

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Land and Natural Resources

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

Report No. 18-19
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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 Land and Natural Resources.

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 sixth review of the revolving funds, trust funds, and trust accounts, and our second review of the special funds of the Department of Land and Natural Resources.

We wish to express our appreciation for the cooperation and assistance extended to us by the officials and staff of the Department of Land and Natural Resources.

Leslie H. Kondo
State Auditor

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Chapter 1

Introduction

This review encompasses the special funds, revolving funds, trust funds, and trust accounts administered by the State of Hawai‘i, Department of Land and Natural Resources (DLNR). 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.

This is our sixth review of DLNR’s revolving funds, trust funds, and trust accounts.¹ However, it is our second review of their special funds, since Act 130, Session Laws of Hawaii (SLH) 2013, amended Section 23-12, HRS, to require we review special funds along with revolving funds and trust funds. 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. We last examined these funds and accounts in 2013.

In this report, we reviewed 107 funds and accounts administered by DLNR and reported on 37 of them – specifically, 18 special funds, 1 revolving fund, 9 trust funds, and 9 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.

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.

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: (a) the purpose of the program to be supported by the fund; (b) the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and (c) 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 DLNR.
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 (FY2014 – FY2018) 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 DLNR during the five-year period under review (FY2014 – FY2018). 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, 2013 to June 30, 2018), 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 FY2013 reported in our last review and opening balances reported for FY2014. We did not audit DLNR'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 No. 14-04, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Defense and Land and Natural Resources*.

Our review was conducted in October 2018. Recommendations were made where applicable.

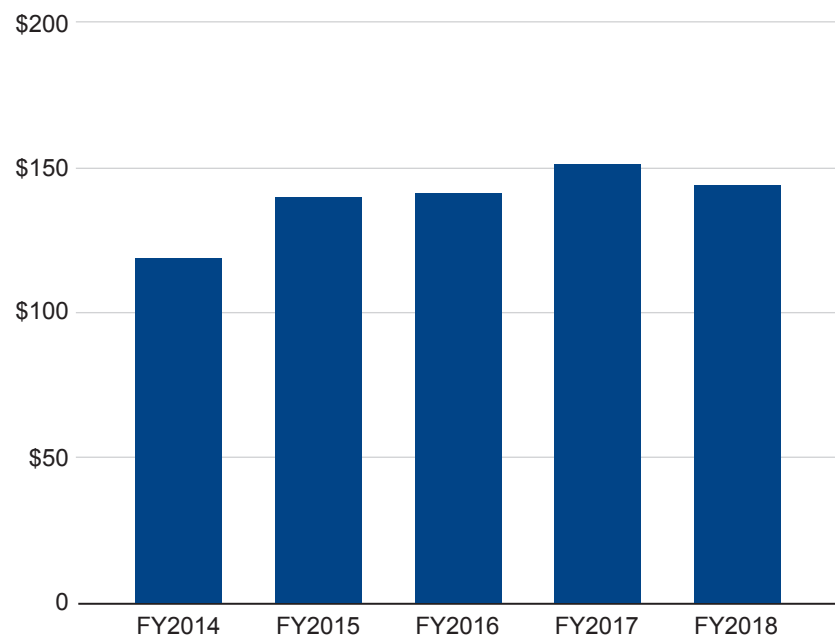
Chapter 2

Department of Land and Natural Resources

This section presents the results of our review of 18 special funds, 1 revolving fund, 9 trust funds, and 9 trust accounts. Fund fiscal year-end balances amounted to at least \$119 million per year during the period reviewed.

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

Exhibit 2.1
Cash Balances for DLNR Non-General Funds
FY2014 – FY2018 (in millions)



Source: Office of the Auditor

Substantial amounts were also collected and expended by the funds annually. In FY2018, the special funds, revolving funds, trust funds, and trust accounts collected more than \$83 million and spent or transferred more than \$90 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 FY2018.

Exhibit 2.2
DLNR Fund and Account Totals by Type, FY2018

Fund Type	Revenue and Interest	Expenses and Transfers	FY2018 End Cash Balance
Special Funds	\$67,113,000	\$50,395,000	\$103,418,000
Revolving Funds	652,000	481,000	651,000
Trust Funds and Trust Accounts	15,623,000	39,504,000	40,648,000
Total	\$83,388,000	\$90,380,000	\$144,717,000

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 definition of a special fund, revolving fund, trust fund or trust account. We do not assess the effectiveness of programs and their management. The funds are presented in alphabetical order.

Exhibit 2.3 presents DLNR's funds that did not meet criteria and should be evaluated for continuance, closure, or reclassification.

Exhibit 2.3
DLNR Funds Not Meeting Criteria

Fund Name	Fund Type	FY2018 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
Assistance in Managing Land Fund	Trust Fund	\$126,000	✓				
Beach Restoration Special Fund	Special	2,681,000			✓		
Conservation and Resources Enforcement	Special	434,000				✓	
Forest Stewardship Fund	Special	573,000			✓	✓	
Kaho'olawe Rehabilitation Trust Fund	Trust Fund	504,000			✓	✓	
Land Division – Water Monitoring Services	Trust Account	0	✓				
Native Resources and Fire Protection Program	Special	832,000				✓	
Native Resources and Fire Protection Program	Trust Account	115,000					✓
Natural Area Reserve Fund	Special	15,220,000	✓	✓	✓	✓	
Preservation of Endangered Plants	Trust Fund	0	✓			✓	
Proceeds from Seizure/Forfeited Property	Trust Account	0	✓				✓
Public Land Trust, Ceded Land Proceeds for O'ahu, Maui, Hawai'i, and Kaua'i - Division of Boating and Ocean Recreation	Trust Fund	696,000					✓
Recreational Renaissance - State Parks	Special	0	✓	✓	✓	✓	✓
Special Land and Development Fund	Special	26,736,000		✓*			
Sport Fish Special Fund	Special	72,000				✓	
Temporary Deposits	Trust Account	1,789,000					✓
Water Resource Management Fund	Special	766,000				✓	
Total		\$50,544,000					

*There is a partial nexus between the program and the source of revenue.

Source: Office of the Auditor

Accrued Vacation and Sick Leave Fund (trust fund)

Administratively established

Financial Data for Fiscal Years 2016 – 2018 (in thousands)

	FY2016	FY2017	FY2018
Beginning Balance	\$0	\$394	\$391
Revenues	445	37	0
Interest	0	0	0
Expenditures	(51)	(40)	(71)
Transfers	0	0	0
Ending Balance	\$394	\$391	\$320
Encumbrances	\$49	\$11	\$0

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally created. Administratively created in FY2016, the fund was reclassified from a revolving fund to a trust fund. The fund is used to receive and hold moneys for vacation and sick leave related to capital improvement project-funded staff positions. Revenues are from vacation and sick leave pay-offs from employees who transfer into capital improvement project-funded positions from other State or County agencies, and interest earned on moneys in the fund. Expenditures include vacation payouts for employees leaving a capital improvement project-funded position. In our prior fund review, in Report No. 14-04, we noted that it would be appropriate for DLNR to reclassify the then-revolving fund to a trust fund, and in 2016, the fund was reclassified as such pursuant to Act 10, SLH 2015.

**Assistance in
Managing Land Fund
(trust fund)**

**Administratively
established**

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$225	\$168	\$126	\$125	\$125
Revenues	0	0	0	0	0
Interest	0	1	0	1	1
Expenditures	(57)	(43)	(1)	(1)	0
Transfers	0	0	0	0	0
Ending Balance	\$168	\$126	\$125	\$125	\$126
Encumbrances	\$53	\$10	\$9	\$0	\$0

This fund does not meet the criteria of a trust fund because it no longer serves the purpose for which it was originally created, and should be closed. Administratively created in 2007, the fund was used to assist the Office of Hawaiian Affairs (OHA) in the management of the 25,856-acre Wao Kele O Puna Forest Reserve on the island of Hawai‘i that was acquired through the U.S. Forest Service’s Forest Legacy Program. As part of the land sale agreement, DLNR and OHA agreed to co-manage the property under the State Forest Reserve System for a period of at least 10 years and as detailed in a Memorandum of Agreement between the two agencies. Revenues through FY2013 were from moneys transferred from OHA to DLNR for the specific purpose of supporting the management of the Wao Kele O Puna Forest Reserve. However, OHA stopped transferring moneys into the fund in FY2013 when it took on a more active management role for the Wao Kele O Puna Forest Reserve. Expenditures include funds for forest management including survey and inventory work, invasive species control, and road maintenance.

**Beach Restoration
Special Fund
(special fund)**

Section 171-156, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)*

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$1,355	\$1,733	\$1,823	\$1,688	\$2,040
Revenues	543	404	160	837	812
Interest	0	0	7	10	11
Expenditures	(165)	(312)	(302)	(495)	(182)
Transfers**	0	(2)	0	0	0
Ending Balance	\$1,733	\$1,823	\$1,688	\$2,040	\$2,681
Encumbrances	\$161	\$186	\$456	\$217	\$403

*This fund is a parent account and the original source of revenue for five sub-accounts. The financial data presented is a consolidation of this fund and its sub-accounts which were not included in our prior fund review in Report No. 14-04.

**Transfer to Land and Natural Resources Natural and Physical Environment trust fund.

This fund does not meet the criteria of a special fund because the program it supports can be successfully implemented under the general fund appropriation process, but it continues to serve the purpose for which it was originally created. Statutorily created in 1999, the fund is used for the planning, designing, development, and implementation of beach restoration projects; providing grants to the counties, non-governmental organizations, and the University of Hawai‘i (UH) for the restoration of beach lands; and for research and engineering studies necessary to support beach restoration projects. Revenues are from proceeds from the lease or development of public coastal lands pursuant to a beach restoration plan, the lease of public lands for existing seawalls or revetments, fines from unauthorized shoreline structures on State submerged land or conservation district land, donations and contributions by private individuals or organizations, application fees for coastal and beach erosion control projects, grants from government agencies, and the transient accommodations tax. Expenditures include costs associated with the direct planning, development, or implementation of beach restoration projects including statewide beach improvements and the restoration of Kaanapali Beach; grants to the counties; non-governmental organizations; and the UH for beach restoration or research to support beach restoration. Although the fund is self-sustaining, DLNR acknowledges that the program supported by the fund can be successfully implemented under the general fund appropriation process.

**Boating Security
Deposits
(trust fund)**

**Administratively
established**

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$1,482	\$1,640	\$1,703	\$1,807	\$1,973
Revenues	163	135	154	218	118
Interest	0	0	0	0	0
Expenditures	(5)	(72)	(50)	(52)	(64)
Transfers	0	0	0	0	0
Ending Balance	\$1,640	\$1,703	\$1,807	\$1,973	\$2,027
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally created. Administratively created by the Department of Transportation and subsequently transferred to the Division of Boating and Ocean Recreation (DOBOR) in 1992, the fund holds facility-use security deposits from tenants at DOBOR's small boat harbors. Amounts are set by administrative rules, with a mooring fee security deposit charged at twice the mooring fee amount. Revenues are from commercial ramp and harbor-use permits, and recreational harbor-use permits such as those for moorings and living aboard boats. Security deposits are returned when permits are not renewed.

**Boating Special Fund
(special fund)**

Section 200-8, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$7,572	\$9,371	\$9,259	\$11,891	\$10,048
Revenues	15,017	15,631	16,528	16,924	18,429
Interest	19	34	20	45	56
Expenditures	(11,873)	(14,149)	(12,173)	(16,812)	(14,428)
Transfers*	(1,364)	(1,628)	(1,743)	(2,000)	(2,346)
Ending Balance	\$9,371	\$9,259	\$11,891	\$10,048	\$11,759
Encumbrances	\$3,301	\$3,342	\$3,403	\$4,023	\$2,976

*Transfers to the Division of Conservation and Resources Enforcement for payroll purposes.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally created. Statutorily created in 1972 by the Department of Transportation, the fund and the program were transferred to DOBOR in 1992 pursuant to Act 272, SLH 1991.

The fund is used for the planning, developing, operating, administering, and maintenance of small boat harbors, launching ramps, and other boating facilities and associated aids to navigation throughout the State. Revenues are from fees collected for harbor uses including mooring fees, launching ramp fees, vessel registrations, fuel sales, and property rentals. Expenditures include costs of the statewide boating program consisting of the operation, maintenance, and management of all DOBOR facilities; improving boating safety; operating a vessel; registration and boating casualty investigation and reporting system; and other boating program activities.

**Bureau of
Conveyances Special
Fund
(special fund)**

Section 502-8, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$2,770	\$2,592	\$2,066	\$786	\$1,294
Revenues	4,278	4,115	4,283	6,104	8,193
Interest	0	0	9	6	7
Expenditures	(4,383)	(4,528)	(5,453)	(5,498)	(5,062)
Transfers*	(73)	(113)	(119)	(104)	(290)
Ending Balance**	\$2,592	\$2,066	\$786	\$1,294	\$4,142
Encumbrances	\$292	\$738	\$901	\$230	\$1,320

*Transfers to the Land and Natural Resources Natural and Physical Environment special fund (a sub-account of the Special Land Development Fund), and the State Parks Special Fund for payroll purposes.

**Section 502-8(c), HRS, requires that certain revenues in excess of \$500,000 remaining on balance in the fund at the end of each fiscal year shall lapse to the State general fund (exceptions noted in Section 16, Act 120, SLH 2009). DLNR asserts that no revenues received during the review period met the criteria, thus no moneys lapsed to the general fund despite fiscal year ending balances for FY2014 – FY2018 exceeding \$500,000.

This fund meets criteria of a special fund and continues to serve the purpose for which it was originally created. Statutorily created in 1999, the fund is used for administrative costs and to plan, design, construct, and acquire equipment, furnishings, and software necessary for the operation, maintenance, and improvement of the recording system for the conveyance of title to real property. Revenues are from recording fees and copying costs of recorded documents and maps. A portion of each recording fee is deposited into the general fund and DAGS' Archive Fund. Expenditures include administrative costs, equipment purchases, and other operational costs.

**Commercial Fisheries
Special Fund
(special fund)**

Section 189-2.4, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$751	\$819	\$574	\$395	\$255
Revenues	335	292	246	199	266
Interest	0	0	3	2	1
Expenditures	(238)	(481)	(335)	(267)	(163)
Transfers*	(29)	(56)	(93)	(74)	(81)
Ending Balance	\$819	\$574	\$395	\$255	\$278
Encumbrances	\$148	\$213	\$134	\$39	\$33

*Transfers to the Land and Natural Resources Natural and Physical Environment trust fund.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally created. Statutorily created in 1996, the fund is used to support commercial fishing through programs and projects concerning the conservation and management of aquatic life used for commercial purposes. Revenues are from fees for licenses and permits for the use of public fishing grounds for commercial fishing, the sale of aquatic life, and the use of commercial fisheries-related facilities. Expenditures include partial funding of costs associated with commercial fishing licensing, projects relating to commercial fishing, and payroll for personnel. The majority of the program costs are covered by matching federal funds.

**Conservation
and Resources
Enforcement
(special fund)**

**Administratively
established**

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$40	\$10	\$46	\$100	\$154
Revenues	0	0	0	2	2
Interest	0	0	0	1	1
Expenditures	(1,281)	(1,408)	(1,510)	(1,861)	(1,891)
Transfers*	1,251	1,444	1,564	1,912	2,168
Ending Balance	\$10	\$46	\$100	\$154	\$434
Encumbrances	\$18	\$51	\$126	\$169	\$180

*Transfers from the Boating Special Fund for enforcement purposes and from various DLNR special funds to pay the Department of Accounting and General Services' Risk Management Office for DLNR's insurance allocation premiums.

This fund does not meet the criteria of a special fund because it does not have the capacity to be financially self-sustaining, but it continues to serve the purpose for which it was originally created. Administratively created in 1996, the fund generates little or no revenue and primarily receives moneys transferred from the Boating Special Fund which raises questions about its ability to be financially self-sustaining. Revenues are also from various rental, registration, application, and permit fees. Expenditures include marine patrol responsibilities consisting of operating costs for the enforcement of marine boating and ocean recreation rules; conservation; search and rescue operations; and the enforcement of statewide ocean recreation and coastal area programs consisting of 21 recreational small boat harbors, 54 launch ramps, 13 offshore mooring areas, 10 designated ocean water areas, 108 designated ocean recreation management areas, aids to navigation, and beaches encumbered with easements.

**Conservation
and Resources
Enforcement Special
Fund
(special fund)**

Section 199-1.5, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$414	\$297	\$298	\$281	\$515
Revenues	200	68	0	400	381
Interest	1	1	1	2	3
Expenditures	(318)	(66)	(18)	(168)	(410)
Transfers*	0	(2)	0	0	0
Ending Balance	\$297	\$298	\$281	\$515	\$489
Encumbrances	\$119	\$0	\$0	\$140	\$68

*Transfer to the Education and Outreach Program.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally created. Statutorily created in 2011, the fund is used to receive grants, awards, donations, gifts, transfers, and moneys from public or private sources. Revenues are from grants, awards, donations, gifts, transfers, and penalties collected from enforcement activities. Expenditures include costs for training, equipment, information technology, safety, wireless communication, travel, and work performed in cooperation with governmental enforcement authorities.

**Dam and Reservoir
Safety Special Fund
(special fund)**

Section 179D-25, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$1,477	\$1,930	\$2,357	\$2,766	\$2,909
Revenues	623	644	734	588	603
Interest	0	0	14	21	19
Expenditures	(170)	(205)	(339)	(466)	(464)
Transfers*	0	(12)	0	0	0
Ending Balance	\$1,930	\$2,357	\$2,766	\$2,909	\$3,067
Encumbrances	\$298	\$388	\$1,278	\$1,115	\$1,892

*Transfer to the Special Land and Development Fund.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally created. Statutorily created in 2007, the fund is used to support the Dam and Reservoir Safety Program which oversees dams and reservoirs throughout the State. Revenues are from public and private sources, DLNR's sale of retail items relating to dam and reservoir safety, and user fees. Expenditures include costs for

research and data collection, including technological advances made in dam and reservoir safety practices elsewhere; conducting investigations; monitoring inspection programs and activities; enforcement; training; and educational activities for staff and dam and reservoir owners.

***Donations, Gifts, and
Grants from Private
and Governmental
Entities
(trust account)***

***Administratively
established***

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$5,880	\$5,988	\$16,148	\$19,195	\$18,105
Revenues*	498	11,058	3,577	1,884	1,585
Interest	15	42	28	109	117
Expenditures	(393)	(940)	(558)	(2,983)	(3,042)
Transfers**	(12)	0	0	(100)	0
Ending Balance	\$5,988	\$16,148	\$19,195	\$18,105	\$16,765
Encumbrances	\$974	\$1,537	\$1,395	\$3,118	\$2,431

*Revenues increased significantly in FY2015 due to moneys received as the result of a judgment awarded to the Office of Conservation and Coastal Lands from Pila'a 400, LLC (\$7.7 million), a partial settlement to the Division of Aquatic Resources from the MV Flattery Settlement Trust Fund for the grounding of the M/V *Cape Flattery* (\$1.6 million), and legacy land grants awarded to the Division of Forestry and Wildlife (\$1.3 million). Moneys held in the account are distributed as contracts are performed. DLNR asserts that there is no specific timeline to clear these funds from this temporary holding account.

**Transfers to the In-Lieu Fee Mitigation Program trust account (FY2014), and the Land and Natural Resources Natural and Physical Environment trust fund (FY2017).

This account meets the criteria of a trust account and continues to serve the purpose for which it was originally created. Administratively created, the account is used to hold various temporary deposits received as security for contract performance plans and specifications, donations, gifts, and grants from private and government entities. It also is used to hold court judgments and settlement proceeds. Revenues are from donations, gifts, grants from private and government entities, settlement proceeds, and other sources. Expenditures include contract payments and the distribution of donations.

**Endangered Species
Trust Fund
(trust fund)**

Section 195D-31, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$2,179	\$2,681	\$3,370	\$3,500	\$4,313
Revenues	1,776	2,103	2,007	2,622	3,010
Interest	3	9	9	10	25
Expenditures	(1,277)	(1,423)	(1,886)	(1,819)	(2,605)
Transfers	0	0	0	0	0
Ending Balance	\$2,681	\$3,370	\$3,500	\$4,313	\$4,743
Encumbrances	\$1,208	\$1,907	\$1,446	\$2,516	\$2,706

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally created. Statutorily created in 1997, the fund is used to support the study, monitoring, management, and recovery of Hawai‘i’s threatened and endangered species. Revenues are from the sale of DLNR retail items, private contributions, fees for the commercial use of public land and waters, enforcement violation fines and penalties, and deposits for the implementation of habitat plans. Expenditures include costs associated with the monitoring, protection, and recovery of over 500 threatened and endangered species specific to the State. These funds do not cover all costs and are used in combination with federal grants and private contributions.

**Forest Stewardship
Fund
(special fund)**

Section 195F-4, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$2,732	\$1,877	\$2,158	\$1,001	\$766
Revenues	249	340	407	357	395
Interest	0	0	12	7	5
Expenditures	(3,700)	(4,501)	(1,532)	(470)	(462)
Transfers*	2,596	4,442	(44)	(129)	(131)
Ending Balance	\$1,877	\$2,158	\$1,001	\$766	\$573
Encumbrances	\$1,579	\$1,651	\$570	\$418	\$342

*Transfers from the NARS special fund which were subsequently eliminated pursuant to Act 84, SLH 2015, effective July 1, 2015.

This fund does not meet the criteria of a special fund because it does not have the capacity to be financially self-sustaining, but it continues to serve the purpose for which it was originally created. Statutorily created in 1991, the fund primarily supports the management of the forest reserve system and the Forest Stewardship Program. The fund

provides moneys to private landowners to manage, protect, and restore important watersheds, timber resources, fish and wildlife habitats, isolated population of rare and endangered plants, and native vegetation. Landowners are reimbursed for a portion of their costs in developing and implementing forest stewardship management plans. The primary source of revenues were transfers from the Natural Area Reserve Fund (NARS); however, Act 84, SLH 2015, eliminated said transfers effective July 1, 2015, and the program which was previously supported by this fund is now supported by general fund appropriations. Revenues are also from timber sales, forest reserve permits, leases, and licenses. Expenditures include replanting, managing, and maintaining timber management areas; the management of public forest reserves; and education programs. DLNR acknowledges that there is insufficient money in the fund to manage the forest reserve.

***Hawai'i Historic
Preservation Special
Fund
(special fund)***

Section 6E-16, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$64	\$91	\$140	\$4	\$291
Revenues	75	75	74	375	66
Interest	0	0	0	0	0
Expenditures	(47)	(23)	(209)	(87)	(212)
Transfers (net)*	(1)	(3)	(1)	(1)	1
Ending Balance	\$91	\$140	\$4	\$291	\$146
Encumbrances	\$0	\$4	\$5	\$234	\$97

*Transfers to pay the Department of Accounting and General Services' Risk Management Office for DLNR's insurance allocation premiums, and for the Education and Outreach Coordinator to enhance department-wide education, outreach, and information.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally created. Statutorily created in 1989, the fund is used to provide moneys to preserve, restore, and maintain historic and cultural property in a spirit of stewardship for future generations, and to conduct activities, plans, and programs that enhance the history and culture of the property. Revenues are from gifts, donations, and grants; user fees for leases, concessions, permits, and certifications to conduct archaeological work in Hawai'i; civil, criminal, and administrative penalties. Expenditures include staffing positions, production of public information materials, financial assistance to public and private agencies involved in historic preservation, and operational costs of the historic preservation program.

***In-Lieu Fee Mitigation
Program
(trust fund)***

***Administratively
established***

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$8,280	\$7,229	\$6,610	\$6,331	\$6,175
Revenues	38	0	0	0	0
Interest	22	29	12	36	40
Expenditures	(1,123)	(648)	(291)	(192)	(115)
Transfers*	12	0	0	0	0
Ending Balance	\$7,229	\$6,610	\$6,331	\$6,175	\$6,100
Encumbrances	\$462	\$580	\$487	\$401	\$350

*Transfer from the Donations, Gifts, and Grants from Private and Governmental Entities trust account for settlements involving aquatic damages.

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally created. Administratively created in 2012, the fund is used to meet federal requirements for in-lieu fee programs which support the restoration, establishment, enhancement, and preservation of aquatic resources. Revenues are from settlements involving aquatic damages including a \$7.5 million federal government settlement for damages from the *USS Port Royal* grounding. Expenditures include operating expenses for projects implemented to preserve coral ecosystems, mitigation of land-based pollution sources and coral loss, and the establishment of an Aquatic Mitigation Bank through legislative action.

***Kaho‘olawe
Rehabilitation Trust
Fund
(trust fund)***

Section 6K-9.5, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$5,575	\$3,120	\$509	\$523	\$415
Revenues	276	454	719	393	365
Interest	13	10	1	2	2
Expenditures	(2,744)	(3,075)	(706)	(503)	(278)
Transfers	0	0	0	0	0
Ending Balance	\$3,120	\$509	\$523	\$415	\$504
Encumbrances	\$1,358	\$186	\$174	\$14	\$126

*This fund received general fund appropriations in FY2016 (\$1 million), FY2017 (\$1.4 million), FY2018 (\$1.1 million), and FY2019 (\$1.3 million). These appropriations were not deposited into this fund but were instead deposited into DLNR’s administrative general fund account for use by the Kaho‘olawe Island Reserve Commission.

This fund does not meet the criteria of a trust fund because its capacity to remain financially self-sustaining is questionable, but it continues to

serve the purpose for which it was originally created. Statutorily created in 1994, the fund receives moneys from grants, donations, and proceeds for the rehabilitation and environmental restoration of the island of Kaho‘olawe. From 1995 until 2004, the fund received more than \$44 million in federal money. Expenditures include costs to operate the Kaho‘olawe Island Reserve Commission (KIRC) for the preservation, protection, rehabilitation, and revegetation of the island. Expenditures are dependent on the amount of trust funds needed to balance KIRC’s mandated operations, less the amount of general funds authorized annually by the Legislature.

The fund’s capacity to remain financially self-sustaining is questionable because it depends on general funds to finance program activities and it received general fund appropriations in FY2016 – FY2018. KIRC has not yet secured funding sources sufficient to provide for the continued restoration and management of the Kaho‘olawe Island Reserve.

***Land and Natural
Resources Natural and
Physical Environment
(trust fund)***

***Administratively
established***

Financial Data for Fiscal Years 2017 – 2018 (in thousands)

	FY2017	FY2018
Beginning Balance	\$0	\$16
Revenues	0	0
Interest	0	0
Expenditures	(84)	(16)
Transfers*	100	0
Ending Balance	\$16	\$0
Encumbrances	\$16	\$0

*Transfer from Donation, Gifts and Grants from Private and Governmental Entities trust account.

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally created. Administratively created in 2017, the fund is used to receive annual donations for the Aha Moku Program which integrates native Hawaiian knowledge with current scientific methods to protect, preserve, and sustain the ecosystem and environment of site-specific areas. The Aha Moku Advisory Committee is attached to DLNR. Revenues are expected from donations, gifts, and grants; however, the program was not funded in FY2018. Expenditures include personal services for the program’s Executive Director, travel, and operating expenses.

**Land Conservation
Fund
(special fund)**

Section 173A-5, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$10,589	\$16,284	\$22,416	\$19,430	\$20,568
Revenues	7,515	7,975	6,611	6,800	8,460
Interest	0	0	131	166	146
Expenditures	(1,820)	(1,870)	(9,728)	(5,828)	(1,897)
Transfers*	0	27	0	0	0
Ending Balance	\$16,284	\$22,416	\$19,430	\$20,568	\$27,277
Encumbrances	\$9,521	\$11,554	\$4,715	\$3,969	\$8,691

*Transfer from the Public Land Trust Inventory and Information Systems special fund.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally created. Statutorily created in 2005, this fund is used to provide permanent and adequate funding for land conservation. It supports the acquisition of land and conservation easements for the protection of natural, agricultural, recreational, cultural, and historic resources. It also provides ongoing annual debt service payments for the State's purchase of land and conservation easements at Turtle Bay. Revenues are primarily from 10 percent of the State's conveyance tax or \$6.8 million, whichever is less. The Legislature's view as stated in Act 156, SLH 2005, is that a nexus exists between the conveyance tax and natural resource preservation programs because the development, sale, and improvement of real estate adds pressure to the State's natural areas, coastal access, agricultural production, and water resources. The fund also earns interest through its participation in the State's investment pool and may receive revenue from the proceeds from the sale of general obligation bonds, the operation and management of lands acquired with fund moneys by the Board of Land and Natural Resources, revenue-sharing in dispositions of land acquired with fund money, and moneys from public or private sources. Expenditures include grants made to State, County, and nonprofit entities to buy land and conservation easements; debt service on State financial instruments; personnel salaries; and other operating costs including administrative support for the Legacy Land Conservation Commission.

**Land Division – Water
Monitoring Services
(trust account)**

**Administratively
established**

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$9	\$9	\$9	\$10	\$20
Revenues	19	19	19	20	0
Interest	0	0	0	0	0
Expenditures	(19)	(19)	(18)	(10)	(20)
Transfers	0	0	0	0	0
Ending Balance	\$9	\$9	\$10	\$20	\$0
Encumbrances	\$9	\$9	\$9	\$20	\$0

This account does not meet the criteria of a trust account and no longer serves the purpose for which it was originally created. Administratively created circa 1979, the account was to hold donations received from various subsidiaries of sugar plantations for the operation and maintenance of sugarcane irrigation stations; however, no donations, gifts, or grants have been made to this account in decades. Instead, it has been used as a clearing account for private parties to obtain and pay for stream gauging services provided by the United States Geological Survey (USGS). Expenditures include all costs for stream gauging services provided by the USGS. Because the USGS cannot enter into agreements or contracts with private parties, it bills the State, which in turn charges private parties for services.

**Native Resources
and Fire Protection
Program Special Fund
(special fund)**

**Administratively
established**

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$3,212	\$3,192	\$2,773	\$845	\$827
Revenues	9	17	13	7	0
Interest	10	0	0	0	5
Expenditures	(3,605)	(3,106)	(1,941)	(25)	0
Transfers*	3,566	2,670	0	0	0
Ending Balance	\$3,192	\$2,773	\$845	\$827	\$832
Encumbrances	\$2,095	\$2,106	\$89	\$0	\$0

*Transfers from the Special Land and Development Fund and the Natural Area Reserve Fund.

This fund does not meet the criteria of a special fund because it does not have the capacity to be financially self-sustaining, but it continues to serve the purpose for which it was originally created. Administratively created in 2000, the fund is used to support the control and management

of the State's invasive species, endangered species, and wildland fire prevention and suppression. There are no fees charged, and the fund does not have a direct source of revenue. Instead, the fund relies on transfers from other DLNR special funds to cover expenditures. The fund should be closed because it is not financially self-sustaining.

***Native Resources
and Fire Protection
Program
(trust account)***

***Administratively
established***

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$22	\$34	\$52	\$63	\$74
Revenues	12	18	11	11	41
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Balance	\$34	\$52	\$63	\$74	\$115
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account does not meet the criteria of a trust account because it functions more like a trust fund, but it continues to serve the purpose for which it was originally created. Administratively created in 2012, the account will be used to create two staff positions when sufficient moneys are accrued and to pay for the costs to provide technical assistance to landowners. Revenues are from fees paid by landowners for assistance in developing, reviewing, or monitoring compliance under Habitat Conservation Plans. Expenditures will support two staff positions but there were no expenditures during the period of our review.

**Natural Area Reserve
Fund
(special fund)**

Section 195-9, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$9,517	\$14,514	\$17,711	\$15,491	\$15,399
Revenues	18,788	19,947	99	119	0
Interest	0	0	0	0	99
Expenditures	(8,839)	(8,362)	(2,319)	(211)	(278)
Transfers*	(4,952)	(8,388)	0	0	0
Ending Balance	\$14,514	\$17,711	\$15,491	\$15,399	\$15,220
Encumbrances	\$3,052	\$3,200	\$489	\$278	\$0

*Transfers to the Division of Forestry and Wildlife.

This fund does not meet the criteria of a special fund because it does not have the capacity to be financially self-sustaining and it no longer serves the purpose for which it was originally created. Statutorily created in 1987, the fund is used to support the identification, establishment, and management of natural area reserves; the acquisition of private lands for natural area reserves; the operation of the Heritage Program; and the provision of matching funds for the Natural Area Partnership Program. Revenues are from public and private resources but its primary source of revenue was from 25 percent of the State's conveyance tax, a levy imposed on documents transferring real property ownership or interest based on the transaction amount. However, Act 84, SLH 2015, eliminated the conveyance tax as the fund's main revenue source, and Act 12, SLH 2018, transferred the fund balance to the general fund on July 1, 2018. Although the fund has not received any general fund appropriations, the programs which were previously supported by the fund are now supported by general fund appropriations.

DLNR acknowledges that the fund is not financially self-sustaining and stated that while it is working on revenue sources that may provide a modest source of revenue, the revenue is not expected to be sufficient for program needs. The fund should be closed because it does not have the capacity to be financially self-sustaining and the programs previously supported by the fund are reliant on general fund appropriations.

***Preservation of
Endangered Plants
(trust fund)***

***Administratively
established***

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$2	\$0	\$0	\$0	\$0
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	(2)	0	0	0	0
Transfers	0	0	0	0	0
Ending Balance	\$0	\$0	\$0	\$0	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund does not meet the criteria of a trust fund because it does not have the capacity to be financially self-sustaining and it no longer serves the purpose for which it was originally created. Administratively created in 1989, the fund is used to account for donations made by the Hawai'i Credit Union League for the preservation of endangered plants, and non-federal grants benefiting DLNR's rare plant program aimed at conserving and protecting Hawai'i's unique rare flora and its supporting habitats. Expenditures include development, production and issuance of endangered plant tags, and the protection and management of endangered plants.

In our last fund review, in Report No. 14-04, DLNR acknowledged that the purpose of the fund is being met by the Forest and Wildlife Resources Special Fund and the Endangered Species Trust Fund and stated that this fund would be closed. This fund remains open and it should be closed because it no longer serves the purpose for which it was originally created, is inactive, and has had no revenue since 2009.

***Proceeds from Seizure/
Forfeited Property
(trust account)***

***Administratively
established***

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning 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 Balance	\$0	\$0	\$0	\$0	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

This account does not meet the criteria of a trust account because it functions more like a trust fund and it no longer serves the purpose for which it was originally created. Administratively created in 2000, the Division of Conservation and Resources Enforcement had no other means available to deposit and keep the proceeds of seized natural resources until the violation was adjudicated. The account is used to temporarily hold the proceeds of the sale of seized resources until such time the suspected violation is resolved. If a settlement is not reached, the proceeds of the sale are submitted to the court for disposition. In FY2014 – FY2016 the account carried a balance of \$2.11 until the balance was transferred to the In-Lieu Fee Mitigation Program trust account.

In our prior fund review, in Report No. 14-04, DLNR acknowledged that the Conservation and Resources Enforcement Special Fund renders this account unnecessary and that it would start the closure of the account in FY2014. DLNR now asserts that there are no plans to close the account as there may be cases in the future where seizure/forfeiture action is required. The account should be closed because of its inactivity, lack of revenue, and duplication with the Conservation and Resources Enforcement Special Fund.

**Public Land Trust,
Ceded Land Proceeds
for O‘ahu, Maui,
Hawai‘i, and Kauai
(trust account)**

**Administratively
established**

Financial Data for Fiscal Years 2014 – 2018 (in thousands)*

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$0	\$0	\$0	\$0	\$0
Revenues	3,278	3,012	3,006	3,350	3,414
Interest	0	0	0	0	0
Expenditures	(3,278)	(3,012)	(3,006)	(3,350)	(3,414)
Transfers	0	0	0	0	0
Ending Balance	\$0	\$0	\$0	\$0	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

*The financial data reflects four trust accounts—one for each of the islands of O‘ahu, Maui, Hawai‘i, and Kaua‘i.

This account meets the criteria of a trust account and continues to serve the purpose for which it was originally created. Originally created in 1962, the account holds 20 percent of all proceeds and revenues from the sale, lease, or other disposition of ceded lands. Revenues are held in trust for the support of public schools and other educational institutions, the betterment of the conditions of native Hawaiians, the development of farm and home ownership, public improvements, and the provisions of lands for public use. This account is used as a temporary holding account to transfer funds to OHA pursuant to Section 10-13.5, HRS, which requires that 20 percent of income generated from public land trusts be expended by OHA.

**Public Land Trust,
Ceded Land Proceeds
for O‘ahu, Maui,
Hawai‘i, and Kaua‘i –
Division of Boating and
Ocean Recreation
(trust fund)**

**Administratively
established**

Financial Data for Fiscal Years 2014 – 2018 (in thousands)*

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$642	\$398	\$489	\$568	\$715
Revenues	1,306	1,372	1,479	1,683	2,023
Interest	0	0	0	0	0
Expenditures	(1,550)	(1,281)	(1,400)	(1,536)	(2,042)
Transfers	0	0	0	0	0
Ending Balance	\$398	\$489	\$568	\$715	\$696
Encumbrances	\$0	\$0	\$0	\$0	\$0

*The financial data reflects four trust funds – one for each of the islands of O‘ahu, Maui, Hawai‘i, and Kaua‘i.

This fund does not meet the criteria of a trust fund because it functions more like a trust account, but it continues to serve the purpose for which it was originally created. Administratively created in 2006, the fund is

used as a temporary holding fund for the 20 percent share of receipts due to OHA derived from the use of ceded lands within the public land trust. The funds are transferred to OHA on a quarterly basis. Upon the direction from the Governor or the Director of the Department of Budget and Finance, moneys in the fund will be used to make up the shortfall of \$3,775,000 to be transferred to OHA at the end of each fiscal quarter pursuant to Act 178, SLH 2006. The fund should be reclassified to a trust account.

***Public Land Trust
Funds, Ceded Land
Proceeds for O'ahu,
Maui, Hawai'i, and
Kaua'i – General Fund
Portion
(trust account)***

***Administratively
established***

Financial Data for Fiscal Years 2014 – 2018 (in thousands)*

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$17,993	\$20,737	\$23,610	\$26,532	\$29,868
Revenues	2,709	2,813	2,826	3,211	3,304
Interest	35	60	96	125	135
Expenditures	0	0	0	0	(26,569)
Transfers	0	0	0	0	0
Ending Balance	\$20,737	\$23,610	\$26,532	\$29,868	\$6,738
Encumbrances	\$0	\$0	\$0	\$0	\$0

*The financial data reflects four trust accounts – one for each of the islands of O'ahu, Maui, Hawai'i and Kaua'i. Pursuant to Executive Order 06-06, no later than twelve calendar days after the close of each fiscal quarter, the Director of Finance is responsible for calculating the total amount of receipts from the use of ceded lands to determine if the all funds due to OHA have been paid, and notifying each agency on what further actions are needed, if any. Moreover, immediately following all transfers in the fourth quarter, each department is required to deposit any remaining balance in any trust holding account to the credit of the general fund or the special fund it would otherwise have been deposited into had it not been deposited into the trust holding account. In FY2018, \$26.6 million was expended from this account and transferred to the general fund representing fund balances through FY2016 only.

This account meets the criteria of a trust account and continues to serve the purpose for which it was originally created. Administratively created in 2006, the account is used as a temporary holding account for the 80 percent share of general fund receipts derived from the use of ceded lands within the public land trust. Upon the direction from the Governor or the Director of the Department of Budget and Finance (B&F), funds in the account will be used to make up any shortfall of the \$3,775,000 that the State is obligated to pay to OHA at the end of each fiscal quarter pursuant to the requirements of Act 178, SLH 2006. On July 17, 2017, the B&F Director notified DLNR that the ceded land payments to OHA were sufficient to meet the obligations of Act 178, SLH 2006, and requested DLNR transfer this account's balances prior to FY2017 (i.e., through FY2016) to the general fund. In FY2018, DLNR transferred \$26.6 million to the general fund, representing fund balances through

FY2016 only. No moneys have been transferred to the general fund for FY2017 and FY2018.

***Recreational
Renaissance – State
Parks
(special fund)***

***Administratively
established***

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$39	\$0	\$0	\$0	\$0
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers*	(39)	0	0	0	0
Ending Balance	\$0	\$0	\$0	\$0	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

* Transfer to the State Parks Special Fund.

This fund does not meet the criteria of a special fund because it was improperly created by administrative authority in 2010 and should be closed. In 2002, the Legislature set the requirements for establishing and continuing special funds. Section 37-52.3, HRS, states that special funds may only be established by statute. Administratively created circa 2010, the fund was to collect revenue generated through new fees, land dispositions, and other sources related to DLNR's initiative, the Recreational Renaissance. The initiative was based on DLNR's request to the Legislature for a capital improvement project budget to repair aging recreational facilities and infrastructure. The concept was unprecedented in that the moneys in the fund would pay the debt service on bonds issued to fund capital improvements at recreational facilities. The measure failed to pass the Legislature and the moneys in the fund were transferred to the State Parks Special Fund. The fund should be closed because it was improperly created and does not serve a need since the proposed initiative for which the fund was created was not approved by the Legislature.

***Special Land and
Development Fund
(special fund)***

Section 171-19, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)*

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$15,418	\$17,983	\$19,856	\$21,076	\$21,724
Revenues	13,733	12,635	12,725	16,198	21,070
Interest	0	0	0	0	0
Expenditures	(9,469)	(10,635)	(12,141)	(16,115)	(15,006)
Transfers (net)**	(1,699)	(127)	636	565	(1,052)
Ending Balance	\$17,983	\$19,856	\$21,076	\$21,724	\$26,736
Encumbrances	\$2,693	\$5,332	\$6,481	\$4,452	\$4,492

*This fund is a parent account and the original source of revenue for twenty-four sub-accounts. The financial data presented is a consolidation of this fund and its sub-accounts which were not included in our prior fund review in Report No. 14-04.

**Transfers to the State Parks Special Fund, Water Resource Management Fund, Native Resources and Fire Protection Program trust account, Forest Stewardship Fund, and Parks Administration and Operation (a sub-account of the State Parks Special Fund).

This fund does not completely meet the criteria of a special fund because there is no clear nexus between the program and the portion of the highway fuel tax which is one of the fund's sources of revenue, but it continues to serve the purpose for which it was originally created. Statutorily created in 1962, the fund is used to collect proceeds from the sale of public lands; mineral and water rights; rents from leases, licenses, and permits; fees, fines, and other administrative charges; a portion of the highway fuel tax; moneys for the commercial use of the public trails; and transient accommodations tax revenues. Expenditures include costs incurred for the management, operations, and maintenance of all lands under the control of the Board of Land and Natural Resources, including the operating budget of its Land Management Division and the Office of Conservation and Coastal Lands. The fund also helps to support the Commission on Water Resource Management, the Division of State Parks, and the Division of Forestry and Wildlife. The fund's law also includes a provision allowing the transfer of excess moneys to the general fund.

***Sport Fish Special
Fund
(special fund)***

Section 187A-9.5, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$73	\$75	\$74	\$63	\$66
Revenues	29	28	25	27	27
Interest	0	0	0	0	0
Expenditures	(27)	(29)	(36)	(24)	(22)
Transfers*	0	0	0	0	1
Ending Balance	\$75	\$74	\$63	\$66	\$72
Encumbrances	\$0	\$10	\$13	\$18	\$16

*Transfer from the Water Resource Management Fund to correct a deposit made in error.

This fund does not meet the criteria of a special fund because it does not have the capacity to be financially self-sustaining, but continues to serve the purpose for which it was originally created. Statutorily created in 1993, the fund is used to receive moneys generated through fees for recreational fishing licenses, permits, use of fishing areas, and the use of sport fishing facilities to support sport fishing in Hawai‘i. The fund is also used to comply with the Federal Aid in Sport Fish Restoration Act which provides matching funds for a variety of programs including restoration and management of fishery resources. Revenues are primarily from the sale of freshwater fishing licenses. Moneys from this fund are limited and expenditures are primarily funded by matching federal grant funds while only a small percentage comes from this fund. DLNR acknowledges that the fund does not have the capacity to be financially self-sustaining because it has limited revenue potential, collecting about \$20,000 to \$25,000 annually.

**State Parks Special
Fund
(special fund)**

Section 184-3.4, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)*

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$2,779	\$2,722	\$1,972	\$1,599	\$2,788
Revenues	4,522	4,156	4,977	6,783	4,969
Interest	1	1	9	12	14
Expenditures	(5,072)	(5,344)	(5,205)	(5,472)	(7,134)
Transfers (net)**	492	437	(154)	(134)	1,768
Ending Balance	\$2,722	\$1,972	\$1,599	\$2,788	\$2,405
Encumbrances	\$506	\$768	\$290	\$696	\$756

*This fund is a parent account and the original source of revenue for ten sub-accounts. The financial data presented is a consolidation of this fund and its sub-accounts which were not included in our prior fund review in Report No. 14-04.

**Transfer to the Department of Accounting and General Services' Risk Management Office for DLNR's insurance allocation premium, the Land and Natural Resources Natural and Physical Environment trust fund for administrative staff and to enhance department-wide education, outreach, and information. Transfers from the Special Land and Development Fund for payroll and fringe benefits.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally created. Statutorily created in 2000, the fund is used to provide moneys to enhance the Hawai'i State Parks system by providing statewide administrative and interpretive services, as well as to safely allow and provide public access and recreational opportunities within natural and cultural resources in a sustainable manner. Revenues are from proceeds collected by the State parks programs involving park user fees, camping and lodging fees, activity fees, leases and concession agreements, DLNR's sale of retail items to benefit those programs, and gifts and contributions provided that proceeds derived from the operation of 'Iolani Palace are used to supplement its educational and interpretive programs; and transient accommodations tax revenues provided that those moneys are expended in response to a master plan developed in coordination with the Hawai'i Tourism Authority. Expenditures include moneys for staff positions; planning and development of State parks programs; construction, repairs, replacement, additions, and extensions of State parks facilities; operation and maintenance costs of State parks and its programs; and administrative costs. Annual fund expenditures exceed revenue and interest, but the fund is supplemented by transfers from other department accounts, primarily the Special Land and Development Fund.

**Temporary Deposits
(trust account)**

**Administratively
established**

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$1,460	\$1,521	\$1,671	\$1,577	\$1,718
Revenues	250	344	212	297	198
Interest	0	0	0	0	0
Expenditures	(189)	(194)	(306)	(156)	(127)
Transfers	0	0	0	0	0
Ending Balance	\$1,521	\$1,671	\$1,577	\$1,718	\$1,789
Encumbrances	\$49	\$34	\$27	\$16	\$21

This account does not meet the criteria of a trust account because it functions more like a trust fund, but it continues to serve the purpose for which it was originally created. Administratively created prior to 2002, the account holds security deposits for leases, licenses, revocable permits, and appraisals. Revenues are from security deposits collected from lessees, licensees, and permittees. Expenditures include appraisal fees. These moneys are held until termination of the tenancy and the satisfaction of all tenancy terms and conditions.

**Temporary Deposits –
Undistributed Proceeds
Due Other Agencies
(trust account)**

**Administratively
established**

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$476	\$478	\$598	\$550	\$575
Revenues	992	818	584	610	1,201
Interest	2	3	1	0	43
Expenditures	(992)	(701)	(633)	(585)	(1,125)
Transfers	0	0	0	0	0
Ending Balance	\$478	\$598	\$550	\$575	\$694
Encumbrances	\$0	\$0	\$0	\$13	\$0

This account meets the criteria of a trust account and continues to serve the purpose for which it was originally created. Administratively created in 1992, the account collects revenue from land rental and water licenses managed by DLNR for other agencies, including the Department of Hawaiian Home Lands, the Department of Agriculture, the Department of Transportation, the Hawai'i Community Development Authority, the University of Hawai'i, and the City and County of Honolulu. The account also temporarily holds security deposits for camping permits and filing fees for the Division of State Parks and the Division of Forestry and Wildlife. Revenues are from lease rents, water licenses, security

deposits, filing fees, and 30 percent of State receipts derived from the leasing of sugarcane cultivated lands. Money is held in the account until it is transferred to relevant State agencies.

***Turtle Bay
Conservation
Easement Special Fund
(special fund)***

Section 171-172, HRS

Financial Data for Fiscal Years 2016 – 2018 (in thousands)

	FY2016	FY2017	FY2018
Beginning Balance	\$0	\$1,500	\$6,000
Revenues	36,500	4,500	3,000
Interest	0	0	0
Expenditures	(35,000)	0	(2,460)
Transfers	0	0	0
Ending Balance	\$1,500	\$6,000	\$6,540
Encumbrances	\$0	\$0	\$0

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally created. Statutorily created in 2016, the fund is used to reimburse the general fund for the payment of the debt service on reimbursable general obligation bonds issued to acquire the conservation easement and other real property interests in Turtle Bay. The conservation easement is for the protection, preservation, and enhancement of natural resources, while maintaining public access. Revenues are from transient accommodations tax revenues, moneys from the Land Conservation Fund, and interest earned on moneys in the fund.

***Water Audits of Public
Water Systems
(trust account)***

***Administratively
established***

Financial Data for Fiscal Years 2016 – 2018 (in thousands)

	FY2016	FY2017	FY2018
Beginning Balance	\$0	\$0	\$46
Revenues	0	100	0
Interest	0	0	0
Expenditures	0	(54)	(15)
Transfers	0	0	0
Ending Balance	\$0	\$46	\$31
Encumbrances	\$0	\$15	\$0

This account meets the criteria of a trust account and continues to serve the purpose for which it was originally created. Administratively created in 2016, the account is used to receive private funding for the purposes of the water loss audit program within the Commission of Water Resource

Management (CWRM). Act 169, SLH 2016, authorized \$100,000 in private matching funds and \$600,000 in federal funds to establish the program. CWRM is also authorized to provide technical assistance to the affected utilities. Revenues are from \$100,000 in private funding from the Hawai'i Community Foundation. Expenditures include a portion of a professional service contract that provides technical assistance and training to water departments and systems affected by the establishment of a water loss audit program. DLNR asserts that this program will end in 2020 and the account will be closed.

**Water Resource
Management Fund
(special fund)**

Section 174C-5.5, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$1,578	\$1,454	\$1,469	\$1,243	\$1,056
Revenues	59	61	62	67	65
Interest	3	7	4	8	7
Expenditures	(494)	(512)	(245)	(227)	(324)
Transfers (net)*	308	459	(47)	(35)	(38)
Ending Balance	\$1,454	\$1,469	\$1,243	\$1,056	\$766
Encumbrances	\$344	\$498	\$451	\$354	\$16

*Transfers from the Special Land and Development Fund and to DLNR's administration account for salaries of support staff positions and the Department of Accounting and General Services' Risk Management Office for DLNR's insurance allocation premiums and to correct treasury deposit receipts.

This fund does not meet the criteria of a special fund because it does not have the capacity to be financially self-sustaining, but it continues to serve the purpose for which it was originally created. Statutorily created in 2000, the fund was used to provide supplemental financial assistance to the Commission on Water Resource Management in order to carry out the mandates of the State Water Code which establishes criteria and procedures for regulating all uses of Hawai'i's water resources. Revenues are from water permit fees, a portion of water license considerations, fines for Water Code violations, and fees for copies of public documents. Expenditures include the collection and analysis of data, designating water management areas and water use regulations, planning, administering a permitting system, and contested case hearings.

DLNR acknowledges that the fund does not have the capacity to be financially self-sustaining as the fund does not generate sufficient revenues to offset annual expenditures. DLNR asserts that the program supported by the fund cannot be successfully implemented using the general fund appropriation process and notes that, if this fund is abolished, the revenues generated by the program would no longer be

retained by the program to support its activities and defray administrative costs. DLNR further asserts that the fund provides the program with flexibility in covering contested case-related expenses and that using the fund ensures these expenses can be paid timely without fear of funds lapsing or being depleted at the end of a fiscal year.

**Wildlife Revolving
Fund
(revolving fund)**

Section 183D-10.5, HRS

Financial Data for Fiscal Years 2014 – 2018 (in thousands)

	FY2014	FY2015	FY2016	FY2017	FY2018
Beginning Balance	\$116	\$17	\$59	\$297	\$480
Revenues	172	220	577	607	650
Interest	7	2	3	3	3
Expenditures	(278)	(180)	(342)	(427)	(482)
Transfers	0	0	0	0	0
Ending Balance	\$17	\$59	\$297	\$480	\$651
Encumbrances	\$26	\$18	\$59	\$68	\$102

This fund meets the criteria of a revolving fund and continues to serve the purpose for which it was originally created. Statutorily created in 1988, the fund is used to provide funds to manage and enhance public hunting opportunities in Hawai‘i. Revenues are from fees for hunting licenses, attendance at hunter education training programs, use of public target ranges; the importation, taking, catching, or killing of game or wildlife; fines or bail forfeitures for violations concerning wildlife conservation; sales of any article that a person is required to purchase from DLNR in order to hunt when the requirement is established by rule or law; and any related work of art. Expenditures include State funds to match federal aid grants under the Pittman-Robertson Federal Aid in Wildlife Restoration Act for projects concerning wildlife; programs and activities concerning wildlife conservation; acquisition of the use, development, or maintenance of trails and access-ways through forest or natural area reserves, game management areas, wildlife sanctuaries, public hunting areas, private and commercial shooting preserves, or private lands where hunting or hiking by the public is authorized; research programs and activities concerning wildlife conservation and management; and the importation, management, preservation, propagation, and protection of game or wildlife in the State.

Chapter 3

Observations on the Department of Land and Natural Resources' Reporting and Accounting for Funds

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.

During our review of the special funds, revolving funds, trust funds, and trust accounts of DLNR, we noted inconsistent adherence to statutory requirements and reporting of financial transactions and balances. In addition, twenty-two accounts totaling approximately \$1.9 million had no financial activity during our review period, resulting in unused moneys, and over \$26 million of State portion of ceded land revenues were not transferred to the State general fund in a timely manner.

Inactive Accounts Result in Unused Moneys of Nearly \$1.9 million

We noted three special funds and their related sub-accounts with remaining balances of nearly \$1.9 million as of June 30, 2018, had no financial activity during our review period. DLNR should close these sub-accounts and transfer the moneys to their appropriate funds. Leaving significant amounts of money in idle accounts is an inefficient use of public funds.

Exhibit 3.1 presents a summary of these inactive accounts with remaining balances.

Exhibit 3.1 DLNR Inactive Accounts with Remaining Balances

Fund Name	Fund Type	FY2017 Ending Balance (rounded)
Beach Restoration Special Fund	Special	
Beach Improvements, Statewide, Construction	sub-account	\$9,000
Kā'anapali Beach Restoration, Maui, Design	sub-account	50,000
Waikīkī Beach Maintenance, O'ahu, Construction	sub-account	175,000
Waikīkī Beach Maintenance, O'ahu, Design	sub-account	50,000
Special Land Development Fund	Special	
Acquisition of Land in Wai'ōma'o, Pālolo, O'ahu, Construction	sub-account	155,000
Acquisition of Land in Wai'ōma'o, Pālolo, O'ahu, Design	sub-account	5,000
Acquisition of Land in Wai'ōma'o, Pālolo, O'ahu, Land	sub-account	42,000
Acquisition of Land in Wai'ōma'o, Pālolo, O'ahu, Planning	sub-account	10,000
Diamond Head State Monument, O'ahu, Land	sub-account	440,000
DLNR Hazardous Waste Management Plan, Statewide, Planning	sub-account	250,000
Kawai Nui Marsh Maintenance Baseyard, O'ahu, Construction	sub-account	282,000
Kawai Nui Marsh Maintenance Baseyard, O'ahu, Design	sub-account	6,000
Moanalua Stream Dredging, O'ahu, Design	sub-account	24,000
Old Pu'unui Quarry Site Rockfall, O'ahu, Design	sub-account	1,000
Plan for the Development of Public Lands, Statewide, Planning	sub-account	300,000
State Parks Special Fund	Special	
Diamond Head State Monument, O'ahu, Design	sub-account	3,000
Interpretive Program Development, Statewide, Construction	sub-account	4,000
Kahana Valley State Park, O'ahu, Construction	sub-account	1,000
Kahana Valley State Park, O'ahu, Design	sub-account	35,000
Kona Coast State Park, Hawai'i, Construction	sub-account	9,000
Kona Coast State Park, Hawai'i, Design	sub-account	9,000
Wailuā River State Park, Kaua'i, Design	sub-account	16,000
Total		\$1,876,000

Source: Office of the Auditor

DLNR Did Not Report Non-General Funds as Required by Law

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 DLNR'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.

As shown in Exhibit 3.2, DLNR had non-general funds with balances totaling more than \$16.4 million and administratively created non-general funds with balances totaling more than \$30 million that were not reported to the 2018 Legislature as required by Sections 37-47 and 37-52.5, HRS, respectively.

Exhibit 3.2

DLNR Non-General Funds and Administratively Created Funds Not Reported to the Legislature

Fund Name	Fund Type	HRS 37-47 (Non- General)	FY2017 Ending Balance (rounded)	HRS 37-52.5 (Admin Created)	FY2017 Ending Balance (rounded)
Accrued Vacation and Sick Leave Fund	Trust Fund			✓	\$391,000
Boating Security Deposits	Trust Fund			✓	1,973,000
Conservation and Resources Enforcement	Special			✓	154,000
Donation, Gifts, and Grants from Private and Governmental Entities	Trust Account			✓	18,105,000
In-Lieu Fee Mitigation Program	Trust Fund			✓	6,175,000
Land and Natural Resources Natural and Physical Environment	Trust Fund	✓	\$16,000	✓	16,000
Land Division - Water Monitoring Services	Trust Account			✓	20,000
Native Resources and Fire Protection Program	Special	✓	827,000	✓	827,000
Native Resources and Fire Protection Program	Trust Fund	✓	74,000	✓	74,000
Natural Area Reserve Fund	Special	✓	15,399,000		
Preservation of Endangered Plants	Trust Fund			✓	0
Proceeds from Seizure/Forfeited Property	Trust Account	✓	0	✓	0
Recreational Renaissance - State Parks	Special	✓	0		
Temporary Deposits	Trust Account			✓	1,718,000
Temporary Deposits - Undistributed Proceeds Due Other Agencies	Trust Account			✓	575,000
Water Audits of Public Water Systems	Trust Account	✓	46,000	✓	46,000
Total			\$16,362,000		\$30,074,000

Source: Office of the Auditor

Over \$26 Million of State Portion of Ceded Land Revenues were not Transferred to the State General Fund in a Timely Manner

DLNR's trust account, "*Public Land Trust Funds, Ceded Land Proceeds for O'ahu, Maui, Hawai'i, and Kaua'i – General Fund Portion*," is a temporary holding account for the 80 percent share of general fund receipts derived from the use of ceded lands within the public land trust. The trust account has accumulated approximately \$30 million of ceded land proceeds through FY2017. Upon direction from the Governor or the Director of Budget and Finance (B&F), funds held in the account are used to make up any shortfall of the \$3,775,000 that the State is obligated to pay to the Office of Hawaiian Affairs (OHA) at the end of each fiscal quarter pursuant to the requirements of Act 178, SLH 2006.

On July 17, 2017, the B&F Director notified DLNR that the ceded land payments to OHA were sufficient to meet the obligation and requested DLNR transfer the account balances prior to FY2017 from the trust account to the general fund. In FY2018, DLNR transferred \$26.6 million to the general fund, representing its portion of ceded land proceeds through FY2016. DLNR should coordinate with B&F to ensure that the general fund portion of ceded land proceeds are transferred to the general fund at least annually.

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

Comments on Agency Response

WE TRANSMITTED A DRAFT of this review to DLNR on November 30, 2018. DLNR provided its written response to the draft report on December 6, 2018 (Attachment 1).

DLNR generally agreed with our findings and will take appropriate action to close two trust funds, one trust account, and two special funds that no longer serve their original purpose or do not serve a need and to reclassify one trust fund and one trust account.

DLNR disagreed with our analysis or provided additional information in its response regarding our conclusions about six special funds and one trust fund that are not financially self-sustaining. Although DLNR acknowledges that some of these are not financially self-sustaining, DLNR asserted that these funds are necessary to maintain the programs that these funds support. Our analyses of these funds are based on statutory criteria, one of which is that the funds must be financially self-sustaining. The “importance” of a fund or the program that a fund supports is not criteria that we are directed to use in our review of these funds.

DLNR also disagreed with our conclusion that two trust accounts should be reclassified as trust funds. We found that, based on the definition of a trust fund, DLNR’s use of these trust accounts is to hold funds for designated persons or classes of persons who have a vested beneficial interest, which is the purpose of a trust fund.

DLNR’s response does not provide information that supports or otherwise justifies revising our report. We believe that our analyses are appropriate and that the funds identified are not financially self-sustaining as required by the criteria. We also reaffirm our conclusion that the trust accounts identified in the report should be reclassified as trust funds.

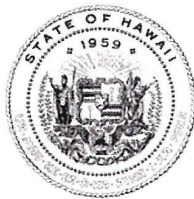
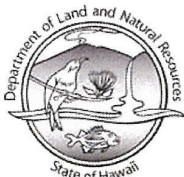
We also concluded that the Special Land and Development Fund did not completely meet criteria of a special fund because there is no clear nexus between the program and the portion of the highway fuel tax that is one of the fund’s sources of revenue. DLNR asserted that there is a nexus between the highway fuel tax and the protection of natural resources. Specifically, according to DLNR, visitors pay the highway fuel tax which funds the department’s natural resource protection programs and, in turn, helps to ensure sufficient access to the State’s natural resources to meet the needs of those visitors. The “nexus” articulated by DLNR between the fuel tax and the visitor industry is too tenuous. There must be a clear link between the revenue source and the program, which we did not find.

As to our other observations, DLNR agreed that any inactive fund balances will be returned to the originating fund; that it will comply in filing the required statutory reports; and that it will work with the Department of Budget and Finance to ensure that State portion of ceded land revenues is transferred to the State's general fund at least annually.

We are compelled to note our concerns about DLNR's cooperation in our review of its funds, a review that is mandated by statute. As part of our review process, we asked DLNR to provide information about each of its funds through a questionnaire that we provided in the beginning of June 2018. In responses to the questionnaires, DLNR identified at least three funds that it represented are supported through general fund appropriations, which raised questions about the capacity of these funds to be financially self-sustaining. In its response, DLNR contradicts its earlier representation, now stating that the funds are, in fact, self-sustaining. We had extensive communication with DLNR throughout our review period, including an exit conference at which we informed DLNR about our findings that those funds are not self-sustaining. At no time during the process, including the exit conference, did DLNR express disagreement with our findings relating to those funds, and more importantly, DLNR never corrected its representation that the funds are supported through general fund appropriations. We intentionally involve agencies throughout our review process to provide them with ample opportunity to provide us with accurate information, to supplement information, and to correct information. We expect agencies to cooperate in our review and to provide accurate information about their funds.

On November 26, 2018, at the exit conference, we asked DLNR to provide any additional information they would like us to consider by November 29, 2018. On November 27, 2018, DLNR sent us a copy of the non-general fund report for a fund that we concluded was not reported to the Legislature pursuant to Section 37-47, HRS. However, information that DLNR provided was not about the fund in question. It is concerning that DLNR does not appear to have a complete and thorough understanding of its funds, especially the information that is reported to the Legislature as required by statute.

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
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December 6, 2018

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

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

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

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

Dear Mr. Kondo:

Thank you for the opportunity to respond to your report entitled *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Land and Natural Resources*. We have reviewed the draft report and offer the following comments:

Assistance in Managing Land Fund

The Department agrees with the finding of the report. The approximately \$100,000 remaining in the trust fund as of 06/30/18, which represents the last transfer by the Office of Hawaiian Affairs (OHA) to the Department for the management of Wao Kele O Puna Forest Reserve, was returned to OHA as the primary management steward for the area in fiscal year 2019.

Beach Restoration Special Fund

The importance of this account cannot be overstated. It supports the “Coastal Lands” component of the Office of Conservation and Coastal Lands (OCCL). Hawaii’s beaches and public access to its beaches are threatened by beach erosion and shoreline development. Beach erosion will become more severe with the problem of sea level rise (<https://climateadaptation.hawaii.gov/wp-content/uploads/2018/01/SLR-Report-January-2018.pdf>). The fund supports contracts that are specifically designed to provide the technical expertise to develop beach restoration projects, soft erosion control measures, beach management (sand pushing), and streamlining and processing of applications for beach restoration projects. In addition, the special beach fund will be used to match other private and state funds to support large scale Waikiki Beach Improvements over the next five years. Without this fund, our efforts to raise awareness of the importance of beaches, and our ability to support beach restoration projects will be severely compromised. Given the threat of sea level rise we need to have a proactive program to protect and restore beaches where feasible.

Thus, we do not agree that the financing mechanism is inappropriate. This program should be specially funded because the source of funds is directly related to beach protection. For instance, one source of revenue is Transient Accommodations Tax (TAT). There is a strong nexus between the tourism tax and beach protection. Visiting beaches (Waikiki) is a major activity by visitors so it would make sense to allocate some TAT to beach protection and restoration. Another source of revenues is from shoreline encroachments. These encroachments essentially provide mitigation funds for the loss of beaches due to armoring of the shoreline. We have two highly relevant special fund sources for this account. If fund balances carry overs are a concern the reason for this is that beach restoration projects take time to implement due to planning and permitting issues. This results in account balance carry over from year to year, but we will execute the funds and have committed the funds for biennium beach restoration projects at Waikiki. Having this special fund has had a tremendous impact on our ability to protect our beaches.

Conservation and Resources Enforcement

The Department agrees that the fund would not have the capacity to be financially self-sustaining, based on the minimal amount of revenue it receives. However, pursuant to Act 296, SLH 1996, the responsibility of the Marine Patrol was transferred to DOCARE and this account was specifically created to receive revenues from the Boating Special Fund through cash transfers from the Division of Boating and Ocean Recreation (DOBOR). The Boating Special Fund is a revenue generating fund that is administered through DOBOR, and these revenues are used to support marine patrol.

The Division continues to rely on this special fund to administer the operating costs of its marine patrol unit that supports the enforcement of marine boating and ocean recreation rules for DOBOR. It is used to supplement the General Funding for Personal Services that are provided for this program. Maintaining this account is important to the Division's focus in marine patrol efforts.

Forest Stewardship Fund

Although these funds do not cover all costs for the management of the Forest Reserve System or the Forest Stewardship Program, they are used in combination with general fund appropriations and federal and county grants to accomplish and deliver the purposes of the program and fund. This fund is particularly important to supporting the development of economic opportunities within the Forest Reserve System, a primary purpose of LNR172 and includes the reinvestment of revenue into future revenue generating activities. The revenue from forest product sales, forest reserve permits, leases, and licenses are reinvested to sustain these types of activities and the broader management of the forest reserves. The forest stewardship fund is essential to financially sustaining certain activities within the Forest Reserve System, even if they do not cover all management costs for those areas.

Kahoolawe Rehabilitation Trust Fund

In the State Auditor's Report 13-06, the report also indicated that the Kaho'olawe Rehabilitation Trust Fund is not financially self-sustaining. The KIRC has addressed this comment by developing, submitting to the legislature and implementing a "Kaho'olawe Island Reserve Commission Financial Self-Sustainability Plan". The results of this plan have been successful and is documented in the State

Auditor Report No. 18-16 “*Report on Implementation of State Auditor’s Recommendations 2012 – 2016*”. The following links are provided for additional information:

<http://files.hawaii.gov/auditor/Reports/2018/18-16.pdf>

<http://www.kahoolawe.hawaii.gov/plans/KIRC%20Financial%20Sustainability%20Plan.pdf>

Land Division – Water Monitoring Services

The Department agrees with the Auditor that this account does not serve its original intent. However it still fulfills the purpose of a trust account for current transactions as reflected in the current title.

Native Resources and Fire Protection Program Special Fund

The Department agrees with the Auditor’s comments and shall close the account.

Native Resources and Fire Protection Program

DLNR agrees with the Auditor’s comments. The account shall be reclassified to a trust fund.

Natural Area Reserve Fund

The Department respectfully disagrees to the following statements:

“The fund no longer serves the purpose for which it was originally created.” This fund has been used for the intended purpose of HRS section 195-9. The DLNR intends on continuing to use this fund to support natural area reserves management by developing new revenue sources, such as parking fees from the Ahihi Kinau natural area reserve, and spending those funds to support the management of that reserve.

“The fund does not have the capacity to be financially self-sustaining”

Although the \$15M balance is not available to the Department per Act 12, SLH 2018, new revenues can be generated. The Natural Area Reserve Fund can provide additional funding to support the purposes of HRS section 195-9. In 2017, the Department modified HAR Ch. 13-209 to allow for parking fees to be collected in the Ahihi Kinau Natural Area Reserve, which is one of the most highly visited tourist destinations in the State. As specified in the administrative rules, revenues will be deposited in the Natural Area Reserve Fund. The Department anticipates that these fees will generate approximately \$360,000 per year and will begin collecting the fees this month. While that amount is not sufficient to support the full purposes of HRS 195-9, it will provide a much-needed additional source of revenue. The Department has explained to the Legislature and the public that the parking fees will go back to fund management of the Natural Area Reserves. The Governor’s FB 2019-21 Executive Budget includes a request for a ceiling increase to allow the Department to spend these revenues. A closure of this fund will have the following consequences:

- Dis-incentivize DLNR from collecting parking fees and for establishing other revenue sources for natural area reserve management.
- Contradict policy statements made to the public regarding the use of the parking fees.

- Reduce funding available for the management of natural area reserves.

DLNR is modeling the Natural Area Reserve Fund after the State Parks Special Fund. The State Parks Special fund also collects parking fees as a major source of revenue that provides funding to augment the general funds appropriated to the State Parks System. The audit report found that special fund meets the criteria of a special fund, so should make the same conclusion about the Natural Area Reserve Fund.

Preservation of Endangered Plants

The Department agrees with the Auditor's comments and shall close the account.

Proceeds from Seizure/Forfeited Property

The Department respectfully disagrees that this account functions more like a trust fund. A trust fund is described as "created or established by a gift, grant, contribution, device or bequest that limits the use of the fund to designated objects or purposes." This account has historically served as a holding account to deposit and keep proceeds from seized items until the suspect violation has been adjudicated. If the proceeds are deemed to be the property of the State, the Division has discretion on how it expends the proceeds on allowable other expenditures, and there are no designated beneficiaries of the funds.

The Department agrees that the account has not had significant recent activity and currently lacks revenue. The Division has not seen activity for many years due to its inability to legally forfeit for natural resources cases. However, the need for this account still exists for future cases where forfeiture is necessary, such as in narcotics and illegal weapons cases.

DLNR has not yet met the legal requirements set forth in the case of *Carlisle v. One Boat*. This case law requires promulgating a forfeiture penalty within DLNR's administrative rules so that forfeiture can be used as a penalty in natural resources cases. Thus, activity within this fund has been minimal. DLNR, however, continues to retain authority to conduct forfeiture in non-natural resources cases such as those involving narcotics, and illegal weapons. Consequently, the Division will require the means to deposit and hold forfeiture proceeds.

In 2009, the account was suspended due to inactivity, but the Division needed to re-activate the account for this purpose. Depositing of proceeds from forfeitures into the Conservation and Resources Enforcement Special Fund, where the Division currently receives a continuous flow of funds and expenditures relating to the Transient Accommodations Tax, would compromise the tracking of the proceeds from these forfeitures.

It is important to segregate monies obtained from forfeiture from other monies. Generally, forfeiture funds were obtained from the proceeds of criminal acts, or were funds used to facilitate or in direct commission of crime. To protect the integrity of the Division's funds, it is essential that forfeiture funds are not comingled with other funds. This will assist in maintaining the integrity of DOCARE's monies, and assure that the funds are trackable.

Public Land Trust, Ceded Lands Proceeds for O'ahu, Maui, Hawaii, and Kaua'i – Division of Boating and Ocean Recreation

DLNR agrees with the Auditor's comment pertaining to the ceded land proceeds trust fund. We understand that, although the collection of the OHA funds was part of our fiduciary responsibility to the Office of Hawaiian Affairs, the account was a pass through for the funds from DOBOR to OHA. The account shall be reclassified to a trust account.

Recreational Renaissance – State Parks

The Department agrees with the Auditor's comments and shall close the account.

Special Land and Development Fund

The Auditor states the Special Land and Development Fund (SLDF) does not completely meet the criteria of a special fund because there is no clear nexus between the program and the portion of the highway fuel tax which is one of the fund's sources of revenue. But the highway fuel tax is strictly a pass-through to the Na Ala Hele trails program of the Department and is expressly authorized in Section 171-19, HRS. Furthermore, there is a nexus between the fuel tax and the Department's natural resource protection and preservation programs. Fuel taxes are paid by a broad range of consumers, including tourists, the tourism industry, local business operators and residents. The taxes they pay go toward natural resource protection. Supporting Na Ala Hele and the protection of other resources provides access to open space, recreational and cultural opportunities for both visitors and residents. Funding for management of Na Ala Hele helps to ensure sufficient access to natural resources to meet the diverse needs of the State's increasing visitor arrivals and resident population. In sum, these actions help to maintain the State's economic viability as a desired locale for both residents and visitors alike.

Sports Fish Special Fund

This fund continues to serve the purpose for which it was originally created which is to protect recreational fishing license revenues from being diverted to the State's general fund. The fund was statutorily created in 1993 to ensure compliance with the Federal Aid Sport Fish Restoration (SFR) Act and to participate in this program assent legislation was passed to prohibit diversion of license fees for any purpose other than managing our fisheries. Any diversion of license revenues would jeopardize \$3.5 million Hawaii receives annually in SFR grant funds from the U.S. Fish and Wildlife Service. These grants provide match funds for a variety of programs, including restoration and management of fishery resources. Moneys are generated through fees for freshwater fishing licenses, sales of publications, fines and donations. Expenses include a salary match for a fishery technician supported mainly by SFR funding and for supplies such as food for rainbow trout and largemouth bass and printing of license books. The fund has the capacity to be self-supporting; however, revenues although stable, are presently at a lower level than a decade ago due to the closure of a popular urban reservoir for channel catfish fishing. Plans are to raise license fees next year which have not been increased since this fund was established over 25 years ago.

Temporary Deposits

The Department respectfully disagrees with the Auditor's finding that the account functions more like a trust fund. In Report No. 14-04 (Auditor's prior fund review), this was classified as a trust account. Based on the previous report, the account met the criteria of a trust account. There has been no change on the revenues deposited to the account and expenditures that were charged.

Water Resource Management Fund

DLNR concurs with the Auditor's observation but would like to clarify the statement below:

"DLNR asserts that the program supported by the fund cannot be successfully implemented using the general fund appropriation process and notes that, if this fund is abolished, the revenues generated by the program would no longer be retained by the program to support its activities and defray administrative costs"

We would like to clarify that if sufficient additional general funds were made available, the program currently supported by the Fund could continue to be implemented. And as Section 174C-61, HRS, authorizes that the fees collected by CWRM be used to defray the administrative costs of the permit systems, DLNR would need to find a way to retain those fees, in lieu of having them deposited into the Fund as is presently occurring.

Inactive Accounts with Remaining Balances

DLNR acknowledges the Auditor's observations on inactive accounts with remaining balances but would like to clarify that the inactivity is only temporary. The fund balances are still needed to complete various planned projects and land acquisitions. Some projects are in the process of obtaining permits and they are anticipated to proceed into the design phase; and accounts earmarked for land acquisitions were put on hold pending resolution of land issues. The Department assures that any unrequired fund balances will be returned to the originating fund upon completion of special funded CIP projects.

Non-General Funds and Administratively Created Funds Not Reported to the Legislature

The Department acknowledges the findings and/or observation and will take the appropriate measures to ensure compliance. Specifically, we will develop a checklist to ensure that the annual non-general fund report submissions are complete.

State Portion of Ceded Land Revenues were not Transferred to the State General Fund in a Timely Manner

DLNR acknowledges the Auditor's observation but would like to clarify that the Department did not intentionally keep the funds for some other purposes. The "Public Land Trust Funds, Ceded Land Proceeds for Oahu, Maui, Hawaii and Kauai – General Fund Portion," is a holding account to cover shortfalls in the annual payment to the Office of Hawaiian Affairs (OHA) of \$15.1 million pursuant to Executive Order No. 06-06. Such shortfalls occurred in the past, and revenues generated by the

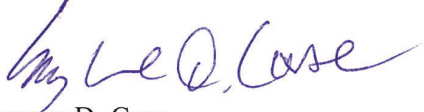
Honorable Leslie H. Kondo, State Auditor
December 6, 2018
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Department were used to make up the difference. The annual payment amount of \$15.1 million was established by the Legislature, who could conceivably increase the payment amount. In recent years, OHA has asked the Legislature to double the amount of the payment, noting that the Department of Transportation, Airports Division, pays no portion of its revenues to OHA. In the event of an increase, excess funds in this account may be needed to make up the payment of an increased amount to OHA.

Under Section 171-19, HRS, the Department is allowed to hold enough funds to ensure it can meet expenses for “the next following fiscal year.” DLNR waits for B&F’s notification for these funds to be transferred to the general funds. As stated on the draft report, as soon as B&F requested the transfer of these funds, they were transferred to the general funds. Going forward, DLNR shall coordinate with B&F to ensure a timely transfer of these funds to the general fund.

DLNR appreciates the work put forward by the Auditor’s Office and is grateful for the opportunity to provide a response. Please contact me at 587-0401 if you have any questions or your staff may contact Cynthia Gomez at 587-0340 or via email at cynthia.c.gomez@hawaii.gov.

Sincerely,



Suzanne D. Case
Chairperson
