

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, others, and cases for overpayment of taxes, or on account of other claims for refunds, reimbursements, payments of judgments or settlements, or other payments, against the State in the amount set forth opposite their names:<sup>1</sup>

REFUND OF TAXES:	<u>Amount</u>
Hawaiian Airlines, Inc. No. 10350, Supreme Court Date of Judgment: April 29, 1985 Amount of Judgment:	\$ -138,522.09
JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	<u>Amount</u>
Ahina v. Cardines Civil No. 84-218, First Circuit Amount of Settlement: No interest	\$ -222,000.00
Anderson v. Zion Civil No. 82109, First Circuit Amount of Settlement: No interest	\$ -25,000.00
Andrion v. Yuen Civil No. 5999(1), Second Circuit Amount of Settlement: No interest	\$ -435,000.00
Baccus v. State Civil No. 85-1266, First Circuit Amount of Settlement: No interest	\$ -40,000.00
Balch v. State Civil No. 07029(1), Second Circuit Amount of Settlement: No interest	\$ -275,000.00
Borge v. State Civil No. 6899(1), Second Circuit Amount of Settlement: No interest	\$ -75,000.00
Carvalho, R. v. State Civil No. 7890(2), Second Circuit Amount of Settlement: No interest	\$ -175,000.00

Carvalho, V. v. Barnette Civil No. 84-0164, First Circuit Amount of Arbitration Award: No interest		\$ -2,995,000.00
Coachman v. State Civil No. 85-3301, First Circuit Amount of Settlement: No interest		\$ -45,000.00
Cuban v. State Civil No. 86-0910, First Circuit Amount of Settlement: No interest		\$ -20,000.00
Dang v. State Civil No. 7266(1), Second Circuit Amount of Settlement: No interest		\$ -16,000.00
Dodds v. Amfac Civil No. 85-0032(3), Second Circuit Amount of Settlement: No interest		\$ -50,000.00
DOE v. Katherine D. Civil No. 80-0582, USDC Amount of Stipulated Judgment:	\$ 45,000.00	
Interest at 10% from 8/5/86	4,450.69	\$ -49,450.69
Fernandez v. City & County Civil No. 83288, First Circuit Amount of Settlement: No interest		\$ -5,000.00
Fiedler v. Department of Health Civil No. 70405, First Circuit Amount of Settlement: No interest		\$ -5,000.00
Galapir v. Ramil Civil No. 85-0956, First Circuit Amount of Settlement: No interest		\$ -10,000.00
Ishikawa v. Rafael Civil No. 81646, First Circuit Amount of Settlement: No interest		\$ -235,000.00
Kahla v. State Civil No. 85-0037, Fifth Circuit Amount of Settlement: No interest		\$ -8,000.00
Kai v. State Civil No. 86-4553, First Circuit Amount of Settlement		\$ -20,000.00
Kang v. Malibu Grand Prix Civil No. 85-2573, First Circuit Amount of Settlement: No interest		\$ -50,000.00
Lambayan v. DOE Civil No. 81-0410, USDC Amount of Settlement:	\$ 3,750.00	

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Interest at 5.79% from 12-4-86	142.77	\$	-3,892.77
Libertarian Party v. Waihee Civil No. 86-0439, USDC Hawaii Amount of Stipulated Judgment:	\$ 4,604.00		
Interest at 5.77% from 11-26-86	180.50	\$	-4,784.50
Limperos v. State Civil No. 7883(1), Second Circuit Amount of Settlement: No interest		\$	-75,000.00
Lovato v. State Civil No. 5951(1), Second Circuit Amount of Settlement: No interest		\$	-110,000.00
Madigan v. State Civil No. 5567, Second Circuit Amount of Judgment: Interest at 4% from 3-17-86 Costs:	\$ 142,200.00 7,822.95 2,303.64	\$	-152,326.59
Mariano v. State Civil No. 85-1269, First Circuit Amount of Settlement: No interest		\$	-36,000.00
McCaffrey, P. v. State Civil No. 84-1758, First Circuit Amount of Settlement: No interest		\$	-200,000.00
Nakagawa v. State Civil No. SCD 87-266, First Circuit Amount of Settlement		\$	-2,500.00
Neil v. Wells Civil No. 85-0990, First Circuit Amount of Settlement: No interest		\$	-10,000.00
Pacific Poultry v. State Civil No. 84-0995, First Circuit Amount of Settlement: No interest		\$	-75,000.00
Park v. City and County Civil No. 45301, First Circuit Amount of Settlement: No interest		\$	-35,000.00
Rabe v. State Civil No. 84-1541, First Circuit Amount of Settlement: No interest		\$	-60,000.00
Ramelb v. State Civil No. 83227, First Circuit Amount of Settlement: No interest		\$	-97,500.00
Roe v. Wong Civil No. 83294, First Circuit Amount of Settlement:		\$	-125,000.00

No interest

Sammis v. State  
Civil No. 84-2126, First Circuit  
Amount of Settlement:  
No interest

\$ -60,000.00

Sasaki v. Americana Hotels  
Civil No. 84-0870, First Circuit  
Amount of Settlement:  
No interest

\$ -5,000.00

Schmidt v. State  
Civil No. 9406, Third Circuit  
Amount of Settlement:  
No interest

\$ -10,000.00

Schoolcraft v. State  
Civil No. 7030(1), Second Circuit  
Amount of Settlement:  
No interest

\$ -25,000.00

Sholtes v. Fuentes  
Civil No. 80176, First Circuit  
Amount of Settlement:  
No interest

\$ -15,893.41

Siu v. Tokushima  
Civil No. 82962, First Circuit  
Amount of Settlement:  
No interest

\$ -12,000.00

Smylie v. State  
No. 10732, Supreme Court  
Amount of Settlement: \$ 23,000.00  
Interest at 4% from  
5-15-86: 1,116.61

\$ -24,116.61

Sotelo v. State  
Civil No. 85-1136, First Circuit  
Amount of Settlement:  
No interest

\$ -130,000.00

Suwa v. Lee  
Civil No. 79863, First Circuit  
Amount of Settlement:  
No interest

\$ -10,000.00

Welter v. Toyota  
Civil No. 81082, First Circuit  
Amount of Settlement:  
No interest

\$ -650,000.00

Winter v. State  
Civil No. 87-0684-03, First Circuit  
Amount of Settlement:  
No interest

\$ -20,000.00

Yamashita v. State  
Civil No. 77954, First Circuit  
Amount of Settlement:  
No interest

\$ -15,000.00

Zack v. Amfac  
Civil No. 7598(2), Second Circuit  
Amount of Settlement:  
No interest

\$ -30,000.00

Zukeran v. City

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Civil No. 84-0031, First Circuit  
Amount of Settlement:  
No interest

\$ -5,000.00

Hogg v. DOT  
Civil No. 85-2622, First Circuit  
Amount of Settlement:  
No interest

\$ -8,000.00

Nuesca v. State  
Civil No. 85-2889, First Circuit  
Amount of Settlement:  
No interest

\$ -28,000.00

Rudolph v. State  
Civil No. 85-2889, First Circuit  
Amount of Settlement:  
No interest

\$ -8,000.00

Takiguchi v. State  
Civil No. 85-0110, Fifth Circuit  
Amount of Settlement:  
No interest

\$ -2,500.00

Walsh v. State  
Criminal No. 85-1539, District  
Court of the First Circuit  
Amount of Settlement:  
Interest:

\$4,114.96  
145.48

\$ -4,260.44

White v. State  
Civil No. 1407, Fifth Circuit  
Amount of Settlement:  
No interest

\$ -80,000.00

### MISCELLANEOUS CLAIMS

Ethel Mae K. Pakele  
Richard Yanagida

\$ -4.85  
\$ -434.30

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for overpayment of taxes and (2) upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate stated above, shall be limited to the period from the date of judgment or settlement, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases where judgment or settlement was based on chapter 662, Hawaii Revised Statutes.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by Section 1 of this Act as of the close of business on June 30, 1988, shall lapse into the general fund of the State.

SECTION 5. To provide for the payment of a settlement agreement negotiated by the State of Hawaii in Moseman Construction Company v. State of Hawaii, First Circuit Civil No. 85-1226, there is appropriated a sum not to exceed \$2,640,000.00 out of general obligation bond funds of the State of Hawaii for fiscal year 1987-1988, with debt service to be paid out of the state highway fund. This appropriation shall be used for settlement of the

pending claims involving the highway construction project, Wilson Bridge and Approaches, District of Wahiawa, Island of Oahu, Federal Aid Project No. BRF-BR-080-1(7).

The Moseman suit seeks damages of more than \$4,000,000. The claims are grounded on a contract awarded to Moseman Construction Co., by the state department of transportation for a federal-aid highway construction project on Oahu.

The departments of the attorney general and of transportation have evaluated the claims and consider the settlement to be in the best interest of the State. The evaluation included considerations of the projected cost of defending the claims and the potential exposure to liability.

**SECTION 6.** The sum appropriated in Section 5 of this Act shall be expended by the department of transportation for the purposes of this Act.

**SECTION 7.** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

(Approved June 22, 1987.)

**Note**

1. Items vetoed and initialed "JW".