Program." Both programs included activities conducted at the Highlands Intermediate School premises as well as activities conducted off-campus with the permission of DOE. The Plaintiffs alleged that the school security guard sexually assaulted them and other students on and off-campus during their participation in these programs. Plaintiffs B.R. and M.A. settled their claims in this lawsuit. Plaintiff F.R. voluntarily dismissed his claims before the case settled.

Katherine Balatico v. State of Hawaii
Civil No. 22-cv-0415-LEK-KJM, USDC

\$ 150,000.00 (*General Fund*)
Settlement

Plaintiff Katherine Balatico (Balatico), who is a former Principal of Stevenson Middle School, received four communications of a sexual and violent nature from an unknown person over the span of eight months from May 2020 through January 2021. The Department of Education (DOE), the Honolulu Police Department (HPD) and the Federal Bureau of Investigations, in consultation with the Hawaii Fusion Center, investigated these threats to no avail. During the investigation of these communications, DOE provided Plaintiff with supportive measures, including the development and implementation of a safety plan for Balatico, private security at her home and at school, installation of additional security cameras on campus and a card scanner to lock access to the administration building, upgrades to the school's telephone system, and hiring additional campus security personnel. DOE later terminated the safety plan and posted a vacancy announcement for Balatico's position while Balatico was on Worker's Compensation leave, which Balatico construed as termination of her employment. Plaintiff filed this lawsuit claiming that these and other actions or inactions were retaliatory in violation of Title IX of the Education Amendments of 1974, 20 U.S.C. § 1681 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* Balatico also asserted various state law tort claims, including negligence, gross negligence, and negligent and intentional infliction of emotional distress, which were dismissed without prejudice. Balatico sought economic, non-economic and punitive damages, as well as attorneys' fees and costs.

**Child Evangelism Fellowship of Hawaii, Inc. v.
Hawaii State Department of Education
Civil No. 24-cv-00034 MWJS-WRP, USDC**

**\$ 100,000.00 (General Fund)
Judgment**

This lawsuit was filed by Child Evangelism Fellowship of Hawaii, Inc. (CEF) against the Department of Education (DOE) alleging violations of the Free Exercise clause in the First Amendment and the Equal Protection clause in the Fourteenth Amendment to the United States Constitution. CEF is a Christian, nonprofit organization that uses DOE facilities pursuant to chapter 8-39, Hawaii Administrative Rules, to host its after-school Good News Clubs. Unlike other similarly situated organizations, the DOE required CEF to pay rental fees to use DOE facilities. As a result of this lawsuit, the DOE has agreed to stop charging CEF rental fees.

**Brenda Persinger, Individually and as a
Personal Representative of the Estate of
Michael Ambrose, Deceased v. State of Hawaii,
Department of Education
Civil No. 3CCV-22-0000337, First Circuit**

**\$1,750,000.00 (General Fund)
Settlement**

On June 13, 2022, a Department of Education (DOE) special education teacher was asked by her supervisor to bring supplies from a DOE office to a park to help set up a DOE-run summer camp for special needs students. The teacher was driving to the park along Highway 19 on Hawaii Island when she realized that she had missed her turn. The teacher then made a turn on the highway crossing over the double yellow line to head back in the other direction. Although the teacher had intended to make a U-turn, the highway was too narrow. Unable to complete the U-turn, the teacher then had to make a three-point turn, which caused her vehicle to partially block both lanes of the highway. At this time, a motorcyclist who was traveling on the highway struck the teacher's vehicle and died as a result of the accident. Police found the teacher at fault. The motorcyclist's widow filed a wrongful death lawsuit against the teacher and the DOE alleging that the teacher negligently caused the accident while in the course and scope of her employment for the DOE and that the DOE was vicariously liable for the teacher's negligence.

**Jake Ferreira v. State of Hawaii,
Department of Education
Civil No. 1CCV-23-0000874, First Circuit**

**\$ 75,000.00 (General Fund)
Settlement**

On October 22, 2021, Plaintiff Jake Ferreira (Ferreira) was a student at Castle High School. That day, Ferreira and another student were asked by a DOE teacher to assist with setting up a mechanical log splitter during an agriculture class. The log splitter was going to be used to split wood for the school's annual Thanksgiving imu fundraiser. While Ferreira and the other student were attempting to set-up the log splitter, Ferreira's left pinky finger got caught in a pinch point on the machine causing his finger to be

severed. Ferreira filed a lawsuit against the DOE and the teacher alleging that their negligent actions and/or omissions caused Ferreira's injury.

DEPARTMENT OF HAWAIIAN HOME LANDS:

Royal Contracting Company, Ltd. v. Department of Hawaiian Home Lands Civil No. 1CCV-16-1760-09, First Circuit	\$ 400,000.00 (General Fund) Settlement
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This case involved a highly technical dispute regarding the quantity of non-expansive coral fill required for grading a Department of Hawaiian Home Lands (DHHL) subdivision in Kapolei. Royal Contracting Company, Ltd. (Royal) alleged that DHHL's bid documents did not clearly state the amount of fill required, which allegedly caused Royal to import additional fill at its expense. The parties settled this case after multiple rounds of mediation over the course of several years.

DEPARTMENT OF LAND AND NATURAL RESOURCES:

Jennifer Reber v. State of Hawaii Civil No. 5CCV-23-0000053, Fifth Circuit	\$ 450,000.00 (General Fund) Settlement
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On May 20, 2021, Plaintiff Jennifer Reber (Reber) slipped and fell onto a piece of rebar protruding from the ground while hiking on a trail leading to Waipoo Falls, which is located at Kokee and Waimea Canyon State Park on Kauai, Hawaii. The rebar spike impaled Reber's lower right thigh. First responders transported Reber to the nearest hospital where she was treated and released. After returning to her home in Utah, Reber underwent reconstructive surgery and physical therapy.

Brenda Osmer Tort Claim	\$ 100,000.00 (General Fund) Settlement
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Brenda Osmer (Osmer) was visiting Waimea Canyon State Park on June 15, 2023. She was with her husband when they headed down the walkway from the Waimea Canyon lookout. Around the middle of the walkway, Osmer slipped on a steel diamond plate that was covering a small drainage ditch. Osmer fell and fractured her femur in the mid-thigh area of her right leg. According to Osmer, her husband, and two witnesses, there was a light sprinkling of rain prior to the incident. The two witnesses provided a statement that another person had fallen in the same area right before this incident. Osmer was taken by ambulance to the Wilcox Medical Center. Surgery was done the following day where a metal plate and screws were used to repair the fracture. The Department of Land and Natural Resources had no notice of anyone falling on the steel plate prior to June 15, 2023. After this incident, the steel plate was coated with a paint and sand mixture to make it less slippery and anti-slip tape was applied to the top of the steel plate to make it safer.

vehicle. Mr. Wills-Aldeguer landed over the center line where he was then struck by a southbound-Honolulu-bound vehicle. Mr. Wills-Aldeguer died as the result of the injuries he sustained in the accident. The driver of the northbound vehicle settled with Plaintiff, the decedent's father. The driver of the southbound vehicle is a Japanese national against whom Plaintiff obtained default. The complaint alleged, among other things, that the crosswalk presented a hazard to pedestrians, and that the Department of Transportation (DOT) was negligent in the design and maintenance of the crosswalk. Prior to the subject accident, DOT had its private engineering consultant study pedestrian safety along the Farrington Highway corridor from the Kahe Power Plant to the end of Makaha. In April 2017, DOT's consultant determined that there were thirteen marked but unsignalized crosswalks in the corridor, including the subject crosswalk. Many of these crosswalks had between one to three prior crossing accidents and had very low pedestrian usage. The consultant recommended that the crosswalks be removed as part of a comprehensive redesign and resurfacing the corridor that would also include the consolidation and relocations of some bus stops and bus stop facilities. Because of the comprehensive scope of the project and the traffic control-contra-flow necessary during construction, the project was divided into Phases 1 and 2. Phase 1 included the Nakakuli area. Phase 2 included the Maili, Waianae, and Makaha areas, including the Farrington Highway and Linakola Street intersection site of the accident. Phase 1 began in 2018. Phase 2 began after the completion of Phase 1. The subject accident occurred while work on Phase 1 was being completed and before work on Phase 2 had begun.

Estate of Bruce Perdue v. State of Hawaii
Civil No. 5CC131000351, Fifth Circuit

\$ 175,000.00 *(Dept. Appropriation)*
Settlement

This case arises out of a single motor vehicle accident that occurred in the early morning hours on May 21, 2012, in Kapaa, Lihue, Kauai. Bruce Perdue was driving north on the Kuhio Highway toward Kapaa town when he was involved in an accident. The post-accident police investigation indicated that, as he approached Mile Post 7, Mr. Perdue was driving in excess of the posted speed when he drove off the travel portion of the highway, off the paved shoulder, and struck a utility pole. He died as the result of the injuries he sustained in the accident. At the time of his death, he was employed with the National Guard. Plaintiffs include Mr. Perdue's parents and two siblings, in addition to the estate. The State of Hawaii (State) owns Kuhio Highway. Kaua'i Island Utility Cooperative and Hawaiian Telcom owned the utility pole. Plaintiffs sued the State for negligent design and operation of the highway and for maintenance of hazardous conditions on the highway including the utility pole. Plaintiffs dismissed their claims against the utility companies. The subject utility pole was within the State's highway right-of-way/paved shoulder. Plaintiffs' experts opined that the shoulder should have been free of hazardous conditions such as the utility pole, that the State should have moved the subject pole after two prior utility pole accidents, had a guardrail installed along the highway to prevent vehicles from striking the pole, and/or used other traffic control devices such as plastic delineators to highlight the presence of the pole. The State's experts opined that the highway was designed in conformance with applicable

engineering guidelines, that guardrail installation might increase the occurrence of different types of accidents at the site, and that the entire utility line and a number of poles along the line would need to be re-designed and relocated by the utility companies in order to relocate the subject pole.

STATE OF HAWAII JUDICIARY:

Lisa Ann Daguro v. State of Hawaii
Civil No. 1CCV-20-0001475, First Circuit

\$ 70,000.00 (*General Fund*)
Settlement

Plaintiff Lisa Ann Daguro (Daguro) filed this lawsuit against the State of Hawaii (State) and the City and County of Honolulu (City) seeking damages for injuries she sustained on November 20, 2018, when she tripped and fell on a cracked and uplifted portion of the sidewalk on Halekauwila Street mauka of the Circuit Court of the First Circuit building, Kaahumanu Hale, located at 777 Punchbowl Street (Kaahumanu Hale). This sidewalk is owned and controlled by the City. The State owns Kaahumanu Hale. It was determined that the uplift of the sidewalk had been caused by a root from a nearby monkeypod tree on the Kaahumanu Hale grounds. Although the City was responsible for inspecting and maintaining the sidewalk and the State was responsible for keeping the sidewalk clear of debris, neither the City nor the State noticed the crack and uplift in the sidewalk prior to the incident. However, the evidence showed that the State had been placed on notice that monkeypod trees had caused uplifts in sidewalks in the vicinity of Kaahumanu Hale in the past. Daguro alleged that the State, therefore, breached its duty of care to Daguro. Daguro alleged that as a result of the incident, she suffered injuries to her right knee and to her back and may require a total knee replacement in the future.

Leanne Rosa v. Randall G.B. Valenciano
Civil No. 23-CV-00315-JAO-WRP, USDC

\$ 90,000.00 (*Dept. Appropriation*)
Settlement

Plaintiff Leanne Rosa (Rosa) was at all relevant times a judicial assistant at the Fifth Circuit Court, State of Hawaii. Rosa brought a lawsuit against Chief Judge Randal G.B. Valenciano (Judge Valenciano) alleging that he subjected her to unwanted "hugs" in 2015 and during 2018 through 2023. Rosa asserted a claim under Title VII and/or 42 U.S.C. § 2000e and state law claims of Intentional Infliction of Emotional Distress and Negligence.

MISCELLANEOUS CLAIMS:

Mark Lloyd

\$ 111,733.08 (*General Fund*)

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

Maui Kupono Builders, LLC
(Check No. S0057589)

\$ 442,504.75 *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

Maui Kupono Builders, LLC
(Check No. S0001176)

\$ 152,665.39 *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

Sarah Ann D. Pacheco
f/k/a Sarah Ann D. Taylor

\$ 460.00 *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

Neal M. Tamashiro

\$ 514.00 *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

Kiyoji Tanimura

\$ 5,371.00 *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

eight years old at the time of his placement in Teixeira's home. Roe had been removed from several foster homes prior to his placement with Teixeira due to behavioral issues. DHS placed Roe with Teixeira, who was already fostering several teenage boys, because Teixeira had an excellent record dealing with troubled boys. The case was tried before the court, after which the court found that Roe was sexually abused while living at the Teixeira home, DHS was grossly negligent in its placement of Roe in the Teixeira home with the troubled teenage boys, and DHS failed to properly monitor Roe through regular visits. The court awarded \$45,000.00 in special damages and \$450,000.00 in general damages against the State for a total amount of \$495,000.00, plus interest, finding that Roe suffered and would continue to suffer pain and suffering, loss of enjoyment of life, and emotional distress.

DEPARTMENT OF LAND AND NATURAL RESOURCES:

Anela Aplaca v. State of Hawaii
Civil No. 1CCV-23-0000193, First Circuit

\$ 115,000.00 (*General Fund*)
Settlement

Plaintiff Anela Aplaca (Aplaca) filed this lawsuit against the State and the City and County of Honolulu (County) seeking damages for injuries she allegedly sustained as a result of an incident that occurred on May 21, 2022, on a sidewalk adjacent to a parking lot located near Wilikina Drive in Wahiawa. Aplaca alleged that around 9:00 p.m., as she was walking along the sidewalk, her left foot was caught in a crevice or gap in the sidewalk, causing her to fall and break her ankle. Aplaca alleged that the sidewalk in that area was in a defective condition and posed an unreasonable risk of harm. Aplaca alleged that the State and the County failed to take appropriate action to fix the condition or warn expected users of the sidewalk of the dangerous condition. It was discovered during the course of litigation that the State, rather than the County, owned and controlled the subject sidewalk.

DEPARTMENT OF TRANSPORTATION:

Susanna Sigal v. State of Hawaii
Civil No. 1CCV-20-0001486, First Circuit

\$ 70,000.00 (*Dept. Appropriation*)
Settlement

Plaintiff Susanna Sigal (Sigal), a resident of New York, brought this lawsuit against the State and other defendants seeking damages for injuries she allegedly sustained as a result of a trip-and-fall incident that occurred on the walkway fronting the Discovery Bay Center on Ala Moana Boulevard on October 21, 2020. Sigal alleged that she was on an evening walk with her daughter when her foot became caught on a raised edge where the sidewalk leading to the Discovery Bay Center met the Discovery Bay Center's tiled entrance area, which caused her to fall to the ground and suffer a right femur hip fracture. The State owned and controlled the subject sidewalk. Sigal claimed that the defendants were on notice of the alleged defect, that it was reasonably foreseeable to defendants that the condition on the walkway posed an unreasonable risk of harm, and

that they failed to take corrective action to prevent harm to persons walking in the Discovery Bay Center's common area, including Sigal.

MISCELLANEOUS CLAIMS:

National Commerce Bank Service **\$ 166,492.00** *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

Olinda Country Estates, Inc. **\$ 50,210.67** *(General Fund)*

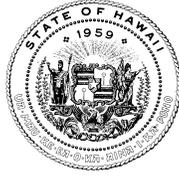
Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

Sofia Lerman Estate **\$ 22,674.17** *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kia'āina o ka Moku'āina 'o
Hawai'i*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia'āina o ka Moku'āina
'o Hawai'i*



KALI WATSON
CHAIRPERSON, HHC
Ka Luna Ho'okele

KATIE L. LAMBERT
DEPUTY TO THE CHAIR
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawai'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF KALI WATSON, CHAIR
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON WAYS & MEANS
DECISION MAKING ON APRIL 1, 2025 AT 10:01AM IN CR 211

**HB 990, HD 2, SD 1, MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE
STATE, ITS OFFICERS, OR ITS EMPLOYEES**

April 1, 2025

Aloha Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) **supports** this bill which makes appropriations and approves payments for claims against the State, its officers, and its employees.

DHHL is grateful that the State Attorney General office has completed these cases which will allow DHHL to focus on its mission to develop and deliver land to native Hawaiians and effectively manage the Hawaiian Home Lands trust.

Thank you for your consideration of our testimony.