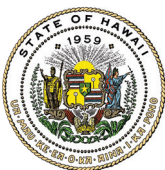


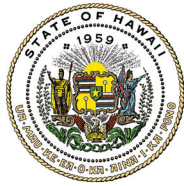
Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Labor and Industrial Relations

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

Report No. 17-12
November 2017



OFFICE OF THE AUDITOR
STATE OF HAWAII



OFFICE OF THE AUDITOR STATE OF HAWAII

Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

Hawai'i Revised Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

Our Mission

To improve government through independent and objective analyses.

We provide independent, objective, and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management, and expenditure of public funds.

Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and make recommendations to the Governor and the Legislature to help them make informed decisions.

For more information on the Office of the Auditor, visit our website:
<http://auditor.hawaii.gov>

Foreword

This is a report of our review of the special funds, revolving funds, trust funds, and trust accounts of the Department of Labor and Industrial Relations.

Section 23-12, Hawai‘i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds once every five years. Although not mandated by statute, we included trust accounts as part of our review. This is our fifth review of the revolving funds, trust funds, and trust accounts of the Department of Labor and Industrial Relations. It is our first review of its special funds since Section 23-12, HRS, was amended by Act 130, Session Laws of Hawai‘i 2013, to include reviews of special funds.

We wish to express our appreciation for the cooperation and assistance extended to us by the officials and staff of the Department of Labor and Industrial Relations.

Leslie H. Kondo
State Auditor

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Auditor's Summary

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Labor and Industrial Relations

Report No. 17-12

One special fund did not meet criteria

OUR REVIEW OF TEN SPECIAL FUNDS, one revolving fund, four trust funds, and five trust accounts of the Department of Labor and Industrial Relations (DLIR) found one special fund did not meet criteria and should be closed.

Section 23-12, Hawai'i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department's funds are reviewed once every five years. Although not mandated by statute, we included trust accounts as part of our review. This is our fifth review of DLIR's revolving funds, trust funds, and trust accounts. It is our first review of DLIR's special funds.

We used criteria developed by the Legislature and by our office based on 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 did not audit the financial data which is provided for informational purposes. We do not present conclusions about the effectiveness of programs or their management, or whether the programs should be continued.

Reporting shortfall

WE ALSO NOTED that DLIR did not file statutorily required reports for non-general funds and for administratively created funds. Accurate and complete reporting will greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility.

Agency response

DLIR GENERALLY AGREED with our findings and will take appropriate action to close the special fund that did not meet criteria. DLIR will also comply with reporting requirements.



FUND TYPES

SPECIAL FUNDS

are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes.

REVOLVING FUNDS

such as loan funds, are often established with an appropriation of seed money from the general fund and must demonstrate the capacity to be self-sustaining.

TRUST FUNDS

such as a pension fund, invoke the State's fiduciary responsibility to care for and use the assets held to benefit those with a vested interest in the assets.

TRUST ACCOUNTS

are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll and other costs.

Chapter 1

Introduction

This review encompasses the special funds, revolving funds, trust funds, and trust accounts administered by the Department of Labor and Industrial Relations (DLIR). Section 23-12, Hawai‘i Revised Statutes (HRS), requires the Auditor to review each state department’s special, revolving, and trust funds every five years. Specifically, the Auditor’s review must include:

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. The degree to which each fund achieves its stated and claimed purposes;
3. An evaluation of the fund’s performance standards as 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 balance for each fiscal year.

Although not mandated by Section 23-12, HRS, we have included trust accounts as part of our review. Trust accounts, like special, revolving, and trust funds, are subject to minimal legislative scrutiny.

This is our fifth review of DLIR’s revolving funds, trust funds and trust accounts, and our first review of special funds held by DLIR.¹ We last examined DLIR’s revolving funds, trust funds, and trust accounts in 2012.

In this report, we reviewed 20 funds administered by DLIR — specifically, 10 special funds, one revolving fund, four trust funds, and five trust accounts.

¹ Prior to 2013, Section 23-12, HRS, did not require reviews of departments’ special funds.

Description of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts

Special funds

Section 37-62, HRS, defines a special fund as one that is “dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds.” According to the State’s *Accounting Manual*, special funds are funds used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes. Examples of special funds include the Captive Insurance Administrative Fund, which is funded by fees paid by insurers that support the State’s Captive Insurance Program, and the Wireless Enhanced 911 Fund. The Wireless Enhanced 911 Fund receives surcharges from wireless phone users for the upgrade of the 911 emergency system.

Revolving funds

Section 37-62, HRS, defines a revolving fund as one “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.” 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. An example of a revolving fund is the State Motor Pool Revolving Fund, which is used to purchase and maintain 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 one 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 only for those designated to benefit from the funds. A pension fund is an example of a trust fund. Contributions and payments are to be held for the beneficiaries of the pension fund. Another example is tenants’ security deposits, which are held in trust 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 (DAGS) defines a trust account as a separate holding or clearing account for State agencies. Trust accounts also serve as accounting devices to credit or charge agencies or projects for payroll or other costs.

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

Special and revolving fund criteria

In 2002, the Legislature set the requirements for establishing and continuing special and revolving funds. Sections 37-52.3 and 37-52.4, HRS, state that special and revolving funds may only be established by statute. The criteria used to review special and revolving funds are the extent to which each fund:

- Serves a need, as demonstrated by: (1) the purpose of the program to be supported by the fund; (2) the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and (3) an explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries, or a clear link between the program and the sources of revenue — as opposed to serving primarily as a means to provide the program or users with an automatic means of support, removed from the normal budget and appropriation process;
- Provides an appropriate means of financing for the program or activity that is used only when essential to the successful operation of the program or activity; and
- Demonstrates the capacity to be financially self-sustaining.

Trust fund and trust account criteria

Unlike the requirements for special and revolving funds, the law is silent on whether a trust fund or trust account must be established by statute. The criteria used to review trust funds and trust accounts are the extent to which each fund and account:

- Continues to serve the purpose and intent for which it was originally created; and
- Meets the definition of a trust fund or trust account, respectively.

The first criterion is derived from the objectives of Section 23-12, HRS, which requires the Auditor to evaluate the original intent of each fund and account and the degree to which each fund and account achieves its stated purpose. The second criterion assesses whether a fund is held by the State only for the benefit of those with a vested interest in the assets or an account is held as a separate or clearing account.

Objectives of the Review

1. Identify and review all special funds, revolving funds, trust funds, and trust accounts of DLIR.
2. For each special fund, revolving fund, trust fund, and trust account, determine whether the fund or account meets the respective criteria.
3. Provide a five-year (FY2013–FY2017) unaudited financial summary for each fund and account reviewed.

Scope and Methodology

We reviewed all special funds, revolving funds, trust funds, and trust accounts directly administered by DLIR during the five-year period under review (FY2013–FY2017). Funds and accounts included those established by statute as well as by administrative authority.

To identify funds subject to this review, we used a variety of sources, including our prior reviews, accounting reports from DAGS, non-general fund reports, legislative budget briefing documents, and other records. To gain an understanding of fund operations, we reviewed applicable agency administrative rules and interviewed key fiscal and program personnel, as necessary.

We obtained a summary statement for each fund that reflects total fund transactions in the preceding five fiscal years (July 1, 2012 to June 30, 2017), including beginning fund balances, total revenues, amount of interest earned, total expenditures, transfers, and ending

fund balances for each fiscal year. We requested explanations for discrepancies between ending balances for FY2012 reported in our last review, Report No. 12-10, and opening balances reported for FY2013. We did not audit DLIR's financial data, which are provided for informational purposes only.

Procedures were performed on each fund using relevant criteria as stated above. We reviewed fund information for consistency with the intent of each fund's use and to ascertain the relationship between charges on users and expenditures. We reviewed and compared fund balances to financial activity and projected program needs and standards. We reviewed information on performance standards established for the funds or accounts and performed other procedures as necessary.

Where appropriate, we relied on our prior reports, including Report Nos. 97-20, *Review of Revolving and Trust Funds of the Department of Human Resources Development, Department of Labor and Industrial Relations, Department of Public Safety, and Department of Taxation*; 02-15, *Report on the Revolving Funds, Trust Funds, and Trust Accounts of the Department of Human Resources Development, Department of Labor and Industrial Relations, Department of Public Safety, and Department of Taxation*; 07-07, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation*; 12-04, *Study of the Transfer of Non-general Funds to the General Fund*; and 12-10, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation*.

Our review was conducted from July to October 2017. Recommendations were made where applicable.

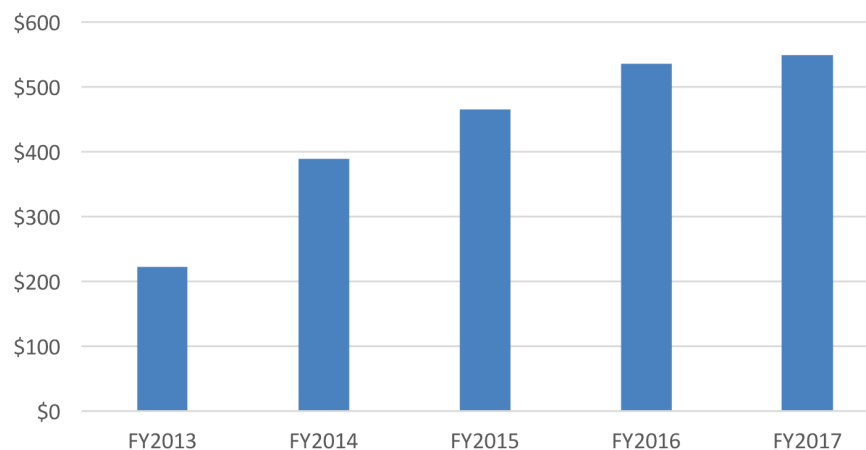
Chapter 2

Department of Labor and Industrial Relations

This chapter presents the results of our review of ten special funds, one revolving fund, four trust funds, and five trust accounts. Fund fiscal year-end balances amounted to at least \$223 million per year during the period reviewed.

Exhibit 2.1 displays the totals for these fund balances at the end of each fiscal year.

Exhibit 2.1
Cash Balances for DLIR Non-General Funds,
FY2013–FY2017 (in millions)



Source: Office of the Auditor

Substantial amounts were also collected and expended by the funds annually. In FY2017, the special funds, revolving funds, trust funds, and trust accounts collected more than \$205 million and spent or transferred more than \$194 million.

Exhibit 2.2 presents totals for the combined revenue and interest, expenses and transfers, and ending fund balances for the different fund types for FY2017.

Exhibit 2.2
DLIR Fund and Account Totals by Type, FY2017

Fund Type	Revenue and Interest	Expenses and Transfers	Year-End Cash Balance
Special Funds	\$4,729,000	\$526,543,000	\$14,094,000
Revolving Funds	33,000	51,000	331,000
Trust Funds and Trust Accounts	200,348,000	(332,096,000)	535,421,000
Total	\$205,110,000	\$194,498,000	\$549,846,000

Source: Office of the Auditor

For each fund, we present a five-year financial summary, the purpose of the fund, and conclusions about its use and whether it meets the criteria for continuance of a special or revolving fund or the definition of a trust fund or account. We do not assess the effectiveness of programs and their management. The funds are presented in alphabetical order.

Exhibit 2.3 presents DLIR funds that do not meet criteria for continuance and should be repealed, closed, or reclassified.

Exhibit 2.3
DLIR Fund Not Meeting Criteria

Fund Name	Fund Type	FY2017 Ending Balance (rounded)	No longer serves original purpose and/or does not serve a need	No clear nexus between benefits sought and user charges or a clear link between the program and revenue sources	Inappropriate financing mechanism	Not financially self-sustaining	Does not meet special fund, revolving fund, trust fund, or trust account definition
Office of Community Services	Special	\$739,000	✓	✓	✓		✓

**Boiler and Elevator
Special Fund
(special fund)**

Section 397-13, HRS

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$0	\$1,001	\$1,158	\$1,058	\$1,030
Revenues	1,113	1,978	1,719	1,662	1,924
Interest	0	0	0	0	0
Expenditures	(112)	(1,821)	(1,819)	(1,690)	(2,383)
Transfers (net)	0	0	0	0	0
Ending Balance	\$1,001	\$1,158	\$1,058	\$1,030	\$571
Encumbrances	\$0	\$0	\$0	\$482	\$0

This fund continues to serve the purpose for which it was created and meets the criteria of a special fund. Created in 2012, the fund supports the process of inspections and examinations of boilers, pressure systems, amusement rides, and elevator and kindred equipment. Revenues come from fees for inspections, permits, and examinations administered by the department. Expenditures consist of personnel and operating expenses, staff training and staff certification fees and expenses, preparation and dissemination of public information on safe installation and use of equipment, and preparation of annual reports to the Legislature.

**Employment and
Training Fund
(special fund)**

Section 383-128, HRS

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$2,579	\$2,461	\$2,888	\$2,635	\$3,100
Revenues	830	1,873	1,858	2,294	986
Interest	0	0	0	0	0
Expenditures	(948)	(1,446)	(2,111)	(1,829)	(1,271)
Transfers (net)	0	0	0	0	0
Ending Balance	\$2,461	\$2,888	\$2,635	\$3,100	\$2,815
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1992, the fund supports the activities of the employment and training program. Revenues consist of employer assessments on employees' wages that are taxable

for unemployment insurance. 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.

**Grant – Weed and Seed Program
(special fund)**

Administratively established

Financial Data for FY2013–2015 (in thousands)

	FY2013	FY2014	FY2015
Beginning Balance	\$13	\$13	\$13
Revenues	0	0	0
Interest	0	0	0
Expenditures	0	0	0
Transfers (net)*	0	0	(13)
Ending Balance	\$13	\$13	\$0
Encumbrances	\$0	\$0	\$0

*The fund was closed in FY2015 and the remaining balance was transferred to the Office of Community Services.

This fund was closed in FY2015 and the remaining balance was transferred to the Office of Community Services. Created in 2005, the fund was used for Weed and Seed, a community-based strategy sponsored by the U.S. Department of Justice, which is an innovative, comprehensive multi-agency approach to law enforcement, crime prevention, and community revitalization. Revenues came from a legislative appropriation of \$20,000 made from general funds in 2005.

**Hawai'i Public
Television Foundation,
Statewide
(special fund)**

***Administratively
established***

Financial Data for FY2014–2016 (in thousands)

	FY2014	FY2015	FY2016
Beginning Balance	\$0	\$0	\$2,000
Revenues	0	2,000	0
Interest	0	0	0
Expenditures	0	0	(2,000)
Transfers (net)	0	0	0
Ending Balance	\$0	\$2,000	\$0
Encumbrances	\$0	\$0	\$0

This fund was fully expended and closed in FY2016. Created in 2014, this fund was used to provide grant funding for the planning, designing, and construction of a new building for PBS Hawai'i.

***Hoisting Machine
Operators' Certification
Revolving Fund
(revolving fund)***

Section 396-20, HRS

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$357	\$334	\$352	\$361	\$349
Revenues	34	49	43	35	33
Interest	0	0	0	0	0
Expenditures	(57)	(31)	(34)	(47)	(51)
Transfers (net)	0	0	0	0	0
Ending Balance	\$334	\$352	\$361	\$349	\$331
Encumbrances	\$0	\$0	\$0	\$7	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a revolving fund; however, it operates more like a special fund. Created in 1998, the fund supports the process for certifying hoisting machine operators in the State of Hawai'i. Revenues come from certification fees from hoisting machines operators, assessment of penalties and fines, and interest income. Expenditures consist of personnel and operating expenses for an advisory board to ensure that national certification standards are met for Hawai'i hoisting machine operators. The fund also covers 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.

**Human Trafficking
Victim Services Fund
(special fund)**

Section 706-650.5, HRS

Financial Data for FY2014–2017 (in thousands)

	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$0	\$0	\$1	\$1
Revenues	0	1	0	0
Interest	0	0	0	0
Expenditures	0	0	0	0
Transfers (net)	0	0	0	0
Ending Balance	\$0	\$1	\$1	\$1
Encumbrances	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 2014, the purpose of the fund is to provide support and services to human trafficking victims who often require access to basic and life-sustaining services, including toiletries and food, and may require long-term access to stable and supportive environments, such as licensed residential treatment facilities. Revenues come from fees paid and interest accrued on funds collected from individuals convicted for labor trafficking; prostitution; the promotion of prostitution; and sex trafficking.

**Non-Profit Employers
Deposit Account
(trust account)**

**Administratively
established**

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$1,637	\$1,646	\$1,659	\$1,663	\$1,676
Revenues	12	13	4	13	5
Interest	0	0	0	0	0
Expenditures	(3)	0	0	0	0
Transfers (net)	0	0	0	0	0
Ending Balance	\$1,646	\$1,659	\$1,663	\$1,676	\$1,681
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account continues to meet the criteria for a trust account. Created in 1972, the account is used as a holding or escrow account for security deposits paid by nonprofit organizations to the Unemployment Insurance Division when converting from contributory to self-financed status. Revenues come from security deposits from nonprofit organizations. Expenditures consist of reimbursements to nonprofit organizations when self-financed status is terminated.

**Office of Community
Services
(special fund)**

***Administratively
established***

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$1,124	\$1,369	\$1,914	\$1,575	\$902
Revenues	870	1,344	760	0	0
Interest	0	0	0	0	0
Expenditures	(625)	(799)	(1,112)	(673)	(163)
Transfers (net)*	0	0	13	0	0
Ending Balance	\$1,369	\$1,914	\$1,575	\$902	\$739
Encumbrances	\$0	\$0	\$0	\$527	\$365

*Transfers consisted of funds from the Grant – Weed and Seed Program.

This fund does not meet the criteria for a special fund and should be closed. This fund was administratively established in 2009, after the 2002 enactment of Section 37-52.3, HRS, which requires special funds to be established by statute. Act 158, SLH 2008, provided for an interdepartmental transfer appropriation of \$1,200,000 for the Office of Community Services for FY2009 to provide services to those under compacts of free association and for employment core services for low-income persons. The intent of the fund was to receive funds from the Department of Human Services and monies from the temporary assistance for needy family program. According to the department, this fund has been used for a variety of appropriations, including refunds from vendors which were erroneously credited to this account. The department has been working to expend the funds and close this account by June 30, 2018.

**Office of Community
Services—Employment
Core Services
(special fund)**

**Administratively
established**

Financial Data for FY2013–2015 (in thousands)

	FY2013	FY2014	FY2015
Beginning Balance	\$0	\$0	\$0
Revenues	0	0	0
Interest	0	0	0
Expenditures	0	0	0
Transfers (net)	0	0	0
Ending Balance	\$0	\$0	\$0
Encumbrances	\$0	\$0	\$0

This fund was closed in FY2015. Created in 2010, the fund supported the employment core services program which provided services to low income persons to obtain employment.

**Premium
Supplementation Trust
Fund
(trust fund and special
fund)**

Section 393-41, HRS

Trust Fund - Financial Data for FY2016–2017 (in thousands)

	FY2016	FY2017
Beginning Balance	\$0	\$0
Revenues	0	0
Interest	0	0
Expenditures	0	0
Transfers (net)*	0	73
Ending Balance	\$0	\$73
Encumbrances	\$0	\$0

*Act 100, SLH 2013, reclassified the Special Premium Supplementation Fund to the Premium Supplementation Trust Fund.

Special Fund - Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$1,671	\$1,177	\$765	\$271	\$73
Revenues	4	3	3	1	0
Interest	0	0	0	0	0
Expenditures	(498)	(415)	(497)	(199)	0
Transfers (net)*	0	0	0	0	(73)
Ending Balance	\$1,177	\$765	\$271	\$73	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Act 100, SLH 2013, reclassified the Special Premium Supplementation Fund to the Premium Supplementation Trust Fund.

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Pursuant to Act 100, SLH 2013, the fund was reclassified from a special fund to a trust fund. 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. The fund consists of (1) all moneys appropriated by the State for the purposes of the premium supplementation; and (2) all fines, penalties, and interest income collected by the fund. According to the department, revenue from fines and penalties is insufficient to refund qualified small business employers' health care premiums without additional State appropriations. There is no authorization to levy assessments if the fund falls below a certain amount, and without other revenue sources, the intended purpose of the fund cannot be fulfilled. The fund is not financially self-sustaining and has not received any general fund appropriations in the past five years to support its program activities. Payments to qualified employers exceeded revenues over the past five years. The department reported that over \$1.8 million in premium supplementation requests are still owed to small business employers, subject to audit of their requests and funding by the State.

**Reduced Ignition
Propensity Cigarette
Program Special Fund
(special fund)**

Section 132C-9, HRS

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$0	\$460	\$470	\$460	\$486
Revenues	260	10	130	139	158
Interest	0	0	0	0	0
Expenditures	(200)	0	(140)	(113)	(26)
Transfers (net)*	400	0	0	0	0
Ending Balance	\$460	\$470	\$460	\$486	\$618
Encumbrances	\$0	\$0	\$0	\$7	\$152

*Funds were transferred from Temporary Deposits.

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 2011, the fund supports the reduced ignition propensity cigarette program. Revenues are from certification fees collected from cigarette manufacturers and interest income. Funds received are used to defray the actual costs of activities and requirements of the program, including processing, testing, enforcement, inspection, and oversight activities.

**Special Compensation
Fund
(trust fund and special
fund)**

Section 386-151, HRS

Trust Fund - Financial Data for FY2017 (in thousands)

	FY2017
Beginning Balance	\$0
Revenues	16,956
Interest	0
Expenditures	(14,284)
Transfers (net)*	13,394
Ending Balance	\$16,066
Encumbrances	\$0

*Act 100, SLH 2013, reclassified the special fund to a trust fund.

Special Fund - Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$15,344	\$15,271	\$13,457	\$12,457	\$13,478
Revenues	16,015	13,732	15,059	15,859	0
Interest	0	0	0	0	0
Expenditures	(16,088)	(15,546)	(16,059)	(14,838)	(84)
Transfers (net)*	0	0	0	0	(13,394)
Ending Balance	\$15,271	\$13,457	\$12,457	\$13,478	\$0
Encumbrances	\$0	\$0	\$0	\$84	\$0

*Act 100, SLH 2013, reclassified the special fund to a trust fund.

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Pursuant to Act 100, SLH 2013, the fund was reclassified from a special fund to a trust fund. 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, salaries of the claims facilitator branch, litigation costs, audit fees, and legal services through the Department of the Attorney General. The fund also provides compensation benefits to qualifying employees in certain circumstances involving permanent, total disability benefit adjustments; subsequent injuries and pre-existing 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 non-compliance with the Workers' Compensation Law.

**Special Unemployment
Insurance
Administration Fund
(special fund)**

Section 383-127, HRS

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$5,068	\$6,093	\$7,448	\$8,872	\$9,796
Revenues	1,055	1,355	1,430	924	1,661
Interest	0	0	0	0	0
Expenditures	(30)	0	(6)	0	(2,107)
Transfers (net)	0	0	0	0	0
Ending Balance	\$6,093	\$7,448	\$8,872	\$9,796	\$9,350
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1987, the fund is used for the payment of expenses and obligation relating to the administration of the unemployment insurance program. Revenues come from the collection of interest, fines, and penalties collected under Chapter 383, HRS. Expenditures may only consist of payments towards expenses and obligations identified in Section 383-127, HRS. The department reported that these include special projects and emergency expenses for the benefit of users and beneficiaries of the unemployment insurance program.

**Temporary Deposits
(trust account)**

**Administratively
established**

Financial Data for FY2013 (in thousands)

	FY2013
Beginning Balance	\$0
Revenues	400
Interest	0
Expenditures	0
Transfers (net)*	(400)
Ending Balance	\$0
Encumbrances	\$0

*Funds were transferred to the Reduced Ignition Propensity Cigarette Program Special Fund.

This account was closed in FY2013, and the remaining balance was transferred to the Reduced Ignition Propensity Cigarette Program Special

Fund. Created in 2013, this temporary trust account was created to credit the reduced propensity cigarette program for funds received in FY2009 and FY2012 and reported as revenue under the Wage Claim Fund Account. Revenues came from certification fees of cigarette manufacturers who would submit written certification attesting each cigarette has been tested in accordance with specific performance standards before being sold in the State of Hawai‘i.

**Temporary Deposits
Account
(trust account)**

**Administratively
established**

Financial Data for FY2013 (in thousands)

	FY2013
Beginning Balance	\$2
Revenues	0
Interest	0
Expenditures	(2)
Transfers (net)	0
Ending Balance	\$0
Encumbrances	\$0

This account was closed in FY2013.

**Temporary Deposits
Insurance Account
(trust account)**

**Administratively
established**

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$9	\$9	\$26	\$44	\$35
Revenues	0	21	18	0	5
Interest	0	0	0	0	0
Expenditures	0	(4)	0	(9)	0
Transfers (net)	0	0	0	0	0
Ending Balance	\$9	\$26	\$44	\$35	\$40
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account continues to meet the criteria for a trust account. Created in 1970, the account is used 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 transferred to the Trust Fund for Disability Benefits or the Premium Supplementation Trust Fund. We noted that there were no transfers made during the period under review.

**Trust Fund for
Disability Benefits
(trust fund and special
fund)**

Section 392-61, HRS

Trust Fund - Financial Data for FY2016–2017 (in thousands)

	FY2016	FY2017
Beginning Balance	\$0	\$0
Revenues	0	34
Interest	0	0
Expenditures	0	(11)
Transfers (net)*	0	2,457
Ending Balance	\$0	\$2,480
Encumbrances	\$0	\$0

*Act 100, SLH 2013, reclassified the Special Fund for Disability Benefits to the Trust Fund for Disability Benefits.

Special Fund - Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$2,461	\$2,463	\$2,459	\$2,459	\$2,457
Revenues	16	13	10	15	0
Interest	0	0	0	0	0
Expenditures	(14)	(17)	(10)	(17)	0
Transfers (net)*	0	0	0	0	(2,457)
Ending Balance	\$2,463	2,459	\$2,459	\$2,457	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Act 100, SLH 2013, reclassified the Special Fund for Disability Benefits to the Trust Fund for Disability Benefits.

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Pursuant to Act 100, SLH 2013, the fund was reclassified from a special fund to a trust 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 the TDI Law. The fund is financially self-sustaining. If the fund falls below a certain amount, an assessment is levied against insurers and employers.

**Unemployment
Compensation Fund
(trust fund and special
fund)**

Section 383-121, HRS

Trust Fund – Financial Data for FY2016–2017 (in thousands)

	FY2016	FY2017
Beginning Balance	\$0	\$0
Revenues	0	182,716
Interest	0	0
Expenditures	0	(173,797)
Transfers (net)*	0	504,585
Ending Balance	\$0	\$513,504
Encumbrances	\$0	\$0

*Act 100, SLH 2013, reclassified the special fund to a trust fund.

Special Fund – Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$45,027	\$190,754	\$358,741	\$435,362	\$504,585
Revenues	482,585	410,278	260,401	212,813	0
Interest	0	0	0	0	0
Expenditures	(336,858)	(242,291)	(183,780)	(143,590)	0
Transfers (net)*	0	0	0	0	(504,585)
Ending Balance	\$190,754	\$358,741	\$435,362	\$504,585	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Act 100, SLH 2013, reclassified the special fund to a trust fund.

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Pursuant to Act 100, SLH 2013, the fund was reclassified from a special fund to a trust fund. Created in 1937, the fund is used to provide temporary income to unemployed individuals as required by the Federal Social Security and National Employment Acts. Revenues come from unemployment taxes assessed on employers. Expenditures consist of benefits provided to qualified unemployed individuals.

***Wage Claim Fund
Account
(trust account)***

***Administratively
established***

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$4,556	\$3,158	\$4,132	\$2,519	\$1,266
Revenues	920	1,192	233	127	632
Interest	0	0	0	0	0
Expenditures	(2,318)	(218)	(1,846)	(1,380)	(321)
Transfers (net)	0	0	0	0	0
Ending Balance	\$3,158	\$4,132	\$2,519	\$1,266	\$1,577
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account continues to meet the criteria for a trust account. Created in 1987, the account is used as a holding account for back-pay collections and disbursements owed to employees. Revenues come from back wages collected from employers as a result of investigation by the Wage Standards Division. Expenditures consist of disbursements of back wages to employees, or to the state treasury if an employee cannot be located within one year.

***YMCA of Honolulu for
the Weed and Seed
Program
(special fund)***

***Administratively
established***

Financial Data for FY2013–2015 (in thousands)

	FY2013	FY2014	FY2015
Beginning Balance	\$1	\$1	\$1
Revenues	0	0	0
Interest	0	0	0
Expenditures	0	0	0
Transfers (net)*	0	0	(1)
Ending Balance	\$1	\$1	\$0
Encumbrances	\$0	\$0	\$0

*Transfers were made to the general fund to close the account.

This fund was closed in FY2015, and the remaining balance was transferred to the general fund. Created in 2011, the fund supported the Weed and Seed Program, which provided activities known as “protective factors” conducive to the reduction and prevention of crime and improving neighborhood resident’s quality of life.

Chapter 3

The Department of Labor and Industrial Relations Did Not Report Non-General Funds As Required by Law

As we reported in our *Study of the Transfer of Non-general Funds to the General Fund*, Report No. 12-04, special, revolving, and other types of non-general funds collectively represent about half of the State's operating budget — moneys that are not subject to the same level of legislative scrutiny as the general fund. Accurate and complete reporting of all funds as required by law would greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility. Fund reports are one of the primary means through which the Legislature tracks non-general funds. The reports are used to monitor fund balances and identify excess moneys for possible transfer to the general fund.

Section 37-47, HRS, requires departments to submit to the Legislature an annual report of each non-general fund account including information such as the intended purpose of the fund, current program activities supported by the fund, and financial data. The Director of Finance annually issues a memorandum requesting all departments to complete and submit Form 37-47, *Report on Non-General Fund Information*, to the Department of Budget and Finance for each of their non-general funds. The Department of Budget and Finance compiles a report of all non-general fund accounts and submits it to the Legislature prior to the start of each legislative session.

Section 37-52.5, HRS, requires the Judiciary and any department that administratively establishes a new fund or account to submit a report to the Legislature. The report must be filed within 30 working days of a fund or account's creation and should include a justification for the fund or account and identification of its sources of revenue. In addition, prior to the start of each legislative session, the law also requires each department to submit to the Legislature a listing of all administratively established funds or accounts along with a statement of their revenues, expenditures, encumbrances, and ending balances for each fund or account.

During our review of DLIR's non-general funds, we noted non-compliance with statutory requirements to report financial activity and balances, as required by Section 37-47, HRS, as well as fund information for administratively established funds and accounts under Section 37-52.5, HRS. DLIR did not report to the 2017 Legislature all non-general funds with balances totaling over \$21 million at the end of FY2016, as shown in Exhibit 3.1. As shown in Exhibit 3.2, DLIR had administratively created non-general funds with balances totaling over \$3 million that were not reported to the Legislature, as required by Section 37-52.5, HRS.

Exhibit 3.1

DLIR Funds and Trust Accounts Not Reported to the Legislature

Fund Name	Fund Type	FY2016 Ending Balance (rounded)
Boiler and Elevator Special Fund	Special	\$1,030,000
Hoisting Machine Operators' Certification Revolving Fund	Revolving	349,000
Human Trafficking Victim Services Fund	Special	1,000
Non-Profit Employers Deposit Account	Trust Account	1,676,000
Office of Community Services	Special	902,000
Reduced Ignition Propensity Cigarette Program Special Fund	Special	486,000
Special Compensation Fund	Special	13,478,000
Special Premium Supplementation Fund	Special	73,000
Temporary Deposits Insurance Account	Trust Account	35,000
Trust Fund for Disability Benefits	Special	2,457,000
Wage Claim Fund Account	Trust Account	1,266,000
DLIR Total		\$21,753,000

Source: Office of the Auditor

Exhibit 3.2**DLIR Administratively Created Funds and Trust Accounts Not Reported to the Legislature**

Fund Name	Fund Type	FY2016 Ending Balance (rounded)
Non-Profit Employers Deposit Account	Trust Account	\$1,676,000
Office of Community Services	Special	902,000
Temporary Deposits Insurance Account	Trust Account	35,000
Wage Claim Fund Account	Trust Account	1,266,000
DLIR Total		\$3,879,000

Source: Office of the Auditor

Office of the Auditor's Comments on the Affected Agency Response

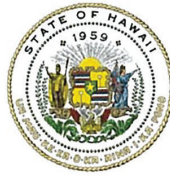
Comments on Agency Response

We transmitted a draft of this review to DLIR on November 20, 2017. DLIR provided its written response to the draft report dated November 24, 2017 (Attachment 1).

DLIR generally agreed with our findings and will take appropriate action to close the special fund. DLIR will also comply with reporting requirements.

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813

www.labor.hawaii.gov
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

November 24, 2017

Mr. Leslie H. Kondo, State Auditor
State of Hawaii
Office of the Auditor
465 S. King Street, Room 500
Honolulu, HI 96813-2917

Dear Mr. Kondo:

As requested, we are providing written comments regarding recommendations made in the draft report resulting from the review of Special, Revolving, Trust Funds and Trust Accounts of the Department of Labor and Industrial Relations.

As noted in the draft report Exhibit 2.3, for the special fund account, Office of Community Services, was identified as not meeting the criteria or a special fund. DLIR concurs and is in the process of closing this account, with the intent that this fund will be closed no later than June 30, 2018.

The draft report also noted that DLIR did not report non-general funds to the Legislature as required by law. Previous practice had been to provide the reports to B&F. However, going forward, DLIR will submit these reports to both B&F and the Legislature to satisfy the requirements of §37-47 and §37-52.5, H.R.S.

If you have any questions, please contact me by email at Leila.Shar@hawaii.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Linda Chu Takayama", followed by a long horizontal flourish.

Linda Chu Takayama
Director

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