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# A BILL FOR AN ACT

RELATING TO FINANCING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the State's streams,  
2 groundwater, and ocean are harmed by nonpoint contamination  
3 sources that flow directly off the land, rather than through  
4 pipes or ditches. Cesspools are a nonpoint contamination source  
5 of great concern. These inadequate systems are essentially  
6 holes in the ground that do not treat wastewater; rather, they  
7 merely dispose of polluted wastewater.

8           It is estimated that there are almost eighty-three thousand  
9 cesspools in the State; with nearly fifty thousand, or eighteen  
10 per cent, on Hawaii island; approximately fourteen thousand, or  
11 eighteen per cent, on Kauai; over eleven thousand, or fourteen  
12 per cent on Maui; approximately seven thousand five hundred, or  
13 nine per cent, on Oahu; and approximately one thousand four  
14 hundred, or two per cent, on Molokai. Collectively, the State's  
15 cesspools release more than fifty-three million gallons of  
16 untreated sewage into the ground each day and Hawaii relies on  
17 groundwater for ninety per cent of its drinking water.



1 In response to the State's cesspool pollution problem, in  
2 2017, the legislature enacted a measure that required all  
3 cesspools not excluded by the director of health to be upgraded  
4 or converted to wastewater systems approved by the director of  
5 health, or connected to sewage systems by January 1, 2050;  
6 however, cesspool conversions, which are estimated to cost  
7 \$1,300,000,000, have been lagging.

8 The legislature finds the upfront costs of cesspool  
9 conversions to be a barrier that prevents many cesspool owners  
10 from addressing systems that daily contribute to the release of  
11 untreated sewage into the ground. The legislature further finds  
12 that it is in the public interest to reduce risks presented by  
13 cesspools and safeguard public sanitation and the environment.  
14 It is in the interest of the State to encourage the acceleration  
15 of cesspool conversions as doing so would also produce external  
16 benefits to public education about cesspools and wastewater,  
17 while creating a market to sustain the clean water workforce  
18 being developed in training programs, like Work-4-Water, through  
19 the university of Hawaii community colleges system.

20 The legislature also finds that while state and federal  
21 funding for cesspool conversion loans are limited, the recently



1 approved Inflation Reduction Act of 2022 and Bipartisan  
2 Infrastructure Law generously increase funding to supplement the  
3 Hawaii public utilities commission's energy efficiency programs.  
4 Under the Inflation Reduction Act Home Energy Rebate program,  
5 the State will receive \$68,300,000 in funding for energy  
6 efficient water heaters, space heaters and coolers, dryers,  
7 cooking appliances, wiring, insulation, and other ENERGY STAR  
8 qualified technologies from fiscal year 2024 to fiscal  
9 year 2031. Under the Bipartisan Infrastructure Law, the state  
10 will receive \$7,000,000 in funds for grid resilience and  
11 weatherization, and \$18,000,000 for electric vehicle charging  
12 infrastructure from fiscal year 2024 to fiscal year 2028.

13 The public utilities commission-approved public benefits  
14 fee surcharge is currently used by its contractor, Hawaii  
15 Energy, to administer commercial and residential energy  
16 efficiency programs. For the program year spanning July 1,  
17 2023, to June 30, 2024, it is expected that Hawaii Energy will  
18 receive \$44,000,000 from ratepayers to administer its programs,  
19 with \$26,000,000 allocated for commercial programs and  
20 \$18,000,000 allocated for residential programs.



1           On October 26, 2017, the public utilities commission issued  
2 Order No. 34930 requiring the Hawaii green infrastructure  
3 authority to transfer all green energy market securitization  
4 (GEMS) bond-funded principal and interest loan repayments  
5 collected to supplement the public benefits fund. The amounts  
6 transferred to the public utilities commission are approximately  
7 \$3,500,000 to \$4,000,000 annually, and, to date, the authority  
8 has transferred over \$17,700,000 to the public utilities  
9 commission.

10           It is expected that the Maui wildfires will significantly  
11 injure the State's economic health, and initial signs already  
12 indicate that the actual general fund tax revenue is roughly 1.8  
13 per cent less than projected by the council on revenues for the  
14 first fiscal month of 2024.

15           The legislature further finds that according to the public  
16 utilities commission's Indenture of Trust, the GEMS bond was  
17 designated a "green bond," and that the State pledged to commit  
18 proceeds to the "financing of environmentally beneficial  
19 projects".

20           In lieu of transferring GEMS loan repayments to the public  
21 utilities commission, the legislature finds that allowing the



1 Hawaii green infrastructure authority to retain earned interest  
 2 to cover its operating expenses while repurposing the repaid  
 3 principal of GEMS funded solar loans to fund a cesspool  
 4 conversion revolving loan fund would create a long-term source  
 5 of capital that, when combined with federal funds, serves a  
 6 necessary public purpose.

7 The purpose of this Act is to:

- 8 (1) Establish the cesspool conversion revolving loan fund  
 9 within the Hawaii green infrastructure special fund to  
 10 provide financing to low- and moderate-income  
 11 households for cesspool conversions approved by the  
 12 department of health;
- 13 (2) Authorize the Hawaii green infrastructure authority to  
 14 administer the fund; and
- 15 (3) Require annual reports to the legislature.

16 SECTION 2. Chapter 196, Hawaii Revised Statutes, is  
 17 amended by adding a new section to part IV to be appropriately  
 18 designated and to read as follows:

19 "§196- Cesspool conversion revolving loan fund. (a)  
 20 There is established in the Hawaii green infrastructure special  
 21 fund established under section 196-65, the cesspool conversion



1 revolving loan fund that shall be administered by the authority.  
2 Funds deposited into the cesspool conversion revolving loan fund  
3 shall not be under the jurisdiction of nor subject to approval  
4 by the commission and shall include:

- 5       (1) Principal and interest repayments from green  
6             infrastructure loans made under section 196-65;
- 7       (2) Interest repayments from loans made to state  
8             government agencies under section 196-62.5;
- 9       (3) Funds from federal, state, county, private or other  
10            funding sources;
- 11       (4) Moneys received as repayment of loans and interest  
12            payments; provided that the repayment of loans and  
13            interest payments under this paragraph shall not  
14            include repayment of loans and interest collected as a  
15            result of funds advanced from proceeds of the clean  
16            energy and energy efficiency revolving loan fund  
17            established pursuant to section 196-65.5 or any solar  
18            or energy storage loan program; and
- 19       (5) Any fees collected by the authority under this  
20            section; provided that moneys collected as a result of  
21            the funds advanced from proceeds of the green energy



1           market securitization bonds, clean energy and energy  
2           efficiency revolving loan fund, and any solar or  
3           energy storage loan program shall be kept separate  
4           from fees collected as a result of funds advanced from  
5           proceeds of the cesspool conversion revolving loan  
6           fund.

7           (b) Moneys in the cesspool conversion revolving loan fund  
8           shall be used to provide low-cost loans or other authorized  
9           financial assistance to eligible low- and moderate-income  
10          households to update or convert existing cesspools in any county  
11          to septic systems, aerobic treatment unit systems, connect to  
12          existing sewer systems or any other system approved by the  
13          department of health for wastewater treatment on terms approved  
14          by the authority. Moneys from the fund may be used to cover all  
15          administrative and legal costs of fund management and management  
16          associated with all loan programs administered by the authority,  
17          including personnel, services, technical assistance, data  
18          collection and reporting, materials, equipment, and travel for  
19          the purposes of this section.

20          (c) Funds appropriated or authorized from the cesspool  
21          conversion revolving loan fund shall be expended by the



1 authority. The authority may contract with other public or  
2 private entities for the provision of all or a portion of the  
3 services necessary for the administration and implementation of  
4 the loan fund program pursuant to section 196-96(e). The  
5 authority may set fees for fund management and technical site  
6 assistance provided under this section.

7 (d) All interest earned on the loans, deposits, or  
8 investments of the moneys in the fund shall become part of the  
9 fund.

10 (e) The authority may establish subaccounts within the  
11 fund as necessary.

12 (f) The authority may adopt rules pursuant to chapter 91  
13 to carry out the purposes of this section."

14 SECTION 3. Section 196-64, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§196-64 Functions, powers, and duties of the authority.**

17 (a) In the performance of, and with respect to the functions,  
18 powers, and duties vested in the authority by this part, the  
19 authority, as directed by the director and in accordance with a  
20 green infrastructure loan program order or orders under section  
21 269-171 or an annual plan submitted by the authority pursuant to



1 this section, as approved by the commission for the green  
2 infrastructure loan program, may:

- 3 (1) Make loans and expend funds to finance the purchase or  
4 installation of green infrastructure equipment for  
5 clean energy technology, demand response technology,  
6 and energy use reduction and demand side management  
7 infrastructure, programs, and services;
- 8 (2) Hold and invest moneys in the green infrastructure  
9 special fund in investments as permitted by law and in  
10 accordance with approved investment guidelines  
11 established in one or more orders issued by the  
12 commission pursuant to section 269-171;
- 13 (3) Hire employees necessary to perform its duties,  
14 including an executive director. The executive  
15 director shall be appointed by the authority, and the  
16 employees' positions, including the executive  
17 director's position, shall be exempt from chapter 76;
- 18 (4) Enter into contracts for the service of consultants  
19 for rendering professional and technical assistance  
20 and advice, and any other contracts that are necessary  
21 and proper for the implementation of the loan program;



- 1 (5) Enter into contracts in compliance with chapter 103D  
2 for the administration of the loan program[~~without~~  
3 ~~the necessity of complying with chapter 103D~~];
- 4 (6) Establish loan program guidelines to be approved in  
5 one or more orders issued by the commission pursuant  
6 to section 269-171 to carry out the purposes of this  
7 part;
- 8 (7) Be audited at least annually by a firm of independent  
9 certified public accountants selected by the  
10 authority, and provide the results of this audit to  
11 the department and the commission; and
- 12 (8) Perform all functions necessary to effectuate the  
13 purposes of this part.
- 14 (b) The authority shall submit to the commission an annual  
15 plan for the green infrastructure loan program for review and  
16 approval no later than ninety days prior to the start of each  
17 fiscal year. The annual plan submitted by the authority shall  
18 include the authority's projected operational budget for the  
19 succeeding fiscal year.
- 20 (c) In the performance of the functions, powers, and  
21 duties vested in the authority by this part, the authority shall



1 administer the clean energy and energy efficiency revolving loan  
2 fund established pursuant to section 196-65.5 and may:

- 3 (1) Make loans and expend funds to finance the purchase or  
4 installation of clean energy technology and services;
- 5 (2) Implement and administer loan fund programs on behalf  
6 of other state departments or agencies through a  
7 memorandum of agreement and expend funds appropriated  
8 to the department or agency for purposes authorized by  
9 the legislature;
- 10 (3) Utilize all repayment mechanisms, including the green  
11 energy money saver on-bill program, financing tools,  
12 servicing and other arrangements, and sources of  
13 capital available to the authority;
- 14 (4) Exercise powers to organize and establish special  
15 purpose entities as limited liability companies under  
16 the laws of the State;
- 17 (5) Acquire, hold, and sell qualified securities;
- 18 (6) Pledge unencumbered net assets, loans receivable,  
19 assigned agreements, and security interests over  
20 equipment financed, as collateral for the authority's



- 1 borrowings from federal, county, or private lenders or  
2 agencies;
- 3 (7) Utilize the employees of the authority, including the  
4 executive director;
- 5 (8) Enter into contracts for the service of consultants  
6 for rendering professional and technical assistance  
7 and advice and any other contracts that are necessary  
8 and proper for the implementation of ~~[the]~~ a loan fund  
9 program;
- 10 (9) Enter into contracts in compliance with chapter 103D  
11 for the administration of ~~[the]~~ a loan fund program  
12 ~~[exempt from chapter 103D]~~;
- 13 (10) Establish loan fund program guidelines;
- 14 (11) Be audited at least annually by a firm of independent  
15 certified public accountants selected by the authority  
16 and provide the results of the audit to the department  
17 and legislature; and
- 18 (12) Perform all functions necessary to effectuate the  
19 purposes of this part.
- 20 (d) The authority shall submit an annual report for the  
21 clean energy and energy efficiency revolving loan fund to the



1 legislature no later than twenty days prior to the convening of  
2 each regular session describing the projects funded and the  
3 projected energy impacts.

4 (e) In the performance of the functions, powers, and  
5 duties vested in the authority by this part, the authority shall  
6 administer the cesspool conversion revolving loan fund  
7 established pursuant to section 196- and may:

8 (1) Make loans and expend funds to finance the update or  
9 conversion of existing cesspools in any county to  
10 septic systems, aerobic treatment unit systems, and  
11 connect to existing sewer systems or any other system  
12 approved by the department of health for wastewater  
13 treatment;

14 (2) Reference as an example the loan program under section  
15 342D-83, provided by the department of health;

16 (3) Utilize all repayment mechanisms, financing tools,  
17 servicing and other arrangements, and sources of  
18 capital available to the authority;

19 (4) Utilize the employees of the authority, including the  
20 executive director;



- 1       (5) Enter into contracts for the service of consultants  
2           for rendering professional and technical assistance  
3           and advice and any other contracts that are necessary  
4           and proper for the implementation of a loan fund  
5           program;
- 6       (6) Enter into contracts in compliance with chapter 103D  
7           for the administration of a loan fund program;
- 8       (7) Establish loan fund program guidelines;
- 9       (8) Be audited at least annually by a firm of independent  
10           certified public accountants selected by the authority  
11           and provide the results of the audit to the department  
12           of health and legislature; and
- 13       (9) Perform all functions necessary to effectuate the  
14           purposes of this subsection.
- 15       (f) The authority shall submit an annual report for the  
16       cesspool conversion revolving loan fund to the legislature no  
17       later than twenty days prior to the convening of each regular  
18       session describing the projects funded."

19       SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21       SECTION 5. This Act shall take effect on July 1, 2024.

**Report Title:**

Cesspool Conversion Revolving Loan Fund Program; Hawaii Green Energy Infrastructure Authority; Green Energy Market Securitization Bond Funded Loan Proceeds; Report

**Description:**

Establishes the Cesspool Conversion Revolving Loan Fund. Directs green energy market securitization loan repayments and interest to be deposited into the Cesspool Conversion Revolving Loan Fund. Requires the Hawaii Green Infrastructure Authority to administer the Cesspool Conversion Revolving Loan Fund. Requires annual reports to the Legislature. (SD1)

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