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FIRST CIRCUIT COURT  
STATE OF HAWAII  
FILED

2017 JUN -9 PM 3:51

N. MIYATA  
CLERK

HAWAII APPLESEED CENTER FOR  
LAW AND ECONOMIC JUSTICE  
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*Attorneys for Plaintiffs*

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

PATRICK SHEEHEY; PATRICIA  
SHEEHEY; RAYNETTE NALANI AH  
CHONG; SHERRY CAMPAGNA;  
MICHAEL HOLM; and TIARE HOLM,  
*individually, and on behalf of a class  
of Hawai'i-licensed resource families;*  
B.S.; and T.B., a Minor, by her Next  
Friend N.A., *individually and on  
behalf of a class of persons similarly  
situated;*

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 14-1-1709-08 VLC  
(Contract)  
Civil Action; Class Action

**PLAINTIFFS' NOTICE OF  
SETTLEMENT STATUS IN LIEU OF  
MOTION FOR FINAL APPROVAL OF  
SETTLEMENT;** APPENDICES "A" –  
"I"; CERTIFICATE OF SERVICE

JUDGE: The Honorable  
Virginia L. Crandall

TRIAL DATE: To Be Reset

**PLAINTIFFS' NOTICE OF SETTLEMENT STATUS IN LIEU OF  
MOTION FOR FINAL APPROVAL OF SETTLEMENT**

**I. Reason for Notice in Lieu of Motion for Final Approval**

This Court's March 24, 2017 ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION TO CERTIFY SETTLEMENT CLASSES AND FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT directed the parties to file a motion for final approval of the settlement on June 9, 2017. At this juncture, settlement appears unlikely because the legislature did not appropriate the funds necessary to effectuate the settlement that both this Court and the federal court, Hon. Leslie E. Kobayashi presiding, preliminarily approved. Consequently, a motion for final approval is unnecessary. Plaintiffs therefore provide the following notice of settlement status and proposals regarding deadlines and notices in light of the anticipated failure of the settlement.

**II. Summary of Relevant Settlement Requirements**

In order to effectuate the settlement of this action, the State committed to pay monetary damages in an amount totaling \$2,341,103.10, to be distributed pro rata to eligible Class Members (the State Action Settlement Amount). See PLAINTIFFS' UNOPPOSED MOTION TO CERTIFY SETTLEMENT CLASSES AND FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT, FILED MARCH 20, 2017, at Exhibit A (State Settlement Agreement) Section I.5. The State also agreed, among other things, to increase the monthly foster board rate to Hawaii's foster families to resolve the federal action. *Id.*, Exhibit B (Federal Settlement Agreement) Section II.1.

The State requested appropriations to fund the State Action Settlement Amount in the ATG1 bill. See Appendix A, HB1022, HD1, SD1 (Making Appropriations for Claims Against the State, its Officers, or its Employees) also available at the Hawaii State Legislature’s website at: [http://www.capitol.hawaii.gov/session2017/bills/HB1022\\_SD1\\_.HTM](http://www.capitol.hawaii.gov/session2017/bills/HB1022_SD1_.HTM).

The Governor requested funds to increase the foster board rate in the Executive Budget (HB100). The foster board rate increase comprised approximately \$4.6 million in state funds and approximately \$2.4 million in federal funds annually. See Appendix B, excerpted Budget Worksheet (“Exec Disagrees”), HB100 at p.180 of 505 available at the Hawaii State Legislature’s website at <http://www.capitol.hawaii.gov/session2017/worksheets/HB100-EXEC-DISAGREES.pdf>:<sup>1</sup>

| Program ID:   |      | HMS303          |            | CHILD PROTECTIVE SERVICES PAYMENTS |                 |              |
|---|------|-----------------|------------|------------------------------------|-----------------|--------------|
| Structure #:  |      | 060103000000    |            |                                    |                 |              |
| Subject Committee:  |      | HMS             |            | HUMAN SERVICES                     |                 |              |
| <b>SENATE</b>   |      |                 |            |                                    |                 |              |
| SEQ #   | Form | FY 2018<br>Temp | Amt        | Form                               | FY 2019<br>Temp | Amt          |
|   |      |                 | 43,131,294 |                                    |                 | 43,131,294 A |
|   |      |                 | 23,614,626 |                                    |                 | 23,614,626 N |
|   | 0.00 | 0.00            | 66,745,920 | 0.00                               | 0.00            | 66,745,920   |
| 100-001   |      |                 | 4,558,858  |                                    |                 | 4,634,292 A  |
|   |      |                 | 2,454,770  |                                    |                 | 2,495,388 N  |
| EXECUTIVE REQUEST:  |      |                 |            |                                    |                 |              |
| ADD FUNDS FOR SETTLEMENT FOR FOSTER CARE BOARD RATES                |      |                 |            |                                    |                 |              |
| (HMS303/WP).  |      |                 |            |                                    |                 |              |
| (/4,558,858A; /4,634,292A)  |      |                 |            |                                    |                 |              |
| *****   |      |                 |            |                                    |                 |              |
| <b>SENATE CONCURS</b>   |      |                 |            |                                    |                 |              |
| DETAIL OF GOVERNOR'S REQUEST:                                       |      |                 |            |                                    |                 |              |
| FOSTER CARE BOARD RATE INCREASE (FY18: 4,558,858A/2,454,770N; FY19: |      |                 |            |                                    |                 |              |
| 4,634,292A/2,495,388N)  |      |                 |            |                                    |                 |              |

<sup>1</sup> State funds are designated by the letter “A” and federal funds are designated by the letter “N”.

### III. Failure of the Settlement

House leadership refused to appropriate the funds necessary to effectuate the settlement. It stripped the State Action Settlement Amount from the ATG1 bill. Appendix C, also available at the State Legislature’s website at [http://www.capitol.hawaii.gov/session2017/bills/GM1119\\_.pdf](http://www.capitol.hawaii.gov/session2017/bills/GM1119_.pdf). And it denied the Governor’s budget request for the foster board rate increase.

| <b>HOUSE</b>   |      |            |                |      |              |
|--|------|------------|----------------|------|--------------|
| <b>FY 2018</b>   |      |            | <b>FY 2019</b> |      |              |
| Perm   | Temp | Amt        | Perm           | Temp | Amt          |
|  |      | 43,131,294 |                |      | 43,131,294 A |
|  |      | 23,614,626 |                |      | 23,614,626 N |
|  |      |            |                |      |              |
| 0.00   | 0.00 | 66,745,920 | 0.00           | 0.00 | 66,745,920   |
|  |      |            |                |      |              |
| <p><b>EXECUTIVE REQUEST:</b><br/> <b>ADD FUNDS FOR SETTLEMENT FOR FOSTER CARE BOARD RATES</b><br/> <b>(HMS303/WP).</b><br/> <b>(/4,558,858A; /4,634,292A)</b><br/>           .....</p> |      |            |                |      |              |
| <b>HOUSE DOES NOT CONCUR</b>   |      |            |                |      |              |
| <p><b>DETAIL OF GOVERNOR'S REQUEST:</b><br/> <b>FOSTER CARE BOARD RATE INCREASE</b><br/> <b>(FY18: 4,558,858A/2,454,770N; FY19: 4,634,292A/2,495,388N)</b></p>                         |      |            |                |      |              |

Appendix B. Rather than fund the settlement, the legislature instead increased the Department of the Attorney General’s operating budget by approximately \$5 million. See Appendix F, G, H, I (newspaper articles quoting legislators). **In other words, the Legislature chose to give the State’s attorneys money to fight foster parents in court instead of helping families care for Hawaii’s foster children.** Compare Appendix D, HB100, HD1, SD1 (\$24 million in operating/legal services budget on April 7, 2017) to Appendix E, HB100, HD1,

SD1, CD1 (increasing AG's budget by \$5 million to \$29 million):  
[http://capitol.hawaii.gov/measure\\_indiv.aspx?billtype=HB&billnumber=100&year=2017](http://capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=100&year=2017).

Because the settlement of this action and the related federal action was conditioned upon funding the State Action Settlement Amount and foster board rate increases, the settlement will become null and void on June 30, 2017. See Preliminary Approval Motion at Exhibit A, State Settlement Agreement, Section I.A.13; *id.*, Exhibit B, Federal Settlement Agreement Section and I.J.

#### **IV. Anticipated Notice of Failure of Settlement and Suspension of Deadlines in March 24, 2017 Order Preliminarily Approving Class Action Settlement**

In light of the anticipated failure of the settlement, Plaintiffs request that the remaining deadlines and final approval hearing set by this Court's March 24, 2017 Order be taken off calendar. Plaintiffs further propose that the parties agree upon the form of a notice to be provided to Class Members, informing them about the failure of the settlement and that the State be required to bear the costs of providing the notice of failure of the settlement to the Class Members.

Finally, with respect to the May 31 deadline to request exclusion from (or opt out of) the settlement, in the unlikely event that the settlement is effectuated, Plaintiffs request that the deadline to request exclusion be reset because of errors in the class notice process. After notices were sent, Class Members contacted Class Counsel with concerns about the accuracy of their

designation as non-Payment Recipients. After consultation, the State confirmed that there were a small number of Class Members who were incorrectly identified as non-Payment Recipients. Because Class Members are more likely to opt out if they are not Payment Recipients, if the settlement is effectuated, corrected notices should be sent out so that Class Members may make decisions on whether to opt out of the settlement based on correct information.

DATED: Honolulu, Hawai'i, June 9, 2017.



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PAUL ALSTON  
ANDERSON MEYER  
MICHELLE COMEAU  
CLAIRE WONG BLACK  
VICTOR GEMINIANI  
GAVIN THORNTON

*Attorneys for Plaintiffs*

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# A BILL FOR AN ACT

MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

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

## PART I

SECTION 1. The following sums or so much thereof as may be necessary for fiscal year 2016-2017 are appropriated out of the general revenues of the State of Hawaii to the department of the attorney general for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and entities, for claims against the State or its officers or employees for the overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amounts set forth opposite their names:

| <b>JUDGMENTS AGAINST THE STATE<br/>AND SETTLEMENTS OF CLAIMS:</b>  | <b>AMOUNT</b>              |
|--|----------------------------|
| 1. DEPARTMENT OF EDUCATION:  |                            |
| Westbrook, et al. v. State of Hawaii, et al.<br>Civil No. 12-1-1596-06, First Circuit  | \$ 21,000.00<br>Settlement |
|  | <hr/>                      |
| SUBTOTAL:  | \$ 21,000.000              |
| 2. HAWAII CAMPAIGN SPENDING COMMISSION:  |                            |
| Yamada, et al. v. Snipes, et al.<br>Civil No. 10-00497, USDC<br>Ninth Circuit No. 12-17845                                     | \$ 66,701.10<br>Judgment   |
| The Committee to Elect Julia Allen, et al. v.<br>Campaign Spending Commission, et al.<br>Civil No. 15-1-1147-06, First Circuit | \$ 2,415.00<br>Settlement  |
|  | <hr/>                      |
| SUBTOTAL:  | \$ 69,116.10               |

## 3. DEPARTMENT OF LAND AND NATURAL RESOURCES:

|   |                            |
|---|----------------------------|
| Claim of First Insurance Company<br>of Hawaii, Inc. | \$ 18,000.00<br>Settlement |
|---|----------------------------|

|           |              |
|-----------|--------------|
| SUBTOTAL: | \$ 18,000.00 |
|-----------|--------------|

## 4. LAND USE COMMISSION:

|   |                       |
|---|-----------------------|
| Bridge Aina Le'a, LLC v. State of Hawaii<br>Land Use Commission<br>Civil No. 11-00414 SOM KJM, USDC | \$ 1.00<br>Settlement |
|---|-----------------------|

|           |         |
|-----------|---------|
| SUBTOTAL: | \$ 1.00 |
|-----------|---------|

## 5. DEPARTMENT OF PUBLIC SAFETY:

|  |                            |
|--|----------------------------|
| Antoque v. State of Hawaii, et al.<br>Civil No. 15-1-0262, Third Circuit | \$ 35,000.00<br>Settlement |
|--|----------------------------|

|  |                             |
|--|-----------------------------|
| Freitas, et al. v. Gillespie, et al.<br>Civil No. 13-1-0365, Fifth Circuit | \$ 400,000.00<br>Settlement |
|--|-----------------------------|

|  |                            |
|--|----------------------------|
| Leolao, et al. v. State of Hawaii, et al.<br>Civil No. 13-1-3038-11, First Circuit | \$ 60,000.00<br>Settlement |
|--|----------------------------|

|   |                            |
|---|----------------------------|
| Obata v. State of Hawaii, et al.<br>Civil No. 14-1-1660-07 KTN, | \$ 20,000.00<br>Settlement |
|---|----------------------------|

|  |                            |
|--|----------------------------|
| Sullivan, et al. v. State of Hawaii, et al.<br>Civil No. 15-1-2429-12 VLC, First Circuit | \$ 48,000.00<br>Settlement |
|--|----------------------------|

|  |                            |
|--|----------------------------|
| Muller v. State of Hawaii, et al.<br>Civil No. 14-1-2133-10, First Circuit | \$ 80,000.00<br>Settlement |
|--|----------------------------|

|           |               |
|-----------|---------------|
| SUBTOTAL: | \$ 643,000.00 |
|-----------|---------------|

## 6. DEPARTMENT OF HUMAN SERVICES:

|  |                            |
|--|----------------------------|
| Carroll, et al. v. Camit, et al.<br>Civil No. 12-1-0622(2), Second Circuit | \$ 18,500.00<br>Settlement |
|--|----------------------------|

|   |                               |
|---|-------------------------------|
| Ah Chong, et al. v. McManaman<br>Civil No. 13-00663 LEK-KSC, USDC | \$ 1,100,000.00<br>Settlement |
|---|-------------------------------|

|   |                             |
|---|-----------------------------|
| J.E., et al. v. Wong, et al.<br>Civil No. 14-00399 HG-KJM, USDC | \$ 396,858.00<br>Settlement |
|---|-----------------------------|

|                                    |                 |
|------------------------------------|-----------------|
| Sheehey, et al. v. State of Hawaii | \$ 2,341,103.10 |
|------------------------------------|-----------------|



Civil No. 14-1-1709-08 VLC, First Circuit Settlement

SUBTOTAL: \$ 3,856,461.10

## 7. MISCELLANEOUS CLAIMS:

Eaton Arakaki \$ 557.99

Paquito and Natividad Dimaya \$ 1,001.00

Ronald Martinez, Jr. \$ 92.00

Kan Shimada \$ 250.00

Shigeko Kiyojima \$ 697.00

Kiyomi Young \$ 399.60

Jocelyn Valdez \$ 837.00

SUBTOTAL: \$ 3,834.59

Total (SECTION 1): \$ 4,611,412.79

The sums appropriated shall be expended by the department of the attorney general for the purposes of this Act.

**PART II**

SECTION 2. The following sums or so much thereof as may be necessary for fiscal year 2016-2017 are appropriated out of the state highway fund for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:****AMOUNT**

## DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:

|                                       |              |
|---------------------------------------|--------------|
| Burley v. State of Hawaii             | \$ 85,000.00 |
| Civil No. 14-1-2102-10, First Circuit | Settlement   |

|                                       |                 |
|---------------------------------------|-----------------|
| Lee, et al. v. Tavai, et al.          | \$ 1,565,154.00 |
| Civil No. 14-1-1659-07, First Circuit | Settlement      |

|                                  |                 |
|----------------------------------|-----------------|
| Lopez, et al. v. State of Hawaii | \$ 3,901,866.44 |
|----------------------------------|-----------------|

|  |                 |
|--|-----------------|
| Civil No. 13-1-0885(2), Second Circuit         | Settlement      |
| Kawamura, et al. v. State of Hawaii, et al. \$ | 95,000.00       |
| Civil No. 11-1-0311, Fifth Circuit             | Settlement      |
| <hr/>  |                 |
| SUBTOTAL:                                      | \$ 5,647,020.44 |
| TOTAL (SECTION 2)                              | \$ 5,647,020.44 |

The sums appropriated shall be expended by the department of transportation, highways division, for the purposes of this Act.

### PART III

SECTION 3. The following sums or so much thereof as may be necessary for fiscal year 2016-2017 are appropriated out of the harbor special fund for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

| <b>JUDGMENTS AGAINST THE STATE<br/>AND SETTLEMENTS OF CLAIMS:</b> | <b>AMOUNT</b> |
|---|---------------|
|---|---------------|

DEPARTMENT OF TRANSPORTATION, HARBORS DIVISION:

|                                       |               |
|---------------------------------------|---------------|
| Smith v. State of Hawaii, et al.      | \$ 116,000.00 |
| Civil No. 15-1-0549-03, First Circuit | Settlement    |
| <hr/>                                 |               |
| SUBTOTAL:                             | \$ 116,000.00 |
| TOTAL (SECTION 3)                     | \$ 116,000.00 |

The sums appropriated shall be expended by the department of transportation, harbors division, for the purposes of this Act.

### PART IV

SECTION 4. The sums hereinabove may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon checks issued by the comptroller; provided

departments shall obtain the approval of the attorney general before payment of any claim can be made.

SECTION 5. Notwithstanding the sums hereinabove stated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which the statute applies.

SECTION 6. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2018, shall lapse.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not effect 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 on January 7, 2059.

**Report Title:**

Claims Against the State; Appropriations

**Description:**

Makes appropriations for claims against the State, its officers, and its employees. Takes effect on 1/7/2059. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

LEGISLATIVE BUDGET SYSTEM  
BUDGET COMPARISON WORKSHEET

Program ID: HMS303 CHILD PROTECTIVE SERVICES PAYMENTS  
Structure #: 060103000000  
Subject Committee: HMS HUMAN SERVICES

| SEQ #   | SENATE |              |            |      |              |            | HOUSE |              |            |      |              |            |   |
|---------|--------|--------------|------------|------|--------------|------------|-------|--------------|------------|------|--------------|------------|---|
|         | Perm   | FY 2018 Temp | Amt        | Perm | FY 2019 Temp | Amt        | Perm  | FY 2018 Temp | Amt        | Perm | FY 2019 Temp | Amt        |   |
|         |        |              | 43,131,294 |      |              | 43,131,294 |       |              | 43,131,294 |      |              | 43,131,294 | A |
|         |        |              | 23,614,626 |      |              | 23,614,626 |       |              | 23,614,626 |      |              | 23,614,626 | N |
|         | 0.00   | 0.00         | 66,745,920 | 0.00 | 0.00         | 66,745,920 | 0.00  | 0.00         | 66,745,920 | 0.00 | 0.00         | 66,745,920 |   |
| 100-001 |        |              | 4,558,858  |      |              | 4,634,292  |       |              |            |      |              |            | A |
|         |        |              | 2,454,770  |      |              | 2,495,388  |       |              |            |      |              |            | N |

**EXECUTIVE REQUEST:**  
ADD FUNDS FOR SETTLEMENT FOR FOSTER CARE BOARD RATES  
(HMS303/WP).  
(/4,558,858A; /4,634,292A)  
\*\*\*\*\*

**SENATE CONCURS.**

DETAIL OF GOVERNOR'S REQUEST:  
FOSTER CARE BOARD RATE INCREASE (FY18: 4,558,858A/2,454,770N; FY19:  
4,634,292A/2,495,388N)

**EXECUTIVE REQUEST:**  
ADD FUNDS FOR SETTLEMENT FOR FOSTER CARE BOARD RATES  
(HMS303/WP).  
(/4,558,858A; /4,634,292A)  
\*\*\*\*\*

**HOUSE DOES NOT CONCUR**

DETAIL OF GOVERNOR'S REQUEST:  
FOSTER CARE BOARD RATE INCREASE  
(FY18: 4,558,858A/2,454,770N; FY19: 4,634,292A/2,495,388N)

|   |      |      |            |      |      |            |                       |      |      |            |      |      |            |   |
|---|------|------|------------|------|------|------------|-----------------------|------|------|------------|------|------|------------|---|
| A |      |      | 4,558,858  |      |      | 4,634,292  | <b>CHANGES BY MOF</b> |      |      |            |      |      | A          |   |
| N |      |      | 2,454,770  |      |      | 2,495,388  |                       |      |      |            |      |      | N          |   |
|   | 0.00 | 0.00 | 7,013,628  | 0.00 | 0.00 | 7,129,680  | <b>TOTAL CHANGES</b>  | 0.00 | 0.00 | 0          | 0.00 | 0.00 | 0          |   |
| A |      |      | 47,690,152 |      |      | 47,765,586 | <b>BUD. TOTALS</b>    |      |      | 43,131,294 |      |      | 43,131,294 | A |
| N |      |      | 26,069,396 |      |      | 26,110,014 |                       |      |      | 23,614,626 |      |      | 23,614,626 | N |
|   |      |      | 73,759,548 |      |      | 73,875,600 | <b>TOTAL BUDGET</b>   |      |      | 66,745,920 |      |      | 66,745,920 |   |



GOV. MSG. NO. 1119

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

May 18, 2017

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on May 18, 2017, the following bill was signed into law:

HB1022 HD1 SD2 CD1

MAKING APPROPRIATIONS FOR CLAIMS  
AGAINST THE STATE, ITS OFFICERS, OR ITS  
EMPLOYEES  
**ACT 019 (17)**

Sincerely,

A handwritten signature in black ink, appearing to read "David Y. Ige".

DAVID Y. IGE  
Governor, State of Hawai'i

Approved by the Governor  
on     MAY 18 2017      
HOUSE OF REPRESENTATIVES  
TWENTY-NINTH LEGISLATURE, 2017  
STATE OF HAWAII

ORIGINAL

ACT 019  
H.B. NO. 1022  
H.D. 1  
S.D. 2  
C.D. 1

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# A BILL FOR AN ACT

MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS  
OFFICERS, OR ITS EMPLOYEES.

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

1 **PART I**

2 SECTION 1. The following sums or so much thereof as may be  
3 necessary for fiscal year 2016-2017 are appropriated out of the  
4 general revenues of the State of Hawaii to the department of the  
5 attorney general for the purpose of satisfying claims for  
6 legislative relief as to the following named persons, firms,  
7 corporations, and entities, for claims against the State or its  
8 officers or employees for the overpayment of taxes, or for  
9 refunds, reimbursements, payments of judgments or settlements,  
10 or other liabilities, in the amounts set forth opposite their  
11 names:

|    |                              |    |          |
|----|------------------------------|----|----------|
| 12 | 1. MISCELLANEOUS CLAIMS:     |    |          |
| 13 |                              |    |          |
| 14 | Eaton Arakaki                | \$ | 557.99   |
| 15 |                              |    |          |
| 16 | Paquito and Natividad Dimaya | \$ | 1,001.00 |
| 17 |                              |    |          |
| 18 | Ronald Martinez, Jr.         | \$ | 92.00    |
| 19 |                              |    |          |
| 20 | Kan Shimada                  | \$ | 250.00   |
| 21 |                              |    |          |
| 22 | Shigeko Kiyojima             | \$ | 697.00   |
| 23 |                              |    |          |



|   |                    |    |             |
|---|--------------------|----|-------------|
| 1 | Kiyomi Young       | \$ | 399.60      |
| 2 |                    |    |             |
| 3 | Jocelyn Valdez     | \$ | 837.00      |
| 4 |                    |    |             |
| 5 |                    |    |             |
| 6 | SUBTOTAL:          | \$ | 3,834.59    |
| 7 |                    |    |             |
| 8 | Total (SECTION 1): |    | \$ 3,843.59 |

9 The sums appropriated shall be expended by the department  
10 of the attorney general for the purposes of this Act.

11 **PART II**

12 SECTION 2. The following sums or so much thereof as may be  
13 necessary for fiscal year 2016-2017 are appropriated out of the  
14 state highway fund for the purpose of satisfying claims for  
15 legislative relief as to the following named persons, for claims  
16 against the State or its officers or employees for payments of  
17 judgments or settlements, or other liabilities, in the amount  
18 set forth opposite their names:

| 19 | JUDGMENTS AGAINST THE STATE                      |    | AMOUNT       |
|----|--|----|--------------|
| 20 | AND SETTLEMENTS OF CLAIMS:                       |    |              |
| 21 |  |    |              |
| 22 | DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION: |    |              |
| 23 |  |    |              |
| 24 | Burley v. State of Hawaii                        | \$ | 85,000.00    |
| 25 | Civil No. 14-1-2102-10, First Circuit            |    | Settlement   |
| 26 |  |    |              |
| 27 | Lee, et al. v. Tavai, et al.                     | \$ | 1,565,154.00 |
| 28 | Civil No. 14-1-1659-07, First Circuit            |    | Settlement   |
| 29 |  |    |              |
| 30 | Lopez, et al. v. State of Hawaii                 | \$ | 3,901,866.44 |



|   |   |                 |
|---|---|-----------------|
| 1 | Civil No. 13-1-0885(2), Second Circuit      | Settlement      |
| 2 |   |                 |
| 3 | Kawamura, et al. v. State of Hawaii, et al. | \$ 95,000.00    |
| 4 | Civil No. 11-1-0311, Fifth Circuit          | Settlement      |
| 5 |   |                 |
| 6 |   |                 |
| 7 | SUBTOTAL:                                   | \$ 5,647,020.44 |
| 8 |   |                 |
| 9 | TOTAL (SECTION 2)                           | \$ 5,647,020.44 |

10 The sums appropriated shall be expended by the department  
11 of transportation, highways division, for the purposes of this  
12 Act.

14 **PART III**

15 SECTION 3. The following sums or so much thereof as may be  
16 necessary for fiscal year 2016-2017 are appropriated out of the  
17 harbor special fund for the purpose of satisfying claims for  
18 legislative relief as to the following named persons, for claims  
19 against the State or its officers or employees for payments of  
20 judgments or settlements, or other liabilities, in the amount  
21 set forth opposite their names:

| 22 | JUDGMENTS AGAINST THE STATE                     | AMOUNT        |
|----|---|---------------|
| 23 | AND SETTLEMENTS OF CLAIMS:                      |               |
| 24 |   |               |
| 25 | DEPARTMENT OF TRANSPORTATION, HARBORS DIVISION: |               |
| 26 |   |               |
| 27 | Smith v. State of Hawaii, et al.                | \$ 116,000.00 |
| 28 | Civil No. 15-1-0549-03, First Circuit           | Settlement    |
| 29 |   |               |
| 30 | SUBTOTAL:                                       | \$ 116,000.00 |





1 TOTAL (SECTION 3) \$ 116,000.00

2 The sums appropriated shall be expended by the department  
3 of transportation, harbors division, for the purposes of this  
4 Act.

5 PART IV

6 SECTION 4. The following sums or so much thereof as may be  
7 necessary for fiscal year 2016-2017 are appropriated out of the  
8 airport revenue fund for the purpose of satisfying claims for  
9 legislative relief in the following case, to be paid exclusively  
10 to those subcontractors and suppliers for work and supplies that  
11 have been provided and accepted as reasonable and appropriate by  
12 the department of transportation, airports division, for claims  
13 against the State or its officers or employees for payments of  
14 judgments or settlements, or other liabilities, in the amount  
15 set forth below:

| 16 JUDGMENTS AGAINST THE STATE                      | AMOUNT           |
|---|------------------|
| 17 AND SETTLEMENTS OF CLAIMS:                       |                  |
| 18  |                  |
| 19 DEPARTMENT OF TRANSPORTATION, AIRPORTS DIVISION: |                  |
| 20  |                  |
| 21 Helix Electric, Inc. v. DCK Pacific              |                  |
| 22 Construction, LLC, et al.,                       | \$ 10,080,000.00 |
| 23 Civil No. 16-1-1090-06, First Circuit            | Settlement       |
| 24  | <hr/>            |
| 25  |                  |
| 26 SUBTOTAL:  | \$ 10,080,000.00 |



1 TOTAL (SECTION 4) \$ 10,080,000.00

2 The sums appropriated shall be expended by the department  
3 of transportation, airports division, for the purposes of this  
4 Act.

5 PART V

6 SECTION 5. The legislature finds and declares that the  
7 following claim for legislative relief recommended for approval  
8 as to the following named person for claims against the State or  
9 the department of education or its officers or employees for the  
10 payment of judgments or settlements, or other liabilities, in  
11 the amount set forth opposite their name, is approved for  
12 payment:

| 13 JUDGMENTS AGAINST THE STATE<br>14 AND SETTLEMENTS OF CLAIMS:                             | AMOUNT                     |
|---|----------------------------|
| 16 1. DEPARTMENT OF EDUCATION:  |                            |
| 18 Westbrook, et al. v. State of Hawaii, et al.<br>19 Civil No. 12-1-1596-06, First Circuit | \$ 21,000.00<br>Settlement |
| 22 SUBTOTAL:  | \$ 21,000.00               |
| 24 TOTAL (SECTION 5):   | \$ 21,000.00               |

26 Provided that of legislative appropriation item G-1 for the  
27 department of education for fiscal year 2016-2017 in section 3



1 of Act 119, Session Laws of Hawaii 2015, as amended by section 3  
 2 of Act 124, Session Laws of Hawaii 2016, the general fund sum of  
 3 \$21,000 shall be expended from the 2016-2017 budget (EDN 100,  
 4 weighted student formula funds) by the department of education  
 5 for the purposes of this Act.

6 **PART VI**

7 SECTION 6. The legislature finds and declares that the  
 8 following claim for legislative relief recommended for approval  
 9 as to the following named person for claims against the State or  
 10 the Hawaii state public charter school or its officers or  
 11 employees for the payment of judgments or settlements, or other  
 12 liabilities, in the amount set forth opposite their name, is  
 13 approved for payment:

| 14 JUDGMENTS AGAINST THE STATE            | AMOUNT       |
|---|--------------|
| 15 AND SETTLEMENTS OF CLAIMS:             |              |
| 16  |              |
| 17 1. HAWAII STATE PUBLIC CHARTER SCHOOL: |              |
| 18  |              |
| 19 Grievance of Dr. Ardith Renteria       | \$ 30,000.00 |
| 20 Civil No. 12-1-1596-06, First Circuit  | Settlement   |
| 21  |              |
| 22  |              |
| 23 SUBTOTAL:                              | \$ 30,000.00 |
| 24  |              |
| 25 TOTAL (SECTION 6):                     | \$ 30,000.00 |
| 26  |              |



1 Provided that of legislative appropriation item G-7 for the  
2 department of education for fiscal year 2016-2017 in section 3  
3 of Act 119, Session Laws of Hawaii 2015, as amended by section 3  
4 of Act 124, Session Laws of Hawaii 2016, the general fund sum of  
5 \$30,000 shall be expended from the 2016-2017 budget (EDN 600,  
6 general funds) by the Hawaii state public charter school for the  
7 purposes of this Act.

8 PART VII

9 SECTION 7. The legislature finds and declares that the  
10 following claim for legislative relief recommended for approval  
11 as to the following named person for claims against the State or  
12 the campaign spending commission or its officers or employees  
13 for the payment of judgments or settlements, or other  
14 liabilities, in the amount set forth opposite their name, is  
15 approved for payment:

| 16 JUDGMENTS AGAINST THE STATE<br>17 AND SETTLEMENTS OF CLAIMS: | AMOUNT       |
|---|--------------|
| 19 1. HAWAII CAMPAIGN SPENDING COMMISSION:                      |              |
| 21 Yamada, et al. v. Snipes, et al.                             | \$ 66,701.10 |
| 22 Civil No. 10-00497, USDC                                     | Judgment     |
| 23 Ninth Circuit No. 12-17845                                   |              |
| 24 The Committee to Elect Julia Allen, et al. v.                |              |
| 25 Campaign Spending Commission, et al.                         | \$ 2,415.00  |



|   |                                       |              |
|---|---------------------------------------|--------------|
| 1 | Civil No. 15-1-1147-06, First Circuit | Settlement   |
| 2 |                                       |              |
| 3 |                                       | <hr/>        |
| 4 | SUBTOTAL:                             | \$ 69,116.10 |
| 5 |                                       |              |
| 6 | TOTAL (SECTION 7):                    | \$ 69,116.10 |
| 7 |                                       |              |

8            Provided that of legislative appropriation item K-9 for the  
9 department of education for fiscal year 2016-2017 in section 3  
10 of Act 119, Session Laws of Hawaii 2015, as amended by section 3  
11 of Act 124, Session Laws of Hawaii 2016, the general fund sum of  
12 \$69,116.10 shall be expended from the 2016-2017 budget (AGS 871,  
13 trust funds) by the campaign spending commission for the  
14 purposes of this Act.

PART VIII

16            SECTION 8. The legislature finds and declares that the  
17 following claim for legislative relief recommended for approval  
18 as to the following named person for claims against the State or  
19 the department of land and natural resources or its officers or  
20 employees for the payment of judgments or settlements, or other  
21 liabilities, in the amount set forth opposite their name, is  
22 approved for payment:

|    |                             |        |
|----|-----------------------------|--------|
| 23 | JUDGMENTS AGAINST THE STATE | AMOUNT |
| 24 | AND SETTLEMENTS OF CLAIMS:  |        |
| 25 |                             |        |



|    |   |   |              |
|----|---|---|--------------|
| 1  | 1 | DEPARTMENT OF LAND AND NATURAL RESOURCES:                   |              |
| 2  |   |   |              |
| 3  |   | Claim of First Insurance Company                            |              |
| 4  |   | of Hawaii, Inc.   | \$ 18,000.00 |
| 5  |   |   | Settlement   |
| 6  |   |   |              |
| 7  |   | Silva v. State of Hawaii, et al.                            | \$ 75,000.00 |
| 8  |   | Civil No. 15-1-269K, Third Circuit                          | Settlement   |
| 9  |   |   |              |
| 10 |   |   |              |
| 11 |   | SUBTOTAL:   | \$ 93,000.00 |
| 12 |   |   |              |
| 13 |   | TOTAL (SECTION 8):  | \$ 93,000.00 |
| 14 |   |   |              |
| 15 |   | Provided that of legislative appropriation item D-9 for the |              |

16 department of land and natural resources for fiscal year 2016-  
 17 2017 in section 3 of Act 119, Session Laws of Hawaii 2015, as  
 18 amended by section 3 of Act 124, Session Laws of Hawaii 2016,  
 19 the general fund sum of \$93,000.00 shall be expended from the  
 20 2016-2017 budget (LNR 906, general funds) by the department of  
 21 land and natural resources for the purposes of this Act.

22 **PART IX**

23 SECTION 9. The legislature finds and declares that the  
 24 following claim for legislative relief recommended for approval  
 25 as to the following named person for claims against the State or  
 26 the department of public safety or its officers or employees for  
 27 the payment of judgments or settlements, or other liabilities,



1 in the amount set forth opposite their name, is approved for  
2 payment:

| 3 JUDGMENTS AGAINST THE STATE        | AMOUNT       |
|--------------------------------------|--------------|
| 4 AND SETTLEMENTS OF CLAIMS:         |              |
| 5                                    |              |
| 6 1. DEPARTMENT OF PUBLIC SAFETY:    |              |
| 7                                    |              |
| 8 Antoque v. State of Hawaii, et al. | \$ 35,000.00 |
| 9 Civil No. 15-1-0262, Third Circuit | Settlement   |
| 10                                   |              |
| 11                                   |              |
| 12 SUBTOTAL:                         | \$ 35,000.00 |
| 13                                   |              |
| 14 TOTAL (SECTION 9):                | \$ 35,000.00 |
| 15                                   |              |

16 Provided that of legislative appropriation item I-4 for the  
17 department of public safety for fiscal year 2016-2017 in section  
18 3 of Act 119, Session Laws of Hawaii 2015, as amended by section  
19 3 of Act 124, Session Laws of Hawaii 2016, the general fund sum  
20 of \$35,000 shall be expended from the 2016-2017 budget (PSD 405,  
21 general funds) by the department of public safety for the  
22 purposes of this Act.

23 PART X

24 SECTION 10. The legislature finds and declares that the  
25 following claim for legislative relief recommended for approval  
26 as to the following named person for claims against the State or  
27 the department of public safety or its officers or employees for



1 the payment of judgments or settlements, or other liabilities,  
2 in the amount set forth opposite their name, is approved for  
3 payment:

| 4 JUDGMENTS AGAINST THE STATE          | AMOUNT        |
|--|---------------|
| 5 AND SETTLEMENTS OF CLAIMS:           |               |
| 6                                      |               |
| 7 1. DEPARTMENT OF PUBLIC SAFETY:      |               |
| 8                                      |               |
| 9 Freitas, et al. v. Gillespie, et al. | \$ 400,000.00 |
| 10 Civil No. 13-1-0365, Fifth Circuit  | Settlement    |
| 11                                     | <hr/>         |
| 12                                     |               |
| 13 SUBTOTAL:                           | \$ 400,000.00 |
| 14                                     |               |
| 15 TOTAL (SECTION 10):                 | \$ 400,000.00 |
| 16                                     |               |

17 Provided that of legislative appropriation item I-19 for  
18 the department of public safety for fiscal year 2016-2017 in  
19 section 3 of Act 119, Session Laws of Hawaii 2015, as amended by  
20 section 3 of Act 124, Session Laws of Hawaii 2016, the general  
21 fund sum of \$400,000 shall be expended from the 2016-2017 budget  
22 (PSD 900, general funds) by the department of public safety for  
23 the purposes of this Act.

24 PART XI

25 SECTION 11. The legislature finds and declares that the  
26 following claim for legislative relief recommended for approval  
27 as to the following named person for claims against the State or



1 the department of public safety or its officers or employees for  
2 the payment of judgments or settlements, or other liabilities,  
3 in the amount set forth opposite their name, is approved for  
4 payment:

| 5 JUDGMENTS AGAINST THE STATE                | AMOUNT       |
|--|--------------|
| 6 AND SETTLEMENTS OF CLAIMS:                 |              |
| 7  |              |
| 8 1. DEPARTMENT OF PUBLIC SAFETY:            |              |
| 9  |              |
| 10 Leolao, et al. v. State of Hawaii, et al. | \$ 60,000.00 |
| 11 Civil No. 13-1-3038-11, First Circuit     | Settlement   |
| 12   | <hr/>        |
| 13   |              |
| 14 SUBTOTAL:                                 | \$ 60,000.00 |
| 15   |              |
| 16 TOTAL (SECTION 11):                       | \$ 60,000.00 |
| 17   |              |

18 Provided that of legislative appropriation item I-1 for the  
19 department of public safety for fiscal year 2016-2017 in section  
20 3 of Act 119, Session Laws of Hawaii 2015, as amended by section  
21 3 of Act 124, Session Laws of Hawaii 2016, the general fund sum  
22 of \$60,000 shall be expended from the 2016-2017 budget (PSD 402,  
23 general funds) by the department of public safety for the  
24 purposes of this Act.



1 PART XII

2 SECTION 12. The legislature finds and declares that the  
3 following claim for legislative relief recommended for approval  
4 as to the following named person for claims against the State or  
5 the department of public safety or its officers or employees for  
6 the payment of judgments or settlements, or other liabilities,  
7 in the amount set forth opposite their name, is approved for  
8 payment:

| 9 JUDGMENTS AGAINST THE STATE<br>10 AND SETTLEMENTS OF CLAIMS:                      | AMOUNT                     |
|---|----------------------------|
| 11 1. DEPARTMENT OF PUBLIC SAFETY:  |                            |
| 12 Obata v. State of Hawaii, et al.<br>13 Civil No. 14-1-1660-07 KTN, First Circuit | \$ 20,000.00<br>Settlement |
| 14 Muller v. State of Hawaii, et al.<br>15 Civil No. 14-1-2133-10, First Circuit    | \$ 80,000.00<br>Settlement |
| 16 SUBTOTAL:  | <hr/> \$ 100,000.00        |
| 17 TOTAL (SECTION 12):  | \$ 100,000.00              |

18 Provided that of legislative appropriation item I-11 for  
19 the department of public safety for fiscal year 2016-2017 in  
20 section 3 of Act 119, Session Laws of Hawaii 2015, as amended by  
21 section 3 of Act 124, Session Laws of Hawaii 2016, the general  
22 fund sum of \$100,000 shall be expended from the 2016-2017 budget



1 (PSD 421, general funds) by the department of public safety for  
2 the purposes of this Act.

3 PART XII

4 SECTION 5. The legislature finds and declares that the  
5 following claim for legislative relief recommended for approval  
6 as to the following named person for claims against the State or  
7 the department of public safety or its officers or employees for  
8 the payment of judgments or settlements, or other liabilities,  
9 in the amount set forth opposite their name, is approved for  
10 payment:

| 11 JUDGMENTS AGAINST THE STATE                 | AMOUNT       |
|--|--------------|
| 12 AND SETTLEMENTS OF CLAIMS:                  |              |
| 13   |              |
| 14 1. DEPARTMENT OF PUBLIC SAFETY:             |              |
| 15   |              |
| 16 Sullivan, et al. v. State of Hawaii, et al. | \$ 48,000.00 |
| 17 Civil No. 15-1-2429-12 VLC, First Circuit   | Settlement   |
| 18   |              |
| 19   |              |
| 20 SUBTOTAL:                                   | \$ 48,000.00 |
| 21   |              |
| 22 TOTAL (SECTION 13):                         | \$ 48,000.00 |
| 23   |              |

24 Provided that of legislative appropriation item I-8 for the  
25 department of public safety for fiscal year 2016-2017 in section  
26 3 of Act 119, Session Laws of Hawaii 2015, as amended by section  
27 3 of Act 124, Session Laws of Hawaii 2016, the general fund sum



1 of \$48,000 shall be expended from the 2016-2017 budget (PSD 409,  
2 general funds) by the department of public safety for the  
3 purposes of this Act.

4

5

PART XIV

6 SECTION 14. The legislature finds and declares that the  
7 following claim for legislative relief recommended for approval  
8 as to the following named person for claims against the State or  
9 the department of human services or its officers or employees  
10 for the payment of judgments or settlements, or other  
11 liabilities, in the amount set forth opposite their name, is  
12 approved for payment:

| 13 JUDGMENTS AGAINST THE STATE<br>14 AND SETTLEMENTS OF CLAIMS:                         | AMOUNT                      |
|---|-----------------------------|
| 16 1. DEPARTMENT OF HUMAN SERVICES:   |                             |
| 18 Rooney, et al. v. State of Hawaii, et al.<br>19 Civil No. 14-0323(2), Second Circuit | \$ 875,000.00<br>Settlement |
| 22 SUBTOTAL:  | \$ 875,000.00               |
| 24 TOTAL (SECTION 14):  | \$ 875,000.00               |

26 Provided that of legislative appropriation item F-1 for the  
27 department of human services for fiscal year 2016-2017 in



1 section 3 of Act 119, Session Laws of Hawaii 2015, as amended by  
2 section 3 of Act 124, Session Laws of Hawaii 2016, the general  
3 fund sum of \$875,000 shall be expended from the 2016-2017 budget  
4 (HMS 301, general funds) by the department of human services for  
5 the purposes of this Act.

6 PART XV

7 SECTION 15. The legislature finds and declares that the  
8 following claim for legislative relief recommended for approval  
9 as to the following named person for claims against the State or  
10 the department of human services or its officers or employees  
11 for the payment of judgments or settlements, or other  
12 liabilities, in the amount set forth opposite their name, is  
13 approved for payment:

| 14 JUDGMENTS AGAINST THE STATE            | AMOUNT       |
|---|--------------|
| 15 AND SETTLEMENTS OF CLAIMS:             |              |
| 16  |              |
| 17 1. DEPARTMENT OF HUMAN SERVICES:       |              |
| 18  |              |
| 19 Carroll, et al. v. Camit, et al.       | \$ 18,500.00 |
| 20 Civil No. 12-1-0622(2), Second Circuit | Settlement   |
| 21  |              |
| 22  |              |
| 23 SUBTOTAL:                              | \$ 18,500.00 |
| 24  |              |
| 25 TOTAL (SECTION 15):                    | \$ 18,500.00 |
| 26  |              |





1 TOTAL (SECTION 16): \$ 396,858.00  
2

3 Provided that of legislative appropriation item F-18 for  
4 the department of human services for fiscal year 2016-2017 in  
5 section 3 of Act 119, Session Laws of Hawaii 2015, as amended by  
6 section 3 of Act 124, Session Laws of Hawaii 2016, the general  
7 fund sum of \$396,858.00 shall be expended from the 2016-2017  
8 budget (HMS 401, general funds) by the department of human  
9 services for the purposes of this Act.

10

11 PART XVII

12 SECTION 17. The sums hereinabove may be paid to the  
13 respective persons, or for the satisfaction or settlement of the  
14 respectively identified cases, and in several amounts  
15 hereinabove set forth or in lesser amounts deemed appropriate,  
16 upon checks issued by the comptroller; provided departments  
17 shall obtain the approval of the attorney general before payment  
18 of any claim can be made.

19 SECTION 18. Notwithstanding the sums hereinabove stated as  
20 interest upon judgments against the State, payment of interest  
21 shall be limited to the period from the date of judgment, if



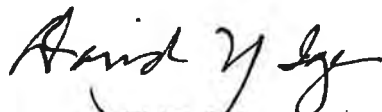
1 applicable, to thirty days after the effective date of this Act,  
2 as provided in section 662-8, Hawaii Revised Statutes, for those  
3 cases to which the statute applies.

4 SECTION 19. All unexpended and unencumbered balances of  
5 the appropriations made in this Act as of the close of business  
6 on June 30, 2018, shall lapse.

7 SECTION 20. If any provision of this Act, or the  
8 application thereof to any person or circumstance is held  
9 invalid, the invalidity does not affect other provisions or  
10 applications of the Act, which can be given effect without the  
11 invalid provision or application, and to this end the provisions  
12 of this Act are severable.

13 SECTION 21. This Act shall take effect upon its approval.

APPROVED this 18 day of MAY, 2017



GOVERNOR OF THE STATE OF HAWAII





HB No. 1022, HD 1, SD 2, CD 1

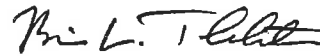
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki  
Speaker  
House of Representatives




Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAII**

Date: May 2, 2017  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.

  
President of the Senate

  
Clerk of the Senate

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# A BILL FOR AN ACT

RELATING TO THE STATE BUDGET.

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

1                                   **PART I. GENERAL PROVISIONS**

2           SECTION 1. SHORT TITLE. This Act shall be known and may  
3 be cited as the General Appropriations Act of 2017.

4           SECTION 2. DEFINITIONS. Unless otherwise clear from the  
5 context, as used in this Act:

6           "Capital project number" means the official number of the  
7 capital project, as assigned by the responsible organization.

8           "Expending agency" means the executive department,  
9 independent commission, bureau, office, board, or other  
10 establishment of the state government (other than the  
11 legislature, Office of Hawaiian Affairs, and judiciary), the  
12 political subdivisions of the State, or any quasi-public  
13 institution supported in whole or in part by state funds, which  
14 is authorized to expend specified appropriations made by this  
15 Act.

16           Abbreviations, where used to denote the expending agency,  
17 shall mean the following:



PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID | PROGRAM                                | EXPENDING AGENCY | APPROPRIATIONS        |       |                       |       |
|----------|----------|--|------------------|-----------------------|-------|-----------------------|-------|
|          |          |  |                  | FISCAL YEAR 2017-2018 | M O F | FISCAL YEAR 2018-2019 | M O F |
| 1        | 16.      | AGS103 - RECORDING AND REPORTING       |                  |                       |       |                       |       |
| 2        |          |  |                  | 13.00*                |       | 13.00*                |       |
| 3        |          | OPERATING                              | AGS              | 915,088A              |       | 915,088A              |       |
| 4        |          |  |                  |                       |       |                       |       |
| 5        | 17.      | AGS104 - INTERNAL POST AUDIT           |                  |                       |       |                       |       |
| 6        |          |  |                  | 7.00*                 |       | 7.00*                 |       |
| 7        |          | OPERATING                              | AGS              | 569,913A              |       | 607,913A              |       |
| 8        |          |  |                  |                       |       |                       |       |
| 9        | 18.      | BUF115 - FINANCIAL ADMINISTRATION      |                  |                       |       |                       |       |
| 10       |          |  |                  | 14.00*                |       | 14.00*                |       |
| 11       |          | OPERATING                              | BUF              | 2,064,713A            |       | 2,064,713A            |       |
| 12       |          |  |                  | 9.00*                 |       | 9.00*                 |       |
| 13       |          |  | BUF              | 11,684,692T           |       | 11,684,692T           |       |
| 14       |          |  |                  | 1.00*                 |       | 1.00*                 |       |
| 15       |          |  | BUF              | 109,819U              |       | 109,819U              |       |
| 16       |          |  |                  |                       |       |                       |       |
| 17       | 19.      | BUF721 - DEBT SERVICE PAYMENTS - STATE |                  |                       |       |                       |       |
| 18       |          | OPERATING                              | BUF              | 338,492,084A          |       | 371,371,216A          |       |
| 19       |          |  |                  |                       |       |                       |       |
| 20       | 20.      | ATG100 - LEGAL SERVICES                |                  |                       |       |                       |       |
| 21       |          |  |                  | 241.81*               |       | 241.81*               |       |
| 22       |          |  |                  | 24.52#                |       | 24.52#                |       |
| 23       |          | OPERATING                              | ATG              | 24,262,111A           |       | 24,262,111A           |       |
| 24       |          |  |                  | 24.60*                |       | 24.60*                |       |
| 25       |          |  | ATG              | 3,837,146B            |       | 3,788,396B            |       |
| 26       |          |  |                  | 5.20*                 |       | 5.20*                 |       |
| 27       |          |  |                  | 11.20#                |       | 11.20#                |       |
| 28       |          |  | ATG              | 11,782,423N           |       | 11,782,423N           |       |
| 29       |          |  | ATG              | 3,943,508T            |       | 3,943,508T            |       |
| 30       |          |  |                  | 114.61*               |       | 114.61*               |       |
| 31       |          |  |                  | 28.50#                |       | 28.50#                |       |
| 32       |          |  | ATG              | 17,503,118U           |       | 17,663,594U           |       |
| 33       |          |  |                  | 4.90*                 |       | 4.90*                 |       |
| 34       |          |  |                  | 1.00#                 |       | 1.00#                 |       |
| 35       |          |  | ATG              | 3,261,465W            |       | 3,261,465W            |       |
| 36       |          |  |                  | 12.66*                |       | 12.66*                |       |
| 37       |          |  |                  | 2.50#                 |       | 2.50#                 |       |
| 38       |          |  | ATG              | 3,593,007P            |       | 3,446,757P            |       |
| 39       |          |  |                  |                       |       |                       |       |



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# A BILL FOR AN ACT

RELATING TO THE STATE BUDGET.

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

1                                   **PART I. GENERAL PROVISIONS**

2           SECTION 1. SHORT TITLE. This Act shall be known and may  
3 be cited as the General Appropriations Act of 2017.

4           SECTION 2. DEFINITIONS. Unless otherwise clear from the  
5 context, as used in this Act:

6           "Capital project number" means the official number of the  
7 capital project, as assigned by the responsible organization.

8           "Expending agency" means the executive department,  
9 independent commission, bureau, office, board, or other  
10 establishment of the state government (other than the  
11 legislature, Office of Hawaiian Affairs, and judiciary), the  
12 political subdivisions of the State, or any quasi-public  
13 institution supported in whole or in part by state funds, which  
14 is authorized to expend specified appropriations made by this  
15 Act.

16           Abbreviations, where used to denote the expending agency,  
17 shall mean the following:



PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID | PROGRAM   | EXPENDING AGENCY | APPROPRIATIONS        |       |                       |       |
|----------|----------|---|------------------|-----------------------|-------|-----------------------|-------|
|          |          |   |                  | FISCAL YEAR 2017-2018 | M O F | FISCAL YEAR 2018-2019 | M O F |
| 1        |          | OPERATING   | AGS              | 915,088A              |       | 915,088A              |       |
| 2        |          |   |                  |                       |       |                       |       |
| 3        | 17.      | AGS104 - INTERNAL POST AUDIT  |                  |                       |       |                       |       |
| 4        |          |   |                  | 7.00*                 |       | 7.00*                 |       |
| 5        |          | OPERATING   | AGS              | 569,913A              |       | 607,913A              |       |
| 6        |          |   |                  |                       |       |                       |       |
| 7        | 18.      | BUF115 - FINANCIAL ADMINISTRATION                                   |                  |                       |       |                       |       |
| 8        |          |   |                  | 14.00*                |       | 14.00*                |       |
| 9        |          | OPERATING   | BUF              | 2,064,713A            |       | 2,064,713A            |       |
| 10       |          |   |                  | 9.00*                 |       | 9.00*                 |       |
| 11       |          |   | BUF              | 11,684,692T           |       | 11,684,692T           |       |
| 12       |          |   |                  | 1.00*                 |       | 1.00*                 |       |
| 13       |          |   | BUF              | 109,819U              |       | 109,819U              |       |
| 14       |          |   |                  |                       |       |                       |       |
| 15       | 19.      | BUF721 - DEBT SERVICE PAYMENTS - STATE                              |                  |                       |       |                       |       |
| 16       |          | OPERATING   | BUF              | 338,492,084A          |       | 371,371,216A          |       |
| 17       |          |   |                  |                       |       |                       |       |
| 18       | 20.      | ATG100 - LEGAL SERVICES   |                  |                       |       |                       |       |
| 19       |          |   |                  | 240.81*               |       | 240.81*               |       |
| 20       |          |   |                  | 23.52#                |       | 23.52#                |       |
| 21       |          | OPERATING   | ATG              | 29,544,211A           |       | 24,104,211A           |       |
| 22       |          |   |                  | 24.60*                |       | 24.60*                |       |
| 23       |          |   | ATG              | 3,837,146B            |       | 3,788,396B            |       |
| 24       |          |   |                  | 5.20*                 |       | 5.20*                 |       |
| 25       |          |   |                  | 10.95#                |       | 10.95#                |       |
| 26       |          |   | ATG              | 11,816,776N           |       | 11,816,776N           |       |
| 27       |          |   | ATG              | 3,943,508T            |       | 3,943,508T            |       |
| 28       |          |   |                  | 112.61*               |       | 112.61*               |       |
| 29       |          |   |                  | 28.50#                |       | 28.50#                |       |
| 30       |          |   | ATG              | 17,350,118U           |       | 17,369,594U           |       |
| 31       |          |   |                  | 4.90*                 |       | 4.90*                 |       |
| 32       |          |   |                  | 1.00#                 |       | 1.00#                 |       |
| 33       |          |   | ATG              | 3,261,465W            |       | 3,261,465W            |       |
| 34       |          |   |                  | 12.66*                |       | 12.66*                |       |
| 35       |          |   |                  | 2.50#                 |       | 2.50#                 |       |
| 36       |          |   | ATG              | 3,593,007P            |       | 3,446,757P            |       |
| 37       |          |   |                  |                       |       |                       |       |
| 38       | 21.      | AGS130 - ENTERPRISE TECHNOLOGY SERVICES - GOVERNANCE AND INNOVATION |                  |                       |       |                       |       |
| 39       |          |   |                  | 35.00*                |       | 35.00*                |       |
| 40       |          |   |                  | 16.00#                |       | 19.00#                |       |
| 41       |          | OPERATING   | AGS              | 20,073,454A           |       | 20,332,134A           |       |
| 42       |          |   |                  | 7.00*                 |       | 7.00*                 |       |



Hawaii

# How House Leaders Scuttled Better Pay For Foster Parents

House Speaker Scott Saiki said attorney fees were too high in a multi-million-dollar settlement of a lawsuit challenging foster care payment rates.

13

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By Chad Blair    / May 17, 2017

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As a foster care parent for a quarter of a century, Raynette Ah Chong has seen a lot of kids — 108 to be exact — come through her Kahaluu home in Windward Oahu.

Ah Chong and her husband Edward love the work. It started with her experience growing up in Hawaii Kai, where her homemaker mom helped take care of neighborhood kids whose parents were working.

Foster parents, however, are poorly paid.

Even as the cost of housing, food and personal items kept rising, the state's monthly payment to foster parents of \$529 per month per child remained unchanged for 24 years. Finally in 2014, the state increased the payment by an additional \$46 to \$121 per child, depending on age.

That's still far short of what foster parents consider adequate pay for caring for some of the state's most vulnerable children.

That's why Ah Chong, 56, welcomed a settlement with the state last August stemming from two lawsuits that challenged the payment rates for Hawaii's foster care program. Both the state Department of Human Services and the state Attorney General had signed off on the deal.



Raynette and Edward Ah Chong's five children with their foster youth, Abraham Akana, far right, during Christmas 2016.

The settlement — which provided \$14 million for the state Department of Human Services for foster care support, \$2.3 million in back payments to foster parents like Ah Chong, and \$1.1 million in attorney fees during the next two years — seemed set to sail through the 2017 Legislature.



The DHS funds were to be included as part of [the state budget](#), while payments to foster parents and the legal fees were part of a bill settling [claims against the state](#).

But House leaders scuttled the plan during the last days of the session, declining to provide any money in the budget for the settlement. House Speaker Scott Saiki later said attorney fees in the settlement were too high.

What was Ah Chong's reaction?

"It pissed me off, that's my reaction," she said. "It pissed me off."

Ah Chong and the two other lead plaintiffs in the state suit, Patrick Sheehey and Patricia Sheehey, were to be awarded \$5,000 each from the settlement.

## 'House Leadership Killed It'

Attorneys for Ah Chong and other plaintiffs say the state's failure to fund a settlement in both the federal and state lawsuits means the foster care case will likely go to trial.

The initial settlement in August 2016 would have provided \$85 million in support for the foster care system over the next 10 years. If the case goes to court, plaintiff lawyers argue the state could be on the hook for much more money.



House Speaker Scott Saiki said attorney fees were too high in the foster care settlement.

The Senate was set to approve the settlement at the agreed-upon amount. But the House removed the funding without any explanation during the conference committee period in the last week of April.

“It just didn’t make any sense,” said Paul Alston, one of the attorneys for the class action federal lawsuit that resulted in the settlement. “It appears that House leadership killed it.”

Alston called into last Thursday’s episode of [Insights on PBS Hawaii](#), where Saiki was one of the guests. Moderator Daryl Huff asked Saiki why the House killed the bill, even though the governor, the attorney general, DHS and Senate leaders wanted to pass it.

“The concern in the House was that the request for attorney fees was too large,” said Saiki, himself an attorney.

*Below: House Speaker Scott Saiki explains on [PBS Island Insights](#) why no money was provided for the foster care settlement:*

“That’s just bullshit,” Alston said Tuesday. He said legal fees and costs on his side were actually \$2.9 million before the settlement.

“They always had the option to leave this to a court settlement. Frankly, I believe we are going to receive substantially more — both what is owed to the foster parents and the entitled fees — if we prevail, as I think we will. We will be taking double at least.”

Alston faults House leadership, including Rep. Sylvia Luke, the House Finance Committee chairwoman who had sign-off authority on the budget and claims bills.

Like Saiki, Luke is an attorney. Neither responded to several inquiries, while DHS Director Pankaj Bhanot said he could not comment.

Attorney General Doug Chin declined to comment.

## Not A New Problem

State officials and advocates have argued for years that the foster care system is seriously underfunded.

In 2013, for example, Pat McManaman, the DHS director at the time, told lawmakers that an estimated \$5.2 million a year for increased payment rates was needed. Others agreed.

“The \$529 per month reimbursement rate that Hawaii resource caregivers receive to cover their foster children’s costs has not changed since 1990,” testified Judith Wilhoite of the nonprofit Family Programs Hawaii. “In hard economic times like we are in now, this can prevent good families from becoming resource caregivers and at the same time, force good resource caregivers out of the system.”




House Finance Chair Sylvia Luke at a hearing in January.

In the view of Gavin Thornton, co-executive director for the [Hawaii Appleseed Center for Law and Economic Justice](#), the state had plenty of time to get its act together but chose not to.

“Year after year, foster parents and the organizations that support foster children had requested an update, and year after year it wasn’t done,” he said.

Thorton represents some of the plaintiffs in the current suit. He described the foster care payments in the state budget as a “win-win-win.”

“It’s a win for foster children who would have greater resources and support,” he said. “It’s a win for our community, which, by making an investment in foster children now, would be avoiding paying years down the road for criminal justice expenses and other consequences of neglect. And it’s win for the state, which would be resolving litigation that carries a potential liability of hundreds of millions of dollars.”



**“It costs more to kennel a dog than the state was paying to care for children in the foster care system.” — Attorney Gavin Thorton**

Thorton worries what will happen to the foster kids and their caregivers. The legal complaint argues that the state violated the federal Child Welfare Act, which requires that the state provide “foster care maintenance payments” that cover the costs of raising a child in foster care.

“It costs more to kennel a dog than the state was paying to care for children in the foster care system,” he said.

Ah Chong, the longtime foster care provider who was lead plaintiff in the initial 2013 state lawsuit on behalf of more than a thousand other foster parents, wants lawmakers to move forward

“I want the government to step up to the plate, to tell the Legislature, ‘Come on, get with it,’” she said. “I challenge all the legislators, every single one, to foster one child for one week, and then tell me that the money is enough.”

April 30, 2014, class action lawsuit against filed on behalf of licensed foster care providers:

Case 1:13-cv-00663-LEK-KSC Document 47 Filed 04/30/14 Page 1 of 21 PageID #: 373

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(See next page for additional counsel)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

PATRICIA SHEEHEY, PATRICK  
SHEEHEY, RAYNETTE AH  
CHONG, individually and on behalf of  
the class of licensed foster care  
providers residing in the state of  
Hawaii,

Plaintiffs,

vs.

PANKAJ BHANOT, in his official  
capacity as the Director of the Hawaii  
Department of Human Services,

Defendant.

Case No. CV13-00663 LEK-KSC

**PLAINTIFFS' NOTICE OF  
UNOPPOSED MOTION AND  
UNOPPOSED MOTION FOR  
AWARD AND APPROVAL OF  
SETTLEMENT REGARDING  
ATTORNEYS' FEES AND SERVICE  
AWARDS; DECLARATION OF PAUL  
ALSTON; DECLARATION OF CLAIRE  
WONG BLACK; DECLARATION OF  
GAVIN THORNTON; DECLARATION  
OF JAMES HANCOCK; EXHIBITS "A"  
– "G"; CERTIFICATE OF SERVICE**

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Chad Blair [✉](#) [✉](#) [📧](#) [📧](#)



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Civil Beat Editorial

# Lawmakers Must Make Good On Deal To Raise Foster Parent Fees

It's not too late. The issue could be part of a special session on rail funding that could happen later this summer.

1

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By Civil Beat Editorial Board 

/ About 13 hours ago

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“It costs more to kennel a dog than the state was paying to care for children in the foster care system.”

That's what Gavin Thornton, co-executive director for the Hawaii Appleseed Center for Law and Economic Justice, [told Civil Beat's Chad Blair last week](#). It's a powerful statement and one that seems so outlandish, it couldn't possibly be accurate.

But it is.

Indeed, if you want to kennel your dog for a month on Oahu, you'll likely spend slightly more than \$1,000. If you want to take in a child who needs a

**Appendix G**

safe place to stay, three square meals a day and general support and comfort, the state will pay you roughly \$600.

It goes without saying that most foster parents aren't in it for the money. Unlike a boarding kennel, they're not trying to make a profit. The vast majority end up paying for various things — food, clean clothes, maybe even some new toys or books — out of their own pockets because they are motivated by compassion and good will, not economics.

But while the state can't — and shouldn't — pay foster parents luxurious salaries, it should help ease the financial burden as much as it can. By refusing to, the government is taking advantage of these people's charity and, even worse, making it less likely some people will be able to take children in at all.

So went the arguments of Hawaii's foster parents in 2013, when they filed a lawsuit against the state saying that the rates — which had barely budged for 24 years — were unsustainably low. Simply adjusting for inflation would have increased the rate to roughly \$950 per month.

The plaintiffs and the Hawaii Department of Human Services [reached a settlement last year](#) for a modest increase — roughly \$700 a month — which, while small, seemed to satisfy the plaintiffs, especially as a gesture of appreciation for all the hard work foster parents do.



Raynette and Edward Ah Chong, pictured with their children and their foster youth, Abraham Akana, were lead plaintiffs in a lawsuit against the state over low payments for foster parents.

But then this year's legislative session — which simply needed to allocate the funds of the settlement — messed everything up.

During the last days of the session, [House leaders turned their backs on the issue](#), declining to provide any money in the budget for the settlement and proving (sigh) once again, just how petty and careless they can be.

It's hard to say why House leaders did this. [When pressed on the issue on a television show](#), House Speaker Scott Saiki said that attorney fees in the settlement were too high.

But given that it took three years to reach this settlement, that the state Attorney General and the DHS signed off on the deal, and that it is still considerably less than what foster parents say is the true cost of caring for children, Saiki's reasoning comes off as rather glib, if not downright thoughtless.

The decision has real consequences, not only for the thousand or so active foster parents but also for the many children who can't be placed in homes because the current compensation makes it so difficult to both recruit and retain foster parents.



House Speaker Scott Saiki said he scuttled funding for a foster care settlement because the attorney fees were too high.

It also has very real, and likely very costly, consequences for the state. If the lawsuit ends up going to court, the state could be on the hook for a lot more money.

“It just didn't make any sense,” Paul Alston, one of the plaintiffs' attorneys, told Blair. “They always had the option to leave this to a court settlement. Frankly, I believe we are going to receive substantially more — both what is owed to the foster parents and the entitled fees — if we prevail, as I think we will. We will be taking double at least.”

If, as Saiki says, the House leaders really are so concerned with costs, it seems they are being pennywise and pound foolish. Now that the legislative session has ended, there is no immediate remedy for this negligence.

But with the prospect of a special session looming large to, once again, debate rail funding, it would be wise and decent for House leadership to take up the foster care funding issue again. It's never too late to do the right thing.

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## About the Author



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# Star Advertiser

FOSTER CARE COSTS

## Lone legislator snuffs settlement

### Zoo promises go unfulfilled



*Rep. Sylvia Luke refused to fund the deal to raise rates paid to foster parents*

**By Susan Essoyan**  
sessoyan@staradvertiser.com

After years of legal wrangling, the state and advocates for foster parents thought they had a deal to help cover the cost of caring for foster children — but one state lawmaker torpedoed the settlement.

The U.S. District Court had given preliminary approval and letters had been sent to 6,000 families about the proposed lawsuit settlement, which would raise the rates that foster parents are paid to care for abused and neglected children.

Such legal settlements are subject to funding by the Legislature, but they are seldom nixed so late in the game. Now the issue is likely headed back to court and could cost the state far more, according to attorneys who sued the state,



PHOTOS BY DENNIS ODA / DODA@STARADVERTISER.COM

*The facility currently lacks accreditation, a director and 3 exhibits even as taxes pool \$5.8M for it*

**By Allison Schaefer**  
 aschaefer@staradvertiser.com

**A** year after the Honolulu Zoo suffered an embarrassing loss of accreditation from the Association of Zoos & Aquariums, three zoo exhibits are shuttered and the facility lacks a permanent director.

Mayor Kirk Caldwell and the city's Department of Enterprise Services, which runs the zoo, and the former zoo director, Baird Fleming, promised to regain AZA accreditation, which certifies that facilities

*Please see ZOO, A8*



At top, a sign points to the Honolulu Zoo's chimpanzee exhibit, closed since a chimp managed to escape last Sunday, albeit into a secured area. Above, Carie Steed and his 10-month-old daughter, visitors from Washington state, enjoy the penguin exhibit. At left, visitors walk past the hippo exhibit, closed since 2014.

ment, which would raise the rates that foster parents are paid to care for abused and neglected children.

Such legal settlements are subject to funding by the Legislature, but they are seldom nixed so late in the game. Now the issue is likely headed back to court and could cost the state far more, according to attorneys who sued the state, claiming it was violating federal law by not covering the cost of foster care.

"We were definitely surprised," said plaintiffs'

*Please see FOSTER, A9*



**If we are providing funds for programs, should one program take precedence over the other just because we have a lawsuit?"**

**Sylvia Luke**  
*House finance chairwoman*



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# Brazil's leader decries incriminating audio

Associated Press

**RIO DE JANEIRO** >> Fighting to save his job amid a mushrooming corruption scandal, Brazilian President Michel Temer told the nation Saturday that an incriminating au-

dio recording of him had been doctored.

"That clandestine recording was manipulated and doctored with (bad) intentions," Temer said at a news conference in capital of Brasilia.

Temer said he had filed a petition with the Supreme Federal Tribunal, the country's highest court, to suspend the corruption investigation into him until experts can analyze the audio that appears to show him endorse the payment of bribes to ex-House Speaker Eduardo Cunha for his silence.

It's unlikely the court

would do that, as it authorized the opening of the investigation into Temer in the first place and ordered it made public.

Temer noted that the *Folha de S. Paulo* newspaper reported that the 39-minute recording had been edited. The audio was first reported by *Globo* newspaper on Wednesday.

Temer also questioned

the motives of the man who made the recording, JBS meatpacking company executive Joesley Batista. He accused Batista of buying "large quantities of dollars to cause chaos on the exchange market" before giving the tape to prosecutors.

Temer's claims about the audio and Batista couldn't be immediately verified.

In the audio, Temer appar-

ently endorses bribes for Cunha, who is serving a 15-year prison sentence for corruption and money laundering and who led the impeachment push against President Dilma Rousseff last year.

Rousseff was eventually ousted for illegally managing the federal budget, bringing Temer, who was her vice president, to power.

## FOSTER

Continued from A1

attorney Claire Wong Black, especially since the settlement "was negotiated with the assistance of the court and had the approval not only of the Department of Human Services and the Attorney General's Office but also the governor."

House Finance Chairwoman Sylvia Luke's decision to cut the funds was made without public input, but she explained her reasoning in a recent interview after the legislative session ended. She said she objected to paying \$1.1 million in attorneys' fees and she wasn't sure the state could afford the higher rates. She also resented the court system meddling in what she sees as a legislative prerogative.

"The concern that I had is this was really about paying lawyers as about trying to fund programs," Luke said. "If we are providing funds for programs, should one pro-

gram take precedence over the other just because we have a lawsuit?"

She added, "We had told the Attorney General's Office, what needs to be made clear to the court is that programs cannot be set, the monetary amounts cannot be set through the judiciary."

As a condition of receiving federal reimbursement, the law requires the state to set rates to fully cover the cost of providing foster care to children who are removed from their homes. That includes food, shelter, clothing, school supplies and other costs.

THE CLASS-ACTION suit was filed in 2014 and settled last year on the eve of trial after extensive testimony by experts on both sides. The \$1.1 million in attorneys' fees was a big discount from the \$2.9 million in costs incurred by the three law firms representing the plaintiffs.

"I understand about her concern about attorneys' fees," said Black, who is with Allston Hunt Floyd & Ing.

"The simple solution is for the state to follow its obligations under the law. If they are complaining about the fact that this dragged on so long and incurred fees, that is a direct result of the state's behavior."

In response to Luke's concern about judicial overreach, Black said: "The courts cannot usurp the legislative function. What they can do is require the state to comply with their obligations under federal law, and when that implicates their funding, then it is well within their purview."

The other firms on the case were the Hawaii Appleseed Center for Law and Economic Justice, and Morrison & Foerster of Palo Alto, Calif.

The suit, *Patricia Sheehy et al v. Patricia MacManaman*, was filed after years of fruitless advocacy to get the foster board rate raised. For 24 years, the rate in Hawaii was fixed at \$529 a month. If it had kept pace with inflation, the rate would have nearly doubled to \$950 a month over those years, ac-

cording to the plaintiffs.

Not long after the suit was filed, the state boosted rates to a range of \$576 to \$676 a month depending on the child's age. Luke said she thought that would be the end of it. But the lawsuit continued because advocates felt the amounts still fell short of what was required under the law.

THE SETTLEMENT would have pushed the monthly rates to \$649 to \$776 per child, and increased the annual clothing allowance. It called for an additional \$4.5 million in state funds and \$2.4 million in federal funds in each of the next two years.

The agreement also called for the state to regularly review rates and assure they were adequate, as is required under federal law.

"That part of the settlement was really important to the foster families — that the state was going to be bound to look at cost-of-living increases," Black said. "They could not turn a blind eye any more."

The settlement agreement does not expire until the end of June, according to Joshua Wisch, special assistant to the attorney general. He said the court has been notified that the agreement was not funded.

A related lawsuit filed in state court was settled for \$2.3 million in back pay to foster parents, but those funds were cut by the Legislature as well. Black said that was a fraction of what was owed, and "if we pursue that state lawsuit for back pay, you are talking multiples" of that figure.

Although the Legislature refused to fund the foster care settlement, it added \$5 million to the attorney general's budget for litigation. Sen. Jill Tokuda, then-Ways and Means chairwoman, said that would put people on notice.

"We need to make sure that the attorney general takes very seriously those claims that come against us, which is why we did put \$5 million more into the litigation fund so that people

realize that if they challenge us, even those that are frivolous, that we will take that seriously," Tokuda said.

Sherry Campagna, a foster mother who was a plaintiff in the state lawsuit, said vulnerable children ultimately will suffer unless foster care rates are raised because many good parents won't take in needy kids without adequate compensation.

"When I meet great families and I try to recruit them as foster parents, they won't do it after they see the numbers," said Campagna, who waived any personal claims as part of the settlement.

The Campagnas have four children aged 2 to 16 — including foster, adopted and biological kids.

"We believe every kid deserves at least a temporary respite from the craziness of the lives that they are subjected to," she said. "Unfortunately the state now has a very large bill to pay to support our most vulnerable children. They should do the right thing and pay their bills."



Editorial | Our View

# Reconsider; allot foster-care funds

Posted May 25, 2017

May 25, 2017



COURTESY PIXABAY

On any given day, there are nearly 428,000 children in foster care in the U.S., according to estimates. The 2,766 kids in foster homes in Hawaii, along with the adults who care for them, deserve something far better than petty politics from a state that espouses ohana values.

Foster parents tend to be big-hearted people, willing to share their home and give their time to disadvantaged children. Such generosity can be key to a healthy and happy future for a child who has been abused or neglected.

But generosity has its limits. Four years ago, foster parents — asserting that a state stipend that had not increased in two dozen years was woefully inadequate to cover basic expenses for kids in their care — filed a federal class action lawsuit against the state Department of Human Services.

This year, the Legislature appeared poised to sign off on the suit's settlement, which calls for a bump in the monthly stipend and requires the state to regularly review rates and assure they're adequate, as is required under federal law. A settlement in a related lawsuit, filed in state court, gives foster parents back pay. Both were in the **House Bill 1022** lineup of claims that the state Attorney General recommended for funding.

But in the last days of the session, House leaders inexplicably rebuffed that direction and dropped funding for both.

Among House Finance Chairwoman Sylvia Luke's reasons: perceived court meddling in a legislative prerogative and objection to paying \$1.1 million in attorneys' fees. While Luke's keen eye for efficient state spending is, at times, worthy of applause from cash-strapped taxpayers, in this case, her decision-making is misguided.

Balking at attorneys' fees is shortsighted considering it took three years to reach a settlement, which could have incurred lower fees — or have avoided them altogether — had legislators given the foster parent stipend a thorough vetting. As part of the settlement, the three firms representing plaintiffs claimed \$2.9 million in costs, but opted for the lower figure. Now, if the dispute heads for a trial, taxpayers can expect a much more costly bill.

Also, holding onto unreasonably thin stipend funding, which can leave foster parents frequently opening their own wallets to help make ends meet, will no doubt continue to raise affordability red flags for would-be foster parents.

When the class action suit was filed on behalf of more than 1,000 foster parents, the state's monthly stipend — intended to cover all care costs for a foster child — had been set at \$529 for 24 years. Adjustments for inflation alone would have increased it to \$950 per month, plaintiffs said.

Six months later, DHS increased the stipend, topping out at \$676 for ages 12 and older, even though the agency had previously claimed insufficient state funds for the increase. The highest rate works out to \$22.53 per day. Is that enough to cover meals, school supplies and other necessities for a teenager living in the islands? Hardly.

Consider: The state pays more than \$100 a day to house prison inmates. And earlier this month, the Legislature backed a bill that could pave the way for \$70-a-day respite support for people caring for elders while remaining in the workforce. The stipend lawsuit continued because advocates thought the state's long overdue increases still fell short of requirements under the federal Social Security Act.

Apparently chaffed by the settlement's pinpointing of rates (\$649 to \$776 per child), Luke has asserted "monetary amounts cannot be set through the Judiciary."

That has an echo of a case in which a Circuit Court judge directed the state to fund the Department of Hawaiian Home Lands at least \$28.4 million for the 2016 fiscal year. But when the state attorney general argued that only the Legislature can specify funding allocation, the judge deleted the amount from the ruling.

In the foster care case, though, the negotiated stipend settlement has the approval of DHS, the Attorney General's Office and the governor. A routine allocation of state funds to resolve the matter was expected and prudent — the apparent turf grudge that nixed it was not.

How to make strides toward an end to this shabby treatment of foster care families? One possibility: If a special session is called to debate rail funding, reverse a bad decision and approve the foster care funding. The settlement agreement expires in late June, so head off the courtroom option.

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

PATRICK SHEEHEY; PATRICIA  
SHEEHEY; RAYNETTE NALANI AH  
CHONG; SHERRY CAMPAGNA;  
MICHAEL HOLM; and TIARE HOLM,  
*individually, and on behalf of a class of  
Hawai'i-licensed resource families;*  
B.S.; and T.B., a Minor, by her Next  
Friend N.A., *individually and on behalf  
of a class of persons similarly situated;*

CIVIL NO. 14-1-1709-08 VLC  
(Contract)  
Civil Action; Class Action

**CERTIFICATE OF SERVICE**

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

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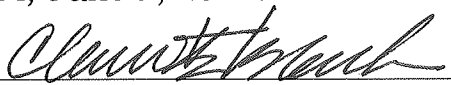
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this date I caused a true and correct copy of the foregoing document to be served via hand delivery on the following parties at their last known addresses:

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DATED: Honolulu, Hawai'i, June 9, 2017.

  
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