

STAND. COM. REP. NO.

924

Honolulu, Hawaii

MAR 24 2011

RE: H.B. No. 306
H.D. 1
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Economic Development and Technology, to which was referred H.B. No. 306, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the method of computing the estate and transfer tax;
- (2) Repeal the income tax credit for resident taxpayers for income taxes paid to other jurisdictions; and
- (3) Impose an excise tax on direct broadcast satellite service providers.

Your Committee received testimony in support of this measure from Oceanic Time Warner Cable and Hawai'i Association of REALTORS. Your Committee received testimony in opposition to this measure from DIRECTV, Inc.; DISH Network L.L.C.; Satellite Broadcasting & Communications Association; Microcom; Mini Satellite Dish Company; Big Island Satellite; Hawaii Sound Systems; Molokai Sight & Sound; D&M Satellite Solutions; Pacific Rim Entertainment; Victory Satellite; DISH TV USA INC.; The Satellite Guy, Inc.; The Shack at Hawaii Kai; and four individuals. Your Committee received comments on this measure from the Department of Taxation and Tax Foundation of Hawaii.

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Your Committee finds that this measure encompasses three distinct tax provisions: part I clarifies the estate tax law, part II repeals the income tax credit for taxpayers who pay income taxes to other jurisdictions, and part III imposes a new excise tax on gross income received from providing broadcast satellite services.

Your Committee notes that the primary opposition to this measure was to part III, with much of the testimony focused on the economic hardship for Hawaii residents as a result of the proposed tax. Your Committee has also heard concerns raised by the Department of Taxation that part II may be unconstitutional if the repeal of this tax credit is characterized as double taxation, and that a request for a determination has been made to the Attorney General, but not received to date.

With regards to part I, the Department of Taxation testified that as it clarifies the existing estate tax and makes no substantive changes, the Department estimates no revenue impact. Your Committee has also favorably considered additional clarifying amendments to the generation-skipping transfer tax and the estate tax for noncitizens, as requested by the Department.

Your Committee has amended this measure accordingly, by:

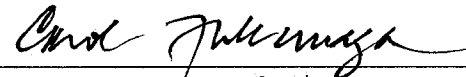
- (1) Amending the definition of "generation-skipping transfer" and "taxable estate", further amending the definition of "Internal Revenue Code", and repealing, rather than amending, the definition of "federal credit";
- (2) Changing the calculation of the tax imposed on every generation-skipping transfer from the federal credit to a percentage based on an aggregate exclusion per decedent;
- (3) Changing the calculation of the tax imposed on noncitizen transfers of a taxable estate located in Hawaii from the federal credit to a table based on the value of the estate;
- (4) Deleting part II, which would have repealed the income tax credit for resident taxpayers for income taxes paid to other jurisdictions;



- (5) Deleting part III, which would have imposed an excise tax on direct broadcast satellite service providers; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 306, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 306, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Development and Technology,

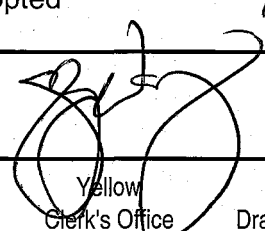


CAROL FUKUNAGA, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:*	Committee Referral:	Date:
HB 306, HD1	EDT, WAM	3/21/11
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310
<input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
FUKUNAGA, Carol (C)	✓	
WAKAI, Glenn (VC)	✓	
BAKER, Rosalyn H.	✓	
SOLOMON, Malama		✓
SLOM, Sam		✓
TOTAL	3	0
0	2	
Recommendation:		
<input checked="" type="checkbox"/> Adopted	<input type="checkbox"/> Not Adopted	
Chair's or Designee's Signature:		
		
Distribution:		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
		Goldenrod Committee File Copy

*Only one measure per Record of Votes