

JOSH GREEN M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

Ka 'Oihana 'Auhau  
P.O. BOX 259

HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

GARY S. SUGANUMA  
DIRECTOR

KRISTEN M.R. SAKAMOTO  
DEPUTY DIRECTOR

**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

H.B. No. 337, Relating to Capital Gains

**BEFORE THE:**

House Committee on Economic Development

**DATE:** Friday, February 3, 2023

**TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 423

Chair Holt, Vice-Chair Lamosao, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 337 for your consideration.

H.B. 337 seeks to: (1) increase the capital gains tax threshold from 7.25 per cent to 9 per cent; and (2) increase the alternative capital gains tax for corporations from 4 per cent to 5 per cent. H.B. 337 will be effective as of July 1, 2023, and shall apply to taxable years beginning after December 31, 2022.

While the Department is able to administer this measure as currently written, due to the number of bills with tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session in time for tax year 2023. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

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

**HB-337**

Submitted on: 2/1/2023 11:25:24 AM

Testimony for ECD on 2/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Megan Fox	Malama Kaua'i	Comments	Written Testimony Only

Comments:

*Capital gains are profits (income) that come from selling a capital asset, such as stocks, bonds, art, antiques or real estate at a profit. Hawai'i is one of only nine states that allows capital gains to be taxed at a lower rate than ordinary working people's income. This is, effectively, a tax loophole that almost entirely benefits the rich.*

*While it is critical that we close this loophole in order to better tax wealth to invest into our collective future, it is important that we go about doing this the right way to avoid unintentionally burdening middle-income families, or giving tax breaks to the rich.*

*The plan outlined in this bill, to increase the capital gains threshold across the board to 9%, would raise taxes on some middle income families with capital gains income, while still giving the wealthiest families—those that a tax increase should be targeted toward—a tax break. A better strategy for raising taxes on capital gains is to simply tax this income at the same progressive rates that regular income is taxed at. This would mean that a middle income family with capital gains income would pay less on their capital gains than a rich family.*

*I ask that this committee amend HB337 to replace its tax increase scheme with the tax increase scheme contained within HB232, which would simply tax capital gains income at the same rates as regular income, progressively rising with the taxpayer's income level. This is a much more careful and thoughtful way of capturing capital gains wealth at the top of the income scale that avoids raising taxes on any middle-income families that may have some capital gains income.*



AMERICANS FOR DEMOCRATIC ACTION

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OFFICERS	DIRECTORS			MAILING ADDRESS
John Bickel, President	Melodie Aduja	Jan Lubin	Bill South	P.O. Box 23404
Alan Burdick, Vice President	Keola Akana	Shannon Matson	Michael Vernon	Honolulu
Doug Pyle, Secretary	Juliet Begley	Jenny Nomura		Hawaii 96823
	Stephanie Fitzpatrick	Stephen O'Harrow		

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February 1, 2023

TO: Chair Holt Members of the ECD Committee

RE: HB 337 Relating to Capital Gains

Support for a hearing on Feb. 3

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 HB 337 as it would increase capital gains taxes. Philosophically it does not make sense to us to tax capital gains less than income. We need to encourage work more than ownership. In addition, increasing capital gains reduces some of the regressive nature of the total tax system of our state and local governments.

Thank you for your consideration.

Sincerely,

John Bickel, President



*Hawaii Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.*

To: House Committee on Economic Development

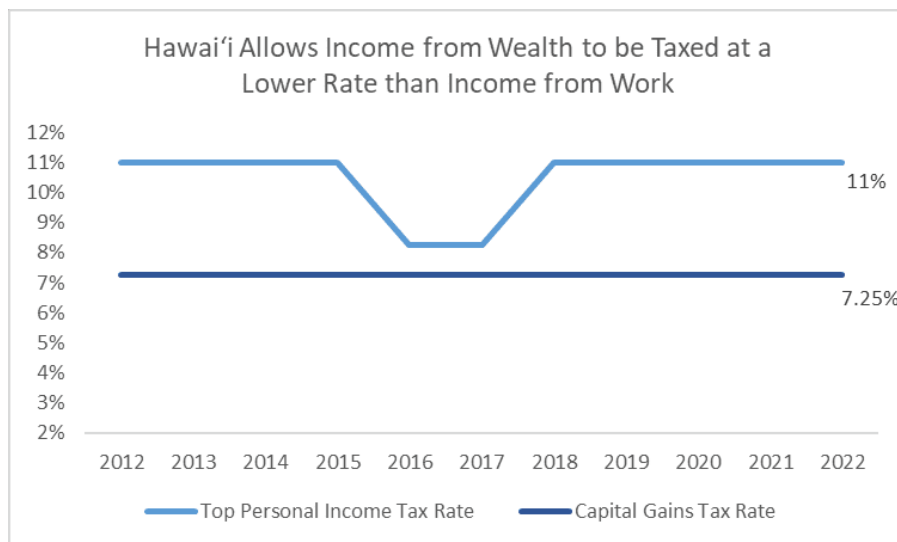
Re: **HB 337 – Relating to a Capital Gains**

Hawaii State Capitol, Via Videoconference & Conference Room 423  
February 3, 2023, 10:00 AM

Dear Chair Holt, Vice Chair Lamosao, and Committee Members,

On behalf of Hawaii Children's Action Network Speaks!, I am submitting **COMMENTS on HB 233**, relating to capital gains. This bill increases the capital gains tax threshold from 7.25% to 9% and the alternative capital gains tax for corporations from 4% to 5%.

**Hawaii is one of only nine states that allows capital gains**—profits from the sale of stocks, bonds, investment real estate, art, and antiques—**to be taxed at a LOWER rate than ordinary working people's income.**<sup>1</sup> This tax break benefits those at the top, including non-residents who profit from investing in real estate in Hawaii.



“The capital gains are heavily concentrated in the high end of the income distribution especially for nonresidents. The higher the income of taxpayers the greater the share of capital gains in their taxable income in general,” states the Hawaii Department of Taxation.<sup>2</sup>

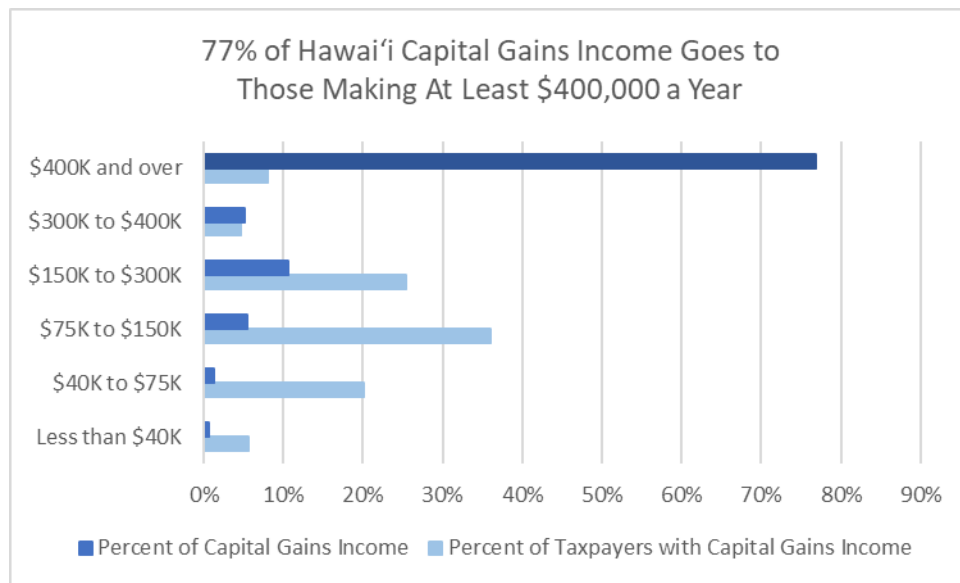
For those who made more than \$400,000 a year in 2020, long-term capital gains were 35.4% of the total taxable income of residents, and 34% of nonresidents. In fact, long-term capital gains constitute 10% of total taxable income in the state, or more than \$3.9 billion in 2020.<sup>3</sup>

<sup>1</sup> Center on Budget and Policy Priorities, <https://www.cbpp.org/research/state-budget-and-tax/state-taxes-on-capital-gains>

<sup>2</sup> Hawaii Department of Taxation, <https://files.hawaii.gov/tax/stats/stats/indinc/2020indinc.pdf>

<sup>3</sup> Hawaii Department of Taxation, <https://files.hawaii.gov/tax/stats/stats/indinc/2020indinc.pdf>

In 2020, of the taxpayers who had capital gains income, only 8% earned at least \$400,000, but they received 77% of the capital gains income in the state.<sup>4</sup> And while Native Hawaiians and Pacific Islanders are 24% of the tax units in Hawai'i, they receive only 17% of the capital gains tax breaks.<sup>5</sup>



Looking at the federal capital gains tax rates and real business investment over time, **there is no relationship between taxing capital gains and investment levels.**<sup>6</sup> As Warren Buffett said, "I have worked with investors for 60 years and I have yet to see anyone -- not even when capital gains rates were 39.9 percent in 1976-77 -- shy away from a sensible investment because of the tax rate on the potential gain."<sup>7</sup>

By raising the capital gains tax threshold from 7.25% to 9%, **this bill would increase taxes on middle-income taxpayers** (starting at \$48,000 per year for couples and \$24,000 for singles) who have capital gains, **while still giving a tax break to those at the top** (couples making over \$350,000 and singles making over \$175,000 per year). Instead, **we suggest simply taxing wealth at the same rate as work – by eliminating the capital gains tax loophole entirely**, as proposed in HB 232.

Thank you,

Nicole Woo  
Director of Research and Economic Policy

<sup>4</sup> Hawaii Department of Taxation, <https://files.hawaii.gov/tax/stats/stats/indinc/2020indinc.pdf>

<sup>5</sup> Institute on Taxation and Economic Policy, unpublished analysis, January 2022

<sup>6</sup> Washington State Budget and Policy Center, <https://budgetandpolicy.org/wp-content/uploads/2018/11/Capital-Gains-Tax-Infographic-03-copy.pdf>

<sup>7</sup> CNN Money, [https://money.cnn.com/2011/08/15/news/economy/buffett\\_taxes/index.htm](https://money.cnn.com/2011/08/15/news/economy/buffett_taxes/index.htm)



## House Committee on Economic Development

### Hawai'i Alliance for Progressive Action (HAPA) Comments with Amendments: HB337

Friday, February 3rd, 2023 10:00 a.m. Conference Room 423

Aloha Chair Holt, Vice Chair Lamosao and Members of the Committee,

HAPA provides comments with suggested amendments for HB337.

HB337 increases the capital gains tax threshold from 7.25 per cent to 9 per cent. Increases the alternative capital gains tax for corporations from 4 per cent to 5 per cent. Capital gains are profits made on the sale of investments like stocks, bonds, real estate, art and antiques.

Hawai'i is one of only nine states that allows all capital gains to be taxed at a lower rate than ordinary income.

That's a tax break that goes almost entirely to high-income taxpayers, including non-residents who profit from investing in real estate in Hawai'i.

Unfortunately, HB 337 would also subject some low-income households to a significant tax increase if they have capital gains, which working families cannot afford.

**Please amend this bill to tax capital gains at the same rate as ordinary income, as is done in HB 232.** Since section 55(b)(3) of the Internal Revenue Code—which covers the maximum rate of tax on net capital gain of non-corporate taxpayers—is inoperative for our state, a simple repeal of subsection HRS 235-51(f) will impose the ordinary income tax rate schedule on income derived from capital gains.

Capital gains are profits (income) that come from selling a capital asset, such as stocks, bonds, art, antiques or real estate at a profit. Hawai'i is one of only nine states that allows capital gains to be taxed at a lower rate than ordinary working people's income. This is, effectively, a tax loophole that almost entirely benefits the rich.

While it is critical that we close this loophole in order to better tax wealth to invest into our collective future, it is important that we go about doing this the right way to avoid unintentionally burdening middle-income families, or giving tax breaks to the rich.

The plan outlined in this bill, to increase the capital gains threshold across the board to 9%, would raise taxes on some middle income families with capital gains income, while still giving the wealthiest families—those that a tax increase should be targeted toward—a tax break. A

The Hawai'i Alliance for Progressive Action (HAPA) is a public non-profit organization under Section 501(c)(3) of the Internal Revenue Code. HAPA's mission is to catalyze community empowerment and systemic change towards valuing 'aina (environment) and people ahead of corporate profit.

better strategy for raising taxes on capital gains is to simply tax this income at the same progressive rates that regular income is taxed at. This would mean that a middle income family with capital gains income would pay less on their capital gains than a rich family.

We ask that this committee amend HB337 to replace its tax increase scheme with the tax increase scheme contained within HB232, which would simply tax capital gains income at the same rates as regular income, progressively rising with the taxpayer's income level. This is a much more careful and thoughtful way of capturing capital gains wealth at the top of the income scale that avoids raising taxes on any middle-income families that may have some capital gains income.

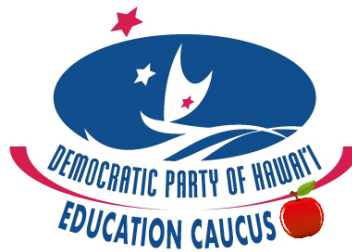
Please support HB337

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Anne Frederick". The signature is fluid and cursive, with a long horizontal stroke at the end.

Anne Frederick  
Executive Director



## HOUSE BILL 337, RELATING TO CAPITAL GAINS

FEBRUARY 3, 2023 · HOUSE ECONOMIC  
DEVELOPMENT COMMITTEE · CHAIR REP. DANIEL  
HOLT

**POSITION:** Comments with suggested amendments.

**RATIONALE:** The Democratic Party of Hawai'i Education Caucus **provides comments and suggested amendments** for HB 337, relating to capital gains, which increases the capital gains tax threshold from 7.25 percent to 9 percent and increases the alternative capital gains tax for corporations from 4 percent to 5 percent for tax years beginning after 12/31/2022.

It is time for Hawai'i to tax the rich. Hawai'i saddles our low-income neighbors with the second-heaviest state and local tax burden in the nation. While families who earn less than \$20,000 per year pay 15 percent of their income in state and local taxes, those who make over \$450,000 annually pay only about 9 percent. Hawai'i is also one of only nine states that taxes all capital gains—profits from the sale of stocks, bonds, investment real estate, art, and antiques—at a lower rate than ordinary income. This capital gains tax loophole privileges almost entirely high-income taxpayers, including non-residents who profit from investing in real estate in the islands.

That said, we note that this measure's blanket increase of the capital gains tax rate to 9 percent would subject some middle- and low-income families to a significant tax increase if and when they have a capital gain. To avoid the problem of unnecessarily adding to the tax burden of working families and promote tax fairness for all, **we encourage you to amend this bill to tax capital**



**gains at the same rate as ordinary income, as is done in HB 232.** Since section 55(b)(3) of the Internal Revenue Code—which covers the maximum rate of tax on net capital gain of non-corporate taxpayers—is inoperative for our state, a simple repeal of subsection HRS 235-51(f) will impose the ordinary income tax rate schedule on income derived from capital gains. **Please revise this bill by replacing its contents with the contents of HB 232, which will ensure that the wealthy pay their fair share in income taxes without adversely impacting the financial security of working families.**

If Hawai'i were to tax capital gains at the same rates as regular income, as most states do, **Hawai'i would bring in between \$90 million and \$130 million in new revenue**, according to estimates from the Institute for Taxation and Economic Policy and Hawai'i Department of Taxation, 97 percent of which would be paid by the top 5 percent of income earners in our state. The bottom 80 percent would pay nothing at all. That money could be used to fund essential state priorities, such as public education, environmental preservation, health care, mental health services, transportation infrastructure, and the establishment of tax credits for those in need.

**Kris Coffield · Chairperson, DPH Education Caucus · (808) 679-7454 · [kriscoffield@gmail.com](mailto:kriscoffield@gmail.com)**



## HB 337, RELATING TO A CAPITAL GAINS

FEBRUARY 3, 2023 · HOUSE ECONOMIC  
DEVELOPMENT COMMITTEE · CHAIR REP. DANIEL  
HOLT

**POSITION:** Comments with suggested amendments.

**RATIONALE:** Imua Alliance provides comments and suggested amendments for HB 337, relating to capital gains, which increases the capital gains tax threshold from 7.25 percent to 9 percent and increases the alternative capital gains tax for corporations from 4 percent to 5 percent for tax years beginning after 12/31/2022.

It is time for Hawai'i to tax the rich. Hawai'i saddles our low-income neighbors with the second-heaviest state and local tax burden in the nation. While families who earn less than \$20,000 per year pay 15 percent of their income in state and local taxes, those who make over \$450,000 annually pay only about 9 percent. Hawai'i is also one of only nine states that taxes all capital gains—profits from the sale of stocks, bonds, investment real estate, art, and antiques—at a lower rate than ordinary income. This capital gains tax loophole privileges almost entirely high-income taxpayers, including non-residents who profit from investing in real estate in the islands.

That said, we note that this measure's blanket increase of the capital gains tax rate to 9 percent would subject some middle- and low-income families to a significant tax increase if and when they have a capital gain. To avoid the problem of unnecessarily adding to the tax burden of working families and promote tax fairness for all, we encourage you to amend this bill to tax capital gains at the same rate as ordinary income, as is done in HB 232. Since section 55(b)(3) of

the Internal Revenue Code—which covers the maximum rate of tax on net capital gain of non-corporate taxpayers—is inoperative for our state, a simple repeal of subsection HRS 235-51(f) will impose the ordinary income tax rate schedule on income derived from capital gains. **Please revise this bill by replacing its contents with the contents of HB 232, which will ensure that the wealthy pay their fair share in income taxes without adversely impacting the financial security of working families.**

If Hawai'i were to tax capital gains at the same rates as regular income, as most states do, **Hawai'i would bring in between \$90 million and \$130 million in new revenue**, according to estimates from the Institute for Taxation and Economic Policy and Hawai'i Department of Taxation, 97 percent of which would be paid by the top 5 percent of income earners in our state. The bottom 80 percent would pay nothing at all. That money could be used to fund essential state priorities, such as public education, environmental preservation, health care, mental health services, transportation infrastructure, and the establishment of tax credits for those in need.

**Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · [kris@imuaalliance.org](mailto:kris@imuaalliance.org)**



Feb. 3, 2023

10 a.m.

VIA VIDEOCONFERENCE

Conference Room 423

**To: House Committee on Economic Development**

**Rep. Daniel Holt, Chair**

**Rep. Rachele Lamosao, Vice Chair**

**From: Grassroot Institute of Hawaii**

**Jonathan Helton, Policy Researcher**

RE: HB337 — RELATING TO CAPITAL GAINS

***Comments Only***

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [HB337](#), which would increase Hawaii's capital gains tax rate for individuals from 7.25% to 9% and increase the capital gains tax for corporations from 4% to 5%.

Whatever the motives of this bill's proponents, the reality is that higher tax rates on capital gains could have the unintended effect of driving down investment and entrepreneurship in Hawaii.

Curtis Dubay, chief economist at the U.S. Chamber of Commerce, wrote in 2021 that "The economic models and past history all reach the same conclusion: When you significantly increase taxes on capital gains you get significantly less capital investment."<sup>1</sup>

In other words, investors and entrepreneurs would be less likely to conduct business in Hawaii. This additional penalty would contribute to Hawaii's already poor business environment. In 2022, CNBC ranked Hawaii as the 46th worst state in which to start a business.<sup>2</sup>

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<sup>1</sup> Chris Dubay, "[Raising the Capital Gains Tax: Who Does it Really Hurt?](#)" U.S. Chamber of Commerce, May 13, 2021.

<sup>2</sup> "[America's Top States for Business 2022: The full rankings](#)," CNBC, July 13, 2022.

A 2021 study by the Baker Institute noted that “two decades of relatively slow economic growth call for increased innovation and faster diffusion of new technology, but higher capital gains tax rates will reduce innovation and technology diffusion.”<sup>3</sup> Hawaii residents, of course, need more innovation, not less, to prosper.

Additionally, higher capital gains taxes can discourage savings. The national Tax Foundation wrote in 2019 that, “When multiple layers of tax apply to the same dollar, as is the case with capital gains, it distorts the choice between immediate consumption and saving, skewing it towards immediate consumption because the multiple layers reduce after-tax return to saving.”<sup>4</sup>

In terms of generating tax revenues, a 2021 economic model from the University of Pennsylvania’s Wharton School found that a proposed hike in the federal capital gains tax rate would actually produce less revenue, since investors would be more likely to hold onto their investments so their heirs would inherit them at death, thus avoiding the increased capital gains tax.<sup>5</sup>

But just in general, tax increases are not a good idea for Hawaii’s economy, especially not now when it already has one of the highest tax burdens in the nation.<sup>6</sup> Hawaii’s population has been suffering a net decline for each of the past six years, with the state’s high cost of living and lack of employment opportunities being among the most cited reasons.<sup>7</sup>

Other issues to consider as you deliberate on this measure include the fact that:

>> Hawaii is predicted to enter an economic slowdown later this year.<sup>8</sup> Tax hikes might only exacerbate this slowdown, since entrepreneurs will be less likely to want to invest their capital — or “wealth assets,” as the case may be.<sup>9</sup>

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<sup>3</sup> John Diamond, “[The Economic Effects of Proposed Changes to the Tax Treatment of Capital Gains](#),” Baker Institute Center for Public Finance, Oct. 27, 2021.

<sup>4</sup> Erica York, “[An Overview of Capital Gains Taxes](#),” Tax Foundation, April 26, 2019.

<sup>5</sup> John Ricco, “[Revenue Effects of President Biden’s Capital Gains Tax Increase](#),” Penn Wharton Budget Model, April 23, 2021.

<sup>6</sup> Jared Walczak and Erica York, “[State and Local Tax Burdens, Calendar Year 2022](#),” Tax Foundation, April 7, 2022.

<sup>7</sup> Maria Wood, “[Where People from Hawaii Are Moving to the Most](#),” 24/7 Wall Street, Jan. 23, 2022.

<sup>8</sup> Annalisa Burgos, “[Experts: Hawaii’s economy poised to slow down ‘significantly,’ but stop short of recession](#),” Hawaii News Now, Jan. 22, 2023.

<sup>9</sup> Aaron Hedlund, “[How Do Taxes Affect Entrepreneurship, Innovation, and Productivity?](#)” Center for Growth and Opportunity at Utah State University, Dec. 23, 2019; Ergete Ferede, “[The Effects on Entrepreneurship of Increasing Provincial Top Personal Income Tax Rates in Canada](#),” Fraser Institute, July 10, 2018; Robert Carroll, Douglas Holtz-Eakin, Mark Rider and Harvey S. Rosen, “[Personal Income Taxes and the Growth of Small Firms](#),” National Bureau of Economic Research, Oct. 2000.

>> Hawaii has a progressive income tax that taxes high-income earners at 11%, second only to California at 13.3%.<sup>10</sup> Hawaii's top 1% already pays 24.9% of all income taxes in the state.<sup>11</sup>

>> Hawaii's continuing population decline leaves remaining residents with a higher tax burden. Many residents leaving Hawaii move to states without income taxes. Washington, Nevada, Texas and Florida — four of the top five destinations for Hawaii residents moving to the mainland — do not have income taxes.<sup>12</sup>

>> State lawmakers increased taxes and fees substantially following the Great Recession of 2007-2008,<sup>13</sup> despite a windfall in revenues from an economic boom over the past decade. Taxes and fees ballooned on motor vehicles, transient accommodations, estates, fuel, food, wealthy incomes, property, parking and businesses.

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 capital gains, lawmakers should focus on lowering the cost of living, such as by reducing income taxes, exempting medical services from the general excise tax, lowering fees and reducing regulations that limit opportunities and stifle economic growth.

Thank you for the opportunity to testify.

Jonathan Helton  
Policy Researcher  
Grassroot Institute of Hawaii

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<sup>10</sup> Timothy Vermeer and Katherine Loughead, "[State Individual Income Tax Rates and Brackets for 2022](#)," Tax Foundation, Feb. 15, 2022.

<sup>11</sup> "[Hawaii Individual Income Tax Statistics](#)," Hawaii Department of Taxation report for Tax Year 2020, Sept. 29, 2022, Table 13A.

<sup>12</sup> Katherine Loughead, "[How Do Taxes Affect Interstate Migration?](#)" Tax Foundation, Oct. 11, 2022.

<sup>13</sup> "[Tax Acts \(by Year\)](#)," Tax Foundation of Hawaii, accessed Jan. 30, 2023.

February 3, 2023

**The Honorable Daniel Holt, Chair**

House Committee on Economic Development  
State Capitol, Conference Room 423 & Videoconference

**RE: House Bill 337, Relating to Capital Gains**

**HEARING: Friday, February 3, 2023, at 10:00 a.m.**

Aloha Chair Holt, Vice Chair Lamosao, and Members of Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR strongly **opposes** House Bill 337, which increases the capital gains tax threshold from 7.25 per cent to 9 per cent. Increases the alternative capital gains tax for corporations from 4 per cent to 5 per cent. Applies to tax years beginning after 12/31/2022.

A capital gain happens when one sells an investment for a profit, such as stocks, real estate or businesses. Hawai'i has the 10<sup>th</sup> highest capital gains tax rate of all 50 states<sup>1</sup> and D.C. Additionally, 8 states have no capital gains tax and Washington exempts real estate from capital gains taxation.

We believe attracting capital into the state is a necessary and critical component to solving our housing crisis for both renters and buyers. Unlike the federal capital gains tax rates, Hawai'i does not make a distinction between short term and long term gains. As such, a capital gains tax increase may act to discourage new capital investment coming into the State.

Additionally, HAR believes that Hawaii's capital gains rate should be taxed at a lower rate than ordinary income to both factor in inflation and because a lower rate would factor in the high amount of risk it takes to start a business or invest in the stock market, where one could also lose a lot of money. Furthermore, the capital gains tax has a disproportionate impact on our kupuna who rely on their investments to convert their assets to spendable income during their retirement, such as for medical expenses or to move in to a care home.

For the foregoing reasons, Hawai'i REALTORS® strongly opposes this measure. Mahalo for the opportunity to testify.

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<sup>1</sup> <https://www.realized1031.com/capital-gains-tax-rate>

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX, Capital Gains Tax Increase

BILL NUMBER: HB 337

INTRODUCED BY: SAYAMA, GANADEN, HASHIMOTO, HOLT, HUSSEY-BURDICK, KAPELA, KOBAYASHI, MARTEN, PERRUSO, POEPOE, QUINLAN, TODD, Cochran, Matayoshi

EXECUTIVE SUMMARY: Increases the capital gains tax threshold from 7.25 per cent to 9 per cent. Increases the alternative capital gains tax for corporations from 4 per cent to 5 per cent.

SYNOPSIS: Amends section 235-51, HRS, to increase the maximum capital gains rate for individuals from 7.25% to 9%.

Amends section 235-71.5, HRS, increase the maximum capital gains rate for corporations from 4% to 5%.

EFFECTIVE DATE: Taxable years beginning after December 31, 2022.

STAFF COMMENTS: Under current law, capital gains are taxed as income. A capital gain is a profit from the sale of a capital asset—such as a house, stock, bond, or jewelry— from the time that asset is acquired until the time it is sold. The price at which an asset is purchased is called the asset’s “basis,” and taxpayers pay tax on the difference between an asset’s basis and its sales price when they sell, or realize, that capital gain.

In the federal system, for capital gains realized on assets held for less than one year (short-term capital gains), taxpayers pay taxes according to their ordinary individual income tax rate, ranging from 10 percent to 37 percent. For assets held longer than one year (long-term capital gains), taxpayers pay a reduced tax rate, ranging from 0 percent to 20 percent, depending upon a taxpayer’s income. Individuals with Modified Adjusted Gross Income surpassing \$200,000 (\$250,000 for married couples) pay an additional 3.8 percent tax on net investment income.

Also, when a person dies and leaves property to an heir, the basis of that property is increased to its fair market value. This “step-up in basis” means that any capital gains that occurred during the decedent’s life go untaxed. When the heir sells that property, any capital gains taxation will be assessed based on the heir’s new basis. Step-up in basis reduces the tax burden on transferred property, as the total value of transferred property is already taxed by the estate tax.

Presently, capital gains income is taxable at the federal level and in all 41 states that also tax wage income. The federal government offers a lower rate for long-term capital gains but taxes short-term gains at the ordinary rate. States tend to tax capital gains at the ordinary rate.

This proposal is still a tax increase on individuals and corporations. It would also be a tax increase on small businesses, since 75% or so of small businesses are organized as partnerships,



LLCs taxed as sole proprietorships or partnerships, or S corporations; all of those business forms do not (yet) pay income tax at the entity level but its owners pay tax on their respective shares of the entity's business, primarily at the individual level.

A tax increase of any magnitude in Hawaii's fragile economy will, no doubt, have a negative impact as costs soar due to higher taxes. As costs and overhead increase, employers must find ways to stay in business by either increasing prices to their customers or cut back on costs. This may take the form of reducing inventory, shortening business hours, reducing employee hours, or even laying off workers. A tax increase of any magnitude would send many companies, especially smaller ones, out of business taking with them the jobs the community so desperately needs at this time.

Digested: 2/1/2023



## TESTIMONY IN SUPPORT OF HB 337

TO: Chair Holt, Vice-Chair Lamosao, & Committee Members

FROM: 'Ilima DeCosta  
Community Engagement Coordinator

DATE: February 3, 2023 (10:00 AM)

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Hawai'i Health & Harm Reduction Center (HHHRC) **strongly supports** HB 337, Increases the capital gains tax threshold from 7.25 per cent to 9 per cent. Increases the alternative capital gains tax for corporations from 4 per cent to 5 per cent.

[Hawai'i is in the small minority of nine states that taxes all capital gains at a lower rate than ordinary income.](#) Lower taxation of profits realized by the sale of stocks, bonds, real estate, art, and antiques is a windfall for higher-income taxpayers, including non-residents who benefit from speculative real estate investments.

Increasing the capital gains tax rate on individuals, estates and trusts to 9%, as well as increasing the alternative corporate tax rate - from 4% to 5% - would generate additional funds for the state of Hawai'i, to help deliver on the legislature's promise to develop safe and affordable housing, subsidize childcare for working families, and provide life-saving healthcare services to Hawai'i residents living marginally.

HHHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Many of our clients and participants have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

HHHRC urges passage of HB 337.

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Thank you for the opportunity to testify on this measure.



**HAWAII APPLESEED**  
CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai‘i Appleseed Center for Law and Economic Justice  
Comments on HB 337 – Relating To Capital Gains.  
House Committee on Economic Development  
Friday, February 3, 2023, 10:00 A.M, conference room 423

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Dear Chair Holt, Vice-Chair Lamosao, and members of the Committee:

Thank you for the opportunity to provide comments on HB 337, which would raise the tax on capital gains to 9%. While we support the intent of HB 337, we would like to suggest amendments to the bill’s language that would ensure capital gains are taxed as ordinary income, even where a high-earner taxpayer’s marginal income tax rate exceeds 9%.

Capital gains—the profits that come from selling a capital asset, such as stocks, bonds, art, antiques or real estate—are currently taxed at a lower rate (7.25%) than ordinary income, giving Hawai‘i’s wealthier taxpayers a distinct advantage over taxpayers with lower incomes.

Data shows that 77 percent of the long-term capital gains in Hawai‘i are earned by the wealthiest taxpayers (with incomes of \$400,000 or more).<sup>1</sup> As a result, this group is taxed at a favorable rate for a large portion of their income.

Although HB 337 would close the capital gains loophole for taxpayers at or beneath the 9% tax bracket, it would still tax those in the 10% and 11% tax brackets at a lower rate than their income. In the interest of improving tax equity, we ask that the Committee consider taxing capital gains at the same rate as ordinary income for all taxpayers. According to estimates from the Institute on Taxation and Economic Policy, 85% of the resulting increase on long-term capital gains would fall on the top 1 percent (earning \$626,000 and above) of income earners in Hawai‘i.<sup>2</sup>

Thank you for your consideration of our testimony on HB 337.

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<sup>1</sup> Ibid.

<sup>2</sup> Institute on Taxation and Economic Policy, 2023 analysis.

February 2, 2023

Representative Danial Holt, Chair  
Representative Rachele Lamosao, Vice Chair  
Members of the House Committee Economic Development

RE: **HB 337 – RELATING TO CAPITAL GAINS**  
**Hearing date – February 3, 2023 at 10:00 am**

Aloha Chair Holt and members of the committee,

Thank you for allowing NAIOP Hawaii to submit testimony in **OPPOSITION** to **HB 337 – RELATING TO CAPITAL GAINS**. NAIOP Hawaii is the Hawaii chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

HB 337 seeks to increase the capital gains tax threshold from 7.25 percent to 9 percent and the alternative capital gains tax for corporations from 4 percent to 5 percent for tax years beginning after 12/31/2022.

NAIOP Hawaii is concerned that an increase in the capital gains rate will reduce the private sector's investment into long term projects which stimulate economic activity and enhance community resources for residents throughout the State. Hawaii is already rated as one of the least business friendly States in the nation and increasing this tax rate will further discourage much needed investment locally. Rather, additional efforts to encourage investment in Hawaii and incentivize the creation of new projects and businesses in Hawaii would stimulate our economy by creating jobs and tax revenue.

Accordingly, NAIOP Hawaii respectfully recommends that HB 337 be deferred.

Mahalo for your consideration,



Jennifer Camp, President  
NAIOP Hawaii



# HAWAII WORKERS CENTER

LATE \*Testimony submitted late may not be considered by the Committee for decision making purposes.

Defending and Respecting the workers of  
Hawai'i

(508) 967-5377  
hawaiiworkerscenter@gmail.com  
hawaiiworkerscenter.org

February 2, 2023

Hawaii State House of Representatives  
Committee on Economic Development  
Rep. Daniel Holt, Chair  
Rep. Rachele F. Lamosao, Vice Chair

Executive  
Committee of the  
Board

Rev. Sam Domingo  
Board Chair

Mary Ochs  
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Marites Uy

Leyton Torda

Robyn Conboy

Co-Executive  
Directors

Tony Doroño

Sergio Alcubilla III,  
Esq.

RE: Comments for H.B. 337

Dear Chair Rep. Holt, Vice-Chair Rep. Lamosao, and Members of the Committee on Economic Development:

The Hawaii Workers Center envisions a Hawaii in which all workers are empowered to exercise their right to organize for their social, economic and political well-being. It is a resource of information, education, training and organizing for many of Hawaii's low-wage and immigrant workers.

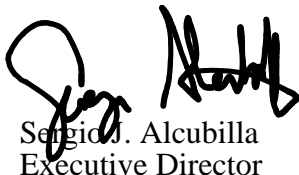
The Hawaii Workers Center offers the following comments for H.B. 337 as related to capital gains and profits made on the sale of investments:

\*Hawaii is one of only nine states that allows all capital gains to be taxed at a lower rate than ordinary income. This of course benefits high-income taxpayers and non-residents who profit from investing in real estate here in Hawaii.

\*HB 337 would also subject some low-income households to a significant tax increase if they have capital gains.

The Hawaii Workers Center supports an amendment to this bill to tax capital gains at the same rate as ordinary income. This would help level the playing field for many of our local working families who are fortunate enough to finally be able to invest some of their hard-

Sincerely,



Sergio J. Alcubilla  
Executive Director

**HB-337**

Submitted on: 2/2/2023 10:45:36 AM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dave Mulinix	Our Revolution Hawaii	Support	Written Testimony Only

Comments:

Aloha Committee,

On behalf of Our Revolution Hawaii's 5,000 Members and Supporters, we Stand in Strong Support of HB337.

Mahalo for your kind attention,

Dave Mulinix, Cofounder & Hawaii State Organizer

Our Revolution Hawaii

**HB-337**

Submitted on: 2/1/2023 1:05:12 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
John Witeck	Individual	Comments	Written Testimony Only

Comments:

I feel that some amendments are needed:

1) the capital tax rate should not be lower than regular income tax rate. I do receive some income from capital gains and I do think the tax should not be lower for that income source-- because that tends to benefit higher-income individuals.

2. Repeal section HRS 235-51(f) so that the ordinary income tax rate will be applied to capital gains income.

Mahalo for considering my testimony.

**HB-337**

Submitted on: 2/1/2023 3:04:10 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Comments	Written Testimony Only

Comments:

Hello,

My name is Nanea Lo. I'm born and raised in the Hawaiian Kingdom a Kanaka Maoli.

I'm writing with comments and suggesting ammendments.

My position is this because:

- Capital gains are profits made on the sale of investments like stocks, bonds, real estate, art and antiques.
- Hawai'i is one of only nine states that allows all capital gains to be taxed at a lower rate than ordinary income.
- That's a tax break that goes almost entirely to high-income taxpayers, including non-residents who profit from investing in real estate in Hawai'i.
- Unfortunately, HB 337 would also subject some low-income households to a significant tax increase if they have capital gains, which working families cannot afford.
- **REQUESTED AMENDMENT:** Please amend this bill to tax capital gains at the same rate as ordinary income, as is done in [HB 232](#). Since section 55(b)(3) of the Internal Revenue Code—which covers the maximum rate of tax on net capital gain of non-corporate taxpayers—is inoperative for our state, a simple repeal of subsection HRS 235-51(f) will impose the ordinary income tax rate schedule on income derived from capital gains.

me ke aloha 'āina,

Nanea Lo



**HB-337**

Submitted on: 2/1/2023 7:56:25 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lynn Murakami Akatsuka	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose the passage of HB 337. This bill is still a tax increase on individuals and will further impact the middle class and small businesses who are hurting badly as they recover from the pandemic and continuing COVID presence in the community. Hawaii's residents and businesses need a break from new/increased taxes, fees, surcharges and tax hikes. More taxes mean more Hawaii residents leaving Hawaii - look at the data please!

Thank you for the opportunity to testify in opposition of HB 337.

**HB-337**

Submitted on: 2/1/2023 8:15:43 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Clayton Akatsuka	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose the passage of HB 337. This bill is still a tax increase on individuals and will further impact the middle class and small businesses. We need a break from new or increased taxes, fees, surcharges and tax hikes. More taxes mean more Hawaii residents leaving Hawaii to no-tax states.

Please defer HB 337 this session.

**HB-337**

Submitted on: 2/1/2023 8:24:26 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
June Murakami	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose the passage of HB 337. This is a tax increase on individuals and will further impact the iddle class and small businesses. No more new or increased taxes and fees, please!

**HB-337**

Submitted on: 2/1/2023 8:29:54 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
GALE M SHODA	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose the passage of HB 337. Increasing taxes, fees, surcharges and tax hikes on all of us will mean residents will continue to leave Hawaii. Please reduce the size of government for a start!

**HB-337**

Submitted on: 2/1/2023 8:35:42 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ken k Shoda	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose the passage of HB 337. Increasing taxes, fees, surcharges and tax hikes on all of us means less workers and small businesses who will remain in Hawaii.

Please defer HB 337 this session.

**HB-337**

Submitted on: 2/2/2023 12:00:38 AM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Comments	Written Testimony Only

Comments:

Capital gains are profits (income) that come from selling a capital asset, such as stocks, bonds, art, antiques or real estate at a profit. Hawai‘i is one of only nine states that allows capital gains to be taxed at a lower rate than ordinary working people’s income. This is, effectively, a tax loophole that almost entirely benefits the rich.

While it is critical that we close this loophole in order to better tax wealth to invest into our collective future, it is important that we go about doing this the right way to avoid unintentionally burdening middle-income families, or giving tax breaks to the rich.

The plan outlined in this bill, to increase the capital gains threshold across the board to 9%, would raise taxes on some middle income families with capital gains income, while still giving the wealthiest families—those that a tax increase should be targeted toward—a tax break. A better strategy for raising taxes on capital gains is to simply tax this income at the same progressive rates that regular income is taxed at. This would mean that a middle income family with capital gains income would pay less on their capital gains than a rich family.

I ask that this committee amend HB337 to replace its tax increase scheme with the tax increase scheme contained within HB232, which would simply tax capital gains income at the same rates as regular income, progressively rising with the taxpayer's income level. This is a much more careful and thoughtful way of capturing capital gains wealth at the top of the income scale that avoids raising taxes on any middle-income families that may have some capital gains income.

**HB-337**

Submitted on: 2/2/2023 2:03:27 AM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jun Shin	Individual	Comments	Written Testimony Only

Comments:

The plan outlined in this bill, to increase the capital gains threshold across the board to 9%, would raise taxes on some middle income families with capital gains income, while still giving the wealthiest families—those that a tax increase should be targeted toward—a tax break. A better strategy for raising taxes on capital gains is to simply tax this income at the same progressive rates that regular income is taxed at. This would mean that a middle income family with capital gains income would pay less on their capital gains than a rich family.

I ask that this committee **amend HB337** to replace its tax increase scheme with the tax increase scheme contained within HB232, which would simply tax capital gains income at the same rates as regular income, progressively rising with the taxpayer's income level. This is a much more careful and thoughtful way of capturing capital gains wealth at the top of the income scale that avoids raising taxes on any middle-income families that may have some capital gains income.

**HB-337**

Submitted on: 2/2/2023 3:03:01 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Marilyn Mick	Individual	Comments	Written Testimony Only

Comments:

*Capital gains are profits (income) that come from selling a capital asset, such as stocks, bonds, art, antiques or real estate at a profit. Hawai'i is one of only nine states that allows capital gains to be taxed at a lower rate than ordinary working people's income. This is, effectively, a tax loophole that almost entirely benefits the rich.*

*While it is critical that we close this loophole in order to better tax wealth to invest into our collective future, it is important that we go about doing this the right way to avoid unintentionally burdening middle-income families, or giving tax breaks to the rich.*

*The plan outlined in this bill, to increase the capital gains threshold across the board to 9%, would raise taxes on some middle income families with capital gains income, while still giving the wealthiest families—those that a tax increase should be targeted toward—a tax break. A better strategy for raising taxes on capital gains is to simply tax this income at the same progressive rates that regular income is taxed at. This would mean that a middle income family with capital gains income would pay less on their capital gains than a rich family.*

*I ask that this committee amend HB337 to replace its tax increase scheme with the tax increase scheme contained within HB232, which would simply tax capital gains income at the same rates as regular income, progressively rising with the taxpayer's income level. This is a much more careful and thoughtful way of capturing capital gains wealth at the top of the income scale that avoids raising taxes on any middle-income families that may have some capital gains income.*



**LATE**

**LATE**

**HB-337**

Submitted on: 2/3/2023 9:26:18 AM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I oppose this Bill.