

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 3041, S.D. 1

February 22, 2022
10:00 a.m.
Room 211 and Videoconference

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

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 3041, S.D. 1, appropriates \$385,726.31 in general funds for FY 23 for the Department of the Attorney General 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.

Regarding Section 5 of this bill (page 5, lines 8-27, and page 6, lines 1-6), B&F notes that this section specifies that the Department of Education (DOE) is to pay for a claim against the State Public Charter School Commission (SPCSC). B&F would like to point out that DOE and SPCSC have separate budgets and it would not be normal budgeting practice to have DOE pay for an expense of SPCSC.

Additionally, B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief

(ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

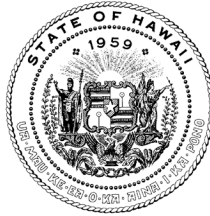
Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Tuesday, February 22, 2022
10:00 AM**

State Capitol, Conference Room 211 & Videoconference

**In consideration of
SENATE BILL 3041, SENATE DRAFT 1
MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE
STATE, ITS OFFICERS, OR ITS EMPLOYEES**

Senate Bill 3041, Senate Draft 1 proposes to make appropriations and approve payments for claims against the State, its officers, and its employees. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and offers the following comments and amendments limited to PART III, SECTION 3 as follows:**

PART III, SECTION 3 of the measure proposes to approve payment for judgments against the State and settlement of claims in Kaupiko, et al. v. Department of Land and Natural Resources, State of Hawaii (Civil No. 20-0000125, First Circuit; Civil No. CAAP-21-0000374, Intermediate Court of Appeals) in the amount of \$145,000, *provided that the amount is expended by the Department from its FY21-22 budget (LNR, general funds).*

The Department respectfully requests that the Legislature appropriates \$145,000 out of the general revenues of the State to satisfy this claim. This amount represents the Court-approved settlement amount for Plaintiffs' attorneys' fees and costs incurred in a lawsuit filed against the Department. In defending this lawsuit, the Department relied on existing legal precedent. In a prior case, Umberger v. Dep't of Land & Nat. Res., 140 Hawai'i 500, 403 P.3d 277 (2017), the Hawaii Supreme Court barred commercial aquarium collection using fine mesh nets under Section 188-31, Hawaii Revised Statutes (HRS), holding that such collection was an "action" requiring Chapter 343, HRS, review. In reaching this conclusion, the Supreme Court pointed to the statutory language of Section 188-31, HRS, which gives the Department discretionary consent to issue permits to use fine mesh nets for aquarium collection. In this lawsuit (between nearly identical parties), the plaintiffs claimed that all commercial aquarium collection occurring

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

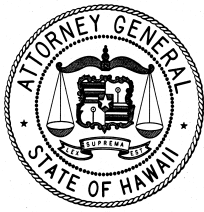
M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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

without fine mesh nets under the general commercial marine license statute (Section 189-2, HRS), which is required for all kinds of commercial fishing activities, was also an “action” that required Chapter 343, HRS, review. The statutory language of Section 189-2, HRS, does not give the Department discretionary consent to issue commercial marine licenses. The First Circuit Court, however, went beyond the legal precedent set in Umberger, ruling that Chapter 343, HRS, requires environmental review for the commercial taking of aquarium fish pursuant to Section 189-2, HRS. Requiring the Department to pay these attorneys’ fees and costs from its Fiscal Year 21-22 budget has no practical policy benefit and would create a chilling effect on defense of lawsuits against the State. It would also adversely impact the Department’s ability to fulfill its mission.

The Department’s Administration Division has 92% of its general fund budget earmarked for personnel costs, leaving 8% for other operating expenses. Using these funds to pay for the aforementioned settlement will adversely impact the Department’s ability in meeting its operational needs.

Thank you for the opportunity to comment on this measure.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

S.B. NO. 3041, S.D. 1, MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, February 22, 2022 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Caron Inagaki,
Deputy Attorney General, at 808-586-3967)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General supports this bill.

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

The bill (S.D. 1) currently contains eight claims that total \$938,613.47. Attachment A provides a brief description of each claim in the current bill. However, an error was discovered in the amount of one of the claims, *Kaupiko, et al. v. Department of Land and Natural Resources*, et al., at p. 3, lines 20 and 27. The \$145,000.00 amount currently in the bill does not include \$736.28 in costs that were awarded to the plaintiffs. The amount should be amended on page 3, line 20, to reflect the corrected amount of \$145,736.28, on page 3, line 27, to reflect the corrected subtotal amount of \$145,736.28, and on page 4, line 4, to reflect the total appropriations sought in part III of the bill.

Since the bill was introduced, one new claim was resolved for an additional \$550,000.00. An appropriation is needed from the general fund to satisfy that claim. Attachment B provides a brief description of the new claim. Part IV of the bill should be amended to include this claim.

Including the new claim and the amendment to the *Kaupiko* claim, the appropriation request totals \$1,489,349.75 allocated among nine claims.

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

We respectfully request passage of this bill with the additional appropriations and amendments.

ATTACHMENT "A"

AGRIBUSINESS DEVELOPMENT CORPORATION:

Na Kia'i Kai v. Nakatani, et al.
Civil No. 18-00005, USDC

\$ 132,611.78 (*General Fund*)
Settlement

The plaintiff filed a lawsuit against the Agribusiness Development Corporation (ADC) regarding the management of irrigation ditches in Kekaha, Kauai, that discharge into the ocean. The ADC inherited the network of ditches built by a sugar plantation that discharges into the ocean. Those discharges were regulated by the Clean Water Act under a National Pollutant Discharge Elimination System (NPDES) permit. The ADC applied to renew the permit and was informed by the Department of Health that one was not required. The ADC then withdrew its application and entered into an MOU with the Department of Health regarding the proper land management and water quality monitoring. The court found that an NPDES permit was required and discharging without a permit was a violation of the Clean Water Act. The plaintiff prevailed on summary judgment and the damages were ultimately resolved via settlement agreement. This claim is a separate settlement regarding attorney's fees and costs. The total amount of attorneys' fees and costs was \$263,698.30. Half of this amount, \$131,849.15, was appropriated in the 2021 Legislative Session via Act 15. The remaining balance is \$132,611.78 which represents \$131,849.15 plus interest.

DEPARTMENT OF LAND AND NATURAL RESOURCES:

**Kaupiko, et al. v. Dept. of Land
and Natural Resources, State of Hawaii**
Civil No. 20-0000125; First Circuit
Civil No. CAAP-21-0000374,
Intermediate Court of Appeals

\$ 145,736.28 (*General Fund*)
Settlement

In a prior case, Umberger v. Dep't of Land & Nat. Res., 140 Hawai'i 500, 403 P.3d 277 (2017), the Hawaii Supreme Court barred commercial aquarium collection using fine mesh nets under section 188-31, Hawaii Revised Statutes (HRS), holding that such collection was an "action" requiring chapter 343 review. In this lawsuit, the plaintiffs claimed that all commercial aquarium collection occurring without fine mesh nets under the general commercial marine license statute (section 189-2, HRS), which is required for all kinds of commercial fishing activities, was also an "action" that required chapter 343 review. They also argued that commercial aquarium collection was barred on several other theories: (1) a statutory interpretation of section 188-31, HRS; (2) public trust; and (3) native Hawaiian rights.

On November 27, 2020, the environmental court granted the plaintiffs' motion for summary judgment on the chapter 343 argument and denied as to all other claims and

theories, ruling that all commercial aquarium collection is barred pending chapter 343 compliance. All commercial marine licenses obtained under section 189-2, HRS, are now subject to additional special terms and conditions, regardless of the gear-type used, at least until chapter 343 review is complete. The parties agreed that plaintiffs' remaining claims would be dismissed and judgment was entered in conformity with the orders. The plaintiffs were awarded \$165,020 in attorneys' fees. The Department of Land and Natural Resources appealed the award. The parties reached a settlement through appellate mediation for \$145,000 and \$736.28 in costs for a total of \$145,736.28.

DEPARTMENT OF PUBLIC SAFETY:

**Curt K.K. Tokunaga, et al. v. Dept.
of Public Safety, State of Hawaii
Civil No. 18-1-0982-06, First Circuit**

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

A wrongful death lawsuit was filed after the plaintiffs' son, a former inmate, died after his release from prison. The decedent had epilepsy, substance abuse disorder, and mild cognitive impairment. He was released from prison at night wearing only disposable clothing and without any money, identification, or necessary medication. He was found dead eight days later in an abandoned vehicle. The decedent's official cause of death was heart failure due to cardiomyopathy. The plaintiffs argued that the decedent died of a seizure due to lack of medication and that the State should have released the decedent directly to the custody of a halfway house or treatment program and provided him with a supply of medication for his transition. The State disputed causation because, if the decedent died of heart failure, the failure to provide him with his seizure medication would not have caused his death. The plaintiffs sought \$1,000,000 in damages. The case settled in mediation for \$150,000.

STATE PUBLIC CHARTER SCHOOL COMMISSION:

**UPW on behalf of James Ah Sing v.
Christina Kishimoto, et al.
Case No. CE-01-539
Hawaii Labor Relations Board**

**\$ 125,275.38 (General Fund)
Judgment**

The complainant's position as a janitor at Connections, a New Century Charter School was not renewed in 2003. The United Public Workers, on behalf of the complainant, filed a prohibited practice complaint with the Hawaii Labor Relations Board. There were several appeals to the Hawaii Supreme Court but on the final remand to the Hawaii Labor Relations Board, the complainant ultimately prevailed and was awarded back pay, vacation pay, and all substantiated attorneys' fees and costs.

MISCELLANEOUS CLAIMS:

Sang Chol Bang **\$ 40.65** *(General Fund)*

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

Rodney Baculpo **\$ 1,283.01** *(General Fund)*

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

Darlene Vicente fka Darlene Baculpo **\$ 1,283.00** *(General Fund)*

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

Princeville Hotel, LP **\$ 383,119.65** *(General Fund)*

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

ATTACHMENT “B”

DEPARTMENT OF PUBLIC SAFETY:

**HELG Administrative Services, LLC,
as Special Administrator of the Estate of
Daisy L. Kasitati, deceased, et al. v.
Dept. of Public Safety, State of Hawaii
Civil No. 19-1-0348(2), Second Circuit**

\$ 550,000.00 *(General Fund)*
Settlement

A female inmate committed suicide while incarcerated at Maui Community Correctional Center in 2017. At the time of her death, she was 26-years old and the mother of four children under the age of five. She had a six-year history of repeat incarcerations along with a history of drug and alcohol abuse. She also had a history of depression and had attempted suicide at least once. She was due to be released in 2022.

In the twelve to fourteen hours before her death on October 12, 2017, her cell mates asked an adult corrections officer on duty to get medical help for the decedent because she was depressed and they felt she needed help. A few hours before her death, the decedent told the adult corrections officer that she was feeling “low” because of a family member’s recent death and suggested, in what was perceived to be a joking manner, that she be put on suicide watch. No action was taken to get her medical help or to put her on suicide watch. Her cellmates left to attend a class. Sometime between the 2:00 p.m. roll call and 2:30 p.m., she blocked the window of her cell with paper and hanged herself with a bed sheet. She was last seen alive during the routine 2:00 p.m. head count for her unit. She was discovered unconscious and cold at approximately 2:30 p.m. by her cellmates and an adult corrections officer. Resuscitation efforts were unsuccessful.

Written Comments

DAVID Y. IGE
GOVERNOR



KEITH T. HAYASHI
INTERIM SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/22/2022

Time: 10:00 AM

Location: CR 211 & Videoconference

Committee: Senate Ways and Means

Department: Education

Person Testifying: Keith T. Hayashi, Interim Superintendent of Education

Title of Bill: SB 3041, SD1 MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

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

Department's Position:

The Hawaii State Department of Education (Department) supports passage of SB 3041, SD 1 but offers comments regarding the funding source for the State Public Charter School Commission claim. The Department opposes the amendments made in the SD 1 that appear to have changed the source of payment for the State Public Charter School Commission Claim.

The language in SB 3041, SD 1 was changed from "the general revenues of the State of Hawaii to the department of the attorney general for the purpose of satisfying claims for legislative relief" to "legislative appropriation item for the department of education for fiscal year 2021-2022 in section 3 of Act 88, Session Laws of Hawaii 2021, the general fund sum of \$125,275.38 shall be expended from the fiscal year 2021-2022 budget (EDN , general funds) by the department of education for the purposes of this Act."

The practical implication of this appears to be that the Department would need to fund a specific claim that arises from a case that was initiated in 2003 and involves a former charter school employee.

It is important to consider that charter schools are operated and managed by independent governing boards and charter school operations are funded directly by the

Legislature via EDN 600, as defined in Section 302D-28, Hawaii Revised Statutes. Essentially, charter school funding is determined by a funding formula that is used by the Legislature to establish the general fund support level for charter schools. As charter schools have their own general fund appropriation, if the Legislature determines it is appropriate to impose the cost of settlements on the state agency involved, then it does not appear the Department is the appropriate agency for this item.

Thank you for the opportunity to provide testimony on this measure.



SENATOR DONAVAN M. DELA CRUZ, CHAIR
SENATOR GILBERT S.C. KEITH-AGARAN, VICE CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

TESTIMONY ON SENATE BILL NO. 3041, SD1: **SUPPORT, WITH AMENDMENTS**

Tuesday, February 22, 2022, 10:00 a.m.
Conference Room 211 & Via Videoconference
State Capitol
415 South Beretania Street

Aloha Chair Dela Cruz and Vice-Chair Keith-Agaran, and Honorable Committee Members,

Earthjustice is counsel of record on behalf of community plaintiffs in the lawsuits referenced in Sections 2 and 3 of SB 3041, SD1, *i.e.*, *Nā Kia'i Kai v. Nakatanti, et al.*, Civil No. 18-00005, and *Kaupiko, et al. v. Department of Land and Natural Resources, State of Hawai'i*, Civil No. CAAP-21-0000374, respectively. Earthjustice **supports SB 3041, SD1, with amendments.**

Specifically, with respect to the *Kaupiko* lawsuit, the current version of the bill does not accurately and fully reflect the agreed-upon settlement amount. The settlement amount in Section 3 should be amended to read **\$145,736.28** instead of \$145,000.00.

Mahalo for this opportunity to testify. Please do not hesitate to reach out to us if you have any questions or need any further information.

Kylie W. Wager Cruz, Esq.
Senior Attorney
Earthjustice, Mid-Pacific Office

TESTIMONY PROVIDING COMMENTS FOR SB 3041 SD1
OPPOSING USE OF SCHOOL LEVEL FUNDS FOR SETTLEMENT (PART V)
John Thatcher, February 21, 2022

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee on Ways and Means,

My name is John Thatcher. I retired on July 1, 2021 as Director of Connections Public Charter School in Hilo. In 2017 the school paid \$4,500.00 to Mr. James Ah Sing and \$4,329.24 to UPW for attorney's fees to settle this claim. I had just started as the director of the school when Ah Sing's temporary custodian position was eliminated. A significant budget shortfall forced the school to discontinue some temporary positions. As the first charter school approved by the Hawaii the Board of Education (BOE), Connections has continued to struggle with bureaucratic offices, panels, and commissions created to oversee charter schools in Hawaii. The Department of Education (DOE) created the Public Charter Schools Program Office (PCSPO) to manage fiscal and personnel functions for the charter schools. The PCSPO acted as our point-of-contact for government, union, and other entities needing to interface with the charter schools. Connections was never involved in decisions concerning the legal status of our employees. We followed the direction of the PCSPO as required.

When charter schools first opened the BOE was becoming increasingly worried about the cost of funding the newly established charter schools and predicted a \$6.8 million initial shortfall. Some DOE staff and BOE members said that the Legislature had failed to anticipate the actual costs of the new program, leaving the department with no money to pay for it. The House Education Committee chairman, Representative Ken Ito, said that while legislators had wanted to see if the department could operate charter schools within their existing budget, the legislators were ready to discuss whatever money was needed to support them. "We're committed to charter schools," said Ito. "We passed the bill without any money to let the Department of Education figure out what the budget was going to be." BOE member, Karen Knudsen, said that Hawaii is not unique in the growing pains its charter school movement had experienced. She said the state's 1999 charter school law was passed in haste, and she hoped school officials and legislators could work together to fix it. "There was the feeling that we had to quick, quick, quick rush it into law," Knudsen said. "Now we're paying the price."

Act 62 of the 1999 State Legislature created charter schools in Hawaii and mandated additional funding for small schools. The law said, "Small schools shall be given a state subsidy or small school allotment to augment the per pupil allocation given." The DOE reported expenditures for the six charter schools that operated during the 2000-2001 school year. The two schools that had previously been DOE schools, Waiialae and Lanikai, received the least amount of per pupil funding. The four smaller "start-up" charter schools (including Connections) received from \$4,510 to \$7,271 per pupil. The DOE schools received an average of \$6,631 per pupil for the 2000-2001 school year.

The 2001 Legislature changed the state's charter school law to say, "Small schools with fewer than one hundred twenty students may be given a state subsidy or small school allotment, as determined by the department, to augment the per pupil allocation given." In late June, 2001, charter schools were informed that per pupil funding would be about \$4,600 per pupil. To their dismay, they learned, in October of 2001, that the actual allocation would be \$2,997 per pupil. The State Auditor, without explanation and without precedent, determined the charter schools' allotment by counting only regular education students. The Auditor subtracted special education students from each school's total enrollment in determining the allotment. The final allocation included a 2% deduction by the DOE for

administrative services. Per pupil expenditures for DOE schools was \$7,249 for the 2001-2002 school year.

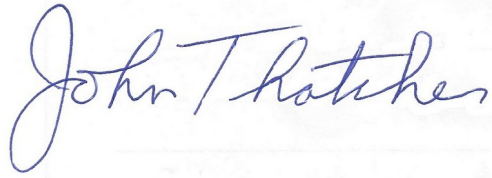
The law required the DOE to provide information and technical assistance to support the charter schools. The DOE required all inquiries from charter schools, about all matters (including personnel, funding, union issues, etc.), to go through a charter school specialist assigned to the PCSPO. All personnel and fiscal matters at charter schools had to be approved by the PCSPO according to the *New Century Charter Schools Fiscal Accountability Guidelines*. The mission of the PCSPO was “to assure delivery of SEA/LEA services required by federal and local legislation and for which the Department of Education is responsible.” This office served as a “centralized information conduit for charter schools’ information and concerns: federal, BOE, DOE, non-profits and schools. They were tasked with creating and supporting legislative actions related to charter schools. One of the SEA related tasks was to “establish baselines related to personnel transactions.” The staff of four full time employees included an Educational Specialist, an Administrative Services Assistant, a Personnel Clerk, and a Clerk Typist.

With the PCSPO breathing down our necks, Connections faced a budget shortfall of more than \$400,000 in 2002. State Senator Norman Sakamoto, chairman of the Senate Education Committee, said that there was no clear understanding of how much charter schools should receive per pupil. He said that the Legislature would look at the method the auditor used to determine per pupil money, as well as issues such as what happens when a charter school fails. "In the event of a default, what happens?" Sakamoto said. "To what extent are the taxpayers standing in line behind them to take responsibility on things like rent?" Connections was forced to take drastic measures to help mitigate the devastating impact of this cut in funding. The cost of personnel was the greatest expense. Positions had to be eliminated to help balance the budget. The charter schools’ Local School Boards were responsible for following approved accounting practices in budgeting, expending, reporting and auditing all allocations. To maintain as high a level of fiscal accountability as was possible, positions were eliminated at the school. This included the custodian position held by Ah Sing. Connections’ Governing Board informed the PCSAO of the elimination of the temporary positions. As the agent of the DOE responsible for charter schools, the PCSAO was charged with communicating with all government and union representatives on behalf of the charter schools. We were not privy to discussions about converting civil service positions at charter schools. Those discussions and decisions were made by the DOE.

The 2003 budget bill (HB 200 CD1 HCCR 142) noted, “The New Century Charter School program has been historically under-funded. Act 177, Session Laws of Hawaii 2002, the Supplemental Appropriations Budget for fiscal year 2002-2003 provided approximately \$6 million in charter school funding. This resulted in a \$5.5 million shortfall for the program in fiscal year 2002-2003. Currently, there is only \$6 million in the DOE’s base budget for charter schools. Therefore, without increased funding, the State’s charter schools, which are defined as State public schools, may again face deficits in fiscal year 2003-2004 and fiscal year 2004-2005. To further insure the solvency of the charter school program your Conference Committee has included a budget proviso that clarifies, for the DOE, that any funds allocable to the charter schools shall be determined by statute and, therefore any reduction to the statutorily determined amount must be explicitly stated in and justified under current Hawaii charter school law.”

Charter schools in Hawaii have struggled with funding from their inception. The latest expenditures reported to the U.S. Department of Education, by the State, indicate that Connections expended \$9,748 per pupil during the 2019-2020 school year. The school received an allocation of \$7,873 per pupil from the State in 2019-2020. DOE schools spent an average of \$16,217 per pupil during the same fiscal year.

The school continues to struggle with financial challenges and intense bureaucratic over-site by the Hawaii State Charter School Commission. If Connections is forced to pay a settlement of \$125,275.38 it will again be forced to eliminate positions to ensure financial stability. Finally, the Hawaii Labor Relations Board order number 3741A (signed on June 2, 2021) stipulated a judgment of \$31,412.54 in lost wages and \$11,586.60 in vacation pay be paid to Ah Sing. The bill before this committee today indicates that Ah Sing will be paid \$125,275.38. That is a difference of \$82,276.24. Is this the attorney fees for UPW? Mahalo for the opportunity to testify.

A handwritten signature in blue ink that reads "John Thatcher". The signature is written in a cursive style and is positioned above a faint horizontal line.