

**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,
ON HOUSE BILL NO. 173
RELATING TO THE REPEAL OF FUNDS AND ACCOUNTS**

House Committee on Finance

February 18, 2015

I am Jan Yamane, Acting State Auditor. Thank you for this opportunity to testify in support of House Bill 173 (HB 173), which would repeal and transfer the unencumbered balances of various funds and accounts to the credit of the general fund. Additionally, we have comments on portions of this bill.

In 2014, we released Report No. 14-05, wherein we reviewed the non-general funds and accounts of the Department of Transportation (DOT). Our review includes an evaluation of the original intent and purpose of each fund, including the degree to which each fund continues to serve its intended purpose. We also evaluate whether each fund meets statutory criteria for its respective fund type (i.e., special, revolving, or trust). We do not conclude about the effectiveness of programs and their management; however, for special and revolving funds, we conclude on the need for the fund based on the purpose and scope of the program it supports. This bill would implement many of our report recommendations.

Funds that do not meet criteria would be repealed or abolished by HB 173

We support repealing funds in DOT that *do not meet* criteria:

1. **Amtrak Trust Account** (Section 6), administratively created in DOT–Administration, but no longer serves the purpose for which it was created; DOT agreed to close the



account. While we support repeal of the fund, DOT was expected to transfer \$38,000 in interest income for eventual repayment to the federal source; hence, lapsing any remaining balances in this trust account to the general fund may not be appropriate. We suggest that your Committee consider amending Sections 6 and 7 accordingly.

2. **Hurricane Iniki Insurance Proceeds** special fund (Section 6), administratively created in DOT–Administration. We recommended repeal; DOT agreed.

3. **Deposits—Plans and Specifications** trust account (Section 6), administratively created in DOT–Highways. The trust account no longer serves the purpose for which it was created; DOT agreed to close the account.

A fund that *meets* criteria would be repealed by HB 173

The Aloha Tower Fund (Section 4) would be repealed by this bill. However, this fund meets criteria for continuance and serves the purpose for which it was created; that is, to place the Aloha Tower Development Corporation under the DOT. In our report, we noted that the Aloha Tower Fund was erroneously placed with both DOT–Harbors and DOT–Administration. To rectify the problem, DOT–Harbors planned to close the fund and transfer the remaining balance to the Aloha Tower Fund at DOT–Administration in FY2014. We offer these comments for your consideration.

Thank you for this opportunity to testify in support of HB 173. I am available to answer any questions you may have.



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SUBJECT: MISCELLANEOUS, Repeal non-general funds

BILL NUMBER: HB 173

INTRODUCED BY: Luke

EXECUTIVE SUMMARY: Repeals various non-general funds including special funds, revolving funds, trust funds, and trust accounts, all in accordance with the State Auditor's recommendations.

BRIEF SUMMARY: Repeals the following and transfers any unencumbered balances to the general fund:

Transportation use special fund (HRS section 261D-1)
Aloha Tower Fund (HRS section 206J-17)

Abolishes the following funds and provides that any unencumbered balances be transferred to the general fund:

- (1) the Amtrak trust account established in 1998 and administered by the department of transportation;
- (2) the Hurricane Iniki insurance proceeds special fund administratively established in 1997 and administered by the department of transportation; and
- (3) the deposits—plans and specifications trust account administratively established in 1988 and administered by the department of transportation.

EFFECTIVE DATE: June 29, 2015

STAFF COMMENTS: This measure implements some of the state auditor's recommendations in the various auditor's reports that reviewed the special funds, revolving funds, trust funds, and trust accounts of the state.

The 1989 Tax Review Commission noted that use of special fund financing is a "departure from Hawaii's sound fiscal policies and should be avoided." It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

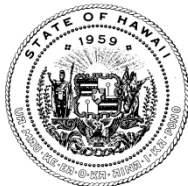
Seconding the Commission's harsh criticism was the State Auditor's report issued in February of 1991 that recognized that the "tax is levied on the general public rather than specific beneficiaries of the program," and thus the fund did not reflect a "direct link between user benefits and user charges."



As a result of the recent spotlight of monies in special funds, the legislature by Act 130, SLH 2013, requires the State Auditor to review all existing special, revolving, and trust funds beginning in 2014 and every five years which assists in making government finances more transparent.

Digested 2/17/15

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February 18, 2015
2:00 p.m.
State Capitol, Room 308

**H.B. 173
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The Department of Transportation (DOT) **supports** to abolish the Transportation Use Special Fund from the five (5) percent surcharge for central service expenses of government.

However, we respectfully request the deferral to remove the exemption from the Aloha Tower Fund which would repeal the Aloha Tower Development Corporation (ATDC) to the general fund.

The ATDC is the lessor of the Aloha Tower Marketplace lease. The lessee, Hawaii Lifestyle, has contracts and other financial obligations relating to the lease with the ATDC. ATDC is the mechanism to pay the DOT, Harbors Division. The deletion of the ATDC fund may result in financial and legal complications that should be discussed before the proposed amendments are enacted.

There are also other legislative initiatives to discuss the purpose and role of the ATDC. For legislative efficiency and legal practicability, this bill should be amended.

Thank you for the opportunity to provide testimony.