Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary

A Report to the Governor and the Legislature of the State of Hawaiʻi

Report No. 26-10
July 2026

OFFICE OF THE AUDITOR
STATE OF HAWAIʻI

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Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawaiʻi 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.

Hawaiʻi 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 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, annual reviews of tax incentives, 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.

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Foreword

This is a report of our review of the special funds, revolving funds, trust funds, and trust accounts of the Judiciary.

Section 23-12, Hawaiʻi 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 include trust accounts as part of our review. This is our seventh review of the revolving funds, trust funds, and trust accounts of the Judiciary. It is our third review of its special funds since Section 23-12, HRS, was amended by Act 130, Session Laws of Hawaiʻi 2013, to include reviews of special funds.

We wish to express our appreciation for the cooperation and assistance extended to us by the Judiciary.

Leslie H. Kondo
State Auditor

Table of Contents

List of Exhibits

Chapter 1
Introduction

This review encompasses the special funds, revolving funds, trust funds, and trust accounts administered by the Judiciary. 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. 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 funded outside of the general fund appropriation process and are therefore generally subject to less legislative scrutiny than the State's General Fund. For each fund and account, our review included:

1. An evaluation of the original intent and purpose of the fund or account, both as expressed by the Legislature and as understood by the expending agency;
2. The degree to which the fund or account achieves its stated and claimed purposes;
3. An evaluation of the fund or account'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 or account balance at the beginning of each fiscal year, total deposits and withdrawals, amount of interest earned, total expenditures made from the fund or account, and the ending balance for each fiscal year.

This is our seventh review of the Judiciary's revolving funds, trust funds, and trust accounts.[1] It is our third review of the Judiciary's special funds, since Act 130, Session Laws of Hawai‘i (SLH) 2013, amended Section 23-12, HRS, to require review of special funds along with revolving funds and trust funds. We last examined these funds and accounts in 2020.

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 the assets held 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 in this report to review trust funds and trust accounts are the extent to which the fund or 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 the Judiciary.

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 (FY2021 – FY2025) unaudited financial summary for each fund and account of the Judiciary.

Scope and Methodology

We reviewed all special funds, revolving funds, trust funds, and trust accounts administered by the Judiciary during the five-year period under review (FY2021 – FY2025). Funds and accounts included those established by statute as well as administratively.

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, 2020 to June 30, 2025), 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 FY2020 reported in our last review and opening balances reported for FY2021. We did not audit the department's financial data, which we provide 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 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. 20-17, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary*.

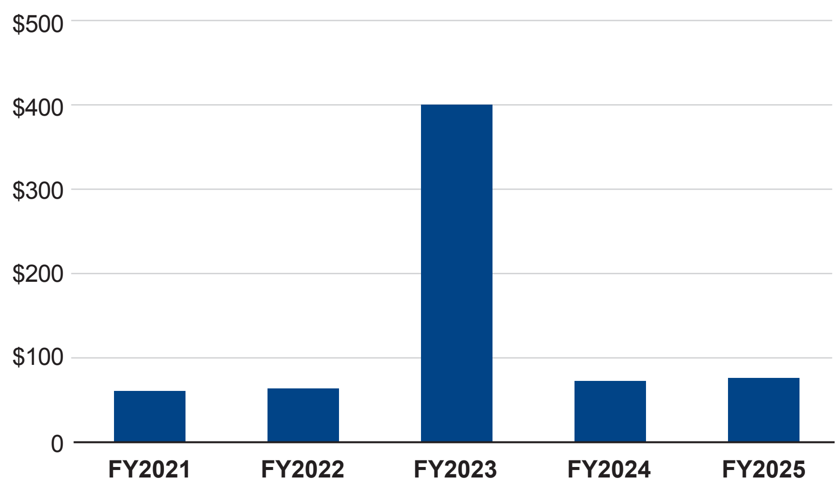
Our review was conducted from December 2025 to March 2026. Recommendations were made where applicable.

Chapter 2
Judiciary

This chapter presents the results of our review of six special funds, two revolving funds, 12 trust funds, and two trust accounts. Total fund fiscal year-end balances for the Judiciary were at least $60 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 Judiciary's Non-General Funds
FY2021 – FY2025 (in millions)



	FY2021	FY2022	FY2023	FY2024	FY2025
Total	**$60,000,000**	**$63,000,000**	**$401,000,000**	**$72,000,000**	**$76,000,000**

Source: Office of the Auditor

In FY2025, the special funds, revolving funds, trust funds, and trust accounts collected approximately $90.5 million and spent or transferred approximately $86.2 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 FY2025.

Exhibit 2.2
Fund and Account Totals by Type, FY2025

Fund Type	Revenue and Interest	Expenses and Transfers	FY2025 End Cash Balance
Special Funds	$8,673,000	$7,336,000	$9,505,000
Revolving Funds	15,000	14,000	54,000
Trust Funds/ Trust Accounts	81,832,000	78,831,000	66,847,000
Total	**$90,520,000**	**$86,181,000**	**$76,406,000**

Source: Office of the Auditor

For each fund and account, we present a five-year financial summary, the purpose of the fund, and conclusions about its use and whether it meets the definition of the type of fund or account. This review does not include an assessment of the effectiveness of the program or its management. Funds are presented in alphabetical order.

Exhibit 2.3 presents the Judiciary funds that did not meet criteria for continuance and should be closed or reclassified.

Exhibit 2.3
Funds Not Meeting Criteria

Fund Name	Fund Type	FY2025 Ending Balance	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
Agency Fund (Not in State Treasury)	Trust Account	$65,368,390					✓
Juvenile Detention Alternatives Initiative VII	Trust Fund	13,595	✓				
Memorandum of Agreement with the Alcohol and Drug Abuse Division to Implement the Hawai‘i Drug Court Program	Trust Fund	92,716					✓
Memorandum of Agreement with the Alcohol and Drug Abuse Division to Implement the Driving While Impaired Court Program	Trust Fund	106,262					✓
Supreme Court Bar Examination Fund	Trust Fund	437,934					✓
Total		**$66,018,897**					

Source: Office of the Auditor

Agency Fund (Not in State Treasury)

Financial Data for Fiscal Years 2021 – 2025 (in thousands)	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$49,152	$53,685	$55,137	$392,233	$62,442
Revenues	66,224	71,368	402,842	81,074	79,359
Interest	0	0	0	0	0
Expenditures	(61,691)	(69,916)	(65,746)	(410,865)	(76,433)
Transfers	0	0	0	0	0
Ending Balance	**$53,685**	**$55,137**	**$392,233**	**$62,442**	**$65,368**
Encumbrances	$0	$0	$0	$0	$0

Fund Summary

Account Type

Trust account

How was the account created?

Administratively established (1980)

Why was it created?

The account is used by the Judiciary to record funds, held in a trustee or agency capacity, outside of the state treasury.

Account meets criteria?

This account does *not* meet all the criteria of a trust account because it functions more like a trust fund but continues to serve the purpose for which it was originally established. Trust funds invoke a fiduciary responsibility of state government to care for and use the assets held only for those designated to benefit from the funds while trust accounts are used to hold funds for other state agencies. ***Therefore, the account should be reclassified as a trust fund.***

Performance standards

No, the account does not have performance standards.

Revenues

Revenues are from moneys deposited with the courts, such as appeal deposits, bail, bonds, case deposits, court costs, court expenditure reimbursements, court fees, fines, restitutions, unclaimed estates, and naturalization fees. Moneys are also collected for others and disbursed as trust disbursements, government realizations, reimbursements of expenditures, or agency disbursements.

Expenditures

Expenditures are disbursements of the moneys in accordance with a court order or as trust disbursements, government realizations, reimbursements of expenditures, or agency disbursements.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Yes.

Court Interpreting Services Revolving Fund

Section 607-1.5, HRS

Financial Data for Fiscal Years 2021 – 2025 (in thousands)

	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$37	$37	$38	$38	$36
Revenues	0	1	6	4	8
Interest	0	0	1	2	1
Expenditures	0	0	(7)	(8)	(8)
Transfers	0	0	0	0	0
Ending Balance	**$37**	**$38**	**$38**	**$36**	**$37**
Encumbrances	$0	$0	$0	$1	$1

Fund Summary

Account Type

Revolving fund

How was the fund created?

Act 184 (SLH 2005)

Why was it created?

The fund is used to support the Court Interpreter Certification Program's educational services and program activities relating to the training, screening, testing, and certification of court interpreters.

Fund meets criteria?

This fund meets the criteria of a revolving fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from fees and charges for program activities and services related to court interpreter training, screening, testing, and certification.

Expenditures

Expenditures include costs associated with the Court Interpreter Certification Program such as facilities, materials, supplies, and travel expenses.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

No.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Not applicable; the fund was established pursuant to an act.

Detention Home Donation Fund

Financial Data for Fiscal Years 2021 – 2025 (in thousands)	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$16	$15	$15	$15	$15
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	(1)	0	0	0	0
Transfers	0	0	0	0	0
Ending Balance	**$15**	**$15**	**$15**	**$15**	**$15**
Encumbrances	$0	$0	$0	$0	$2

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established

Why was it created?

The fund is used to purchase items for juveniles held at the detention facility operated by the Detention Services Division of the Family Court of the First Circuit.

Fund meets criteria?

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from donations. According to the department, in recent years, food and items have been donated during the holiday season in lieu of monetary donations; therefore, no revenues were recognized during the review period.

Expenditures

Expenditures include supplies for detainees such as water bottles, shoes, and personal hygiene items, as well as holiday food items. However, as food and items have been donated in recent years in lieu of monetary donations, there have been little to no expenditures recognized.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Yes.

Driver Education and Training Fund

Section 286G-2, HRS

Financial Data for Fiscal Years 2021 – 2025 (in thousands)

	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$848	$1,214	$1,614	$2,015	$2,099
Revenues	2,209	1,963	1,965	1,952	1,893
Interest	3	4	22	54	51
Expenditures	(2,416)	(1,867)	(1,586)	(1,922)	(2,280)
Transfers*	570	300	0	0	0
Ending Balance	**$1,214**	**$1,614**	**$2,015**	**$2,099**	**$1,763**
Encumbrances	$95	$49	$53	$58	$61

*Transfers from the First Circuit General Fund to temporarily cover cash flow deficits for payroll and other expenses during the COVID-19 pandemic.

Fund Summary

Account Type

Special fund

How was the fund created?

Act 91 (SLH 1974)

Why was it created?

The fund is used for driver education and training programs administered by the Judiciary.

Fund meets criteria?

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the account does not have performance standards.

Revenues

Revenues are from driver education assessments from drivers who commit traffic violations and an underwriter's fee for each insured motor vehicle.

Expenditures

Expenditures include employee salaries, rent for offices and classrooms, educational and office supplies, and travel costs.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Not applicable; the fund was established pursuant to an act.

Evaluation of Effectiveness of the New Women's Court

Financial Data for Fiscal Years 2023 – 2025 (in thousands)

	FY2023	FY2024	FY2025
Beginning Balance	$0	$15	$0
Revenues	15	0	0
Interest	0	0	0
Expenditures	0	(15)	0
Transfers	0	0	0
Ending Balance	**$15**	**$0**	**$0**
Encumbrances	$0	$0	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (2022)

Why was it created?

The fund was used to account for a grant from the HMSA Foundation to evaluate the new Women's Court to determine the extent to which its goals and mission were met.

Fund meets criteria?

This fund was closed in FY2025 after all funds were expended.

Foreclosure Assistance Program

Financial Data for Fiscal Years 2021 – 2024 (in thousands)	FY2021	FY2022	FY2023	FY2024
Beginning Balance	$13	$13	$13	$13
Revenues	0	0	0	0
Interest	0	0	0	0
Expenditures	0	0	0	(13)
Transfers	0	0	0	0
Ending Balance	**$13**	**$13**	**$13**	**$0**
Encumbrances	$0	$0	$0	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (2012)

Why was it created?

The fund was used to create temporary legal staff positions in the Judiciary funded by the Department of the Attorney General's Foreclosure Assistance Program to assist courts with processing foreclosure cases.

Fund meets criteria?

This fund was closed in FY2024, and the remaining balance was returned to the Department of the Attorney General.

Hawai‘i State Judiciary – COVID-19 Citations

Financial Data for Fiscal Year 2021 (in thousands)

	FY2021
Beginning Balance	$0
Revenues	140
Interest	0
Expenditures	(140)
Transfers	0
Ending Balance	**$0**
Encumbrances	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (2020)

Why was it created?

The fund was used to reimburse the Judiciary from the City and County of Honolulu for overtime, per diem payroll expenses, and postage incurred for the processing and adjudication of an unusually high number of citations due to violations of COVID-19 emergency orders.

Fund meets criteria?

The fund was closed in FY2021 after all funds were expended.

Indigent Legal Assistance Fund

Section 607-5.7(f), HRS

Financial Data for Fiscal Years 2021 – 2025 (in thousands)

	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$469	$547	$540	$545	$640
Revenues	1,187	1,109	1,106	1,191	1,406
Interest	2	2	10	17	18
Expenditures	(1,111)	(1,118)	(1,111)	(1,113)	(1,130)
Transfers	0	0	0	0	0
Ending Balance	**$547**	**$540**	**$545**	**$640**	**$934**
Encumbrances	$0	$0	$0	$0	$0

Fund Summary

Account Type

Special fund

How was the fund created?

Act 305 (SLH 1996), as amended by Act 131 (SLH 2001)

Why was it created?

The fund is used to distribute grants to non-profit organizations that provide civil legal services to indigent persons.

Fund meets criteria?

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from surcharges on initial filing fees in civil court cases. The proceeds of the filing fee surcharge are used to enable indigents to secure attorneys who will expedite client cases allowing the courts to hear and decide claims of nonindigent litigants more efficiently.

Expenditures

Expenditures include grants distributed to qualifying non-profit organizations that provide civil legal services to indigent persons.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Not applicable; the fund was established pursuant to an act.

Innovations Initiative Management Training – State Justice Institute

Financial Data for Fiscal Year 2021 (in thousands)	FY2021
Beginning Balance	$0
Revenues	15
Interest	0
Expenditures	(15)
Transfers	0
Ending Balance	**$0**
Encumbrances	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (2019)

Why was it created?

The fund was used to provide two courses – Project Management and Educational Development – to Hawai‘i judicial officers and court personnel through a grant from the State Justice Institute.

Fund meets criteria?

This fund was closed in FY2021 after all funds were expended.

Judiciary Computer System Special Fund

Section 601-3.7, HRS

Financial Data for Fiscal Years 2021 – 2025 (in thousands)	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$1,996	$2,728	$3,655	$4,087	$4,652
Revenues	5,023	4,800	4,625	4,630	4,642
Interest	11	9	64	137	134
Expenditures	(4,302)	(3,882)	(4,257)	(4,202)	(3,494)
Transfers	0	0	0	0	0
Ending Balance	**$2,728**	**$3,655**	**$4,087**	**$4,652**	**$5,934**
Encumbrances	$223	$375	$604	$876	$687

Fund Summary

Account Type

Special fund

How was the fund created?

Act 203 (SLH 1996)

Why was it created?

The fund is used to support the Judiciary's statewide computer system.

Fund meets criteria?

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from administrative fees for processing traffic citations, furnishing certified abstracts of traffic records, and filings of civil court cases.

Expenditures

Expenditures include consulting fees and the costs to upgrade and maintain the Judiciary's computer system.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Not applicable; the fund was established pursuant to an act.

Juvenile Detention Alternatives Initiative VII

Financial Data for Fiscal Years 2021 – 2025 (in thousands)

	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$14	$14	$14	$14	$14
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	**$14**	**$14**	**$14**	**$14**	**$14**
Encumbrances	$0	$0	$0	$0	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (2017)

Why was it created?

The fund was used to implement the Juvenile Detention Alternatives Initiative (JDAI), which addressed the efficiency and effectiveness of juvenile detention.

Fund meets criteria?

This fund does *not* meet all the criteria of a trust fund because it no longer serves its purpose. According to the Judiciary, the term of the fund expired in 2019 so the balance will be returned to the Annie E. Casey Foundation, and the fund will be closed.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues were from a grant from the Annie E. Casey Foundation.

Expenditures

Expenditures included food and supplies for meetings, travel expenses, and consultant fees related to implementation of the JDAI. However, there were no expenditures during the review period.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Yes.

Memorandum of Agreement with the Alcohol and Drug Abuse Division to Implement the Hawai‘i Drug Court Program

Financial Data for Fiscal Years 2022 – 2025 (in thousands)

	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$0	$76	$142	$156
Revenues	76	76	76	0
Interest	0	0	0	0
Expenditures	0	(10)	(62)	(63)
Transfers	0	0	0	0
Ending Balance	**$76**	**$142**	**$156**	**$93**
Encumbrances	$0	$14	$7	$34

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (2022)

Why was it created?

The fund is used to implement and sustain the Judiciary's Hawai‘i Drug Court Program (HDCP) and Adult Client Services Branch.

Fund meets criteria?

This fund does *not* meet all the criteria of a trust fund because it functions more like a trust account but continues to serve the purpose for which it was originally established. Trust funds invoke a fiduciary responsibility of state government to care for and use the assets held only for those designated to benefit from the funds while trust accounts are used as a separate holding or clearing account for state agencies or as accounting devices to credit or charge agencies or projects for payroll or other costs. In this case, the fund receives transfers from the Department of Health through a Memorandum of Agreement in full consideration of the services performed by the Judiciary in administering the HDCP. ***Therefore, the fund should be reclassified as a trust account.***

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are transfers from the Department of Health's Alcohol and Drug Abuse Division per a Memorandum of Agreement.

Expenditures

Expenditures include drug testing, preparations for HDCP clients seeking employment, database annual maintenance, and costs related to driver education and to enable HDCP clients to attend community outreach court.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Yes.

Memorandum of Agreement with the Alcohol and Drug Abuse Division to Implement the Driving While Impaired Court Program

Financial Data for Fiscal Years 2021 – 2025 (in thousands)

	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$62	$58	$120	$123	$110
Revenues	200	200	220	230	240
Interest	0	0	0	0	0
Expenditures	(204)	(138)	(217)	(243)	(244)
Transfers	0	0	0	0	0
Ending Balance	**$58**	**$120**	**$123**	**$110**	**$106**
Encumbrances	$0	$0	$0	$0	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (2019)

Why was it created?

The fund is used to support the Driving While Impaired (DWI) Court Program, including two full-time staff positions required to operate the program.

Fund meets criteria?

This fund does *not* meet all the criteria of a trust fund because it functions more like a trust account but continues to serve the purpose for which it was originally established. Trust funds invoke a fiduciary responsibility of state government to care for and use the assets held only for those designated to benefit from the funds while trust accounts are used as a separate holding or clearing account for state agencies or as accounting devices to credit or charge agencies or projects for payroll or other costs. In this case, the fund receives transfers from the Department of Health through a Memorandum of Agreement in full consideration of the services performed by the Judiciary in administering the DWI Court Program. ***Therefore, the fund should be reclassified as a trust account.***

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are transfers from the Department of Health's Alcohol and Drug Abuse Division (ADAD) per a Memorandum of Agreement.

Expenditures

Expenditures include the salaries of the DWI Court Coordinator and DWI Court Case Manager; and other costs such as office supplies.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Yes.

Additional information

In Report No. 20-17, we noted that the fund met the criteria of a trust account; however, the Judiciary confirmed during the current review that it is a trust fund. We maintain that the fund meets the definition of a trust account.

Additionally, the Judiciary stated that funding from the Department of Health's ADAD will decline significantly beginning in October 2025; therefore, the two DWI Court Program positions will be funded by the Judiciary's general funds.

Parent Education Special Fund

Section 607-5.6, HRS

Financial Data for Fiscal Years 2021 – 2025 (in thousands)	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$212	$304	$401	$450	$489
Revenues	118	107	96	100	106
Interest	2	1	8	16	15
Expenditures	(28)	(11)	(55)	(77)	(99)
Transfers	0	0	0	0	0
Ending Balance	**$304**	**$401**	**$450**	**$489**	**$511**
Encumbrances	$2	$13	$11	$25	$16

Fund Summary

Account Type

Special fund

How was the fund created?

Act 274 (SLH 1997), as amended by Act 41 (SLH 2003)

Why was it created?

The fund is used to fund Kids First, a parent education program intended to educate parents who are separating and either parent has a minor child, or for parties in parentage actions where minor children are involved, on the impact separations have on children and to help separating parties avoid future legal disputes.

Fund meets criteria?

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from a $50 surcharge on filing fees for matrimonial or parentage actions where either party has a minor child.

Expenditures

Expenditures include training program fees, security services, and food supplies related to the education programs.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Not applicable; the fund was established pursuant to an act.

Probation Services Special Fund

Section 706-649, HRS

Financial Data for Fiscal Years 2021 – 2022 (in thousands)

	FY2021	FY2022
Beginning Balance	$209	$373
Revenues	397	0
Interest	2	0
Expenditures	(235)	(6)
Transfers*	0	(367)
Ending Balance	**$373**	**$0**
Encumbrances	$6	$0

*In FY2022, the fund was repealed by Act 9 (SLH 2021), and closed, as recommended by the Auditor in Report No. 20-17. The remaining balance of $367,051 was transferred to the General Fund.

Fund Summary

Account Type

Special fund

How was the fund created?

Act 205 (SLH 2000)

Why was it created?

The fund was used to pay for the costs of the probation services program, including providing evidence-based training to probation officers and the costs of two employee positions.

Fund meets criteria?

This fund was closed in FY2022, as recommended by the Auditor in Report No. 20-17, and the remaining balance was transferred to the General Fund.

Promote and Advance Civic Education Commission

Financial Data for Fiscal Years 2022 – 2025 (in thousands)	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$0	$15	$25	$21
Revenues	15	15	0	0
Interest	0	0	0	0
Expenditures	0	(5)	(4)	(5)
Transfers	0	0	0	0
Ending Balance	**$15**	**$25**	**$21**	**$16**
Encumbrances	$0	$0	$0	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (2021)

Why was it created?

The fund is used to support the activities of the Promote and Advance Civic Education (PACE) Commission that increase education about government and democracy in communities and schools.

Fund meets criteria?

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from donations from the U.S. District Court of Hawai‘i Attorney Admission Fund through a Memorandum of Agreement with the Supreme Court of the State of Hawai‘i.

Expenditures

Expenditures include costs for promotional and educational materials, and travel and attendance expenses for commission members participating in events and conferences.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Yes.

Rent Trust Fund

Financial Data for Fiscal Years 2021 – 2025 (in thousands)	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$298	$562	$627	$807	$597
Revenues	557	513	1,182	2,738	2,087
Interest	0	0	0	0	0
Expenditures	(293)	(448)	(1,002)	(2,948)	(1,917)
Transfers	0	0	0	0	0
Ending Balance	**$562**	**$627**	**$807**	**$597**	**$767**
Encumbrances	$0	$0	$0	$0	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (1984)

Why was it created?

The fund is used to hold disputed rent in landlord-tenant cases until the court rules on the case and orders payment of the funds.

Fund meets criteria?

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from court-ordered disputed rents.

Expenditures

Expenditures include payments ordered by the court to the prevailing party.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Yes.

Restitution, Family Courts

Financial Data for Fiscal Years 2021 – 2025 (in thousands)	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$40	$40	$40	$35	$33
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	(5)	(2)	(4)
Transfers	0	0	0	0	0
Ending Balance	**$40**	**$40**	**$35**	**$33**	**$29**
Encumbrances	$0	$0	$1	$1	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (1989)

Why was it created?

The fund is used to account for donations from the Jean and William Mau Foundation that are used to pay restitution to victims of juvenile offenders based on the number of credits the offender earns for community service.

Fund meets criteria?

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues were from donations from the Jean and William Mau Foundation to the Family Court's Juvenile Monetary Restitution Recovery Program. There were no revenues during the review period.

Expenditures

Expenditures include payments of restitution to victims of juvenile offenders.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Yes.

Spouse and Child Abuse Special Account

Section 601-3.6, HRS

Financial Data for Fiscal Years 2021 – 2025 (in thousands)

	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$159	$150	$200	$306	$288
Revenues	328	404	461	370	397
Interest	2	1	4	10	11
Expenditures	(339)	(355)	(359)	(398)	(333)
Transfers	0	0	0	0	0
Ending Balance	**$150**	**$200**	**$306**	**$288**	**$363**
Encumbrances	$36	$26	$36	$0	$31

Fund Summary

Account Type

Special fund

How was the fund created?

Act 232 (SLH 1994)

Why was it created?

The fund is used for programs that address domestic violence and child abuse intervention and prevention.

Fund meets criteria?

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from fees charged by the Department of Health for marriage licenses and certificates, birth and death certificates, voluntary tax contributions, and fines for violations of restraining orders and protective orders.

Expenditures

Expenditures include funding for programs, grants, and purchases of services that address domestic violence and child abuse.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Not applicable; the fund was established pursuant to an act.

Supreme Court Bar Examination Fund

Financial Data for Fiscal Years 2021 – 2025 (in thousands)	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$473	$500	$514	$494	$460
Revenues	144	135	146	144	145
Interest	0	0	0	0	0
Expenditures	(117)	(121)	(166)	(178)	(167)
Transfers	0	0	0	0	0
Ending Balance	$500	$514	$494	$460	$438
Encumbrances	$0	$0	$0	$0	$0

Fund Summary

Account Type

Trust fund

How was the fund created?

Administratively established (1994)

Why was it created?

The fund is used to receive application fees from individuals who are taking the Hawai‘i bar examination and the fees are used to pay the costs to administer the bar examination.

Fund meets criteria?

This fund does *not* meet all the criteria of a trust fund because it functions more like a revolving fund, being replenished through charges made for the goods or services rendered by a state agency but continues to serve the purpose for which it was originally established. Trust funds invoke a fiduciary responsibility of state government to care for and use the assets held only for those designated to benefit from the funds. ***Therefore, the fund should be reclassified as a revolving fund.***

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from bar examination application fees, reimbursements from a third-party vendor for applicants who use their laptop to take the exam, and travel reimbursements for Board members and Judiciary staff to attend conferences.

Expenditures

Expenditures include the costs associated with the administration of the bar examinations such as purchasing exam materials and rent for the testing facility.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Yes.

Supreme Court Law Library Revolving Fund

Section 601-3.5, HRS

Financial Data for Fiscal Years 2021 – 2025 (in thousands)

	FY2021	FY2022	FY2023	FY2024	FY2025
Beginning Balance	$13	$13	$13	$14	$17
Revenues	3	5	5	5	6
Interest	1	0	0	1	1
Expenditures	(4)	(5)	(4)	(3)	(6)
Transfers	0	0	0	0	0
Ending Balance	**$13**	**$13**	**$14**	**$17**	**$18**
Encumbrances	$0	$0	$0	$0	$0

Fund Summary

Account Type

Revolving fund

How was the fund created?

Act 47 (SLH 1990), as amended by Act 64 (SLH 1993)

Why was it created?

The fund is used to replace or repair lost or damaged library items, purchase additional materials and resources, upgrade computer systems, increase the availability of electronic legal resources, and to support and improve library services.

Fund meets criteria?

This fund meets the criteria of a revolving fund and continues to serve the purpose for which it was originally established.

Performance standards

No, the fund does not have performance standards.

Revenues

Revenues are from fines for overdue library materials; replacement costs for lost library materials and lost library cards; and charges for copying, faxing, and printing library materials.

Expenditures

Expenditures include subscriptions to legal resources; replacement or repair of lost, damaged, stolen, unreturned, or outdated books; photocopier lease fees; and the costs of upgrading computer systems.

Reported pursuant to Section 37-47, HRS

Yes.

Reported pursuant to Section 37-48, HRS

Yes.

Reported pursuant to Section 37-49, HRS

Yes.

Reported pursuant to Section 37-52.5, HRS

Not applicable; the fund was established pursuant to an act.

Temporary Deposits – Payroll Clearing

Financial Data for Fiscal Years 2021 – 2022 (in thousands)

	FY2021	FY2022
Beginning Balance	$7	$8
Revenues	1	0
Interest	0	0
Expenditures	0	(8)
Transfers	0	0
Ending Balance	**$8**	**$0**
Encumbrances	$0	$0

Fund Summary

Account Type

Trust account

How was the account created?

Administratively established (1995)

Why was it created?

The account was used as a temporary holding account for reimbursements received from employees who were overpaid salaries, temporary disability benefits, and/or workers' compensation benefits through the State's payroll system, when the reimbursements were paid on an installment basis.

Account meets criteria?

This account was closed in FY2022, and the remaining balance was transferred to the General Fund.

Chapter 3

Observations on Reporting and Accounting for Funds

Special, revolving, and other types of non-general funds 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.

Non-General Funds Were Reported 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 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 37-48, HRS, enacted by the Legislature through Act 87 in 2021, requires departments to submit to the Legislature an annual program measures report of each non-general fund account, including information such as program objectives, program activities, metrics for target population, and metrics for assessing effectiveness over the ensuing six fiscal years. The report must be filed no later than October 1 annually.

Section 37-49, HRS, also enacted by the Legislature through Act 87 in 2021, requires departments to submit to the Legislature an annual cost element report of each non-general fund account, including information such as budget details by cost element and non-general fund names and account codes for each item or object code. The report must be filed no later than October 1 annually.

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. This report is separate from the non-general fund report required under Section 37-47, HRS.

During our review, we noted no noncompliance with statutory requirements to report financial activity and balances, as required by Section 37-47, HRS, program measures, as required by Section 37-48, HRS, cost elements, as required by Section 37-49, HRS, or fund information for administratively established funds and accounts under Section 37-52.5, HRS.

Office of the Auditor's Comments on the Judiciary's Response

Comments on Agency Response

We met with the Judiciary and their staff to discuss the draft report on June 25 and 26, 2026. The Judiciary subsequently provided written comments to the draft report, generally agreeing with the findings but disagreeing with our recommendations for one of the funds. Their written response and our discussions did not change our conclusions and recommendations. The Judiciary's comments are attached in its entirety.

The Judiciary acknowledged they will reclassify three of the funds and accounts as recommended in the report. The Agency Fund (Not in State Treasury) will be reclassified from a trust account to a trust fund. The Memorandum of Agreement with the Alcohol and Drug Abuse Division to Implement the Hawai‘i Drug Court Program will be reclassified from a trust fund to a trust account. The Memorandum of Agreement with the Alcohol and Drug Abuse Division to Implement the Driving While Impaired Court Program will be reclassified from a trust fund to a trust account.

The Judiciary does not agree that the Supreme Court Bar Examination (SCBE) Fund should be reclassified as a revolving fund. 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." Based on the information provided by the Judiciary during our review, the fund receives bar examination application fees from individuals who are taking the Hawai‘i bar examination and the fees are used to pay the costs to administer the bar examination, such as exam materials and rent for the testing facility. In addition, the fund collects reimbursements from a third-party vendor for applicants who use their laptop to take the exam as well as travel reimbursements for Hawai‘i Board of Bar Examiners (Board) members and Judiciary staff to attend conferences. The fund is replenished through charges made (exam application fees) for the service provided by a state agency (administering the exam).

The Judiciary believes that the Board is an organization separate from the Judiciary and is not a state agency. The Judiciary stated that the Board does not fall under the organizational charts of any court or program in the Judiciary and the SCBE Fund is in sole custody of the Board and managed exclusively by the Board. Rule 1.4(e) of the Rules of the Supreme Court of the State of Hawaiʻi (RSCH) states, "The Board shall prepare an annual budget for the expenditure of those funds; shall develop appropriate financial policies for the management of such funds; shall have exclusive control and responsibility over all financial transactions involving such funds; and shall develop and maintain accounting records showing receipt and disposition of such funds, which records shall be subject to audit." However, the Supreme Court of the State of Hawaiʻi is part of the Judiciary and the Board is the Supreme Court's administrative body that carries out the admissions process on the Court's behalf, but it is not a separate legal entity. Rule 1.2(c) of the RSCH states, "The Board shall examine the qualifications of each applicant, his or her knowledge of legal ethics, and his or her moral character, and shall administer a written examination. The record of the examination shall be filed with the Clerk and the *Board shall report its recommendations to the Supreme Court which shall make the final decision for all admissions to the bar*" (emphasis added). While the Board is charged with administering the written bar examination, the Supreme Court makes the final decision for all admissions to the bar. Additionally, Rule 1.2(d) states, "The Board shall promulgate procedural rules within the scope of its powers and authority, *subject to the approval of the Supreme Court*. All decisions of the Board shall be made in accordance with the procedural rules promulgated by the Board" (emphasis added).

Additionally, the SCBE Fund does not meet the definition of a trust fund. 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." The SCBE Fund was not created or established by a gift, grant, contribution, devise or bequest and there are no designated persons or classes of persons that have a vested beneficial interest or equitable ownership. The Judiciary claims that the bar examination applicants are the beneficiaries of the fund, but applicants are charged a fee for a service administered by a state agency. Pursuant to Rule 2.3 of the RSCH, application fees are nonrefundable and nontransferable.

Therefore, application fees are not held in trust. The Judiciary hosts the Hawai‘i Bar Application on their website and collects application fees.

For the reasons expressed above, the Judiciary's position with respect to the SCBE Fund is not compelling and we maintain our conclusion that it should be reclassified as a revolving fund.

Office of the Administrative Director of the Courts
Ke'ena o ke Po'o Lawelawe Hana o nā 'Aha Ho'okolokolo
THE JUDICIARY • STATE OF HAWAI'I | KA 'OIHANA HO'OKOLOKOLO • MOKU'ĀINA 'O HAWAI'I
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Brandon M. Kimura
ADMINISTRATIVE DIRECTOR OF THE COURTS
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Daylin-Rose H. Heather
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HOPE PO'O LAWELAWE HANA O NĀ 'AHA HO'OKOLOKOLO

June 30, 2026

The Honorable Leslie H. Kondo
State Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawai'i 96813

Dear Mr. Kondo:

Thank you for sharing the draft report of your review of the Judiciary's special funds, revolving funds, trust funds, and trust accounts, and the opportunity to meet with your office to discuss the draft report.

Based upon the draft report, the Judiciary will make the following reclassifications:

1. The Agency Fund will be reclassified as a trust fund.
2. The Memorandum of Agreement with the Alcohol and Drug Abuse Division to Implement the Hawai'i Drug Court Program will be reclassified as a trust account.
3. The Memorandum of Agreement with the Alcohol and Drug Abuse Division to Implement the Driving While Impaired Court Program will be reclassified as a trust account.

The Judiciary met with your staff on June 25 to discuss your recommendation to reclassify the Supreme Court Bar Examination Fund (SCBE Fund) from a trust fund to a revolving fund. As pertinent here, the Judiciary explained the following about the SCBE Fund:

1. The Hawai'i Revised Statutes (HRS) Section 37-62 defines a revolving fund as one from which is paid the cost of goods and services rendered to or by a state agency.
2. The Judiciary has two revolving funds so that its programs, the Supreme Court Law Library and the Court Interpreting Services Program, can properly account for the collection and expenditure of monies to carry out the respective purposes of these Judiciary programs.

3. In contrast, the SCBE Fund is managed exclusively by the Hawai'i Board of Bar Examiners (Board), an organization that is separate from the Judiciary. The Board is not a state agency. It does not fall under the organizational charts of any court or program in the Judiciary. The funds the Board receives and expends are not in conjunction with the adjudication of cases, or other Judiciary operations.
4. The SCBE Fund is in sole custody of the Board. It is outside of the state treasury, as stated in the Office of the Auditor's reports since its first review of the fund in 1995.
5. The Board's autonomy in managing the fund is emphasized in the Supreme Court's promulgation of Rules of the Supreme Court of the State of Hawai'i (RSCH) Rule 1.4(e), "The Board shall prepare an annual budget for the expenditure of those funds; shall develop appropriate financial policies for the management of such funds; <u>shall have exclusive control and responsibility over all financial transactions involving such funds</u>; and shall develop and maintain accounting records showing receipt and disposition of such funds, which records shall be subject to audit." (Emphasis added).
6. Pursuant to RSCH, the Clerk of the Supreme Court serves as the secretary to the Board and the Clerk's office furnishes administrative and clerical assistance to the Board as required by RSCH Rule 1.2(b). However, this assistance does not include authority to independently make financial or operational decisions. All decisions must be made by the entirety of the Board, and all expenditures must be approved by the Board chair.

These factors lead to the Judiciary's conclusion that the SCBE Fund does not meet the criteria of a revolving fund, from which is paid the cost of goods and services rendered to or by a state agency. Rather, the SCBE Fund best meets the criteria of a trust fund, of which of the Clerk of the Supreme Court and the Clerk's office carry out their fiduciary duty of care and confidentiality as the secretary to the Board and by providing assistance to the Board in administering the bar exam.

After the Judiciary's presentation of these factors at the June 25 meeting, your office expressed intent to review the pertinent RSCH to determine whether the fund should be included at all in the Office of the Auditor's statutorily-required focused review of the Judiciary's special, revolving, and trust funds, and trust accounts.

The Judiciary and the Office of the Auditor met a second time on June 26, where the Auditor maintained the interpretation and recommendation that the SCBE Fund meets the criteria of a revolving fund rather than a trust fund, and should be reclassified to a revolving fund.

The Judiciary respectfully disagrees for the reasons stated above. The Board provides an objective viewpoint to the Supreme Court and is independent from the Supreme Court. The Board's independence and objectivity are by design and formalized by the RSCH, and are necessary to ensure fair recommendations to the Supreme Court. This is a critical characteristic of the SCBE Fund, where the recommendation to reclassify the fund from a trust fund to a revolving fund would be in contravention of the RSCH, and would appear to attempt to require the State to directly and actively manage the SCBE Fund.

The Judiciary truly appreciates the time and work that you and your staff have dedicated to this review, as well as the information and guidance provided to the Judiciary. It is a pleasure working with you and your staff in our commitment to serving people of the State of Hawai'i, in complete compliance with all applicable fiscal and reporting requirements.

Sincerely,

Brandon M. Kimura
Administrative Director of the Courts