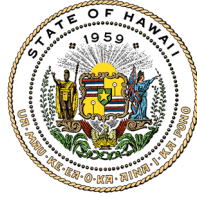


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
RYAN K.P. KANAKA'OLE
Acting Chairperson

Before the Senate Committee on
WAYS AND MEANS

Wednesday, April 1, 2026
10:03 AM
State Capitol, Conference Room 211

In consideration of
HOUSE BILL 2250, HOUSE DRAFT 2, SENATE DRAFT 1
MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR
ITS EMPLOYEES.

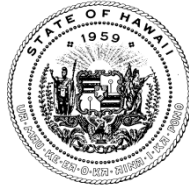
House Bill 2250, House Draft 2, Senate Draft 1 proposes to make appropriations and approve payments for the purpose of satisfying claims against the State, its officers, and its employees. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department respectfully expresses its sincere appreciation to the Legislature for the proposed appropriation for the settlement identified in Part I, Section 1(9), under the Department of Land and Natural Resources, in Lolita Silva v. Nelson Alana (Civil No. 22CC121000778, Second Circuit), in the amount of \$2,000,000 to the Department of the Attorney General.

The Department further formally acknowledges and extends its appreciation to the Department of the Attorney General for its diligent legal representation and continued assistance in the defense and resolution of claims and related matters involving the Department.

Mahalo for the opportunity to comment on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



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

EDWIN H. SNIFFEN
DIRECTOR
KA LUNA HO'OKELE

Deputy Directors
Nā Hope Luna Ho'okele
DREANALEE K. KALILI
TAMMY L. LEE
CURT T. OTAGURO
ROBIN K. SHISHIDO

Wednesday, April 1, 2026
10:03 AM
State Capitol, 211

HB2250, HD2, SD1
RELATING TO MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE,
ITS OFFICERS, OR ITS EMPLOYEES

Senate Committee on Ways and Means

The Department of Transportation (DOT) submits comments on House Bill 2250, HD2, SD1, relating to appropriations for claims against the State, its officers, and its employees.

We continue to thank the State AG office for all their support and hard work on completing these cases for the DOT.

Thank you for the opportunity to testify in support of this bill.



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

Date: 04/01/2026

Time: 10:03 AM

Location: CR 211 & Videoconference

Committee: WAM

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: HB2250, SD1, MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

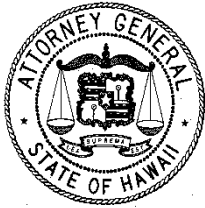
Purpose of Bill: Makes appropriations and approves payments for claims against the State, its officers, and its employees. Prohibits claims for refunds, reimbursements, or other payments, authorization for which is sought from the Legislature that exceed the time limitations of section 40-68, Hawaii Revised Statutes, from being claimed. Requires the Attorney General to submit a confidential report within five days after the opening of a Regular Session to the Speaker of the House of Representatives, President of the Senate, and Chairs of the House and Senate Judiciary Committees that provides a good faith estimate of each possible judgment against the State that has not yet settled. Requires the Attorney General to submit a report every five years to the Legislature containing further incidents that occurred in an agency that led to a claim. Effective 3/22/2075. (SD1)

Department's Position:

The Hawaii State Department of Education (Department) supports HB 2250, 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, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 2250, 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: Wednesday, April 1, 2026

TIME: 10:03 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 thirty claims, three of which have unspecified amounts, that total \$19,212,191.01. To satisfy this total amount, the following appropriations are needed:

- An appropriation in the amount of \$17,144,004.25, allocated among twenty-three claims to be paid from the general fund; and
- An appropriation in the amount of \$2,068,186.76, allocated among four 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 in the S.D. 1, eight new claims were resolved in a total amount of \$1,108,588.01. The S.D. 1 also removed a claim from the H.D. 2, which was on page 2, lines 17-24 of the H.D. 2. The Department requests that the removed claim, *United States Environmental Protection Agency Region 9 v. State of Hawaii Department of Agriculture*, in the amount of \$151,132.00 be restored in the bill. This claim was the result of a settlement of a fine that was levied against the Department of Agriculture and Biosecurity for an undisputable open cesspool violation.

To satisfy the new claims and the restored claim, the Department requests that the bill be amended to increase the requested appropriation by the amount of \$1,259,720.01 to be paid from the general fund.

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

The Department also requests removal of additional claims for unspecified amounts that were added to the S.D. 1. Page 2, lines 22-23 and 31-32, of the S.D. 1 inserted a blank appropriation for "interest" on two claims, *Roynes J. Dural II v. State of Hawaii* and *Alvin F. Jardine, III v. State of Hawaii*, as well as a blank appropriation for "outstanding statutory amount owed" for the *Jardine* case on page 2, lines 28-29. These cases are subject to fully executed settlement agreements that were negotiated at arm's length between the parties, with each plaintiff being adequately represented by counsel. Each of these plaintiffs voluntarily chose to settle their claims against the State in the amounts stated in the H.D. 2. The Department requests that the additions made in the S.D. 1 relating to "interest" and "outstanding statutory amount owed" be removed from the bill, because there is no justification to support them.

Including the new claims and the restored claim, and with the removal of the additional claims for unspecified amounts, the appropriation request totals \$20,471,911.02 allocated among thirty-six claims, with the updated appropriation request as follows:

- An appropriation in the amount of \$18,403,724.26, allocated among thirty-two claims to be paid from the general fund; and
- An appropriation in the amount of \$2,068,186.76, allocated among four claims to be paid from departmental funds.

Part III, on page 6, line 11, through page 10, line 9, inserted the contents of Senate Bill No. 2311, S.D. 1, sections 1 and 2 (SB2311), which would establish time limitations for presenting claims to the Legislature, require the Attorney General to submit a report to the Legislature annually identifying "a good faith estimate of each possible judgment against the State that has not yet settled," and require the Attorney General to submit additional reports to the Legislature every five years following

payment of a claim that detail "whether any further incidents that occurred in an agency that led to a claim" after remedial measures were put in place. Inserting the contents of SB2311 likely violates the "subject-title" requirement of article III, section 14 of the Hawaii State Constitution, which provides that "[e]ach law shall embrace but one subject, which shall be expressed in its title." HB2250's title is Making Appropriations for Claims Against the State, its Officers, or its Employees. The new part III does not make an appropriation, nor does it contain any provisions that would effectuate an appropriation made in the bill. The Department requests that the new part III be deleted from the bill, so that this important bill is not subject to a constitutional challenge.

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, 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.

This is a wrongful death lawsuit arising from the death of Jimuel Gatioan, a pretrial detainee at Oahu Community Correctional Center (OCCC), who committed suicide and died on April 4, 2023. Plaintiff Judith M. Gatioan, Mr. Gatioan's widow, brought this case on behalf of herself, her minor children, and Mr. Gatioan's estate. While he was at OCCC, Mr. Gatioan expressed suicidal ideation to several family members over multiple phone calls. Mrs. Gatioan notified both the prosecutor and Mr. Gatioan's defense attorney who both made phone calls to the facility warning it that Mr. Gatioan was a suicide risk. Mr. Gatioan was evaluated for his suicidal risk after these phone calls and was determined to not be at risk of suicide. As such, Mr. Gatioan was not placed on suicide watch. Less than a week after he was last evaluated for his suicidal risk, Mr. Gatioan was found hanging in his cell. Plaintiffs brought this lawsuit asserting claims of negligence and gross negligence, wrongful death, intentional infliction of emotional distress, negligent infliction of emotional distress, negligent training and negligent supervision, municipal liability, respondeat superior and/or vicarious liability, and premises liability. These claims arise from the Department of Corrections and Rehabilitations' alleged pattern and practice of failing to protect inmates, such as Mr. Gatioan, from self-harm by failing to adequately train its employees, failing to enforce its policies and procedures, and providing inadequate mental health care to inmates.

Susan O'Gorman v. State of Hawaii
Department of Public Safety
Civil No. 1CCV-24-0000912, First Circuit

\$ 600,000.00 (*General Fund*)
Settlement

This wrongful death and negligence action was brought by Susan O'Gorman, the mother of Brian O'Gorman, an inmate at the Halawa Correctional Facility who died on March 2, 2022, as a result of cardiac arrhythmia. Brian O'Gorman was being treated for mental health issues rather than drug withdrawal, which allegedly resulted in his becoming severely dehydrated, unable to walk, and unable to communicate.

DEPARTMENT OF EDUCATION:

D.C. v. State of Hawaii,
Department of Education
Civil No. 1CCV-20-0000657, First Circuit

\$ 400,000.00 (*General Fund*)
Settlement

This lawsuit was brought by a woman (Plaintiff) who, in 1979, was a 15-year-old student at Campbell High School (Campbell). Plaintiff was a member of Campbell's canoe club, which paddled in events throughout the year competing against other public and private high schools. During a trip to a paddling regatta on Hawaii Island, Plaintiff was sexually assaulted by the assistant coach of Campbell's paddling team. She disclosed the sexual assault to police immediately. Plaintiff brought this lawsuit alleging that DOE breached its duty to provide care and supervision over Plaintiff during this school-related activity, which she claims caused her to be sexually assaulted by the assistant coach.

**DOE Parents v. State of Hawaii,
Department of Education
Civil No. 1CCV-22-0001456, First Circuit**

**\$ 500,000.00 (General Fund)
Settlement**

On February 11, 2021, McKinley High School student and then-minor E.S. was sexually assaulted by her male classmate K.P.W. in the boy's bathroom of Building M. Plaintiffs alleged that the Department of Education (DOE) was aware K.P.W. was a danger and failed to properly supervise K.P.W. on campus, leading to his sexual assault of E.S. Plaintiffs further alleged that DOE's negligent conduct caused E.S. and her parents to suffer serious emotional distress and loss of enjoyment of life due to the trauma of the incident.

**In the Matter of K.P. v. Department of Education,
State of Hawaii
Impartial Due Process Hearing No. DOE-SY2425-041**

**\$8,000,000.00 (General Fund)
Settlement**

This case concerns the resolution of a long-standing dispute over the special education programming and services of a severely disabled student. Petitioners are student K.P. and her parents A.P. and P.P. (Petitioners). In 2023, an administrative hearing officer determined that the State of Hawaii, Department of Education (DOE) had been providing K.P. with inconsistent special education and related services since 2018. The hearing officer found that this had resulted in the denial of a Free Appropriate Public Education (FAPE) required under the Individuals with Disabilities Education Act (IDEA). As a result of DOE's noncompliance with the IDEA, the hearing officer ordered DOE to provide K.P. with a specified number of minutes of services through her twenty-fourth birthday. Although DOE was able to comply with the hearing officer's decision for a time, DOE was unsuccessful in its efforts to secure all the service providers needed to provide K.P. with all the minutes of services specified in the hearing officer's decision. The number of missing service minutes accrued over time. On June 2, 2025, Petitioners filed a request for an impartial due process hearing alleging that DOE denied K.P. of a FAPE by failing to provide the two years of compensatory education that had been awarded to her in 2023 as well as the special education and related services K.P. was entitled to under applicable federal and state laws and regulations. Petitioners alleged that because of the years-long failure to consistently provide necessary special education and services, K.P. suffered post-traumatic stress disorder, a significant regression in skills and abilities, and exhibited various heightened behavioral issues. Settlement of this matter resolves the claims at the administrative level and also includes the claims that could have been filed in a federal lawsuit.

**Victoria Ramos v. Hawaii State
Department of Education
Civil No. 3CCV-23-0000394, Third Circuit**

**\$ 36,951.86 (General Fund)
Settlement**

On April 18, 2023, Plaintiff K.R. was a first-grade student attending the Volcano School of Arts and Sciences. On that day, during morning recess, K.R. was running across the

grassy area fronting the school campus when she tripped and fell over the remains of a tree stump located in the grassy area. K.R. broke a bone in her elbow and required two surgeries. Plaintiff Victoria Ramos as Guardian ad litem for Minor K.R. brought this lawsuit alleging that DOE and other defendants failed to exercise ordinary care in ensuring that the lawn was reasonably safe for students and were otherwise negligent in keeping the area safe to walk on.

**South Point Investment Group, LLC v.
State of Hawaii
Civil No. 3CCV-20-000040, Third Circuit**

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

This case arises from the closure of a Hawaii State Public Charter School known as Kau Learning Academy (KLA). Plaintiff South Point Investment Group, LLC (South Point), the Landlord for the property where the charter school operated, executed a Commercial Lease Agreement with KLA for the use of the property. On July 9, 2018, the State Public Charter School Commission revoked KLA's charter for allegedly materially violating its charter contract. South Point then contended that KLA breached the Lease by failing to pay rent and failed to return the property in good condition. South Point brought this lawsuit alleging that KLA was an agent of the State and, therefore, the State was liable for the charter school's breach and for negligently handling the closure of the school, which caused South Point to incur damages.

**United Public Workers v. Keith Hayashi
Case No. CE-01-539**

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

This administrative matter stems from a Prohibited Practice Complaint (PPC) filed with the Hawaii Labor Relations Board (HLRB) by the United Public Workers (UPW) on behalf of James Ah Sing against the Department of Education (DOE) and Connections Charter School (collectively, Respondents). Ah Sing was a janitor at Connections Charter School, whose employment was not renewed in 2003. UPW alleged that Ah Sing's non-renewal violated a memorandum of agreement entered into between DOE and UPW in 2000, which constituted a prohibited practice in violation of section 89-13(a), HRS. In 2017, HLRB issued a decision finding that Respondents committed a prohibited practice. The matter was appealed and in 2020, the Hawaii Supreme Court held that HLRB had jurisdiction to order affirmative remedies and remanded the case to HLRB. In 2021, HLRB ordered Respondents to pay Ah Sing back wages and lost vacation pay, with interest compounded daily. HLRB did not specify the specific amount of interest to be paid or the period of time that interest would accrue. On August 6, 2022, the State paid Ah Sing a total amount of \$125,275.38, which included the principal award of back wages and lost vacation pay and attorneys' fees. This settlement resolves the parties' dispute over the amount of interest to be paid to Ah Sing.

DEPARTMENT OF HAWAIIAN HOME LANDS:

William Kaholoa‘a Jr. v. Hawaiian Homes Commission, State of Hawaii **\$ 1,330,000.00** (*General Fund*)
Civil No. 2CCV-24-0000037, Second Circuit **Settlement**

Plaintiffs William Kaholoa‘a Jr. and Tania Dudoit Kaholoa‘a (Kaholoa‘as) filed this lawsuit against the Defendants Hawaiian Homes Commission, Department of Hawaiian Home Lands (DHHL), and Department of Health (DOH) (collectively, Defendants) seeking compensation for injuries and damages allegedly suffered as a result of their exposure to used motor oil and hazardous waste stored on their neighbor Curtis Crabbe's (Crabbe) property from January 2015 through February 2023. In 2011, DOH's Solid and Hazardous Waste Branch (SHWB) issued a used motor oil transporter permit to Crabbe. In 2015, DHHL hired Crabbe to transport the used motor oil it generated off the island of Molokai. A field test of the containers of used motor oil performed by Crabbe indicated that two containers contained hazardous waste (chlorinated solvents had been mixed into the used motor oil). Crabbe took the containers from DHHL but was unable to transport them off island because he did not have a permit to transport hazardous waste. When DHHL discovered that the used motor oil had not been transported off island, it enlisted the help of SHWB. SHWB's efforts to have Crabbe remove the hazardous waste were unsuccessful. SHWB then ordered Crabbe to return the containers to DHHL, but the containers were never returned to DHHL. In 2023, the Kaholoa‘as complained to DOH about a petroleum-based odor from Crabbe's property. DOH's Hazardous Evaluation and Emergency Response Office (HEER) investigated and found DHHL's containers on Crabbe's DHHL homestead property. HEER cleaned up Crabbe's property. During the clean-up, it was discovered that two of DHHL's containers were compromised and leaked non-hazardous used motor oil. The Kaholoa‘as alleged that they and their property were injured or damaged by the used motor oil.

DEPARTMENT OF HEALTH:

HELG Administrative Services, LLC v. Department of Health **\$ 100,000.00** (*General Fund*)
Civil No. 1CC191000332, First Circuit **Settlement**

Curtis Panoke was a patient at the Hawaii State Hospital (HSH) from 2005 through 2010. He was transferred to Columbia Regional Care Center in South Carolina in 2010 after assaulting a nurse at the HSH. In 2016 he was attacked by his roommate and left in a vegetative state until his death in 2025. Plaintiff HELG Administrative Services, LLC (HELG), as conservator for Panoke, brought this lawsuit on behalf of Panoke's estate and his surviving daughter. HELG brought this lawsuit alleging that DOH breached its duty of care to exercise ordinary care and/or the requisite standard of care of a medical and/or psychiatric health care provider for the safety of Panoke at the Columbia Regional Care Center.

DEPARTMENT OF HUMAN SERVICES:

Tera Graves v. State of Hawaii, **\$ 600,000.00** *(General Fund)*
Department of Human Services **Settlement**
Civil No. 3CCV-19-000022, Third Circuit

Plaintiff Tera Graves (Graves) alleged that she was the victim of sexual assault while she resided in the home of her foster parent, co-defendant Gloria Holmes. At the time the events occurred, Graves was below statutory age, whereas the men who are alleged to have sexually assaulted Graves were adults. Graves alleged that the Department of Human Services, Child Welfare Services, failed to properly screen the individuals that might have access to the foster home, leading to her sexual assaults and to her resulting pain and suffering.

DEPARTMENT OF LAND AND NATURAL RESOURCES:

Lolita Silva v. Nelson Alana **\$ 2,000,000.00** *(General Fund)*
Civil No. 2CC121000778, Second Circuit **Settlement**

On September 25, 2010, Hal Silva (Silva), Brian Smith (Smith), and Nelson Alana (Alana) were all employees of the Department of Land and Natural Resources Harbors Division and were working at the Lahaina Harbor when an accident occurred involving the testing of a gasoline powered portable generator that allegedly resulted in Silva and Smith being exposed to carbon monoxide fumes. The exposure is alleged to have occurred when Alana decided to place the subject generator into a shed adjacent to an office that Silva and Smith were working in. The intent was to allow the generator to burn off a few minutes' worth of remaining fuel without interfering with the vessel passenger foot traffic that was occurring contemporaneously. Plaintiffs brought this lawsuit seeking damages for injuries that allegedly resulted from their exposure to the carbon monoxide fumes. Plaintiffs could not bring tort claims against the State as their employer and instead brought this suit against their co-employee, Alana, under the "wilful and wanton misconduct" exception found in Hawaii's Workers' Compensation Law, chapter 386, HRS. This exception to the exclusive remedy under the statute is provided in section 386-8, HRS.

DEPARTMENT OF LAW ENFORCEMENT:

Thomas Cayetano v. Department of Public Safety **\$ 47,500.00** *(General Fund)*
Civil No. 1CCV-22-0000179, First Circuit **Settlement**

Thomas Cayetano (Cayetano) was employed by the Department of Public Safety (PSD) as a Deputy Sheriff. On June 5, 2019, PSD's Internal Affairs Office (IAO) commenced an investigation into Cayetano's conduct relating to his May 29, 2019, testimony as a witness in *United States of America v. Katherine Kealoha, Louis M. Kealoha, Derek*

Wayne Hahn, Minh-Hung Nguyen, Criminal No. 17-00582 JMS-RLP in United States District Court, District of Hawaii. It was discovered that in 2011, Cayetano had arranged for Deputy Prosecuting Attorney Katherine Kealoha to visit her then-incarcerated uncle, Gerard Puana, in the cell block in the Circuit Court building basement, as a professional courtesy and without supervisor approval.

After an internal investigation by PSD's IAO was completed, a hearings officer was assigned to conduct a due process hearing to determine whether there was just cause to discipline Cayetano and if there was, to recommend the discipline and/or disciplinary measures to be imposed on Cayetano. A pre-disciplinary due process hearing was held and Cayetano was subsequently terminated by then-PSD Director Nolan Espinda via letter dated February 14, 2020. Cayetano appealed his termination, and a second pre-discharge due process hearing was held. The hearings officer recommended the discharge stand. Cayetano grieved his termination and on June 10, 2021, the arbitrator rescinded Cayetano's termination and reinstated him to his Deputy Sheriff position; ordered PSD to make Cayetano whole and restore all rights and benefits and remove and expunge all derogatory material relating to the termination; and ordered PSD to refrain from any and all retaliatory action against Plaintiff.

Cayetano subsequently filed a lawsuit alleging wrongful termination and other related claims. Cayetano admitted that, pursuant to the arbitration award, PSD had reinstated him as a Deputy Sheriff II and commenced the process of reimbursing him for outstanding backpay. However, Cayetano alleged that he was "not yet compensated for loss of income which was not recompensed by back-pay, including without limitation, loss of opportunities of advancement in his employment with PSD, and retirement contributions" as well as "medical and psychological treatments, the costs of which he has not been reimbursed." Cayetano has since retired from the Department of Law Enforcement, the successor department to PSD.

OFFICE OF THE PUBLIC DEFENDER:

**Joshua Priestersbach v. Office of the
Public Defender
Civil No. 1CCV-24-0000470, First Circuit**

**\$ 200,000.00 (General Fund)
Settlement**

This lawsuit arises from the arrest of Plaintiff Joshua Priestersbach (Priestersbach) on May 11, 2017, based on a probation bench warrant that had been issued for a different individual named Thomas R. Castleberry. At the time of his arrest, Priestersbach did not have any physical identification. However, the arresting officer searched the State of Hawaii Criminal Justice Inquiry System for the social security number that Priestersbach verbally provided to him, which showed a record for Priestersbach with Thomas Castleberry listed as an alias. Following his arrest, Priestersbach was placed in the custody of the Department of Public Safety (PSD) and was initially housed at the Oahu Community Correctional Center (OCCC). Priestersbach was represented by the Office of the Public Defender (OPD) in the

criminal proceedings that followed his arrest and incarceration. Several different Deputy Public Defenders were assigned to represent Spriestersbach in the criminal matter. Early in their representation of Spriestersbach, it became apparent to the OPD Deputies that Spriestersbach suffered from mental illness. At OPD's request, Spriestersbach was required to undergo a mental fitness examination pursuant to section 704-404, HRS. A three-doctor panel diagnosed Spriestersbach as suffering from schizophrenia and found that he was not fit to proceed in the criminal prosecution. Spriestersbach was then transferred from OCCC to the Hawaii State Hospital (HSH) where he remained until his discharge on January 17, 2020, after his true identity as Spriestersbach, rather than Thomas Castleberry, was verified. Plaintiff brought this action against OPD and the Deputy Public Defenders who represented him in the criminal proceedings alleging legal malpractice. He claimed that the Deputy Public Defenders had an independent duty, apart from the Honolulu Police Department, PSD, the HSH physicians, to verify his identity and that they breached that duty. This settlement was part of a global settlement that included settlement of Spriestersbach's claims against the City and County of Honolulu and other defendants in a separately filed federal court action.

DEPARTMENT OF TRANSPORTATION:

Anacleto R. Battad v. Lawrence J. Dill
Civil No. 5CC181000177, Fifth Circuit

\$ 1,100,000.00 (*Dept. Appropriation*)
Settlement

Plaintiff Anacleto R. Battad (Battad) was an employee of the Department of Transportation (DOT). On December 1, 2016, Battad was injured when he fell from the platform of a contra-flow truck that was being used to set up the contra-flow traffic lanes. Battad sustained head injuries as a result of the incident. Battad and his wife, Jade Battad, filed a complaint against Willy S. Ortal and Lawrence J. Dill, who were Battad's supervisors at the time of the incident. Battad could not bring tort claims against the State as his employer and instead brought suit under an exception in the Workers' Compensation Law that permits an employee to sue a co-worker "if the personal injury is caused by that employee's wilful and wanton misconduct." Section 386-8(k), HRS. Because Battad's injuries were work-related, he was receiving workers' compensation benefits in accordance with chapter 386, HRS. A global settlement was reached that includes both the civil lawsuit filed against Ortal and Dill as well as Battad's workers' compensation benefits claim.

The Estate of Matthew Louis Perreira v.
State of Hawaii
Civil No. 2CCV-22-00000045, Second Circuit

\$ 300,000.00 (*Dept. Appropriation*)
Settlement

This case arises from a motor vehicle accident on the island of Maui that resulted in the death of Matthew Louis Perreira (Perreira). On December 13, 2020, Perreira was traveling southwest on Dairy Road on a motorcycle that he had built and modified. Patrick Ventura, the driver of a pickup truck, drove from Hukilike Street into the intersection intending to make a left turn onto Dairy Road to head northeast. Perreira

and Ventura collided while the pickup truck was turning left in front of the fire station. Perreira was taken to the hospital where he later died as the result of the injuries he sustained. His parents and widow, individually and on behalf of their minor child, sued Alexander & Baldwin, LLC (A&B), the State, and Maui County alleging negligent design, operation and maintenance of the highway and intersection. The subject intersection has a history of accidents that have occurred through the years. The crashes include accidents involving left and right turning vehicles from Hukilike Street colliding with vehicles traveling on Dairy Road. Plaintiffs' experts opined that, among other things, there are sight-distance limitations from vehicles turning from Hukilike Street onto Dairy Road. The traffic and transportation engineering expert retained on behalf of the State in this case determined that the sight distances met and exceeded current engineering guidelines. Irrespective of the compliance of the subject intersection with engineering guidelines, pursuant to sections 663-10.5 and 10.9(4), HRS, the State was at risk of being held jointly and severally liable with A&B, Maui County, and Ventura, the driver that collided with Perreira. Under those statutory provisions, in highway cases, if there is a showing that the State had reasonable prior notice of a prior occurrence under similar circumstances the State could be found jointly and severally liable with other Defendants. Only one prior similar accident would be sufficient for such a finding.

**Pualani Kanaka'ole Kanahale v.
State of Hawaii
Civil No. 1CCV-20-0000235, First Circuit**

\$ 68,186.76 (*Dept. Appropriation*)
Judgment

This lawsuit arose from a chapter 673, HRS, claim alleging breaches of the Hawaiian Home Lands Trust. Plaintiffs asserted that the Mauna Kea Access Road (MKAR), part of which is located on Hawaiian Home Lands, was being improperly used as a public road without compensation to the Hawaiian Home Lands Trust. Plaintiffs asserted that the State, through DOT, had exerted improper control over the MKAR since 2018, when DOT declared MKAR as a state highway, transferring jurisdiction from the County of Hawaii to the State. Plaintiffs sought compensation to Hawaiian Home Lands Trust in the form of unpaid rent, and injunctive and declaratory relief. After the Circuit Court for the First Circuit entered summary judgment for the State defendants, the plaintiffs appealed. The Hawaii Supreme Court concluded that DOT breached the State's trust duties when it took control of MKAR, in violation of the Hawaiian Homes Commission Act. Plaintiffs then moved for appellate attorneys' fees and costs. The Hawaii Supreme Court granted the plaintiffs' request in part, awarding them \$67,656.00 in attorneys' fees and \$530.76 in costs. This judgment is solely for an award of appellate attorneys' fees and costs in an ongoing case.

**Cranston Takayama v. Aaron Napoleon
Civil No. 1CCV-22-0000040, First Circuit
Shauntel Takayama v. Aaron Napoleon
Civil No. 1CCV-22-0000100, First Circuit
Maximum Legal Services Corp. v. Aaron Napoleon
Civil No. 1CCV-22-0000094, First Circuit**

\$ 600,000.00 (*Dept. Appropriation*)
Settlement

**Donoven Ruiz v. Aaron Napoleon
Civil No. 1CCV-22-0000109, First Circuit**

These lawsuits arise from a two-vehicle accident that occurred near the Maipalaoa Bridge (Bridge) in Waianae. At around 10:30 p.m. on January 25, 2020, Aaron Napoleon (Napoleon) was traveling in his vehicle in the eastbound direction on Farrington Highway when his vehicle struck a concrete barrier on the makai side of the Bridge. This caused his vehicle to cross Farrington Highway into oncoming traffic and collide head-on into a vehicle being driven by Richard Takayama (Takayama). Takayama and his girlfriend Brandie Ruiz Navarro (Navarro), who was in the front passenger seat, both died. The Bridge was under construction at the time the accident occurred. DOT had contracted with Grace Pacific LLC (Grace Pacific) for a project involving repair and renovation of the Bridge. The direction of traffic had to be shifted during the project, which was accomplished with the use of signs, lights, and concrete barriers. Four separate lawsuits were brought against Napoleon, DOT, Grace Pacific, and other defendants by the estates of the decedents, Takayama's daughter, and Navarro's son. Plaintiffs alleged wrongful death and other common law tort claims. They claimed that DOT, in particular, was negligent in its oversight of Grace Pacific and that Grace Pacific failed to implement proper traffic control plans.

MISCELLANEOUS CLAIMS:

U.S. Department of the Treasury and the Treasury Office of Inspector General Reminding All Emergency Rental Assistance Award Recipients of Responsibilities and Requirements for Reporting Fraud and Reimbursing Fraud Losses and Unallowable Costs dated October 4, 2024	\$1,223,732.22 (General Fund) Reimbursement
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On October 4, 2024, the U.S. Department of the Treasury (U.S. Treasury) and the Treasury Office of the Inspector General issued a Joint Notice to the State of Hawaii (State) informing the State that it is now fully liable for fraudulent activity committed by applicants in the Emergency Rental Assistance (ERA) programs that provided funding to states, local governments, and U.S. territories to assist low-income renters facing financial hardship, directly or indirectly due to the COVID-19 pandemic, aiming to prevent eviction and housing instability. The Notice, titled "*U.S. Department of the Treasury and the Treasury Office of Inspector General Reminding All Emergency Rental Assistance Award Recipients of Responsibilities and Requirements for Reporting Fraud and Reimbursing Fraud Losses and Unallowable Costs*," mandates the State to reimburse the U.S. Treasury for the total amount of fraud losses incurred under the ERA programs. The total amount of fraud losses is \$1,223,732.22. This amount was determined after review by the U.S. Treasury's Office of the Inspector General and the State's Department of Budget and Finance.

Joan Arakawa and Kevin Arakawa \$ **1,494.72** (*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.

Steve Boucher and Judy Boucher \$ **1,102.00** (*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.

Citibank NA \$ **780.72** (*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.

Silvia Frumento \$ **1,425.12** (*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.

Clarice H. Kam \$ **724.11** (*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.

Maria Lundblad \$ **104,460.50** (*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.

MISCELLANEOUS CLAIMS:

Melissa Gibo \$ **97.74** *(General Fund)*
(Check No. G0054017)

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.

Melissa Gibo \$ **58.00** *(General Fund)*
(Check No. G0062643)

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.

Melissa Gibo \$ **521.25** *(General Fund)*
(Check No. G0066497)

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.

Melissa Gibo \$ **20.00** *(General Fund)*
(Check No. G0076362)

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.

Estate of Ines Mandl \$ **53,575.50** *(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.

Linda S. Richburg \$ **30,494.00** *(General Fund)*

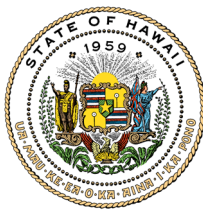
Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on

which the claim for payment matured, within the period specified by section 37-77, HRS, or claimant has shown good cause for any delay.

Spruce Servicing LLC

\$ 548,821.52 *(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.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**
*Ka 'Oihana Ho'omalua Kalaima
a Ho'oponopono Ola*
1177 Alakea Street
Honolulu, Hawai'i 96813

No. _____

TESTIMONY ON HOUSE BILL 2250, HOUSE DRAFT 2, SENATE DRAFT 1
RELATING TO MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE,
ITS OFFICERS, OR ITS EMPLOYEES.

by
Tommy Johnson, Director
Department of Corrections and Rehabilitation

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Wednesday, April 1, 2026; 10:03 a.m.
State Capitol, Conference Room 211 & via Videoconference

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

The Department of Corrections and Rehabilitation (DCR) **supports** House Bill (HB) 2250, House Draft (HD) 2, Senate Draft (SD) 1, which seeks to provide for the authorization and payment of claims against the State for refunds of taxes, judgments and settlements, and for other miscellaneous payments as provided by chapters 37, 661, and 662, Hawai'i Revised Statutes.

The appropriation to the Department of the Attorney General is to satisfy the claim for legislative relief to the following named person for payment of a settlement against DCR, formerly known as the Department of Public Safety as follows:

<u>Judith M. Gatioan v. State of Hawai'i</u>	\$800,000.00
Civil No. 1CCV-24-0001719, First Circuit	(Settlement)
<u>Susan O'Gorman v. State of Hawai'i,</u>	\$600,000.00
<u>Department of Public Safety,</u>	(Settlement)
Civil No. 1CCV-24-0000912, First Circuit	
Total:	<u>\$1,400,000.00</u>

Thank you for the opportunity to provide testimony in **support** of HB 2250, HD 2,
SD 1.