

NEIL ABERCROMBIE
GOVERNOR



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**REPORT ON RECOMMENDATIONS FOR DENIAL OF
CLAIMS FOR LEGISLATIVE RELIEF**

Pursuant to Section 37-77, Hawaii Revised Statutes

Fiscal Year 2010 – 2011

Submitted to the Twenty-Sixth State Legislature
Regular Session of 2012

AUTHORITY AND BACKGROUND

Section 37-77, Hawaii Revised Statutes, requires the Attorney General to report annually to the Legislature on the claims for which a recommendation for denial is made. This reporting requirement is contrasted with the Attorney General's obligation under the same statutory authority to submit a bill to the Legislature that contains all of the claims for which payment is recommended.

A listing and summary of each claim are provided in the report section below. All of the claims this year are filed by Department of Education (DOE) teachers. All of the claims involve damage to or theft of employee property. The majority of the claims are for vandalism to employee vehicles parked on school property. In every case, DOE officials have recommended that the claims be denied because of the absence of DOE negligence. The Attorney General's recommendation for denying these claims is based on a determination that no state employee negligence has been found.

There are no strong policy reasons for the Legislature to appropriate funds to pay these claims. State employees, like other individuals, usually have, or may obtain, insurance to cover the risks involved. Absent compelling policy justification, state liability for damages should only attach where the negligence of a state employee has been established.

As required by section 37-77, Hawaii Revised Statutes, the data and documents supporting the claims below are maintained in the Tort Litigation Division, Department of the Attorney General, and are available for inspection by the Legislature.

SUMMARY OF CLAIMS DURING 2010 FOR WHICH DENIAL IS RECOMMENDED

Claimant: Sandra C.T. McBride **Amount Claimed: \$219.23**

Ms. McBride, a teacher at King Kekaulike High School, claims her car tires were slashed while parked on the school campus.

Claimant: Kelli Taboada **Amount Claimed: \$356.00**

Ms. Taboada, a teacher at Fern Elementary School, claims her car window was broken while it was parked on the school campus, and personal items were stolen.

Claimant: Dee Wong **Amount Claimed: \$3127.11**

Ms. Taboada, a teacher at Maemae Elementary School, claims her car was scratched four times while it was parked on the school campus.