
Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation

A Report to the
Governor
and the
Legislature of
the State of
Hawai'i

Report No. 12-10
December 2012



THE AUDITOR
STATE OF HAWAII

Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawai'i State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. Financial audits attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. Management audits, which are also referred to as performance audits, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called program audits, when they focus on whether programs are attaining the objectives and results expected of them, and operations audits, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. Sunset evaluations evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.
4. Sunrise analyses are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.
5. Health insurance analyses examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.
6. Analyses of proposed special funds and existing trust and revolving funds determine if proposals to establish these funds are existing funds meet legislative criteria.
7. Procurement compliance audits and other procurement-related monitoring assist the Legislature in overseeing government procurement practices.
8. Fiscal accountability reports analyze expenditures by the state Department of Education in various areas.
9. Special studies respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawai'i's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.



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**The Department of
Labor and Industrial
Relations has five
trust funds that are
improperly classified
and one trust account
that no longer serves
its original purpose.**

Responses

Previous Audits

Review of the Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation

Report No. 12-10, December 2012

Thirty-six revolving funds, trust funds, and trust accounts reviewed

Eleven funds and accounts did not meet fund criteria or may be improperly classified

Section 23-12, Hawai'i Revised Statutes, requires the State Auditor to review all existing revolving and trust funds every five years. The review is to include a five-year financial summary for each fund or account, an evaluation of the original intent and purpose of each fund or account, and a determination of the degree to which each fund or account achieves its stated and claimed purpose. The reviews are scheduled so that the funds administered by each state department will be reviewed once every five years. This is our fourth review of the revolving funds, trust funds, and trust accounts of the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation.

Revolving funds, often established with an appropriation of seed money from the general fund, must demonstrate the capacity to be self-sustaining. Activities financed by revolving funds include loan programs that are initially established by general fund seed moneys and then replenished through the repayment of loans. Trust funds invoke a fiduciary responsibility of state government to care for and use the assets held for the benefit of those with a vested interest in the assets. A pension fund is an example of a trust fund. Trust accounts are typically separate holding or clearing accounts for state agencies. A trust account is often used as an accounting device to credit or charge agencies or projects for payroll or other costs.

In this report, we reviewed 36 revolving funds, trust funds, and trust accounts. We used criteria developed by the Legislature as well as criteria developed by our office from a review of public finance and accounting literature. For each fund, we present a five-year financial summary, the purpose of the fund, and conclusions about its use. We do not present any conclusions about the effectiveness of the program or its management, or whether the program should be continued. However, we did find that 11 of the 36 funds and accounts reviewed did not meet the applicable fund criteria or may be improperly classified.

Agencies' responses

We transmitted a draft of this review to the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation. The departments of Human Resources Development, Labor and Industrial Relations, and Public Safety agreed with our review of their funds. The Department of Taxation did not submit a written response to our review.

Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation

A Report to the
Governor
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Legislature of
the State of
Hawai'i

Submitted by

THE AUDITOR
STATE OF HAWAI'I

Report No. 12-10
December 2012

Foreword

This is a report of our review of revolving funds, trust funds, and trust accounts used by or administratively attached to the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation.

Section 23-12, Hawaii Revised Statutes, requires the State Auditor to review all existing revolving and trust funds every five years. The reviews are scheduled so that the funds administered by each state department will be reviewed once every five years. This is our fourth review of the revolving funds, trust funds, and trust accounts of the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation.

We wish to express our appreciation for the cooperation and assistance extended to us by the officials and staff of the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation.

Marion M. Higa
State Auditor

Table of Contents

Chapter 1 Introduction

Background.....	1
Description of Revolving Funds, Trust Funds, and Trust Accounts	2
Criteria for Reviewing Revolving Funds, Trust Funds, and Trust Accounts	3
Objectives of the Review	4
Scope and Methodology	6

Chapter 2 Department of Human Resources Development

Funds Established Under Statutory Authority.....	7
Funds Established Under Administrative Authority	9

Chapter 3 Department of Labor and Industrial Relations

Inconsistencies and Confusion in Classifying and Operating Funds Persist.....	11
Funds Established Under Statutory Authority.....	12
Accounts Established Under Administrative Authority.....	18

Chapter 4 Department of Public Safety

Funds and Account Established Under Statutory Authority.....	21
Funds and Accounts Established Under Administrative Authority.....	25

Chapter 5 Department of Taxation

Fund Established Under Statutory Authority 31
Fund and Accounts Established Under Administrative
Authority..... 32

Responses of the Affected Agencies 39

List of Exhibits

Exhibit 1.1 Funds and Accounts Not Meeting Criteria and Not
Properly Classified..... 5

Chapter 1

Introduction

This report reviews the revolving funds, trust funds, and trust accounts of the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation. Section 23-12, Hawai‘i Revised Statutes (HRS), requires the State Auditor to review all revolving or trust funds administered by each state department every five years. This is our fourth review of the revolving funds, trust funds, and trust accounts of the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation. The first report conducted in 1997 (Report No. 97-20) reviewed 35 revolving funds, trust funds, and trust accounts. The second report conducted in 2002 (Report No. 02-15) reviewed 37 such funds and accounts, and the third report conducted in 2007 (Report No. 07-07) reviewed 32. In this report, we reviewed 36 revolving funds, trust funds, and trust accounts.

Background

Moneys deposited into and spent from special and revolving funds are not subject to an equivalent level of legislative scrutiny as those in the general fund. In 1990, the Legislature, through Act 240, Session Laws of Hawai‘i (SLH) 1990, required our office to conduct a review of all special and revolving funds and to recommend whether they be continued, modified, or repealed. The Legislature was concerned that the proliferation of these types of funds had diverted resources from the general fund and, as a result, had weakened the Legislature’s control over public moneys.

The review of special and revolving funds required by Act 240, SLH 1990, was completed and presented in five separate reports issued in 1991 and 1992. We reviewed 166 special and revolving funds and recommended that 70 funds be repealed, discontinued, or allowed to sunset. We also found that many funds held cash balances far in excess of program needs and recommended that unneeded cash be transferred to the general fund.

In July 2001, the reports were updated through Report No. 01-12, which found that 71 special and revolving funds had been repealed or discontinued. However, a majority (106 out of 166) of the funds previously reviewed were still in existence as of July 1, 1999.

Section 23-12, HRS, expands the concept of Act 240, SLH 1990, by requiring the Office of the Auditor to conduct a review of all revolving

and trust funds administered by state agencies once every five years. The law specifies that the review shall include but not be limited to:

1. An evaluation of the original intent and purpose of each fund, both as expressed by the Legislature and as understood by the expending agency;
2. An assessment of the degree to which each fund achieves the stated and claimed purposes;
3. An evaluation of the performance standards established by the agency; and
4. A summary statement reflecting total fund transactions in the preceding five fiscal years, including the fund balance at the beginning of each fiscal year, total deposits and withdrawals, amount of interest earned, total expenditures made from the fund, and the ending fund balance for each fiscal year.

Description of Revolving Funds, Trust Funds, and Trust Accounts

Revolving funds

Section 37-62, HRS, defines a revolving fund as “a fund from which is paid the cost of goods and services rendered or furnished to or by a state agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds.”

Revolving funds are often established with an appropriation of seed money from the general fund. Activities commonly financed through revolving funds include loan programs, which are initially established by general fund seed moneys and are then replenished through the repayment of loans. For example, the State Motor Pool Revolving Fund purchases and maintains the State’s fleet of motor vehicles and is replenished by charges to state agencies for the use of the vehicles.

Trust funds

Section 37-62, HRS, defines a trust fund as “a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.”

Trust funds invoke a fiduciary responsibility of state government to care for and use the assets held only for those designated to benefit from the funds. A pension fund is one example of a trust fund. Contributions and payments into the fund are to be held for the beneficiaries of the pension fund. Another example is tenants' security deposits, which are held in trust funds for the future benefit of tenants and landlords. Until forfeited or returned, deposits are the property of the tenants and should be accounted for accordingly.

Trust accounts

The Department of Accounting and General Services defines a trust account as a separate holding or clearing account for state agencies. A trust account is often used as an accounting device to credit or charge agencies or projects for payroll or other costs.

Criteria for Reviewing Revolving Funds, Trust Funds, and Trust Accounts

The criteria used to review revolving funds are essentially the same as in our prior review of revolving funds and were obtained from Act 240, SLH 1990, and public finance literature. The criteria used to review revolving funds are the extent to which each fund:

- Continues to serve the purpose for which it was originally created;
- Reflects a clear link between the benefits sought and charges made upon the users or beneficiaries of the program, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriations process;
- Demonstrates the capacity to be financially self-sustaining; and
- Is an appropriate financing mechanism for the program or operation.

The criteria used to review trust funds are the extent to which each fund:

- Continues to serve the purpose for which it was originally created;
- Provides the benefits or services originally intended to beneficiaries;
- Requires no general fund appropriation; and
- Meets the definition of a trust fund.

The first two criteria were derived from the initial objectives of Section 23-12, HRS, asking for (1) an evaluation of the original intent of each fund, and (2) the degree to which each fund achieves its stated purpose. The third criterion assesses whether the fund relies on general fund appropriations. If general fund appropriations are needed to finance its activities (as opposed to providing seed moneys only), classification as a trust fund may not be warranted. The fourth criterion assesses whether the fund is held by the State only for the benefit of those with a vested interest in the assets.

Similar criteria for trust funds are used for the review of trust accounts. These are the extent to which each account:

- Continues to serve the purpose for which it was originally created; and
- Requires no general fund appropriation.

We also reviewed any performance standards established by the agencies for its funds or accounts.

Our review found a total of 11 funds that did not meet the applicable fund criteria or that may be improperly classified. See Exhibit 1.1 on page 5 which lists those funds and the related exceptions.

Objectives of the Review

1. Identify and review all revolving funds, trust funds, and trust accounts of the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation.
2. For each of the revolving funds, trust funds, and trust accounts, determine the original intent and purpose, per statute and as understood by the agency, and determine the degree to which each fund or account achieves its stated and claimed purposes.
3. Evaluate fund performance standards established by the agencies, where applicable.
4. Provide a five-year (FY2008 to FY2012) unaudited financial summary for each fund or account reviewed.

Exhibit 1.1
Funds and Accounts Not Meeting Criteria and Not Properly Classified

Fund Name	Fund Type	6/30/12 Balance (rounded)	Findings			
			No longer serves original purpose	No clear link between benefits sought and user charges	Requires general fund appropriations	Improperly classified
Department of Human Resources Development						
University of Hawai'i Non-Indemnity Payments Fund	Trust Fund	\$0	X			
Department of Labor and Industrial Relations						
Employment and Training Special Fund	Trust Fund	\$2,579,000				X
Special Compensation Fund	Trust Fund	\$15,344,000				X
Special Fund for Disability Benefits	Trust Fund	\$2,461,000				X
Special Premium Supplementation Fund	Trust Fund	\$1,671,000				X
Temporary Deposits Account	Trust Account	\$2,000	X			
Unemployment Compensation Fund	Trust Fund	\$45,027,000				X
Department of Public Safety						
Revolving Funds for Correctional Facility Stores	Revolving Fund	\$45,000	X			
Sheriff Division Processing Service Clearing Account	Trust Account	\$0	X			
Department of Taxation						
IRS Refund Intercept Account	Trust Account	\$1,000	X			
Taxes Payable to Counties– Fuel Accounts	Trust Account	\$1,546,000	X			

Scope and Methodology

This report examines revolving funds, trust funds, and trust accounts administered by the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation, during the five-year period under review.

We researched statutes, session laws, legislative history, and other supporting documents to determine each fund's or account's intent and purpose. We also reviewed performance standards reported by the agencies and other documents as appropriate and found that a majority of funds and accounts did not have any such performance standards. To gain an understanding of fund operations, we obtained information from key fiscal and program personnel.

We also noted that the unaudited ending balances for FY2006-07 shown in our Report No. 07-07 may not correspond to actual beginning balances for FY2007-08 presented in the financial summaries in this report. Transfers are reported as a net amount for each respective year.

Our work was performed from August 2012 to October 2012, according to generally accepted government auditing standards. We did not audit the agencies' financial data, which is provided only for informational purposes.

Chapter 2

Department of Human Resources Development

This chapter presents the results of our review of three trust funds of the Department of Human Resources Development. For each fund we present a five-year financial summary, the purpose of the fund, and the conclusions about its use. We do not present any conclusions about the effectiveness of the program, its management, or whether the program should be continued. We present, in alphabetical order, the funds established by statutory authority, followed by the funds and accounts established under administrative authority.

Funds Established Under Statutory Authority

State Deferred Compensation Plan Trust Fund, Section 88E-9, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$1,320,832	\$1,298,893	\$1,219,497	\$1,274,054	\$1,313,136
Revenues	37,555	(30,172)*	198,469	120,519	87,939
Interest	0	0	0	0	0
Expenditures	(59,494)	(49,224)	(143,912)	(81,437)	(64,627)
Transfers	0	0	0	0	0
Ending Fund Balance	\$1,298,893	\$1,219,497	\$1,274,054	\$1,313,136	\$1,336,448
Encumbrances	\$0	\$0	\$0	\$0	\$0

*According to the department, the negative revenue is due to fluctuations in the value of assets and investment fund market prices.

The Deferred Compensation Plan, an eligible plan under Section 457 of the United States Internal Revenue Code, is a voluntary tax-deferred supplemental retirement savings plan. The State Deferred Compensation Plan Trust Fund was established in 1983 to separately hold employee contributions and any investment earnings for the exclusive benefit of the participants and their beneficiaries. The plan is overseen by a board of trustees, which contracts with ING to serve as the plan's third-party administrator and State Street Bank and Trust to serve as the plan's custodian. The fund supports all of the administrative expenses for the deferred compensation plan. It is funded by participant contributions and investment earnings. The fund meets the review criteria for a trust fund as it continues to serve the purpose for which it was originally

created, provides the benefits originally intended to the beneficiaries, does not require general fund appropriations, and meets the definition of a trust fund. In addition, the department has established appropriate performance standards for evaluating investment option performance.

State Deferred Compensation Plan for Part-time, Temporary, and Seasonal/Casual Employees Trust Fund, Section 88F-7, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$58,965*	\$65,573	\$72,795	\$76,529	\$81,269
Revenues	11,857	12,279	8,157	8,695	12,178
Interest	0	0	0	0	0
Expenditures	(5,249)	(5,057)	(4,423)	(3,955)	(5,524)
Transfers	0	0	0	0	0
Ending Fund Balance	\$65,573	\$72,795	\$76,529	\$81,269	\$87,923
Encumbrances	\$0	\$0	\$0	\$0	\$0

*According to the department, the fund was established in 1997. In 2008, the department formally established a trust fund in the state accounting system which enabled the department to record revenue and expenditure information. The FY2008 beginning balance reflects the amounts that have accumulated since 1997.

The Deferred Compensation Plan for Part-time, Temporary, and Seasonal/Casual Employees is an eligible, deferred compensation plan under Sections 457 and 3121 of the United States Internal Revenue Code of 1986, as amended. The plan was established in 1997 as a tax-deferred alternative retirement program for part-time, temporary, and seasonal/casual employees of the State (and participating counties) who are not eligible for membership in the Employees’ Retirement System. Participation in the plan is mandatory, and there is a mandatory payroll deduction of 7.5 percent of the employee’s gross monthly wages (in lieu of social security contributions) that are contributed to the plan. The employee contributions and any interest earned are held in trust for the exclusive benefit of the participants and their beneficiaries outside the state treasury. The plan is overseen by a board of trustees, which contracts with Life Insurance Company of the Southwest to serve as the plan’s third-party administrator. The fund supports all of the administrative expenses for the plan. It is funded by participant contributions and interest earned. In addition, the department has established performance standards in accordance with Section 88F-7, Hawai’i Revised Statutes, and the board’s contract. The fund meets the criteria for a trust fund as it continues to serve the purpose for which it

was originally created, provides the benefits intended to the beneficiaries, does not require general fund appropriations, and meets the definition of a trust fund.

Funds Established Under Administrative Authority

University of Hawai'i Non-Indemnity Payments Fund

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$0	\$0	\$0	\$0	\$0
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$0	\$0	\$0	\$0	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund was established to account for all non-indemnity benefits and costs associated with workers' compensation claims filed by University of Hawai'i employees whose injury dates were prior to July 1, 1999. In March 2001, the department agreed to assume all claims management administration services for the program and to represent the university on related matters. The fund carries a minimal balance (\$61) and has been inactive since the contract to provide claims management services for the university was not renewed at the end of the contract period, June 30, 2003. The department is in the process of closing the fund by returning the balance to the university.

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Chapter 3

Department of Labor and Industrial Relations

This chapter presents the results of our review of one revolving fund, five trust funds, and four trust accounts of the Department of Labor and Industrial Relations. For each fund or account we present a five-year financial summary, the purpose of the fund or account, and the conclusions about its use. We do not present any conclusions about the effectiveness of the program, its management, or whether the program should be continued. We present, in alphabetical order, the funds established by statutory authority, followed by the funds and accounts established under administrative authority.

Inconsistencies and Confusion in Classifying and Operating Funds Persist

Several funds in the Department of Labor and Industrial Relations illustrate a point we have made in previous reports: that funds are classified and operated incongruently from their statutory designations. The confusion in classifying funds may be due to the inconsistency between the name given to a fund by the statute that establishes it; the accounting definitions provided by the Department of Accounting and General Services; and the definitions of special, revolving, and trust funds contained in the Hawai'i Revised Statutes. The department has at least five funds with conflicting classifications. For example, the Special Fund for Disability Benefits, specifically designated in the Hawai'i Revised Statutes as a special fund, is classified as a revolving fund by the Department of Accounting and General Services and is deemed a trust fund by the attorney general. The attorney general has recommended that such discrepancies be addressed legislatively.

Funds Established Under Statutory Authority

Employment and Training Special Fund, Section 383-128, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$2,198	\$1,316	\$1,024	\$1,220	\$2,168
Revenues	1,129	432	506	1,458	1,317
Interest	96	28	9	0	0
Expenditures	(2,107)	(752)	(319)	(466)	(906)
Transfers	0	0	0	(44)*	0
Ending Fund Balance	\$1,316	\$1,024	\$1,220	\$2,168	\$2,579
Encumbrances	\$15	\$38	\$213	\$38	\$0

*Act 124, Session Laws of Hawai‘i 2011, transferred moneys that exceeded the requirements of the fund to the general fund.

This fund was established in 1991 to assist employers and workers by providing them with programs to improve the long-term employability of Hawai‘i’s people. Moneys in the fund may be used for the operation of state employment services for which no federal funds have been allocated, such as business-, industry-, employer-, or job-specific training and retraining programs. The fund assists employers and workers in preparing for the impact of economic, technological, and demographic changes through skills upgrading and retraining. Employers may request retraining for their workers from pre-approved vendors and courses, or they may collectively identify common training needs and design new training programs for their workers. Funds are combined with private contributions for greater impact. Because training should be tightly linked to workplace competencies, new programs seek to develop industry-wide certifications for skills acquired. The sources of revenue to the fund are employer assessments on employees’ wages that are taxable for unemployment insurance. The fund continues to serve the purpose for which it was originally created and provides services to the intended beneficiaries. The fund receives no general fund appropriations and meets the criteria for a trust fund.

However, this fund was statutorily established as a special fund. In 1993, the attorney general concluded that this fund is a trust fund. We recommend that the department clarify the fund’s classification and propose legislation, if necessary.

Hoisting Machine Operators' Certification Revolving Fund, Section 396-20, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$307	\$332	\$344	\$329	\$365
Revenues	54	63	32	69	37
Interest	15	6	3	0	0
Expenditures	(44)	(57)	(50)	(33)	(45)
Transfers	0	0	0	0	0
Ending Fund Balance	\$332	\$344	\$329	\$365	\$357
Encumbrances	\$6	\$0	\$0	\$0	\$0

The fund was established in 1998 to support the process for certifying hoisting machine operators in the State of Hawai'i. Revenues to the fund come from certification fees from hoisting machine operators. The fund covers personnel and operating expenses for an advisory board to ensure that national certification standards are met for Hawai'i hoisting machine operators. The funds also cover the cost of preparing and disseminating information on the hoisting machine operators' certification process, public outreach programs when necessary, and costs associated with annual reporting on the program's accomplishments. The certification process ensures a minimum competency level for operators and provides assurance to the employer that the crane operators they employ will have received appropriate training. This process benefits workers, their employers, and the public. The fund serves the purpose for which it was created, reflects a clear link between the benefits sought and charges made, requires no general fund appropriations, and meets the criteria of a revolving fund.

Special Compensation Fund, Section 386-151, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$14,838	\$11,058	\$10,101	\$13,154	\$12,538
Revenues	13,973	14,379	18,896	15,667	17,339
Interest	633	201	108	99	53
Expenditures	(18,386)	(15,537)	(15,951)	(16,382)	(14,586)
Transfers	0	0	0	0	0
Ending Fund Balance	\$11,058	\$10,101	\$13,154	\$12,538	\$15,344
Encumbrances	\$110	\$0	\$0	\$0	\$0

This fund was established in 1937 to enhance the employability of persons with pre-existing injuries, to pay benefits in excess of employer liability limits under the law, and to pay benefits due to employees of delinquent employers. The fund also provides compensation benefits to qualifying employees in certain circumstances involving permanent, total disability benefit adjustments; subsequent injuries and preexisting conditions; defaulting employers; total disability under previous laws; concurrent employment; and benefit adjustments for services of attendants. Revenues are from levies on workers' compensation carriers and self-insured employers, interest income, reimbursements from defaulting employers, unpaid benefits in certain cases, and fines for noncompliance with the Workers' Compensation Law. The fund continues to serve the purpose for which it was originally created and provides services to the intended beneficiaries. The fund receives no general fund appropriations and meets the criteria of a trust fund.

However, the Special Compensation Fund was statutorily established as a special fund. In 1994, the attorney general concluded that the fund is a trust fund or functions as a trust fund. We recommend that the department clarify the classification of the fund and propose legislation if necessary.

Special Fund for Disability Benefits, Section 392-61, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$8,916	\$9,278	\$9,370	\$9,418	\$2,517
Revenues	7	1	0	6	3
Interest	424	170	113	145	14
Expenditures	(69)	(79)	(65)	(52)	(73)
Transfers	0	0	0	(7,000)*	0
Ending Fund Balance	\$9,278	\$9,370	\$9,418	\$2,517	\$2,461
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Act 192, Session Laws of Hawai'i 2010, transferred moneys that exceeded the requirements of the fund to the general fund.

This fund was established in 1969 to pay benefits to individuals who become temporarily disabled while unemployed and who are ineligible for unemployment insurance benefits. The fund also pays temporary disability benefits to employees who are entitled to benefits but cannot receive them because of employer bankruptcy or employer noncompliance with the Temporary Disability Insurance (TDI) Law. In 1969, a one-time assessment on employers was used to establish the fund. Since then, revenues are primarily from interest income and receipts from fines and penalties enforced through TDI Law. The fund is financially self-sustaining. If the fund falls below a certain amount, an assessment is levied against insurers and employers. The fund serves the purpose for which it was created and provides services to its intended beneficiaries. The fund requires no general fund appropriations and meets the criteria of a trust fund.

However, the Special Fund for Disability Benefits was statutorily established as a special fund. The Department of Accounting and General Services classifies it as a revolving fund. In 1986, the attorney general concluded that this fund falls within the definition of a trust fund. We recommend that the department clarify the classification of this fund and propose legislation if necessary.

Special Premium Supplementation Fund, Section 393-41, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$3,088	\$2,988	\$2,660	\$2,375	\$2,098
Revenues	0	1	1	1	0
Interest	144	54	34	42	11
Expenditures	(244)	(383)	(320)	(320)	(438)
Transfers	0	0	0	0	0
Ending Fund Balance	\$2,988	\$2,660	\$2,375	\$2,098	\$1,671
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund was established in 1974 to supplement health care insurance premium payments for certain employers with fewer than eight employees. In 1978, prepaid health care benefits coverage was added for employees who are entitled to receive benefits but whose employers are bankrupt or noncompliant with the State's Prepaid Health Care Act. The fund was established by an initial appropriation from the State's general fund. Since then, revenues have been primarily from interest income and receipts from fines and penalties collected under the Prepaid Health Care Act. The fund is financially self-sustaining and has not required any general fund appropriations in the past five years to support its program activities. The fund meets the criteria of a trust fund as it also serves the purpose for which it was created and provides services to its intended beneficiaries.

However, the Special Premium Supplementation Fund was statutorily established as a special fund. The Department of Accounting and General Services classifies it as a revolving fund. In 1986, the attorney general concluded that this fund falls within the definition of a trust fund. We recommend that the department clarify the classification of this fund and propose legislation if necessary.

Unemployment Compensation Fund, Section 383-121, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$545,715	\$514,363	\$265,691	\$20,715	\$1,249
Revenues	120,788	184,657	216,000	512,258	509,358
Interest	5,872	3,182	1,197	1,152	453
Expenditures	(158,012)	(436,092)	(462,173)	(532,876)	(466,033)
Transfers	0	(419)*	0	0	0
Ending Fund Balance	\$514,363	\$265,691	\$20,715	\$1,249	\$45,027
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Act 189, Session Laws of Hawai'i 2008, authorized a transfer from the Unemployment Compensation Fund for workforce development.

This fund was established in 1937 to provide temporary income to unemployed individuals as required by the federal Social Security and National Employment Acts. The program pays benefits to eligible unemployed individuals and is financed primarily through payroll taxes assessed on employers and interest earned on the fund balance. Except for amounts credited to the State pursuant to Section 903 of the Social Security Act, all moneys from the fund are used exclusively for the payment of benefits and refunds of erroneously paid contributions. The fund serves the purpose for which it was created and provides services to the intended beneficiaries. The fund requires no general fund appropriations and meets the criteria of a trust fund.

However, the Unemployment Compensation Fund was statutorily established as a special fund and was classified accordingly by the Department of Accounting and General Services. The attorney general has concluded that the fund falls within the definition of a trust fund or functions as a trust fund. We recommend that the department clarify the classification of this fund and propose legislation if necessary.

Accounts Established Under Administrative Authority

Non-Profit Employers Deposit Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$884	\$885	\$886	\$1,507	\$1,604
Revenues	1	1	621	97	33
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$885	\$886	\$1,507	\$1,604	\$1,637
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account was established in 1972 as a holding or escrow account for security deposits as required under the Hawai'i Employment Security Law. Any nonprofit organization that elects to become liable for unemployment benefit payments in lieu of contributions is required to deposit a sum of money as security with the department. These security deposits are the account's sole revenue source. Once a nonprofit organization terminates its liability, the deposit is returned to the nonprofit organization, minus deductions for any unpaid unemployment benefit charges. The fund meets the criteria for a trust account as it continues to serve the purpose for which it was originally created and requires no general fund appropriations.

Temporary Deposits Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$2	\$2	\$2	\$2	\$2
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$2	\$2	\$2	\$2	\$2
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account was established in 1970 as a holding account for bonds posted upon filing appeals to the Hawai'i Supreme Court. These bonds were required to defray court costs. If there were no court costs upon final disposition of the appeal, the bond was refunded to the appellant. This account no longer serves its original purpose as bonds are no longer needed to file appeals. This account does not meet the criteria for a trust account and should be closed. The department has made efforts to close the account by refunding the remaining moneys in the fund but has been unable to locate individuals owed a refund.

Temporary Disability Insurance Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$1	\$2	\$1	\$5	\$4
Revenues	1	0	4	0	5
Interest	0	0	0	0	0
Expenditures	0	(1)	0	(1)	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$2	\$1	\$5	\$4	\$9
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account was established in 1970 to account for excessive or unauthorized temporary disability insurance and prepaid health care premium withholdings that were owed to terminated employees who could not be located by their employers. Terminated employees receive refunds if they are located. However, if the employee cannot be located after two years, moneys are deposited into the Special Fund for Disability Benefits or the Special Premium Supplementation Fund. This account meets the criteria for a trust account as it serves the purpose for which it was originally created and requires no general fund appropriations.

Wage Claim Fund Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$1,470	\$1,431	\$4,433	\$3,828	\$3,639
Revenues	391	3,930	311	188	1,113
Interest	0	0	0	0	0
Expenditures	(430)	(928)	(916)	(377)	(196)
Transfers	0	0	0	0	0
Ending Fund Balance	\$1,431	\$4,433	\$3,828	\$3,639	\$4,556
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account was established in 1987 as a holding account for back-pay collections and disbursements owed to employees. Back wages are collected from employers and disbursed to employees as a result of investigations conducted by the Wage Standards Division. If an employee is owed back wages and cannot be located within one year, the back wages are deposited into the state treasury. This account meets the criteria of a trust account as it requires no general fund appropriations and serves the purpose for which it was originally created.

However, we found that the department also used this account to hold moneys relating to a reduced ignition propensity cigarette program. According to the department, it received \$400,000 for the program for FY2009 and FY2012 and reported it as revenue. A special fund for the program was established in 2011, and the funds received for the program were appropriated in 2012. As a result, \$800,000 will be transferred to the special fund from the Wage Claim account in FY2013. In the future, we recommend that the department create a temporary account to prevent the co-mingling of moneys with separate purposes.

Chapter 4

Department of Public Safety

This chapter presents the results of our review of three revolving funds, three trust funds, and six trust accounts of the Department of Public Safety. For each fund or account we present a five-year financial summary, the purpose of the fund or account, and the conclusions about its use. We do not present any conclusions about the effectiveness of the program, its management, or whether the program should be continued. We present, in alphabetical order, the funds established by statutory authority, followed by the funds and accounts established under administrative authority.

Funds and Account Established Under Statutory Authority

Controlled Substance Registration Revolving Fund, Section 329-59, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$362	\$259	\$213	\$269	\$316
Revenues	466	501	526	559	671
Interest	0	0	0	0	0
Expenditures	(569)	(547)	(470)	(512)	(525)
Transfers	0	0	0	0	0
Ending Fund Balance	\$259	\$213	\$269	\$316	\$462
Encumbrances	\$30	\$33	\$7	\$4	\$69

This fund was established for the purpose of: (1) offsetting the cost of the State’s electronic prescription monitoring system; (2) offsetting the cost of the operation of the State’s forensic drug laboratory; (3) the registration and control of the manufacture, distribution, prescription, and dispensation of controlled substances and regulated chemicals and the processing and issuance of a patient registry identification certificate; and (4) funding positions authorized by the Legislature. The fund’s revenues are from all registration fees relating to the manufacture and handling of controlled substances, regulated chemicals, and medical use of marijuana. The fund benefits all persons who administer, prescribe, dispense, or handle any controlled substances; all manufacturers, distributors, retail distributors, and other persons who sell, distribute, or store regulated chemicals; all persons who qualify under Hawai‘i’s

Medical Use of Marijuana Program to utilize marijuana for medical purposes; and the Narcotics Enforcement Division of the department. The fund serves the purpose for which it was created, reflects a clear link between the benefits sought and charges made, requires no general fund appropriations, and meets the criteria of a revolving fund.

Correctional Industries Revolving Fund, Section 354D-10, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$250	\$1,015	\$1,730	\$1,857	\$1,169
Revenues	6,839	6,243	4,993	5,424	5,403
Interest	0	0	0	0	0
Expenditures	(6,074)	(5,528)	(4,866)	(6,112)	(4,958)
Transfers	0	0	0	0	0
Ending Fund Balance	\$1,015	\$1,730	\$1,857	\$1,169	\$1,614
Encumbrances	\$420	\$430	\$2,047	\$1,850	\$325

This fund was established in 1990 to account for transactions of the department’s Correctional Industries Program. This program provides inmates with specific training skills in a workplace environment to improve their employment prospects after release. Receipts from the sale of goods and services produced by inmates are used to support the vocational training program. The benefits received are directly linked to the charges made upon the users as nonprofit organizations, state, and other government agencies are provided cost-effective products and services produced by the inmates. The fund continues to serve the purpose for which it was created, reflects a clear link between the benefits sought and charges made, requires no general fund appropriations, and meets the criteria of a revolving fund.

Correctional Program Revolving Fund, Section 353-33, HRS

This fund was closed in 1996 due to inactivity. Act 64, Session Laws of Hawai‘i 2008, repealed Section 353-33, HRS, which established this fund.

Gifts to the Department of Public Safety Trust Fund, Section 353-32, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$4	\$9	\$8	\$8	\$8
Revenues	5	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	(1)	0	0	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$9	\$8	\$8	\$8	\$8
Encumbrances	\$0	\$0	\$4	\$4	\$4

This fund was established in 1995 as a holding account for monetary gifts received by the department from sources other than the Legislature or the federal government. The department receives monetary gifts for specific programs. These gifts are used for the specific purpose of the gift for the benefit of the inmates and the programs administered by the department. The fund continues to serve the purpose for which it was originally created and provides services to its intended beneficiaries. The fund requires no general fund appropriations and meets the criteria of a trust fund.

Prisoners' Trust Account (Not in State Treasury), Section 353-20, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$1,249	\$1,237	\$1,398	\$966	\$1,199
Revenues	5,273	5,521	4,288	4,262	4,556
Interest	0	0	0	0	0
Expenditures	(5,285)	(5,360)	(4,720)	(4,029)	(4,374)
Transfers	0	0	0	0	0
Ending Fund Balance	\$1,237	\$1,398	\$966	\$1,199	\$1,381
Encumbrances	\$0	\$0	\$0	\$0	\$0

These accounts were established in 1989 as holding accounts for moneys earned by inmates through their labor or training programs. Individual

accounts are maintained for each inmate to collect all wages earned. The department reports that more than 6,000 of these accounts currently exist. Inmates are permitted to withdraw funds from their accounts for approved purposes. The balance remaining in the account is paid to the inmates upon parole or discharge. The account meets the criteria of a trust account as it continues to serve the purpose for which it was originally created and does not require general fund appropriations.

Revolving Funds for Correctional Facility Stores, Section 353-31, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$16	\$22	\$12	\$27	\$36
Revenues	8	18	17	12	11
Interest	0	0	0	0	0
Expenditures	(2)	(28)	(2)	(3)	(2)
Transfers	0	0	0	0	0
Ending Fund Balance	\$22	\$12	\$27	\$36	\$45
Encumbrances	\$0	\$28	\$0	\$0	\$0

Three revolving funds were established in 1989 for stores at the O‘ahu Community Correctional Center, Hālawā Correctional Facility, and Waiawa Correctional Facility. The stores stock items, such as health products, recreational clothing, cigarettes, snacks, and paper supplies for resale to inmates. Funds are used for purchasing items to be resold to inmates and for purchasing of other goods or services for inmate benefits and needs. According to the department, the facilities no longer operate in-house inmate stores and store services are contracted to the Hawai‘i Correctional Industries program. Profits made from the stores are directly deposited into the Administrator/Inmate Activity Account. These funds no longer meet the criteria of a revolving fund since they no longer serve the purpose for which they were created. We recommend the department evaluate the continued need for these funds.

Funds and Accounts Established Under Administrative Authority

Administrator/Inmate Activity Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$58	\$63	\$61	\$86	\$81
Revenues	32	36	51	15	22
Interest	0	0	0	0	0
Expenditures	(27)	(38)	(26)	(20)	(31)
Transfers	0	0	0	0	0
Ending Fund Balance	\$63	\$61	\$86	\$81	\$72
Encumbrances	\$8	\$1	\$0	\$3	\$2

This account was established in 1989 to purchase miscellaneous items for the benefit of all inmates. The account is funded by interest derived from the Prisoners' Trust Account and a 2.5 percent rebate from the profit from the sales of items in correctional facility stores. Moneys from this account are used to purchase food supplies for special activities; repair and maintain recreational equipment; and purchase musical instruments, televisions, DVDs, and Blu-ray discs. The account meets the criteria for a trust account as it serves the purpose for which it was originally created and does not require general fund appropriations.

Drug Law Enforcement Equipment Procurement Trust Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$280	\$77	\$154	\$30	\$30
Revenues	16	336	154	427	1,671
Interest	0	0	0	0	0
Expenditures	(219)	(259)	(278)	(427)	(1,671)
Transfers	0	0	0	0	0
Ending Fund Balance	\$77	\$154	\$30	\$30	\$30
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account was established to serve as a clearing account for funds received from state and county law enforcement agencies for purchase

of equipment from the federal government. The equipment or supplies purchased must be in support of a drug investigation or activity with a drug nexus. Funds deposited to the account are from other state and county law enforcement agencies. The account meets the criteria for a trust account as it continues to serve the purpose for which it was originally created and does not require general fund appropriations.

Narcotics Enforcement Agency Trust Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$623	\$691	\$904	\$992	\$1,135
Revenues	314	329	170	282	198
Interest	0	0	0	0	0
Expenditures	(246)	(116)	(82)	(139)	(328)
Transfers	0	0	0	0	0
Ending Fund Balance	\$691	\$904	\$992	\$1,135	\$1,005
Encumbrances	\$19	\$0	\$73	\$2	\$24

This account was established administratively to hold forfeiture proceeds derived from unlawful drug activities. The primary purpose of the forfeiture program is to deter crime by depriving criminals of the profits and proceeds of their illegal activities and to weaken criminal enterprises by removing the instrumentalities of crime.

The fund primarily benefits the department’s Narcotics Enforcement Division by providing a supplemental revenue source to be used for training; payment of overtime for investigators assisting on federal drug investigations; purchase of equipment and services; purchase of evidence, drug education and awareness activities; and other law enforcement purposes. The account receives revenues that are derived from a portion of the forfeited property, cash, and sale proceeds from drug investigations that result in criminal forfeiture. The account meets the criteria of a trust account as it continues to serve the purpose for which it was originally created and requires no general fund appropriations.

Sheriff Division Processing Service Clearing Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$1	\$1	\$1	\$1	\$1
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	(1)
Transfers	0	0	0	0	0
Ending Fund Balance	\$1	\$1	\$1	\$1	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account was established in 1996 to account for civil deputy service fees. Civil process services user fees were deposited into the account to cover the costs of serving legal documents for the courts. There has been no activity in this account since the Sheriff Division no longer provides this service. Independent contractors now deal directly with clients. This account does not meet the criteria for a trust account as it no longer serves the purpose for which it was created. The funds in the account have been refunded, and the department is in the process of closing the account.

Temporary Deposits–Payroll Assignment Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$718	\$764	\$790	\$808	\$838
Revenues	60	33	23	32	22
Interest	0	0	0	0	0
Expenditures	(14)	(7)	(5)	(2)	(20)
Transfers	0	0	0	0	0
Ending Fund Balance	\$764	\$790	\$808	\$838	\$840
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account was established in 1994 to serve as a clearing account for salary overpayments. This account is a holding account until the salary overpayments are returned to the general fund for prior-year collections or returned to the specific program that incurred the overpayment

expense during the current year. The account meets the criteria for a trust account as it continues to serve the purpose for which it was originally created and does not require general fund appropriations.

Victim Restitution Trust Fund

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$132	\$335	\$165	\$209	\$167
Revenues	324	204	174	183	249
Interest	0	0	0	0	0
Expenditures	(121)	(374)	(130)	(225)	(155)
Transfers	0	0	0	0	0
Ending Fund Balance	\$335	\$165	\$209	\$167	\$261
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund was established in 2003 as part of a pilot project in accordance with Section 353-22.6, HRS, Crime Victim Restitution. The project enables the department to meet its statutory obligation to collect and disburse restitution from inmates and other offenders pursuant to court orders. The sources of revenue for this fund are court-ordered restitution collected from inmates and other offenders. Beneficiaries of this fund are the victims whose crime-related losses are being reimbursed through court-ordered restitution. The fund continues to serve the purpose for which it was originally created and provides services to its intended beneficiaries. The fund requires no general fund appropriations and meets the criteria for a trust fund.

Women's Community Correctional Center Trauma-Informed Care Initiative Trust Fund

Financial Data for Fiscal Years 2010–2012 (in thousands)

	FY2010	FY2011	FY2012
Beginning Fund Balance	\$0	\$18	\$7
Revenues	18	34	23
Interest	0	0	0
Expenditures	0	(45)	(30)
Transfers	0	0	0
Ending Fund Balance	\$18	\$7	\$0
Encumbrances	\$0	\$0	\$0

These trust funds were established in 2010 to receive a \$50,000 grant from the Office of Hawaiian Affairs and state matching funds in the amount of \$26,568 provided by the Mental Health Transformation State Initiative Grant. These funds were used for a pilot project that developed a universal screening process for trauma-related problems for women at the Women's Community Correctional Center (WCCC). The pilot project proposed to address the issue of inter-generational transmission of historical trauma and histories of trauma-induced experiences that frequently place women on the path to involvement with the criminal justice system. The project was designed to address the over-representation of native Hawaiian women in Hawai'i's prison system through the implementation of a culturally appropriate trauma-informed care program. Approximately 95 to 100 native Hawaiian women will be directly served by the implementation of this program. The fund serves the purpose for which it was originally created and provides services to the intended beneficiaries. The fund requires no general fund appropriations and meets the criteria for a trust fund. According to the department, the grant and state matching moneys were one-time funding sources. The department intends to work with the programs involved to close the funds since all moneys have been expended.

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Chapter 5

Department of Taxation

This chapter presents the results of our review of two trust funds and nine trust accounts of the Department of Taxation. For each fund or account we present a five-year financial summary, the purpose of the fund or account, and the conclusions about its use. We do not present any conclusions about the effectiveness of the program, its management, or whether the program should be continued. We present, in alphabetical order, the funds established by statutory authority, followed by the funds and accounts established under administrative authority.

Fund Established Under Statutory Authority

Tax Reserve Fund, Section 231-23, HRS

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$0	\$0	\$1	\$3	\$0
Revenues	557,685	569,192	348,234	731,764	560,967
Interest	0	0	0	0	0
Expenditures	(557,685)	(569,191)	(348,232)	(731,767)	(560,967)
Transfers	0	0	0	0	0
Ending Fund Balance	\$0	\$1	\$3	\$0	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund was established in 1939 as a clearing account to enable the department to refund taxes collected. The fund collects amounts from the Undistributed Tax Collections Accounts and disburses them to taxpayers as refunds on overpaid taxes. Taxpayers who are owed tax refunds benefit from the fund and have a vested interest in it. The fund meets the definition of a trust fund as it continues to serve the purpose for which it was originally created, provides services to its intended beneficiaries, and requires no general fund appropriations.

Fund and Accounts Established Under Administrative Authority

IRS Refund Intercept Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$1	\$1	\$1	\$1	\$1
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$1	\$1	\$1	\$1	\$1
Encumbrances	\$0	\$0	\$0	\$0	\$0

This trust account was established as a clearing account for delinquent tax collections owed to the Internal Revenue Service (IRS). In accordance with a federal/state agreement, the department intercepts state tax refunds owed to Hawai'i taxpayers to cover delinquent federal taxes owed by those taxpayers. Delinquent taxes owed to the IRS are disbursed from the Undistributed Tax Collections Accounts to this account and subsequently disbursed to the IRS. Although the account is currently inactive, the department reported that it periodically evaluates the continued need for the account. However, we note that the account has been inactive since FY2000 and does not meet the criteria of a trust account as it no longer serves the purpose for which it was originally created since the federal/state agreement to intercept tax refunds was terminated in FY1999. We recommend that the department consider closing this account.

Litigated Claims Fund

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$6,725	\$4,286	\$483	\$479	\$229
Revenues	0	0	0	0	18,560
Interest	0	0	0	0	0
Expenditures	(2,439)	(3,803)	(4)	(250)	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$4,286	\$483	\$479	\$229	\$18,789
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund was established as a holding account for amounts in dispute when tax appeal cases are litigated. The disputed amount is disbursed to either the State's general fund or the taxpayer after the case is settled. The fund meets the definition of a trust fund as it continues to serve the purpose for which it was originally created, provides services to its intended beneficiaries, and requires no general fund appropriations.

New Collections—Tagged

Financial Data for Fiscal Years 2008–2010 (in thousands)

	FY2008	FY2009	FY2010
Beginning Fund Balance	\$0	\$808	\$16,017
Revenues	808	44,038	30,154
Interest	0	0	0
Expenditures	0	(28,829)	(46,171)
Transfers	0	0	0
Ending Fund Balance	\$808	\$16,017	\$0
Encumbrances	\$0	\$0	\$0

The account was established in 2008 per contract between the department and CGI Technologies and Solutions Inc. ("CGI"). The contract was a contingent-fee agreement which compensated CGI at a rate of 33.3 percent of "new collections," capped at \$25 million. Closed in FY2010, the account met the definition of a trust account as it served the purpose for which it was originally created and required no general fund appropriations.

Sale of Assets for Delinquent Taxes—O‘ahu

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$3	\$3	\$3	\$3	\$3
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$3	\$3	\$3	\$3	\$3
Encumbrances	\$0	\$0	\$0	\$0	\$0

This trust account was established to hold surplus funds from the sale of property seized and foreclosed upon to pay unpaid taxes, penalties, interest, costs, and expenses. Section 231-25(b)(7)(D), HRS, requires that, once payment for unpaid taxes has been made, any surplus received following the sale of the seized property be deposited with the department until returned to the owner. Though inactive for more than ten years, the account is needed, according to the department, to meet the statutory requirements regarding collection efforts pertaining to the sale of property to pay taxes, penalties, interest, costs, and expenses. The account meets the criteria of a trust account as it serves the purpose for which it was originally created and requires no general fund appropriations.

Special Enforcement Section Collections Trust Account

Financial Data for Fiscal Years 2010–2012 (in thousands)

	FY2010	FY2011	FY2012
Beginning Fund Balance	\$0	\$0	\$0
Revenues	500	279	500
Interest	0	0	0
Expenditures	500	(279)	0
Transfers	0	0	0
Ending Fund Balance	\$0	\$0	\$500
Encumbrances	\$0	\$0	\$0

Act 134, Session Laws of Hawai‘i 2009, established the Special Enforcement Section (SES), which is responsible for carrying out complex civil-enforcement efforts of Hawaii’s tax laws. Act 134 also allowed for the tax collections by the SES to be deposited into the Tax Administration Special Fund and then expended for the operations of the SES. This account was established to facilitate the distribution of the SES collections. The account meets the definition of a trust account as it serves the purpose for which it was created and requires no general fund appropriations.

Taxes-Paid-Under-Protest Accounts

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$8,101	\$8,841	\$10,580	\$10,179	\$8,464
Revenues	740	1,739	22	1,783	0
Interest	0	0	0	0	0
Expenditures	0	0	(423)	(3,498)	(1,994)
Transfers	0	0	0	0	0
Ending Fund Balance	\$8,841	\$10,580	\$10,179	\$8,464	\$6,470
Encumbrances	\$0	\$0	\$0	\$0	\$0

These trust accounts were established to collect amounts related to taxes paid under protest. Moneys are disbursed from the Undistributed Tax Collections Accounts to the Taxes-Paid-Under-Protest Account. When a tax appeal case is litigated, the amounts in dispute are disbursed to the Litigated Claims Fund. Separate accounts were established for the Honolulu, Maui, and Kaua‘i districts. The accounts meet the criteria of a trust account as they continue to serve the purpose for which they were originally created and require no general fund appropriations.

Taxes Payable to Counties—Fuel Accounts

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$1,546	\$1,546	\$1,546	\$1,546	\$1,546
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$1,546	\$1,546	\$1,546	\$1,546	\$1,546
Encumbrances	\$0	\$0	\$0	\$0	\$0

These accounts were established as clearing accounts for fuel tax collections payable to the counties. Separate accounts were established for the Honolulu, Maui, and Kaua‘i districts. According to the department, the accounts have been inactive since FY2007, and the moneys now go directly to the counties. The accounts do not meet the definition of a trust account since they no longer serve the purpose for which they were originally created. We recommend the department evaluate the continued need for these accounts.

Taxes Payable to Counties—Transient Accommodations Tax Account

This account was established in 1987 to deposit a portion of transient accommodations tax owed to the counties. The Department of Taxation noted that the Department of Accounting and General Services, which initiates activity in the account, determined that no related distributions to the respective counties were needed during FY2006 and FY2007. The account had no activity since FY2006 and has since been closed.

Temporary Deposits—Payroll Overpayment Trust Account

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$0	\$1	\$1	\$3	\$0
Revenues	3	3	5	0	\$1
Interest	0	0	0	0	0
Expenditures	(2)	(3)	(3)	(3)	0
Transfers	0	0	0	0	0
Ending Fund Balance	\$1	\$1	\$3	\$0	\$1
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account was established in 2008 as a temporary deposit account for employees who received a payroll overpayment. When the total overpayment amount has been recovered in full from the employee, moneys are taken from this account and deposited into the payroll clearance fund. This account meets the criteria for a trust account as it continues to serve the purpose for which it was originally created and requires no general fund appropriations.

Undistributed Tax Collections Accounts

Financial Data for Fiscal Years 2008–2012 (in thousands)

	FY2008	FY2009	FY2010	FY2011	FY2012
Beginning Fund Balance	\$(42,949)	\$(46,719)	\$(81,753)	\$(35,399)	\$(44,019)
Revenues	5,738,411	5,338,274	5,268,858	5,573,693	6,083,778
Interest	0	0	0	0	0
Expenditures	(5,742,181)	(5,373,308)	(5,222,504)	(5,582,313)	(6,087,977)
Transfers	0	0	0	0	0
Ending Fund Balance	\$(46,719)	\$(81,753)	\$(35,399)	\$(44,019)	\$(48,218)
Encumbrances	\$0	\$0	\$0	\$0	\$0

These accounts were established as clearing accounts for taxes collected on behalf of the various counties. Separate accounts were established for the Honolulu, Maui, Hawai'i, and Kaua'i districts. All taxes collected by the department are deposited into these accounts and then disbursed to other trust accounts. Funds and accounts receiving disbursements from these accounts may include the Tax Reserve Fund (to provide

taxpayers refunds for overpayments), the IRS Refund Intercept Account (for delinquent taxes owed to the IRS), the Taxes-Paid-Under-Protest Accounts, and the Taxes Payable to Counties—Fuel Accounts. The accounts meet the criteria of trust accounts as they continue to serve the purpose for which they were originally created and require no general fund appropriations.

Unsettled Tax Collections—1st Division, Honolulu Account

Financial Data for Fiscal Years 2008–2010 (in thousands)

	FY2008	FY2009	FY2010
Beginning Fund Balance	\$3	\$3	\$3
	0	0	0
Revenues	0	0	0
Interest	0	0	0
Expenditures	0	0	0
Transfers	0	0	(3)*
Ending Fund Balance	\$3	\$3	\$0
Encumbrances	\$0	\$0	\$0

*This account was closed when the undisbursed moneys were returned to the general fund.

This account was established as a holding account for proceeds received from property sales. Moneys collected from property sales were used to pay for delinquent real property taxes and expenses incurred to sell the properties. The State no longer collects real property taxes, and the account had been inactive for more than ten years. This account was closed in FY2010, and the remaining balance was transferred to the general fund.

Responses of the Affected Agencies

Comments on Agency Responses

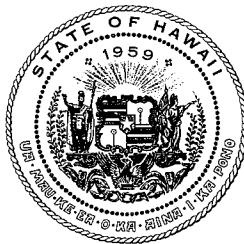
On November 19, 2012, we transmitted a draft of this review to the departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation. A copy of the transmittal letter to the Department of Human Resources Development is included as Attachment 1. Similar transmittal letters were sent to the remaining departments. A copy of the responses of the departments of Labor and Industrial Relations and Public Safety are included as Attachments 2 and 3 respectively. The Department of Human Resources Development agreed with our review of its funds but did not submit written comments. The Department of Taxation did not submit a written response.

The Department of Labor and Industrial Relations agreed with our conclusion that several funds are classified and operating incongruently from their statutory designations. The department is developing a legislative proposal to clarify the classification of these funds. The department also agreed to create temporary accounts to prevent co-mingling of moneys with separate purposes.

The Department of Public Safety concurred with our findings and agreed to evaluate the need to continue the Revolving Funds for Correctional Facility Stores.

ATTACHMENT 1

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917



MARION M. HIGA
State Auditor

(808) 587-0800
FAX: (808) 587-0830

November 19, 2012

COPY

The Honorable Barbara A. Krieg
Director
Department of Human Resources Development
Leiopapa a Kamehameha Building
235 S. Beretania Street, Suite 1400
Honolulu, Hawaii 96813

Dear Ms. Krieg:

Enclosed for your information are three copies, numbered 6 to 8, of our confidential draft report, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation*. We ask that you telephone us by Wednesday, November 21, 2012, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Tuesday, November 27, 2012.

The Departments of Labor and Industrial Relations, Public Safety, and Taxation, Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

A handwritten signature in black ink, appearing to read "Marion M. Higa".

Marion M. Higa
State Auditor

Enclosures



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

November 28, 2012

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OFF. OF THE AUDITOR
STATE OF HAWAII

Ms. Marion M. Higa
State Auditor
Office of the Auditor
465 South King Street, Room 500
Honolulu, HI 96813-2917

Dear Ms. Higa:

Thank you for the opportunity to respond to the draft ***Review of Revolving Funds, Trust Funds, and Trust Accounts of the Department of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation.*** We appreciate the work that you and your office have done to review the Department of Labor and Industrial Relations' (DLIR) revolving funds, trust funds and trust accounts.

The DLIR is developing a legislative proposal to clarify the classification of the funds per your recommendation in the Report. The measure shall include clarification of the classification of the Employment and Training Special Fund, the Special Compensation Fund, the Special Fund for Disability Benefits, the Special Premium Supplementation Fund, and the Unemployment Compensation Fund. In addition, and per your recommendation, the department will create temporary accounts to prevent co-mingling of moneys with separate purposes as you noted that the department had with the reduced ignition propensity cigarette program and the Wage Claim Fund Account. As noted in your report, a special fund was established for the cigarette program in 2011 and funds were appropriated in 2012.

Thank you for your work on this comprehensive and thorough Report.

Sincerely yours,

Dwight Y. Takamine

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

TED SAKAI
INTERIM DIRECTOR

Martha Torney
Deputy Director
Administration

Deputy Director
Corrections

Keith Kamita
Deputy Director
Law Enforcement

No. 2012-2057

November 21, 2012

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2012 NOV 28 AM 8:46

OFF. OF THE AUDITOR
STATE OF HAWAII

The Honorable Marion M. Higa
State Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

Dear Ms. Higa:

We reviewed the draft of the Revolving Funds, and Trust Funds of the Department of Public Safety and concur with your findings. We will be evaluating the need to continue the Revolving Funds for Correctional Facility Stores.

Sincerely,

Ted Sakai
Interim Director