

JAN 15 2025

---

---

# A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 PART I

2 SECTION 1. The legislature finds that the health of  
3 Hawaii's people and quality of Hawaii's waters are being harmed  
4 by pollution from cesspools. Hawaii has more than eighty  
5 thousand cesspools that discharge about fifty million gallons of  
6 wastewater into the State's groundwater every day. Cesspools  
7 are antiquated, substandard systems that damage public health;  
8 pollute drinking water; and lower water quality in streams,  
9 ground waters, nearshore marine areas, and the ocean. Cesspool  
10 pollution also harms public recreation and the precious coral  
11 reefs on which Hawaii's economy, shoreline, fisheries, and  
12 native species depend.

13 The purpose of this Act is to implement various  
14 recommendations of the working group established by Act 132,  
15 Session Laws of Hawaii 2018, including:

16 (1) Accelerating the dates for required upgrades,  
17 conversions, or connections of:



- 1 (A) The 13,821 priority level 1 cesspools in the
- 2 State to 2035, with certain exceptions; and
- 3 (B) The 12,367 priority level 2 cesspools in the
- 4 State to 2040;
- 5 (2) Appropriating funds to provide financing assistance
- 6 via the cesspool compliance pilot grant project
- 7 established pursuant to Act 153, Session Laws of
- 8 Hawaii 2022;
- 9 (3) Establishing a cesspool upgrade, conversion, or
- 10 connection income tax credit; and
- 11 (4) Requiring the auditor to periodically review the
- 12 cesspool upgrade, conversion, or connection income tax
- 13 credit.

14 PART II

15 SECTION 2. Chapter 342D, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18 "§342D- Cesspools; mandatory upgrade, conversion, or  
19 connection; priority level 1; priority level 2. (a) Every  
20 cesspool in the State categorized as priority level 1 according



1 to the university of Hawaii's Hawaii cesspool prioritization  
2 tool shall be:

3 (1) Upgraded or converted to a director-approved  
4 wastewater system; or

5 (2) Connected to a sewerage system,

6 before January 1, 2035; provided that priority level 1 cesspools  
7 on recreational residence leases within the Kokee state park and  
8 Waimea Canyon state park on the island of Kauai shall be  
9 upgraded, converted, or connected before January 1, 2040.

10 (b) Every cesspool in the State designated as priority  
11 level 2 according to the university of Hawaii's Hawaii cesspool  
12 prioritization tool shall be:

13 (1) Upgraded or converted to a director-approved  
14 wastewater system; or

15 (2) Connected to a sewerage system,

16 before January 1, 2040.

17 (c) The director may grant an exemption from the  
18 requirements of subsections (a) and (b) to the property owner of  
19 a cesspool who applies for an exemption and presents  
20 documentation showing a legitimate reason that makes it  
21 infeasible to upgrade, convert, or connect the cesspool. For



1 the purposes of this subsection, a legitimate reason shall  
2 include but not be limited to:

3       (1) Small lot size;  
4       (2) Steep topography;  
5       (3) Poor soils;  
6       (4) Accessibility issues; or  
7       (5) A planned development of sewerage upgrades to an area.

8       (d) The department may grant extensions of up to five  
9 years at a time from the requirements of subsections (a) and (b)  
10 based on demonstration of financial inability to pay for or  
11 finance a cesspool upgrade, conversion, or connection; provided  
12 that the department of health may adopt rules pursuant to  
13 chapter 91 necessary to effectuate the purposes of this  
14 subsection.

15       (e) Notwithstanding any law to the contrary, no penalty or  
16 other assessment for any violation of this section shall  
17 constitute a lien on the real property. Notwithstanding any law  
18 to the contrary, no seizure of real property shall be authorized  
19 for any violation of this section.

20       (f) For the purposes of this section, "cesspool" has the  
21 same meaning as defined in section 342D-72."



1 SECTION 3. Section 342D-72, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) [~~Before~~] Except as otherwise provided in section  
4 342D- , before January 1, 2050, every cesspool in the State,  
5 excluding cesspools granted exemptions by the director of health  
6 pursuant to subsection (b), shall be:

- 7 (1) Upgraded or converted to a director-approved  
8 wastewater system; or  
9 (2) Connected to a sewerage system."

10 PART III

11 SECTION 4. There is appropriated out of the general  
12 revenues of the State of Hawaii the sum of \$ or so  
13 much thereof as may be necessary for fiscal year 2025-2026 and  
14 the same sum or so much thereof as may be necessary for fiscal  
15 year 2026-2027 to implement the cesspool compliance pilot grant  
16 project established pursuant to Act 153, Session Laws of Hawaii  
17 2022.

18 The sums appropriated shall be expended by the department  
19 of health for the purposes of this Act.

20 PART IV



1 SECTION 5. Chapter 23, Hawaii Revised Statutes, is amended  
2 by adding a new section to part VII to be appropriately  
3 designated and to read as follows:

4 "§23- Review for and every fifth year thereafter.

5 (a) The credits under the income tax listed in subsection (c)  
6 shall be reviewed in and every fifth year thereafter.

7 (b) The auditor shall submit the findings and  
8 recommendations of the reviews to the legislature and governor  
9 at least twenty days prior to the convening of the immediately  
10 following regular session.

11 (c) This section shall apply to section 235- --Credit for  
12 qualified expenses for upgrading or converting a qualified  
13 cesspool or connecting a qualified cesspool to a sewerage  
14 system."

15 SECTION 6. Chapter 235, Hawaii Revised Statutes, is  
16 amended by adding a new section to part I to be appropriately  
17 designated and to read as follows:

18 "§235- Cesspool upgrade, conversion, or connection;  
19 income tax credit. (a) There shall be allowed to each taxpayer  
20 subject to the tax imposed under this chapter a cesspool  
21 upgrade, conversion, or connection income tax credit that shall



1 be deductible from the taxpayer's net income tax liability, if  
2 any, imposed by this chapter for the taxable year in which the  
3 credit is properly claimed.

4 (b) In the case of a partnership, S corporation, estate,  
5 or trust, the tax credit allowable is for qualified expenses  
6 incurred by the entity for the taxable year. The expenses upon  
7 which the tax credit is computed shall be determined at the  
8 entity level. Distribution and share of credit shall be  
9 determined by rule.

10 (c) The cesspool upgrade, conversion, or connection income  
11 tax credit shall be equal to the qualified expenses of the  
12 taxpayer, up to a maximum of \$10,000; provided that, in the case  
13 of a qualified cesspool that is a residential large capacity  
14 cesspool, the amount of the credit shall be equal to the  
15 qualified expenses of the taxpayer, up to a maximum of \$10,000  
16 per residential dwelling connected to the cesspool, as certified  
17 by the department of health pursuant to subsection (e). There  
18 shall be allowed a maximum of one cesspool upgrade, conversion,  
19 or connection income tax credit per qualified cesspool. The  
20 cesspool upgrade, conversion, or connection income tax credit  
21 shall be available only for the taxable year in which the



1 taxpayer's qualified expenses are certified by the department of  
2 health.

3 (d) The total amount of tax credits allowed under this  
4 section shall not exceed \$ \_\_\_\_\_ for all taxpayers in any  
5 taxable year; provided that any taxpayer who is not eligible to  
6 claim the credit in a taxable year due to the \$ \_\_\_\_\_ cap  
7 being reached for that taxable year shall be eligible to claim  
8 the credit in the subsequent taxable year.

9 (e) The department of health shall:

10 (1) Certify all qualified cesspools for the purposes of  
11 this section;

12 (2) Collect and maintain a record of all qualified  
13 expenses certified by the department of health for the  
14 taxable year; and

15 (3) Certify to each taxpayer the amount of credit the  
16 taxpayer may claim; provided that if, in any year, the  
17 annual amount of certified credits reaches  
18 \$ \_\_\_\_\_ in the aggregate, the department of health  
19 shall immediately discontinue certifying credits and  
20 notify the department of taxation.





1 The director of health may adopt rules under chapter 91 as  
2 necessary to implement the certification requirements under this  
3 section.

4 (f) The director of taxation:

5 (1) Shall prepare any forms that may be necessary to claim  
6 a tax credit under this section;

7 (2) May require the taxpayer to furnish reasonable  
8 information to ascertain the validity of the claim for  
9 the tax credit made under this section; and

10 (3) May adopt rules under chapter 91 necessary to  
11 effectuate the purposes of this section.

12 (g) If the tax credit under this section exceeds the  
13 taxpayer's income tax liability, the excess of the credit over  
14 liability may be used as a credit against the taxpayer's income  
15 tax liability in subsequent years until exhausted. All claims  
16 for the tax credit under this section, including amended claims,  
17 shall be filed on or before the end of the twelfth month  
18 following the close of the taxable year for which the credit may  
19 be claimed. Failure to comply with the foregoing provision  
20 shall constitute a waiver of the right to claim the credit.

21 (h) For the purposes of this section:



1 "Cesspool" has the same meaning as defined in section  
2 342D-72.

3 "Qualified cesspool" means a cesspool that is:

4 (1) Certified by the department of health to be:

5 (A) Located within a priority level 1 or 2 area  
6 according to the university of Hawaii's 2022  
7 Hawaii cesspool hazard assessment and  
8 prioritization tool; or

9 (B) A residential large capacity cesspool; or

10 (2) Certified by a county or private sewer company to be  
11 appropriate for connection to its existing sewerage  
12 system.

13 "Qualified expenses" means costs that are necessary and  
14 directly incurred by the taxpayer for upgrading or converting a  
15 qualified cesspool to a director of health-approved wastewater  
16 system, or connecting a qualified cesspool to a sewerage system,  
17 and that are certified as qualified expenses by the department  
18 of health.

19 "Residential large capacity cesspool" means a cesspool that  
20 is connected to more than one residential dwelling.



1       "Sewerage system" has the same meaning as defined in  
2 section 342D-1.

3       "Wastewater" has the same meaning as defined in  
4 section 342D-1."

5       SECTION 7. Section 23-91, Hawaii Revised Statutes, is  
6 amended as follows:

7       1. By amending subsection (a) to read:

8       "(a) The auditor shall conduct a review of the tax  
9 credits, exclusions, and deductions listed in sections 23-92 to  
10 [~~23-96.~~] 23- ."

11       2. By amending subsection (c) to read:

12       "(c) Based on the review, the auditor shall recommend  
13 whether the credit, exclusion, or deduction should be retained  
14 without modification, amended, or repealed.

15       The auditor may recommend that a credit, exclusion, or  
16 deduction be removed from review under sections 23-92 to [~~23-~~  
17 ~~96.~~] 23- ."

18       SECTION 8. Section 23-95, Hawaii Revised Statutes, is  
19 amended by amending subsection (c) to read as follows:

20       "(c) This section shall apply to the following:



- 1           (1) Section 235-5.5--Deduction for individual housing  
2           account deposit;
- 3           (2) Section 235-7(f)--Deduction of property loss due to a  
4           natural disaster;
- 5           ~~[(3) Section 235-16.5--Credit for cesspool upgrade,~~  
6           ~~conversion, or connection;~~
- 7           ~~-(4)]~~ (3) Section 235-19--Deduction for maintenance of an  
8           exceptional tree;
- 9           ~~[(5)]~~ (4) Section 235-55.91--Credit for the employment of a  
10          vocational rehabilitation referral;
- 11          ~~[(6)]~~ (5) Section 235-110.2--Credit for in-kind services  
12          contribution for public school repair and maintenance;  
13          and
- 14          ~~[(7)]~~ (6) Sections 235-110.8 and 241-4.7--Credit for  
15          ownership of a qualified low-income housing building."

## PART V

17          SECTION 9. Statutory material to be repealed is bracketed  
18          and stricken. New statutory material is underscored.

19          SECTION 10. This Act shall take effect upon its approval;  
20          provided that:

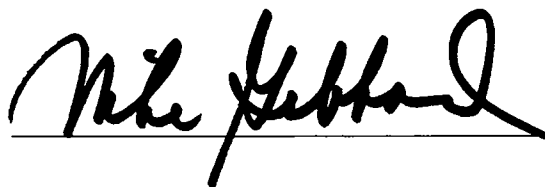
- 21          (1) Section 4 shall take effect on July 1, 2025; and



1 (2) Part IV shall apply to taxable years beginning after  
2 December 31, 2024.

3

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Mike Hubbard", is written over a horizontal line.



# S.B. NO. 236

**Report Title:**

DOH; Auditor; Cesspools; Mandatory Upgrade, Conversion, or Connection; Prioritization; Income Tax Credit; Appropriations

**Description:**

Part II: Requires certain priority level 1 cesspools to be upgraded, converted, or connected before 1/1/2035, and priority level 2 cesspools to be upgraded, converted, or connected before 1/1/2040, rather than before 1/1/2050. Part III: Appropriates funds to the Department of Health to implement the Cesspool Compliance Pilot Grant Project established pursuant to Act 153, Session Laws of Hawaii 2022. Part IV: Establishes an income tax credit for the cost of upgrading or converting a qualified cesspool to a Director of Health-approved wastewater system or connecting to a sewerage system, and requires the Auditor to periodically review the tax credit.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

