



April 10, 2023

VIA EMAIL

The Honorable Ronald D. Kouchi
Senate President
415 South Beretania Street
Hawaii State Capitol, Room 409
Honolulu, Hawaii 96813

VIA EMAIL

The Honorable Scott K. Saiki
Speaker, House of Representatives
415 South Beretania Street
Hawaii State Capitol, Room 431
Honolulu, Hawaii 96813

Re: *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Labor and Industrial Relations, Report No. 23-06*

Dear President Kouchi and Speaker Saiki:

Please find attached a copy of Report No. 23-06, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Labor and Industrial Relations*, along with a copy of the Auditor's Summary.

This report presents a five-year summary for each special fund, revolving fund, trust fund, and trust account maintained by the Department of Labor and Industrial Relations, evaluates the original intent and purpose of each fund and account, and determines the degree to which each fund and account achieves its stated and claimed purpose.

The report is accessible through the Office of the Auditor's website at:
<https://files.hawaii.gov/auditor/Reports/2023/23-06.pdf>.

The summary is also accessible through the Office of the Auditor's website at:
<https://files.hawaii.gov/auditor/Overviews/2023/23-06AuditorSummary.pdf>.

If you have any questions about the report, please contact me.

Very truly yours,

Leslie H. Kondo
State Auditor

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Attachments

ec/attach: Members of the Senate
Members of the House of Representatives
Carol Taniguchi, Senate Chief Clerk
Brian Takeshita, House Chief Clerk

Auditor's Summary

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

Report No. 23-06

Two special funds, one revolving fund, and two trust accounts did not meet criteria

OUR REVIEW of six special funds, two revolving funds, four trust funds, and six trust accounts of the Department of Labor and Industrial Relations (DLIR) found two special funds, one revolving fund, and two trust accounts did not meet criteria for those types of funds and should be closed or reclassified.

Section 23-12, Hawai'i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department's funds are reviewed once every five years. Although not mandated by statute, we included trust accounts as part of our review. This is our sixth review of DLIR's revolving funds, trust funds, and trust accounts. It is our second review of the special funds held by DLIR since Act 130, Session Laws of Hawai'i 2013, amended Section 23-12, HRS, to require review of special funds along with revolving funds and trust funds.

We used criteria developed by the Legislature and by our office based on public finance and accounting literature. For each fund, we present a five-year financial summary, the purpose of the fund, and conclusions about its use. We did not audit the financial data, which is provided for informational purposes. We do not present conclusions about the effectiveness of programs or their management, or whether the programs should be continued.

Reporting shortfall

WE NOTED that DLIR did not file statutorily required reports for non-general funds totaling approximately \$14.53 million and administratively created non-general funds totaling approximately \$17.23 million. Accurate and complete reporting will greatly improve the Legislature's oversight and control of these funds.



FUND TYPES

SPECIAL FUNDS

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

REVOLVING FUNDS

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

TRUST FUNDS

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

TRUST ACCOUNTS

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

Agency response

DLIR CONCURRED with our findings and represented that it will take appropriate action to reclassify funds per the recommendations in the report. DLIR also stated that it will ensure compliance with all statutory reporting requirements.



Link to the complete report:

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

<https://files.hawaii.gov/auditor/Reports/2023/23-06.pdf>

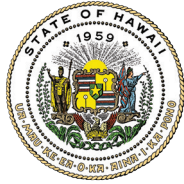
Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Labor and Industrial Relations

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

Report No. 23-06
April 2023



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:
<https://auditor.hawaii.gov>

Foreword

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

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

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

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 Department of Labor and Industrial Relations (DLIR). Section 23-12, Hawai‘i Revised Statutes (HRS), requires the Auditor to review each state department’s special, revolving, and trust funds every five years. 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 sixth review of DLIR’s revolving funds, trust funds, and trust accounts.¹ It is our second review of DLIR’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 2017.

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 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 the degree to which each fund achieves its stated purpose. The second criterion assesses whether a fund is held by the State only for the benefit of those with a vested interest in the assets or an account is held as a separate or clearing account.

Objectives of the Review

1. Identify and review all special funds, revolving funds, trust funds, and trust accounts of DLIR.
2. For each special fund, revolving fund, trust fund, and trust account, determine whether the fund or account meets the respective criteria.
3. Provide a five-year (FY2018 – FY2022) unaudited financial summary for each fund and account of DLIR.

Scope and Methodology

We reviewed all special funds, revolving funds, trust funds, and trust accounts directly administered by the Department of Labor and Industrial Relations during the five-year period under review (FY2018 – FY2022). 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, 2017 to June 30, 2022), 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 FY2017 reported in our last review and opening balances reported for FY2018. 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. 17-12, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Labor and Industrial Relations*.

Our review was conducted from August 2022 to March 2023. Recommendations were made where applicable.

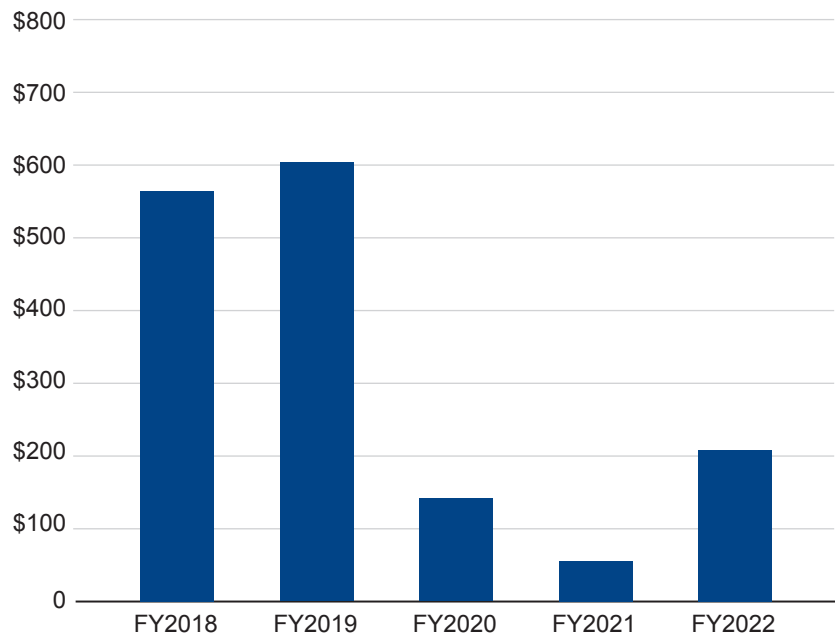
Chapter 2

Department of Labor and Industrial Relations

This chapter presents the results of our review of six special funds, two revolving funds, four trust funds, and six trust accounts. Total fund fiscal year-end balances for DLIR amounted to at least \$54.6 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 the Department of Labor and Industrial Relations' Non-General Funds
FY2018 – FY2022 (in millions)



Source: Office of the Auditor

In FY2022, the special funds, revolving funds, trust funds, and trust accounts collected approximately \$855 million and spent or transferred approximately \$701.8 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 FY2022.

Exhibit 2.2
Fund and Account Totals by Type, FY2022

Fund Type	Revenue and Interest	Expenses and Transfers	FY2022 End Cash Balance
Special Funds	\$4,613,000	\$711,000	\$19,408,000
Revolving Funds	1,925,000	1,548,000	960,000
Trust Funds/ Trust Accounts	848,503,000	699,590,000	187,434,000
Total	\$855,041,000	\$701,849,000	\$207,802,000

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 DLIR funds that did not meet criteria for continuance and should be closed or reclassified.

**Exhibit 2.3
Fund(s) Not Meeting Criteria**

Fund Name	Fund Type	FY2022 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
Boiler and Elevator Revolving Fund	Revolving Fund	\$960,332					✓
Human Trafficking Victim Services Fund	Special Fund	2,750				✓	
Labor Law Enforcement Special Fund	Special Fund	0					✓
National Governors' Association Grant Trust Account	Trust Account	84,000					✓
Non-Profit Employers Deposit Account	Trust Account	1,766,249					✓
Total		\$2,813,331					

Source: Office of the Auditor

**Boiler and Elevator
Revolving Fund**

Financial Data for Fiscal Years 2018 – 2022 (in thousands)					
	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$571	\$586	\$338	\$214	\$583
Revenues	2,226	2,032	1,940	2,078	1,922
Interest	3	4	27	7	3
Expenditures	(2,214)	(2,284)	(2,091)	(1,716)	(1,548)
Transfers	0	0	0	0	0
Ending Balance	\$586	\$338	\$214	\$583	\$960
Encumbrances	\$0	\$6	\$1	\$0	\$0

Fund Summary	
Account Type	Revolving fund
How was the fund created?	Section 397-13, HRS (SLH 2012)
Why was it created?	The fund was created to provide sufficient operating costs for the state program that issues permits after inspections and examinations of boilers, pressure systems, elevators and kindred equipment, and amusement rides.
Fund meets criteria?	This fund does not meet all the criteria of a revolving fund but continues to serve the purpose for which it was originally established. The fund operates more like a special fund, where funds are set aside by law for a specific object or purpose and should be reclassified as a special fund.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from fees from inspections, permits, and examinations of boilers, pressure systems, elevators and kindred equipment, and amusement rides.
Expenditures	Expenditures include personnel and operating expenses, staff training, staff certification fees and expenses, preparation and dissemination of public information on safe installation and use of equipment regulated by the program, preparation of annual reports to the legislature, and reimbursement to the general fund.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

Additional Information

The fund was originally established as a special fund in 2012 and was reclassified to a revolving fund pursuant to Act 186, SLH 2018. Although reclassified as a revolving fund, the fund continues to function like a special fund. In Report No. 17-12, we noted that the fund met the criteria of a special fund. The department explained that they requested the Legislature to reclassify the fund to a revolving fund to avoid the 5% special fund assessment.

During our review of the financial data for FY2020–FY2022, we noted that the internal data provided by the department did not match the data we obtained from the State’s Financial Accounting Management Information System (FAMIS). The department explained that DAGS had eliminated the appropriation ceiling in FAMIS, and therefore, they could no longer post revenues and expenditures to the fund. The reason DAGS eliminated the appropriation ceiling for this fund was unclear. The department posted all revenues and expenditures for this fund to the Hoisting Machine Operators’ Certification Revolving Fund; the funds shared the same program number, and the department kept separate internal books to keep track of the financial activities of each revolving fund. The financial data above is a summary of the internal records kept by the department. ***We recommend that the department request to restore the appropriation ceiling for the Boiler and Elevator Revolving Fund so financial activity can be appropriately recorded to the correct fund in FAMIS, and to discontinue use of the Hoisting Machine Operators’ Certification Revolving Fund as the fund was closed in FY2021.***

COVID-19 Economic Impact Response Fund

Financial Data for Fiscal Years 2020 – 2022 (in thousands)

	FY2020	FY2021	FY2022
Beginning Balance	\$0	\$17,315	\$13,925
Revenues	17,315	0	0
Interest	0	0	0
Expenditures	0	(3,390)	(1,351)
Transfers	0	0	0
Ending Balance	\$17,315	\$13,925	\$12,574
Encumbrances	\$0	\$0	\$12,574

Fund Summary	
Account Type	Trust account
How was the account created?	Administratively established (2020)
Why was it created?	In 2020, the department received a loan from the General Fund to be used for economic mitigation directly related to the COVID-19 public health emergency. The account was established to receive the General Fund loan for expenditures made after March 4, 2020, in response to COVID-19 to be repaid by the department.
Account meets criteria?	This account meets the criteria of a trust account and continues to serve the purpose for which it was originally established.
Performance standards	No, the account does not have performance standards.
Revenues	Revenue is a General Fund loan obtained from the Department of Budget and Finance’s COVID-19 Economic Impact Response Fund, a trust account established to distribute General Fund loans to state departments and agencies.
Expenditures	Expenditures include staffing and administrative costs to administer unemployment insurance benefits and mitigate economic deceleration from COVID-19.
Reported pursuant to Section 37-47, HRS	No.
Reported pursuant to Section 37-52.5, HRS	No.

Employment and Training Fund

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$2,815	\$3,671	\$4,145	\$5,235	\$4,630
Revenues	1,877	1,232	1,858	1,272	1,608
Interest	0	2	0	0	0
Expenditures	(1,021)	(760)	(768)	(1,877)	(529)
Transfers	0	0	0	0	0
Ending Balance	\$3,671	\$4,145	\$5,235	\$4,630	\$5,709
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Special fund
How was the fund created?	Section 383-128, HRS (SLH 1991)
Why was it created?	Moneys may be used for funding: (1) operating state employment services that are not federally funded; (2) business-specific training programs to create a more diversified job base; (3) industry or employer-specific training programs where there are critical skill shortages in high growth occupational or industry areas; (4) training and retraining programs to assist those who are unemployed or likely to be unemployed; (5) programs to assist residents who do not otherwise qualify for federal or state job training programs; and (6) training programs to provide job-specific skills for individuals in need of assistance to improve career employment prospects.
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 portion of collected taxes assessed to employers.
Expenditures	Expenditures include maintaining the program and providing grants and services to the public. The funds are used for expenditures such as payroll, supplies, rent, services, equipment rent/lease, indirect costs, payment to service providers, and reimbursement costs to participants.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

**Hoisting Machine
Operators' Certification
Revolving Fund**

Financial Data for Fiscal Years 2018 – 2021 (in thousands)

	FY2018	FY2019	FY2020	FY2021
Beginning Balance	\$331	\$341	\$343	\$354
Revenues	33	27	31	41
Interest	2	3	0	0
Expenditures	(25)	(28)	(20)	(20)
Transfers	0	0	0	(375)
Ending Balance	\$341	\$343	\$354	\$0
Encumbrances	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Revolving fund
How was the fund created?	Section 396-20, HRS (SLH 1998)
Why was it created?	The fund was used to support the process for certifying hoisting machine operators in the State of Hawai'i, which ensures a minimum competency level for operators and provides assurance to the employer that the crane operators they employ will have received appropriate training.
Fund meets criteria?	This fund was closed in FY2021 pursuant to Act 9, Special Session 2021, and the remaining balance was transferred to the General Fund pursuant to Act 87, Special Session 2021.

**Human Trafficking
Victim Services Fund**

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$1	\$1	\$1	\$1	\$3
Revenues	0	0	0	2	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Balance	\$1	\$1	\$1	\$3	\$3
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Special fund
How was the fund created?	Section 706-650.5, HRS (SLH 2014)
Why was it created?	The fund is used to supplement existing programs, grants, or to purchase service contracts that support or provide comprehensive services to victims of labor trafficking crimes.
Fund meets criteria?	This fund does not meet the criteria of a special fund. <i>The fund should be repealed</i> because it is not financially self-sustaining; the department noted the fund balance is insufficient to provide services.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from fees collected by the Judiciary from individuals who are convicted of certain trafficking offenses.
Expenditures	Expenditures should supplement programs, grants, or to purchase service contracts that support or provide comprehensive services to victims of labor trafficking crimes. There have been no expenditures incurred over the period of review.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

Labor Law Enforcement Special Fund

Financial Data for Fiscal Years 2019 – 2022 (in thousands)

	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$0	\$27	\$0	\$0
Revenues	98	2,729	1,641	1,974
Interest	0	0	0	0
Expenditures	(71)	(237)	(202)	(207)
Transfers*	0	(2,519)	(1,439)	(1,767)
Ending Balance	\$27	\$0	\$0	\$0
Encumbrances	\$0	\$30	\$0	\$0

*Transfers to the General Fund pursuant to Section 371-12.5(c), HRS.

Fund Summary	
Account Type	Special fund
How was the fund created?	Section 371-12.5, HRS (SLH 2018)
Why was it created?	The fund was established to provide sufficient operating costs to collect penalties and fees assessed by the department.
Fund meets criteria?	This fund continues to serve the purpose for which it was originally established but does not meet all the criteria of a special fund because it functions more like a trust account that serves as a clearing account. The penalties assessed during labor law enforcement are partially used for operating costs but at the end of each fiscal year, the remaining unencumbered balance is transferred to the General Fund. Section 371-12.5, HRS, requires that unencumbered balances exceeding \$500,000 at the end of every fiscal year shall be deposited into the General Fund. The department has been depositing the entire unencumbered balance to the General Fund leaving a zero balance in the fund at the end of each fiscal year. While the statute does not prohibit the transfer of the entire fund balance at year-end to the General Fund, the practice seems more akin to a trust account because it is clearing the balance each year. <i>The fund should be reclassified as a trust account.</i>
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from penalties assessed to employers who failed to pay wages in accordance with state labor laws or who violated occupational safety and health standards.
Expenditures	Expenditures include operating costs of enforcing labor law compliance such as personnel costs, staff development, and litigation expenses.
Reported pursuant to Section 37-47, HRS	Yes.

**Reported pursuant to
Section 37-52.5, HRS**

Not applicable, the fund was statutorily established.

Additional information

During our review of the financial data for FY2020–FY2022, we noted that the internal data provided by the department did not match the data we obtained from FAMIS. The department explained that DAGS had eliminated the appropriation ceiling in FAMIS and therefore, they could no longer post revenues and expenditures to the fund. The reason DAGS eliminated the appropriation ceiling for this fund was unclear. We note that the Legislature did not make any changes to the law that created this fund. The department posted all revenues and expenditures for this fund to the Reduced Ignition Propensity Cigarette Program Special Fund, as the funds shared the same program number. The department kept separate internal books to keep track of the financial activities of each special fund. The financial data above is a summary of the internal records kept by the department. ***We recommend that the department request to restore the appropriation ceiling for the Labor Law Enforcement Special Fund so financial activity can be appropriately recorded to the correct fund in FAMIS.***

**National Governors’
Association Grant
Trust Account**

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

	FY2021	FY2022
Beginning Balance	\$0	\$0
Revenues	98	84
Interest	0	0
Expenditures	(71)	0
Transfers	0	0
Ending Balance	\$27	\$84
Encumbrances	\$0	\$0

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established (2021)
Why was it created?	The account will be used to develop a plan for a statewide online hub for jobseekers to access state support services, such as food assistance, medical assistance, workforce services, unemployment insurance, and more.
Account meets criteria?	This account continues to serve the purpose for which it was originally established but does not meet all the criteria of a trust account because it functions more like a trust fund. <i>The account should be reclassified as a trust fund.</i>
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are from a one-time National Governors’ Association Center Workforce Innovation Fund state sub-grant.
Expenditures	No expenditures have been made yet, but funds will be used for the design of a virtual one-stop resource website.
Reported pursuant to Section 37-47, HRS	No.
Reported pursuant to Section 37-52.5, HRS	No.

**Non-Profit Employers
Deposit Account**

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$1,681	\$1,756	\$1,756	\$1,757	\$1,765
Revenues	199	0	1	8	1
Interest	0	0	0	0	0
Expenditures	(124)	0	0	0	0
Transfers	0	0	0	0	0
Ending Balance	\$1,756	\$1,756	\$1,757	\$1,765	\$1,766
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established (1972)
Why was it created?	This account is used as a holding or escrow account for security deposits paid to the Unemployment Insurance Division by nonprofit organizations when converting from contributory to self-financed unemployment benefits.
Account meets criteria?	This account does not meet all the criteria of a trust account because it functions more like a trust fund by holding security deposits in trust for the future benefit of nonprofit organizations converting unemployment benefits status but continues to serve the purpose for which it was originally established. <i>The account should be reclassified as a trust fund.</i>
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are from security deposits from nonprofit organizations.
Expenditures	Expenditures include reimbursements to nonprofit organizations when self-financed status is terminated.
Reported pursuant to Section 37-47, HRS	No.
Reported pursuant to Section 37-52.5, HRS	No.

Office of Community Services

Financial Data for Fiscal Year 2018 (in thousands)

	FY2018
Beginning Balance	\$739
Revenues	0
Interest	0
Expenditures	(739)
Transfers	0
Ending Balance	\$0
Encumbrances	\$0

Fund Summary

Account Type	Special fund
How was the fund created?	Administratively established (2009)
Why was it created?	The fund was used to receive funds from the Department of Human Services and moneys from the temporary assistance for needy families program.
Fund meets criteria?	This fund was closed in FY2018, and the remaining balance was transferred to the General Fund, as recommended by the Auditor in Report No. 17-12.

**Premium
Supplementation
Trust Fund**

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$73	\$22	\$23	\$40	\$56
Revenues	0	0	16	16	13
Interest	0	1	1	0	1
Expenditures	51	0	0	0	0
Transfers	0	0	0	0	0
Ending Balance	\$22	\$23	\$40	\$56	\$70
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust fund
How was the fund created?	Section 393-41, HRS (SLH 1974)
Why was it created?	The fund is used to provide supplemental health care insurance premium payments for certain employers with fewer than eight employees; and to provide prepaid health care benefits to eligible employees of non-complying or bankrupt employers.
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 money appropriated by the State, interest earned on investments, and fines and penalties collected.
Expenditures	Expenditures include insurance premium supplementation and prepaid health care benefits for certain employees.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

**Reduced Ignition
Propensity Cigarette
Program Special Fund**

Financial Data for Fiscal Years 2018 – 2022 (in thousands)					
	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$618	\$628	\$714	\$650	\$749
Revenues	179	212	72	240	54
Interest	3	5	37	15	7
Expenditures	(172)	(131)	(173)	(156)	(181)
Transfers	0	0	0	0	0
Ending Balance	\$628	\$714	\$650	\$749	\$629
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary	
Account Type	Special fund
How was the fund created?	Section 132C-9, HRS (2011)
Why was it created?	The fund is used to support the reduced ignition propensity cigarette program.
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 certification fees from cigarette manufacturers and interest income.
Expenditures	Funds received are used to defray the actual costs of activities and requirements of the program, including processing, testing, enforcement, inspection, oversight activities, and staffing.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

Special Compensation Fund

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$16,067	\$15,148	\$14,353	\$12,952	\$12,215
Revenues	16,472	14,624	13,669	14,436	14,867
Interest	31	127	502	76	50
Expenditures	(17,422)	(15,546)	(15,572)	(15,249)	(16,088)
Transfers	0	0	0	0	0
Ending Balance	\$15,148	\$14,353	\$12,952	\$12,215	\$11,044
Encumbrances	\$33	\$200	\$16	\$17	\$0

Fund Summary

Account Type	Trust fund
How was the fund created?	Section 386-151, HRS (SLH 1963)
Why was it created?	The fund was created as a trust fund to hold payments made to the State and to pay disbursements as ordered by the Director of Labor and Industrial Relations.
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 levies on workers' compensation carriers and self-insured employers, interest income, reimbursements from defaulting employers, unpaid benefits in certain cases, and fines for noncompliance with the Workers' Compensation Law.
Expenditures	Expenditures include providing compensation benefits to qualifying employees in certain circumstances involving permanent, total disability benefit adjustments; subsequent injuries and preexisting conditions; defaulting employers; total disability under previous laws; concurrent employment; and benefit adjustments for services of attendants. In addition to workers' compensation benefits, the fund also pays for litigation costs, audit fees, and legal services provided by the Department of the Attorney General.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

Special Unemployment Insurance Administration Fund

Financial Data for Fiscal Years 2018 – 2022 (in thousands)					
	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$9,350	\$7,964	\$6,005	\$8,080	\$10,124
Revenues	667	965	1,782	2,000	2,905
Interest	4	77	293	44	39
Expenditures	(2,057)	(3,001)	0	0	(1)
Transfers	0	0	0	0	0
Ending Balance	\$7,964	\$6,005	\$8,080	\$10,124	\$13,067
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary	
Account Type	Special fund
How was the account created?	Section 383-127, HRS (SLH 1987)
Why was it created?	The fund is used to pay expenses and obligations relating to the administration of the unemployment insurance program when the annual federal administrative grant has been exhausted to avoid disruption of services to the public.
Account 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 taxes assessed to employers and individuals as well as interest from the investment pool.
Expenditures	Expenditures include emergency administrative expenditures or expenditures for which allocation of federal funds have been requested but not yet received to maintain the services of the unemployment insurance program, which include adjustments of interest on delinquent contributions, penalties, fines, payroll, supplies, lease rent, services, equipment rent/lease, and other indirect costs.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.
Additional information	The department noted no expenditures in FY2020 and FY2021 and minimal expenditures in FY2022 due to the receipt of federal COVID-19 pandemic-related administrative grants to fund payroll and other program expenditures.

**Supplemental
Payments for Lost
Wages**

Financial Data for Fiscal Years 2020 – 2022 (in thousands)

	FY2020	FY2021	FY2022
Beginning Balance	\$0	\$0	\$209
Revenues	0	270,223	2,168
Interest	0	0	0
Expenditures	0	0	0
Transfers*	0	(270,014)	(2,273)
Ending Balance	\$0	\$209	\$104
Encumbrances	\$0	\$0	\$0

*This fund transfers daily into the Unemployment Compensation Trust Fund.

Fund Summary

Account Type	Trust account
How was the fund created?	Administratively established (2020)
Why was it created?	The fund is used to receive and distribute Federal Emergency Management Agency (FEMA) grant money to provide qualified individuals supplemental unemployment benefits up to \$300 during the COVID-19 pandemic. The grant requires funds to be held separately from other unemployment benefits.
Fund meets criteria?	This account meets the criteria of a trust account 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 a FEMA grant under the Lost Wages Assistance program.
Expenditures	Expenditures are daily transfers to the Unemployment Compensation Trust Fund to provide qualified individuals an additional unemployment benefit up to \$300.
Reported pursuant to Section 37-47, HRS	No.
Reported pursuant to Section 37-52.5, HRS	No.

**Temporary Deposits
Insurance Account**

Financial Data for Fiscal Year 2018 (in thousands)

FY2018	
Beginning Balance	\$40
Revenues	0
Interest	0
Expenditures	(40)
Transfers	0
Ending Balance	\$0
Encumbrances	\$0

Fund Summary

Account Type	Trust account
How was the fund created?	Administratively established (1970)
Why was it created?	The account was used to refund excessive or unauthorized temporary disability insurance and prepaid health care premium withholdings that were owed to terminated employees who could not be located by their employers.
Fund meets criteria?	This account was closed in FY2018 and the remaining balance was transferred to the Trust Fund for Disability Benefits.

**Trust Fund for
Disability Benefits**

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$2,480	\$2,525	\$2,519	\$2,604	\$2,596
Revenues	70	2	2	0	0
Interest	6	21	93	15	11
Expenditures	(31)	(29)	(10)	(23)	(26)
Transfers	0	0	0	0	0
Ending Balance	\$2,525	\$2,519	\$2,604	\$2,596	\$2,581
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust fund
How was the account created?	Section 392-61, HRS (SLH 1969)
Why was it created?	This fund was established to pay benefits to individuals who become temporarily disabled while unemployed and who are ineligible for unemployment insurance benefits.
Account meets criteria?	Yes, the fund meets the criteria of a trust fund, and it 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 interest income and receipts from fines and penalties enforced through the Temporary Disability Insurance (TDI) law.
Expenditures	Expenditures include temporary disability benefits to individuals who are temporarily disabled while unemployed and who are ineligible for unemployment insurance benefits. The fund also pays temporary disability benefits to employees who are entitled to benefits but cannot receive them because of employer bankruptcy or employer noncompliance with TDI law.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.
Additional information	Revenue for FY2018 includes \$40,015 transferred from the Temporary Deposits Insurance Account, which was closed in FY2018.

**Unemployment
Compensation
Trust Fund**

Financial Data for Fiscal Years 2018 – 2022 (in thousands)					
	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$513,504	\$530,368	\$572,222	\$90,241	\$5,139
Revenues	185,324	192,914	1,432,396	3,803,464	829,807
Interest	8,785	13,132	10,909	2,471	1,200
Expenditures	(177,245)	(164,192)	(1,925,286)	(4,161,051)	(681,914)
Transfers*	0	0	0	270,014	2,273
Ending Balance	\$530,368	\$572,222	\$90,241	\$5,139	\$156,505
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfers are from Supplemental Payments for Lost Wages Fund.

Fund Summary	
Account Type	Trust fund
How was the fund created?	Section 383-121, HRS (SLH 1939)
Why was it created?	The fund is used to collect taxes/fees from taxpayers and federal sources, such as the U.S. Treasury Account, and pay for claimant unemployment benefits and administrative expenses.
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 unemployment taxes, late fees, and interest collected by the state and returned benefit payments.
Expenditures	Expenditures include unemployment claim benefits and certain administrative expenditures such as state interest liability due to the use of federal funds in paying federal employees and ex-servicemen unemployment claims, and overpayment reimbursement to taxpayers.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

Wage Claim Fund

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$1,577	\$1,518	\$1,418	\$1,772	\$2,619
Revenues	140	159	367	899	299
Interest	0	0	0	0	0
Expenditures	(199)	(259)	(13)	(52)	(212)
Transfers	0	0	0	0	0
Ending Balance	\$1,518	\$1,418	\$1,772	\$2,619	\$2,706
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust account
How was the fund created?	Administratively established (1987)
Why was it created?	The fund is used as a holding account for back wages collected as a result of investigations by the Wage Standards Division, which are then disbursed to employees owed back wages.
Account meets criteria?	This account meets the criteria of a trust account 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 back wages collected from employers as a result of investigations by the Wage Standards Division.
Expenditures	Expenditures include disbursement of back wages to employees.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.

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 Not 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 37-52.5, 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 noncompliance 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 3.1, DLIR had administratively created non-general funds with balances totaling approximately \$17.2 million that were not reported to the Legislature as required by Section 37-52.5, HRS, of which approximately \$14.5 million were also not reported to the Legislature as required by Section 37-47, HRS.

**Exhibit 3.1
Non-General Funds and Administratively Created Funds Not
Reported to the Legislature**

Fund Name	Fund Type	HRS 37-47 (Non- General)	FY2022 Ending Balance (rounded)	HRS 37-52.5 (Admin Created)	FY2022 Ending Balance (rounded)
COVID-19 Economic Impact Response Fund	Trust Account	✓	\$12,574,000	✓	\$12,574,000
National Governors' Association Grant Trust Account	Trust Account	✓	84,000	✓	84,000
Non-Profit Employers Deposit Account	Trust Account	✓	1,766,000	✓	1,766,000
Supplemental Payments for Lost Wages	Trust Account	✓	104,000	✓	104,000
Wage Claim Fund	Trust Account			✓	2,706,000
Total			\$14,528,000		\$17,234,000

Source: Office of the Auditor

New Reporting Requirements

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. As the first such required report is due after our review period, we did not assess compliance with reporting required by Section 37-48, HRS.

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. As the first such required report is due after our review period, we did not assess compliance with reporting required by Section 37-49, HRS.

Office of the Auditor's Comments on the Department of Labor and Industrial Relations' Response

Comments on Agency Response

WE TRANSMITTED a draft of this review to DLIR on March 28, 2023. We met with the director, the deputy director, and other staff to discuss the draft report on March 31, 2023.

We received DLIR's formal response to the draft report, which is attached in its entirety as Attachment 1. DLIR concurred with our findings and represented that it will take appropriate action to reclassify funds per the recommendations in the report. DLIR also stated that it will ensure compliance with all statutory reporting requirements.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

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April 4, 2023

The Honorable Leslie H. Kondo
State Auditor
465 S. King Street, Room 500
Honolulu, HI 96813-2917

Dear Mr. Kondo:

Thank you for the opportunity to respond to the draft *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Labor and Industrial Relations*. We appreciate the work that you and your office have done to review our funds and offer the following comments.

Regarding Exhibit 2.3 Fund(s) Not Meeting Criteria, the Department of Labor and Industrial Relations (DLIR) will develop a legislative proposal to clarify the classification of funds per your recommendation in the Report. The DLIR will also request to reinstate the appropriation ceiling of the Labor Law Enforcement Special Fund through the budget process so financial activity can be appropriately recorded to the correct fund in FAMIS.

The DLIR will also reclassify the National Governors' Association Grant Trust Account and the Non-Profit Employers Deposit Account as trust funds per your recommendation. Lastly, the DLIR intends to report on all non-general funds and administratively created funds moving forward as noted in Chapter 3 of your report and pursuant to sections 37-42, 37-48, 37-49, and 37-52.5, Hawaii Revised Statutes.

In closing, thank you for your work on this comprehensive and thorough report.

Sincerely,

Jade T. Butay
Director

Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities.
TDD/TTY Dial 711 then ask for (808) 586-8866.