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To: The Honorable Marcus R. Oshiro, Chair
and Members of the House Committee on Finance

Date: March 3, 2009
Time: 12:00 p.m.
Place: Conference Room 308, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

Testimony in STRONG SUPPORT
of
H.B. 1125 - Relating to Certain Funds under the Department of Labor and
Industrial Relations

I. OVERVIEW OF PROPOSED LEGISLATION

House Bill 1125 is an Administration proposal which proposes to clarify the classification of the Workers' Compensation Special Compensation Fund, 386-151, Hawaii Revised Statutes (H.R.S.), the Temporary Disability Insurance Special Fund for Disability Benefits, 392-61, H.R.S., and the Prepaid Health Care Special Premium Supplementation Fund, 393-41, H.R.S., as trust funds. This bill also amends the purpose of the Temporary Disability Insurance Special Fund for Disability Benefits by allowing for the use of \$5 million or so much thereof from currently available funds for the automation of the Department of Labor and Industrial Relations' ("Department") Disability Compensation Division ("DCD") Workers' Compensation, Prepaid Health, and Temporary Disability Insurance ("TDI") programs.

II. CURRENT LAW

The Workers' Compensation (WC) Special Compensation Fund was established in 1937 under section 386-151 to enhance the employability of persons with pre-existing injuries,

reduce discrimination against persons with dependents, and require employers to pay compensation for employees' losses sustained while in their employment. The fund provides compensation benefits to qualifying employees in certain circumstances including permanent total disability benefit adjustments, permanent disability benefits involving pre-existing conditions, defaulting employers, total disability under previous laws, concurrent employment, and benefit adjustments for services of attendants. Revenues are from levies on workers' compensation carriers and self-insured employers, interest income, reimbursements from defaulting employers, unpaid benefits in certain cases, and fines for noncompliance with the WC law.

The Special Fund for Disability Benefits was established in 1969 under section 392-61 to pay benefits to individuals who become temporarily disabled while unemployed and are ineligible for unemployment insurance benefits. The fund also pays temporary disability benefits to employees who are entitled to benefits, but cannot receive them because of employer bankruptcy or employer noncompliance with the TDI law. In 1969, a one-time assessment on employers was used to establish the fund. Since then, revenues are primarily from interest income and receipts from fines and penalties enforced through the TDI law. Currently, the TDI Law limits the administration of the Special Fund exclusively for the purposes of Chapter 392, H.R.S.

The Prepaid Health Care (PHC) Premium Supplementation Fund was established in 1974 under section 393-41 to supplement health care insurance premium payments for certain employers with fewer than eight employees. In 1978, prepaid health care benefits coverage was added for employees who are entitled to receive benefits but whose employers are bankrupt or noncompliant with the state's PHC Act. The fund was established by an initial appropriation from the State's general fund. Since then, revenues have been primarily from interest income and receipts from fines and penalties collected under the PHC Act.

III. HOUSE BILL

The Department supports this bill for the following reasons:

This amendment is needed to comply with the Legislative Auditor's recommendation that the Department of Labor and Industrial Relations should clarify the classification of these special funds as trust funds. These funds were established as special funds and thus were classified accordingly by the Department of Accounting and General Services (DAGS). However, the funds meet the review criteria for a trust fund as established by the State Auditor's Office based on the following criteria:

1. The fund continues to serve the purpose for which it was originally created;

2. The fund provides the benefits or services originally intended to the beneficiaries;
3. The fund does not require general fund appropriations; and
4. The fund meets the definition of a trust fund.

The Attorney General has also concluded that these special funds fall within the definition of a trust fund or functions as a trust fund and has recommended that the discrepancy be addressed through legislative action.

With respect to amending the purpose of the TDI Special Fund for Disability Benefits to allow the use of its funds for automation of and technology upgrades to the Workers' Compensation, Temporary Disability Insurance, and Prepaid Health Care programs, and for the appropriation of \$5 million or so much thereof from the fund for the automation of the three programs, the Department believes this bill will increase government efficiency while reducing the administrative costs of the workers' compensation, temporary disability insurance, and prepaid health care programs. This efficiency will be realized through faster retrieval and storage of programs information and will be achieved in part through: the digitization of files and records in these programs which will promote electronic transfer and filing of reports and insurance coverage information; the total migration from the legacy-based system to the client-server Lotus Notes system; and the conversion of paper files to electronic records. The monies from the fund will be used to implement DCD's Information Technology ("IT") Master Plan which was developed in 2002 to continuously improve its service to the public by increasing the efficiency of the division's operations and by providing employers, carriers, employees, and doctors the ability to submit their required forms and reports over the Internet. The major projects that comprise the Master Plan and its estimated related costs include:

- a. Electronic Data Interchange (EDI) for the Workers' Compensation ("WC") Forms: WC-1 (Report of Injury), WC-2 (Physician's Report), WC-3 (Carrier Report), WC-36 (Proof of Coverage), and Submission of Provider Reimbursement Project (\$1.5 million). Collectively, this project would allow the forms and reports to be electronically submitted to the DCD, thereby reducing the costs to file hard copy reports and to allow the division to efficiently process information in a paperless environment.
- b. Disability Compensation Information System (DCIS) Application Mainframe Migration Project (\$2.5 million). This project will migrate the mainframe program to a more user-friendly, flexible, responsive, and scalable server environment. This project will greatly enhance the operational efficiency of the division by providing management with more meaningful information and management reports, as well as enabling the division's efforts to allow electronic filing and electronic storage of historical case records.
- c. Electronic Historical Records Project (\$1.0 million). This project will store

the division's historical records in a centralized electronic storage system. The project will decrease the DCD's and the Department of Accounting and General Services' physical storage requirements, and will allow records to be retrieved more quickly and will provide faster services to businesses and the general public.

This bill will not have an adverse impact upon the special fund and its ability to provide benefits to employees who need TDI coverage. Authorizing \$5,000,000 from the current balance of \$9,000,000 for the automation project would leave sufficient monies to keep the fund operating without assessing another levy on insurers of employers. Annual expenses average around \$60,000 - \$70,000 a year, while the revenue to this account is mainly from interest payments which currently average \$150,000 - \$160,000 annually.