

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
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To: The Honorable Donovan M. Dela-Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair;
and Members of the Senate Committee on Ways and Means

From: Isaac W. Choy, Director
Department of Taxation

Date: Friday, February 18, 2022
Time: 10:10 A.M.
Place: Via Video Conference, State Capitol

Re: S.B. 3182, S.D. 1, Relating to Wealth Asset Tax

The Department of Taxation (Department) has serious concerns about S.B. 3182, S.D. 1, in its current form and offers the following comments for your consideration.

S.B. 3182, S.D. 1, creates a wealth tax that is equal to one percent of a taxpayer's statewide net worth if the person's state net worth equals or exceeds \$20 million. The tax is to be paid individually and is based on assets in Hawaii only. The bill provides a deduction from tax liability of the amount of wealth asset tax paid on an asset that is also subject to the wealth asset tax proposed by this bill. The bill includes real property and debts owed to the taxpayer as assets subject to the tax. The bill has a defective effective date of July 30, 2075.

First, the Department notes that the bill was amended to include "interests in real property" as subject to the proposed tax. The Department pointed out the previous exclusion of real property and stated that the exclusion did not seem necessary as the proposed wealth tax was only imposed on the net worth that exceeded \$20 million. However, in S.D. 1, not only is real property included in the measure of taxpayer net worth subject to tax, but the tax is now equal to one percent of the entire net worth if the individual's net worth exceeds \$20 million. Previously, the tax was one percent of the amount exceeding \$20 million.

Second, the Department believes that creating a new tax type requires extensive consideration and deliberation. For example, the bill was amended to tax apply only to Hawaii assets and though the Department understands this change, the change highlights the severity of the lack of detail in this bill. This is because limiting the tax to Hawaii assets adds another difficult determination to the tax, that of a situs for each asset. For example, for income taxes,

the situs of an intangible, such as ownership interest in an entity, is the taxpayer's residence, not the location of the real property.

Third, the Department strongly recommends the bill be amended to add the necessary detail to the policy and mechanics of the proposed tax. One other important issue that is not addressed in this measure is how the assets are to be valued. This is a common point of contention in regard to estate tax and it is likely to be a point of contention with the proposed wealth tax as well.

Fourth, in lieu of a wealth tax proposed by this measure, the Department suggests that a working group be convened to study different feasible methods of imposing additional tax on wealthy taxpayers and the potential revenue gain for each identified method.

Finally, if this proposal to impose a wealth tax is moved forward, the Department requests the effective date be delayed and be made applicable to taxable years beginning after December 31, 2022. Since this is a completely new tax type the Department will need time to develop the required forms and instructions and to make computer system modifications.

Thank you for the opportunity to provide testimony on this measure.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

S.B. NO. 3182, S.D. 1, RELATING TO A WEALTH ASSET TAX.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Friday, February 18, 2022 **TIME:** 10:10 a.m.

LOCATION: State Capitol, Room 211, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Kristie Cruz Chang,
Deputy Attorney General, at 808-586-1474)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments.

The bill establishes a wealth tax of one percent of the state net worth of each individual taxpayer who holds \$20,000,000 or more in assets in the State. A taxpayer's state net worth shall include the aggregate value of various assets, including real property. (Page 2, line 11.)

The provision of the bill where a taxpayer's state net worth is determined by including the value of real property may be subject to challenge under section 3 of article VIII of the Constitution of the State of Hawaii, which provides:

The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivisions, and *except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties*, with the exception of the county of Kalawao. The legislature shall have the power to apportion state revenues among the several political subdivisions.

(Emphasis added.)

We believe existing case law does not provide a clear answer to the question of whether a wealth tax that includes real property necessarily constitutes a "taxation of real property" within the meaning of article VIII, section 3.

Should the inclusion of real property in the State be found to be in violation of the State Constitution and therefore invalid, we believe it is likely that provision and application would be deemed severable under section 1-23, Hawaii Revised Statutes.

Thank you for the opportunity to offer these comments.

Presentation to The
Committee on Ways and Means
Friday, February 18, 2022, 10:10 AM
State Capitol, Via Videoconference

Testimony on SB 3182, SD 1 In Opposition

TO: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Committee

My name is Neal K. Okabayashi, Executive Director of the Hawaii Bankers Association (HBA). HBA represents seven Hawai`i banks and three banks from the continent with branches in Hawai`i.

In a time when Hawai`i is flush with money, this bill proposes to create a disincentive for people to work hard, be creative, and innovative, which are some of the characteristics needed to become wealthy. This bill would create a 1% wealth tax for an individual taxpayer with Hawai`i assets greater than \$20 million.

We already have a wealth tax. It is called an estate tax which is paid upon death. As said in a letter by Benjamin Franklin: "Our new Constitution is now established, and has an appearance that promises permanency; but in this world nothing can be said to be certain, except **death and taxes.**" The Hawai`i estate tax rate ranges from 10% to 15.75% and the top federal estate tax rate is 40%.

In essence, the bill would create a ceiling rather than a floor on our populace, especially our youth, and rather than create a bell-shaped curve, create a flattened box, informing all, that if they do well, Hawai`i will punish you. This bill would incentivize population migration and brain drain.

It is amazing that even pensions are included as an asset because unlike art and stock, pensions cannot be held in eternity and must be withdrawn and will be subject to tax. They are considered tax-deferred products. Pensions such as 401k are subject to a required minimum distribution at age 72 and the distribution is taxed as income. The percentage that has to be withdrawn each year increases each year. To be subject to a wealth tax is double-taxation and harms your plans to enjoy your golden makule years and plans to take care of your children and your children's children, as well taking care of your diminishing health.

The 401K is likely not worth \$20 million but when coupled with other assets, the \$20 million threshold may be breached. For an individual, he or she may be below the \$20 million threshold but as soon as one spouse dies, the \$20 million thresholds might be breached because the surviving spouse receives the estate tax-free.

It is confusing that debt (except mortgages) is considered part of your worldwide assets because a debt is a liability and not an asset. That is a fundamental FASB rule.

Thank you for the opportunity to submit this testimony in opposition to SB 3182, SD1. Please let us know if we can provide further information.

Neal K. Okabayashi
(808) 524-5161

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, New Wealth Asset Tax

BILL NUMBER: SB 3182 SD 1

INTRODUCED BY: Senate Committee on Judiciary

EXECUTIVE SUMMARY: Establishes a wealth asset tax of one per cent of the state net worth of each individual taxpayer who holds \$20,000,000 or more in assets in the State.

SYNOPSIS: Adds a new chapter to the HRS to establish a wealth asset tax.

The new tax is on the activity of sustaining excessive accumulations of wealth.

The amount of tax to be paid every year is 1% of the state net worth of each individual taxpayer who holds \$20,000,000 or more in assets in the State; provided that the individual taxpayer's net worth shall be based on the individual's assets, not joint assets, and a married individual shall file a separate return; provided further that if the taxpayer pays a wealth asset tax on the same asset in a different state, the amount paid to the other state shall be subtracted from the state tax liability.

A taxpayer's state net worth includes but will not be limited to the aggregate value of assets in the following categories:

- (1) Real Property
- (2) Stock in any publicly and privately traded C-corporation
- (3) Stock in any S-corporation
- (4) Interests in any partnership
- (5) Interests in any private equity or hedge fund
- (6) Interests in any other noncorporate business
- (7) Bonds and interest-bearing savings accounts
- (8) Cash and deposits
- (9) Farm assets
- (10) Interest in mutual funds or index funds
- (11) Put and call options on securities
- (12) Futures contracts
- (13) Art and collectables

- (14) Financial assets held offshore
- (15) Pension funds
- (16) Debts owed to the taxpayer
- (17) Other assets

The tax imposed is to be reported and paid at the same time as income taxes.

Assets belonging to any person who can be claimed as a dependent that are in excess of \$50,000 are aggregated with the assets of the taxpayer who can claim the person as a dependent.

The department of taxation is to prescribe forms and rules to implement the chapter.

EFFECTIVE DATE: July 30, 2075

STAFF COMMENTS: The national Tax Foundation (no relation to our organization) recently did a study of wealth tax systems in the OECD at <https://taxfoundation.org/wealth-taxes-in-the-oecd/>. The number of current OECD members that collected revenue from net wealth taxes has grown from eight in 1965 to a peak of 12 in 1996 to just five in 2020. The article suggested that with so many countries abandoning the wealth tax, we in the United States shouldn't adopt one in the first place.

Digested: 2/16/2022



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS		MAILING ADDRESS	
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Doug Pyle, Secretary	Stephanie Fitzpatrick	Stephen O'Harrow		

February 17, 2022

TO: Chair Dela Cruz and Members of the WAM Committee

RE: SB 3182 SD1 Relating to A Wealth Tax

Support for hearing on February 18

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support this bill as we support a more progressive tax structure. We like that this bill would establish a wealth asset tax of one percent on all assets of a taxpayer in excess of \$20,000,000 for taxpayers filing joint returns, or \$10,000,000 for every other taxpayer. We add information from ITEP on the current regressivity of our taxes. This bill would help.

Thank you for your favorable consideration.

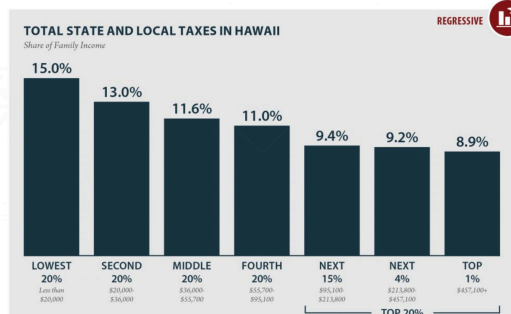
Sincerely,

John Bickel, President



HAWAII

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February 18, 2022

10:10 a.m.

Conference Room 211 & Videoconference

To: Senate Committee on Ways and Means

Sen. Donovan M. Dela Cruz, Chair

Sen. Gilbert S.C. Keith-Agaran, Vice Chair

From: Grassroot Institute of Hawaii

Joe Kent, Executive Vice President

RE: SB3182 SD1 — RELATING TO A WEALTH ASSET TAX

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB3182](#), which would establish a wealth asset tax of 1% on the state net worth of each individual taxpayer who holds \$20 million or more in assets in the state.

In this proposal, “assets” refer to the “worldwide net worth” of the taxpayer and includes items such as real estate, stock, business interests, art and collectibles, business funds and more.

Whatever the intention behind this bill, it seems clear that its main effect will be to encourage creative accounting strategies that ensure one falls below the threshold for this tax. Alternatively, it will encourage wealthy individuals to simply leave Hawaii.

Hawaii already has the third-highest level of economic flight per capita in the nation. Researchers have noted an increasing [trend](#) in state-level economic migration over the past several years, notably from high-tax states to lower-tax states.

While the trend may start with high earners, it quickly grows to affect the state as a whole. With the high earners go more business opportunities and new enterprises, so professionals and middle-income families soon follow suit. In the meantime, the tax base shrinks, leaving fewer people to bear the burden of the state budget.

In effect, this bill will amplify this problem and accelerate economic flight from Hawaii.

It's not true that this tax hike is necessary to replenish state coffers. Hawaii is enjoying a budget surplus due to higher-than-expected revenues combined with an infusion of federal funds.

While the tax outlined in this bill applies to wealthy individuals, it will have a negative effect on Hawaii residents as a whole. The tax proposed here is likely to drive away investors and job creators, thereby contributing to the unemployment problem and the lack of opportunity that has already led many residents to move elsewhere.

The minor and speculative increase in revenue that this tax may generate would be offset by the damage it would cause to the rest of the state's economy.

This proposal appears to ignore the reality of our state's budget surplus and the challenges that our businesses and residents have had to face over the past two years. There are myriad reasons we should be wary of implementing tax hikes. Here are just a few:

>> Hawaii residents are already among the most taxed in the country; the state has the [second-highest overall tax burden](#) in the U.S.

>> Hawaii cannot sustain a hike in taxes since its already-damaged economy was hit harder by the lockdowns than any other state in the nation.¹

>> Hawaii's population reduction of 32,237 people since fiscal 2016² has left Hawaii's remaining taxpayers with a greater tax burden.

>> Hawaii has a progressive income tax that taxes high-income earners at 11%, second only to California at 13.3%.³ Hawaii's top 1% already pays 23% of all income taxes in the state.⁴

¹ Dave Segal, "[Hawaii's unemployment rate hit nation-high 15% in September](#)," Honolulu Star-Advertiser, Oct. 20, 2020.

² "[Annual Estimates of the Resident Population for the United States, Regions, States, the District of Columbia and Puerto Rico: April 1, 2010 to July 1, 2020 \(NST-EST2020\)](#)" U.S. Census Bureau, Population Division, December 2020 and "U.S. Census data," "[Annual Estimates of the Resident Population for the United States, Regions, States, the District of Columbia and Puerto Rico: April 1, 2020 to July 1, 2021](#)," U.S. Census Bureau, Population Division, accessed Jan. 3, 2022.

³ Katherine Loughhead, "[State Individual Income Tax Rates and Brackets for 2020](#)," Tax Foundation, Feb. 4, 2020.

⁴ "[Hawaii Individual Income Tax Statistics](#)," Hawaii Department of Taxation, December 2020, Table 13A.

The rationale for a tax on the wealthy is that such funds will be used in programs that help the less fortunate. However, a wealth tax — especially one that can be avoided — is unlikely to provide much benefit to the rest of Hawaii’s residents.

If Hawaii lawmakers want to help working families, they should abandon their reliance on taxes as a public policy tool, which has only succeeded in establishing Hawaii as the state with the highest cost of living.

Instead of attempting to solve the state’s economic problems through a tax on the “rich,” lawmakers should focus on strategies to lower the cost of living, such as reducing income taxes, creating an exemption to the general excise tax for groceries and medical services, lowering fees and reducing regulations that limit opportunities and stifle economic growth.

Thank you for the opportunity to submit our comments.

Sincerely,

Joe Kent
Executive Vice President
Grassroot Institute of Hawaii

SB-3182-SD-1

Submitted on: 2/16/2022 1:06:13 PM

Testimony for WAM on 2/18/2022 10:10:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jared Watumull	Individual	Oppose	No

Comments:

I oppose any new taxes.

SB-3182-SD-1

Submitted on: 2/16/2022 1:49:49 PM

Testimony for WAM on 2/18/2022 10:10:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

NO TAXES!!

SB-3182-SD-1

Submitted on: 2/16/2022 6:34:09 PM

Testimony for WAM on 2/18/2022 10:10:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michael Press	Individual	Support	No

Comments:

My name is Michael Press. I am a teacher at Ilima Intermediate in Ewa Beach on Oahu. Please support and pass this bill. Mahalo!

Bill: SB3182 SD1
Title: RELATING TO A WEALTH ASSET TAX
Position: SUPPORT
Committee: Ways and Means Committee
Date: February 18, 2022 10:10 am

Aloha Honorable Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee Members,
My name is Vickie Parker Kam, employed by the DOE since 1992, at Ilima Intermediate since 2004.

As a taxpayer I come here in SUPPORT of bill SB3182 SD1 Relating to Wealth Asset Tax. This bill will pull a few more dollars into the state coffers that can be applied to our poorly funded Dept of Education.

I respectfully request your support in funding SB3182 SD1..

Mahalo Nui Loa,
Vickie Parker Kam
State of Hawaii Taxpayer

SB-3182-SD-1

Submitted on: 2/17/2022 10:05:23 AM

Testimony for WAM on 2/18/2022 10:10:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lynn Murakami Akatsuka	Individual	Oppose	No

Comments:

To Members of the Senate Committee on Ways and Means,

I strongly oppose the passage of SB 3182, SD 1. This bill is has too many flaws as written.

Including real property as an asset would impact all class level individuals who own property, and long time residents who inherited real property from their parents and other relatives. Do you expect residents to have to get an real estate appraisal each year? Appraisals cost money. Real estate values have increased yearly and the Hawaii news has reported that homes sold in the last few months now average over \$1 million and it's still the same home that, in our case, we bought in 1978.

Pensions and one's retirement vehicles, e.g., IRAs, 401Ks, etc. as part of this wealth asset tax bill will surely make a resident think "Should we move from Hawaii?" with this additional tax on a resident?

Please review the testimonies and comments from the Tax Foundation of Hawaii, Grassroot Institute of Hawaii, Hawaii Bankers Association, and the State Department of Taxation. Their comments, data presented and the ramifications to residents still residing here (32,237 residents have left Hawaii since 2016), if this bill passes,

As the Grassroot Institute of Hawaii testimony stated, "Instead of attempting to solve the state's economic problems through a tax on the "rich," lawmakers should focus on strategies to lower the cost of living, such as reducing income taxes, creating an exemption to the general excise tax for groceries and medical services, lowering fees and reducing regulations that limit opportunities and stifle economic growth."

I strongly request that legislators propose these type of bills this session or in the next session to support our remaining residents who are the taxpayers that you count on for our economy and to attract newcomers who want to reside here and provide job oportunites for our families to have a "living wage."

Thank you for the opportunity to testify in strong opposition to SB 3182, SD 1.

SB-3182-SD-1

Submitted on: 2/17/2022 4:46:55 PM

Testimony for WAM on 2/18/2022 10:10:00 AM

LATE

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Bronsten Kossow	Individual	Oppose	No

Comments:

Please oppose or defer the measure and perhaps review independent studies on the impact of increasing this particular tax. We want individuals to stay in Hawai'i, not leave it. Mahalo!