

SB 1189

Measure Title: RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM.

Report Title: Special Funds; Revolving Funds; Department of Business, Economic Development, and Tourism; High Technology Loan Revolving Fund

Description: Repeals particular special and revolving funds that have become dormant or unnecessary and transfers the unencumbered balances in those funds into the high technology loan revolving fund.

Companion: [HB1244](#)

Package: None

Current Referral: EDT, WAM

Introducer(s): WAKAI, HARIMOTO, KIDANI, SLOM, Baker, Dela Cruz, Galuteria



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Monday, February 9, 2015
3:00 PM
State Capitol, Conference Room 016

in consideration of
SB 1189
**RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM; HIGH TECHNOLOGY LOAN REVOLVING FUND.**

Chair Wakai, Vice-Chair Slom and Members of the Committee. The Department of Business, Economic Development, and Tourism (DBEDT) opposes the repeal of the Hawaii Community-Based Economic Development Revolving Fund and the Foreign-Trade Zone (FTZ) Special Fund. These funds are neither dormant or unnecessary.

The most recent auditor's report agrees that the Hawaii Community-Based Economic Development (CBED) Revolving Fund "continues to serve the purpose for which it was created." The Fund was established to provide training and capacity-building opportunities, and invest in community economic development projects that result in measurable economic impact.

The focus of the CBED Revolving Fund has been on grants and revenue generating activities to sustain the program including the development of its microloan program in cooperation with the Department of Agriculture. Sources of revenue to the Fund include repayments of loan principal, loan interest, and interest from the department's participation in the State's investment pool, and fees assessed for conferences and seminars.

The Foreign-Trade Zone (FTZ) Special Fund was established as a method for the program to manage and maintain its Pier 2 import/export office and warehouse operations, and its statewide program initiatives to encourage international trade activity. It was the consensus of the legislature when the fund was established that those constituents directly benefiting from the program should support and sustain the operation through the payment of fees.

The Foreign-Trade Zone is a fully self-sustaining program which uses no general fund appropriations for its operations. This Special Fund is the sole funding source for the FTZ program and is sustained through the fees charged in accordance with HRS 212. The state audit

of special and revolving funds conducted 2014 noted that, "the FTZ Special Fund meets the criteria of a Special Fund and continues to serve the purpose for which it was created in 1971." The fund helps the Foreign-Trade Zone program encourage manufacturing and value-added activities, increase the export competitiveness of Hawai'i companies, support small businesses engaged in importing and exporting activities, and attract new investment and job opportunities to the state.

DBEDT defers to its attached agencies to offer comments on other special funds noted in this bill.

Thank you for the opportunity to provide these comments.

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON SENATE BILL 1189
A BILL RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

PRESENTATION TO
THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

BY
BRIGADIER GENERAL ARTHUR J. LOGAN
ADJUTANT GENERAL
AND DIRECTOR OF THE HAWAII EMERGENCY MANAGEMENT AGENCY
February 9, 2015

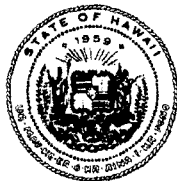
Chair Wakai, Vice Chair Slom and Members of the Senate Committee on Economic Development and Technology:

I am Brigadier General Arthur J. Logan, State Adjutant General and the Director of the Hawaii Emergency Management Agency. I am testifying in support of Senate Bill 1189.

The Department of Defense has no objection to the repeal of the State disaster revolving fund.

Thank you for allowing me to testify in support of Senate Bill 1189.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

February 9, 2015 at 3:00 p.m.
State Capitol, Room 016

In consideration of
S.B. 1189

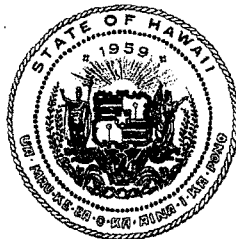
**RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM.**

HHFDC opposes sections 2-4 of S.B. 1189, which would repeal the Housing Finance Revolving Fund (HFRF), and transfer any unencumbered balances into the High Technology Loan Fund. We do not oppose section 30, which repeals the Fee Simple Residential Revolving Fund. We defer to the appropriate Division or agency with respect to the remainder of the bill.

Pursuant to section 201H-80(b), HRS, "[a]ll moneys received and collected by the corporation, not otherwise pledged or obligated nor required by law to be placed in any other special fund, shall be deposited in the housing finance revolving fund." The fund provides long-term and other special financing to first-time homebuyers and lower income renters in need of affordable housing. It also pays administrative expenses of programs, including the Mortgage Credit Certificate Program, the Kahana Valley Loan Program, the Low-Income Housing Tax Credit Program and Low-Income Housing Tax Credit Loan Program.

The Auditor recently issued a report to the Governor and the Legislature (Report No. 14-13, December 2014) which found that the HFRF meets the criteria for a revolving fund and continues to serve the purpose for which it was created. Therefore, we respectfully request that sections 2-4 of this bill be deleted.

Thank you for the opportunity to testify.



**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,
ON SENATE BILL NO. 1189,
RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM**

Senate Committee on Economic Development and Technology

February 9, 2015

Chair Wakai and Members of the Committee:

I am Jan Yamane, Acting State Auditor. Thank you for the opportunity to testify in partial support of Senate Bill No. 1189 (SB 1189), which would repeal 13 special, revolving, and trust funds and transfer the unencumbered balances into the High Technology Loan Revolving Fund in the Department of Business, Economic Development, and Tourism. Additionally, we have concerns about portions of this bill.

In December 2014, we released Report No. 14-13 *Review of Special Funds, Revolving Funds, Trust Funds and Trust Accounts of the Departments of the Attorney General and Business, Economic Development and Tourism*, wherein we reviewed 23 special funds, 18 revolving funds, and 13 trust funds and trust accounts of the Department of Business, Economic Development and Tourism. Our review of these funds 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.

Funds that *did not meet* criteria and should be repealed

We support Sections 26 and 30 of SB 1189 that would repeal two funds that we listed in our report as *not meeting criteria*:

1. **Hawai'i Community-Based Economic Development Revolving Fund**, established under §210D-4, HRS. This fund does not meet criteria for continuance because it is not self-sustaining and relies on revenue from the general fund.
2. **Fee Simple Residential Revolving Fund** established under §516-44, HRS. This fund no longer serves the purpose for which it was created, does not meet the criteria for a revolving fund, and should be repealed.

Funds that *meet* criteria, but would be repealed by SB 1189

SB 1189 would also repeal other funds reviewed in our Report No. 14-13. We generally support the Legislature decreasing the high number of special and revolving funds. However, we note that the below funds *meet criteria*, including the need for the fund to support programs in the department:

1. **Housing Finance Revolving Fund** (Section 2) established under §201H-80, HRS;
2. **Brownfields Cleanup Revolving Loan Fund** (Section 19) established under §201-18, HRS
3. **Hawai'i Community Development Revolving Fund** (Section 21) established under §206E-16, HRS
4. **Kalaeloa Community Development Revolving Fund** (Section 22) established under §206E-195, HRS;
5. **He'eia Community Development Revolving Fund** (Section 23). This fund was reviewed; however, we were unable to conclude whether the fund is self-sustaining because it was recently established in 2013 under §206E-204, HRS.
6. **High Technology Special Fund** (Section 24) established under §206M-15.5, HRS;
7. **State Disaster Revolving Loan Fund** (Section 25) established under §209-34, HRS;
8. **Foreign-Trade Zones Special Fund** (Section 27) established under §212-9, HRS;

9. **Hydrogen Investment Capital Special Fund** (section 28) established under §211F-5.7, HRS; and
10. **Natural Energy Laboratory of Hawai'i Authority Special Fund** (Section 29) established under §227D-5 HRS.

A fund that should be reclassified, but would be repealed by SB 1189

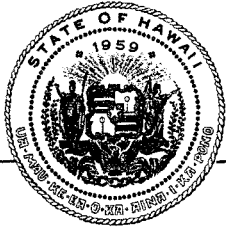
SB 1189 would repeal the **Tourism Emergency Trust Fund** (Section 20) established under §201B-10, HRS. We concluded that this trust fund serves the purpose for which it was created, but should be reclassified because it functions more like a special fund. The fund does not meet the definition of a trust fund as there are no designated persons or classes of persons having a vested beneficial interest or equitable ownership in the assets of the fund. Moreover, its source of revenue is from transient accommodations tax revenues remaining in the Tourism Special Fund.

Transferring cash balances to a fund is not appropriate, especially one that should be repealed

In our prior reports on non-general funds, we stated that it is appropriate for the Legislature to transfer cash balances far in excess of program needs to the general fund from special and revolving funds that are repealed or discontinued. SB 1189, however, would transfer the unencumbered balances from the 11 repealed funds into the **Hawai'i Technology Loan Revolving Fund**, instead of the general fund. (Note: SB 1189 mistakenly refers to the fund as the *High* Technology Loan Revolving Fund.)

Such a transfer is not appropriate, especially since we concluded that the Hawai'i Technology Loan Revolving Fund established under §206M-15.6, HRS, does not meet criteria for a revolving fund and should be repealed. The fund was designed to support new business opportunities by making capital available to technology companies that have difficulty obtaining loans through conventional means or later-stage investments, including venture capitalists. Since its creation in 2000, the fund has not received moneys to implement a loan program.

Thank you for the opportunity to testify in partial support of SB 1189. I am available to answer any questions you may have.



**OFFICE OF PLANNING
STATE OF HAWAII**

DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
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Statement of
LEO R. ASUNCION
Acting Director, Office of Planning
before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
Monday, February 9, 2015
3:00 PM
State Capitol, Conference Room 016

in consideration of
SB 1189
**RELATING TO THE DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT, AND TOURISM.**

Chair Wakai, Vice Chair Slom, and Members of the Senate Committee on Economic Development and Technology.

The Office of Planning (OP) opposes Section 19 of SB 1189 and defers to the Department of Business, Economic Development and Tourism (DBEDT) on other provisions in the bill. SB 1189 would repeal various special and revolving funds administered by DBEDT—including Hawaii Revised Statutes (HRS) § 201-18, the Brownfields Cleanup Revolving Loan Fund—and transfer the remaining balance of the funds into the High Technology Revolving Loan Fund.

The Brownfields Cleanup Revolving Loan Fund (BCRLF)—administered by OP on behalf of DBEDT for coalition partners, the State of Hawaii, the City and County of Honolulu, and the County of Maui—was capitalized by a \$2 million U.S. Environmental Protection Agency (EPA) Brownfields Program grant. The BCRLF was established to provide low-cost loans for the cleanup or remediation of contaminated properties to reduce the risks and costs of redeveloping properties idled or underutilized because of contamination.

A BCRLF loan to the Department of Hawaiian Home Lands was used to cleanup the East Kapolei pesticide mixing and loading facility site situated within DHHL's planned East Kapolei II residential project. The BCRLF loan was leveraged with an EPA Brownfields Cleanup Grant and DHHL funds, and allowed DHHL to save \$400,000 on the cleanup project. DHHL repaid the loan principal due in full, \$1.77 million, in 2014.

OP is currently in the process of executing a \$592,300 loan to the Hawaii Island Community Development Corporation to clean up a pesticide mixing site in Hawi, Hawaii, on land slated for Phase III of their Kumakua Affordable Housing Project—a self-help housing project that provides on-the-job skills training as well as much needed housing. Both sites had been identified by the Department of Health's Hazard Evaluation and Emergency Response Office (DOH HEER) as priorities for cleanup.

The BCRLF program is operating under a Closeout Agreement between EPA and DBEDT. The Closeout Agreement requires that the funds be used for brownfields cleanup and environmental site assessment activities and protect public and environmental health from potential exposure to harmful contaminants.

Thank you for the opportunity to testify on this measure.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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KALAELOA

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STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND
TECHNOLOGY

ON

MONDAY, FEBRUARY 9, 2015

3:00 P.M.

State Capitol, Conference Room 16

in consideration of

**S. B. 1189 – RELATING TO THE DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT, AND TOURISM.**

Purpose: Repeals particular special and revolving funds that have become dormant or unnecessary and transfers unencumbered balances in those funds into the high technology loan revolving fund.

Position: The Hawaii Community Development Authority (HCDA) must oppose this bill, as the repeal of any of the revolving funds administered by the agency would be detrimental to the legislative mandate of redeveloping the three designated Community Development Districts, as the revolving funds are not dormant, unnecessary or in large part, unencumbered. As the HCDA does not receive any general fund appropriations, these revolving funds also represent the only means of self-sustaining financing for all HCDA related programs and activities.

The HCDA currently administers three revolving funds. The Hawaii Community Development Revolving Fund (206E-16 HRS) was established when the 1976 State Legislature created the HCDA. The fund supports the community development objectives of the HCDA, including comprehensive planning activities, administering zoning regulations and promoting economic community development activities in the Kakaako and the Kalaeloa Community Development Districts. Revenues are from leases, improvement district assessments, public facility and reserved housing fees.

The Heeia Community Development Revolving Fund (206E-204 HRS) was created to establish the Heeia Community Development District for the development of agriculture, education, and natural resource restoration, as well as to manage 405 acres of Heeia Wetlands. Future revenues are anticipated to be from rents collected from commercial agricultural activities.

The Kalaeloa Community Development Revolving Fund (206E-195 HRS) was created when the State Legislature established the Kalaeloa Community Development District. The fund supports the HCDA in its efforts to redevelop the Barbers Point Naval Air Station/ Kalaeloa Community Development District. All land users, except the federal government are assessed their fair share of the costs required to administer and manage the development district.

Additionally, the HCDA is responsible for the OHA Ceded Lands Proceeds – HCDA Trust Account, administratively established as a holding account for revenues generated from ceded lands within the Kakaako Community Development District that are managed by the HCDA.

The following accounts were previously administered by the HCDA and are now closed:

- The Hawaii Community Development Revolving Fund Escrow Account which was administratively established in 1997, prior to the 2002 enactment of Section 37-52.4 HRS. In February 2014, the Director of

Finance determined the account was no longer needed and abolished the account.

- The HCDA Special Assessment Reserve Fund (206E-6(g)) was established to support a district wide improvement program and was used solely for paying principal and interest on bonds issued by the HCDA. The bonds were paid in full in 2006 and the account was closed in 2013.
- The Kakaako Makai Lands Trust Fund was administratively established in 2013 to account for property management services provided by the HCDA for Kakaako Makai parcels conveyed to the Office of Hawaiian Affairs under a settlement agreement between the State and OHA. This fund was closed in Fiscal Year 2014.

The State Auditor has determined that the HCDA's existing revolving funds meet the criteria of a revolving fund and serve the purpose for which they were created.

1. Serves a need as demonstrated by the purpose of the program; the scope of the program; and why the program cannot be implemented successfully under the general fund appropriation process.
2. Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries.
3. Provides an appropriate means of financing for the program or activity.
4. Demonstrates the capacity to be financially self-sustaining.

These three revolving funds and are necessary for the continued operation of the HCDA. Within these funds, Public Facility fees, Reserved Housing fees and Improvement District Assessments can only be used for specific State purposed activities within the district from which they are generated.

Thank you for the opportunity to provide our comments on this measure.

Written Statement of
ROBBIE MELTON
Executive Director & CEO
High Technology Development Corporation
before the
SENATE COMMITTEE ON
ECONOMIC DEVELOPMENT & TECHNOLOGY

Monday, February 9, 2015
3:00 p.m.
State Capitol, Conference Room 016
In consideration of

**SB1189 THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND
TOURISM.**

Chair Wakai, Vice Chair Slom, and Members of the Committee on Economic Development & Technology.

The High Technology Development Corporation (HTDC) offers **comments** on SB1189 relating to the Department of Business, Economic Development, and Tourism.

HTDC opposes the repeal of the HTDC Special Fund proposed in section 24 of the bill. The special fund covers half the salary for each of the HTDC staff and the cost for incubation center programs. Furthermore, according to the Office of the Auditor Report No. 14-13, December 2014 titled "Review of Special Funds, Revolving Funds, Trust Funds and Trust Accounts of the Departments of the Attorney General and Business, Economic Development and Tourism", HTDC's special fund meets the criteria for a special fund and continues to serve the purpose for which it was created. HTDC supports the intent of capitalizing the Hawaii Technology Loan Revolving Fund to support commercialization of technologies.

HTDC does not offer comment on the other sections of SB1189 and defers to the appropriate divisions.

Thank you for the opportunity to offer these comments.



Written Statement of

KARL FOOKS

President

Hawaii Strategic Development Corporation

Before the

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

February 9, 2015

3:00 PM

State Capitol, Conference Room 016

In consideration of

**SB 1189 RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM**

Chair Wakai, Vice Chair Slom, and Members of the Committee on Economic Development and Technology:

The Hawaii Strategic Development Corporation (HSDC) respectfully submits testimony in opposition to SB 1189, a measure repealing the Hydrogen Investment Capital Special Fund.

The Hydrogen Investment Capital Special Fund (HIC) was established to provide seed capital for venture capital investments in private sector and federal projects for research, development, testing, and implementation of the Hawaii renewable hydrogen program (as set forth in Section 196-10, HRS), and any other purposes deemed necessary to carry out the purposes of this program.

This fund is active and should not be abolished. It holds a limited partner interest in the Kolohala Hydrogen Fund representing an equity portfolio of over \$5mm of invested capital. In addition, the HIC funded a recent Hydrogen Conference bringing in stakeholders from all over the State and the nation to discuss strategies to increase the use of hydrogen fuel for transportation. This conference resulted in the introduction of SB 706 to appropriate funds for a hydrogen production and fueling station.

The relevance of the HIC is confirmed by the State Auditor in their 2014 report which concluded that the HIC continues to meet its intended purpose (see page 47, attached).

revenue bonds. Revenues include bond proceeds, loan interest income, investment income, and repayments of loan proceeds. Expenses include loans to developers, repayment of bond principal and interest, and administrative expenses.

**Hydrogen Investment
Capital Special Fund
(special fund)**

Section 211F-5.7, HRS

Financial Data for Fiscal Years 2010–2014 (in thousands)

	FY2010	FY2011	FY2012	FY2013	FY2014
Beginning Balance	\$4,839	\$4,379	\$2,310	\$1,099	\$159
Revenues	0	0	0	0	0
Interest	93	75	10	1	0
Expenditures	(538)	(2,144)	(1,221)	(941)	0
Transfers ¹	(15)	0	0	0	0
Ending Balance	\$4,379	\$2,310	\$1,099	\$159	\$159
Encumbrances	\$4,301	\$2,161	\$941	\$0	\$0

¹Transfer in FY2010 was to the general fund as a partial payment in accordance with Act 79, SLH 2009.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was created. Established in 2006, the fund is used to provide seed capital and venture capital investments in private-sector and federal projects for research, development, testing, and implementation of the Hawai'i Renewable Energy Hydrogen Program that began in 2008. Revenue can include legislative appropriations, contributions from public or private partners, interest earned on or accrued to moneys deposited in the special fund, and any other moneys made available to the special fund from other sources. Expenses include amounts paid to the venture capital firm contracted by the department to invest on behalf of the fund and administrative costs.



NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

An Authority of the State of Hawaii attached to the Department of Business, Economic Development & Tourism

Statement of
Gregory P. Barbour
Executive Director

Natural Energy Laboratory of Hawaii Authority
before the

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Monday, February 9, 2015

3:00 pm

State Capitol, Conference Room 016

in consideration of

SB 1189

RELATING TO THE DEPARTMENT OF BUSINESS ECONOMIC DEVELOPMENT AND TOURISM

The Natural Energy Laboratory of Hawaii Authority (NELHA) opposes S.B. 1189 which would repeal the NELHA special fund. NELHA's efforts to complete its statutory duties would be severely disrupted if section 227D-5 were repealed.

NELHA is a "self-sufficient agency in terms of its operations. It generates approximately \$5 million in revenue annually and has expenditures of a like amount. It is important to note that, according to the Office of the Auditor Report No. 14-13, December 2014 titled "Review of Special Funds, Revolving Funds, Trust Funds and Trust Accounts of the Departments of the Attorney General and Business, Economic Development and Tourism" page 50 states: "**This fund meets the criteria for a special fund and serves the purpose for which it was created. Established in 1990, the fund helps the Natural Energy Laboratory of Hawai'i Authority facilitate the research, development, and commercialization of natural energy resources and ocean-related research, technology, and industry in Hawai'i.**"

Thank you for the opportunity to offer these comments.