# SB 2712

**EXECUTIVE CHAMBERS**
HONOLULU

**LINDA LINGLE**
GOVERNOR

Testimony of
**Linda L. Smith**
Senior Policy Advisor to the Governor

Before the
**SENATE COMMITTEE ON TOURISM**
Tuesday, February 2, 2010, 2:45 p.m.
Room 229, State Capitol

**SB 2712 RELATING TO REMODELING TAX CREDITS**

Chair Nishihara, Vice Chair Galuteria, and Members of the Committee:

The Office of the Governor **supports SB2712**, an Administration proposal that provides a ten percent non-refundable tax credit for the construction and renovation of hotel or resort properties from January 1, 2010 to December 31, 2012. Because the construction and visitor industries have been hit especially hard during the downturn, we believe this tax credit has the capacity to significantly stimulate the economy by targeting these economic sectors while upgrading our visitor industry infrastructure.

SB2712 establishes a ten percent tax credit, applicable to costs incurred in the construction or renovation of hotel or resort properties for tax years 2010 to 2012. This non-refundable tax credit may be used to offset income, general excise or transient accommodation taxes, and the Department of Taxation may award up to $50 million per year in tax credits for all qualifying construction and renovation costs.

This bill will provide up to $500 million in construction activity at a cost of $50 million per year, or up to $1.5 billion in construction activity for the three year period of the tax credit. It is estimated by the Department of Business, Economic Development, and Tourism that this tax credit will result in the creation of a maximum of 23,000 jobs and the collection of $74 million in additional tax revenues between 2010 and 2012. This bill will more than pay for itself due to the amount of economic activity that will be generated, especially in the current economic environment. Moreover, a similar tax credit was recommended in a 2010 report by the Construction Industry Task Force, which the Legislature established pursuant to SCR 132 (2009) for the purpose of developing and proposing actions to create new jobs in the construction industry.

This tax credit will provide a short-term incentive to move ahead hotel construction and renovation projects that were stalled or are already planned, but would otherwise only begin construction after the economy rebounds. The tax credit is designed with various safe guards to maximize construction activity while minimizing the cost of the credit to the State:

1) The tax credit sets a floor of $10 million and a cap of $100 million for qualifying costs per project, which ensures that substantial construction activity will occur while also limiting the State's costs;
2) The tax credit limits qualifying construction and renovation costs to only include labor, material, and supply costs incurred in Hawaii, but do not include design, planning, or permitting costs. This provision ensures that the tax credit only incentivizes immediate construction activity, which must occur between 2010 and 2012; and
3) The tax credit cannot be taken for construction and renovation costs financed through government grants or loans, since such construction has already been incentivized by the government through other means.

This bill will help to revitalize the construction industry in the key sector of hotel and resort development while providing long-term enhancements to visitor accommodations in the State. As such, the Office of the Governor supports this Administration measure and respectfully requests that it be passed from your committee.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
**DEPARTMENT OF TAXATION**
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# SENATE COMMITTEE ON TOURISM
# TESTIMONY REGARDING SB 2712
# RELATING TO TAXATION

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**
**DATE: FEBRUARY 2, 2010**
**TIME: 2:45PM**
**ROOM: 229**

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This measure provides a 10% nonrefundable tax credit for the construction or remodeling of a hotel or resort property, which may be used against income, general excise, or transient accommodations taxes.

The Department of Taxation (Department) **supports** this measure.

**SUPPORT FOR TOURISM INDUSTRY**—The Department supports the tourism industry and the importance of the economic activity this important industry brings to Hawaii. The Department acknowledges that having modern and newly renovated rooms are an important factor in maintaining the flow of tourists to this State.

**SUPPORT FOR JOBS AND THE CONSTRUCTION INDUSTRY**—The Department strongly supports efforts to stimulate the economy through incentives. This measure targets tax incentives at the construction industry, which is a large segment of Hawaii's economy. With many construction workers and suppliers impacted by the economic downturn, this measure will encourage taxpayers to invest in their homes and put people back to work.

**PREFER ADMINISTRATION MEASURE**—The Department prefers this measure over SB 2125 because the Administration measure has a $50 million aggregate cap in credits to allow for budget certainty. This measure provides an additional incentive above and beyond a mere return of general excise taxes. This measure also allows the offset of general excise and transient accommodations taxes, in addition to income taxes.

Moreover, the Administration measure provides a nonrefundable credit to spur construction. The Department has concerns with SB 2125 because there is no cap, as well as it being a refundable credit. A refundable credit accelerates the impact to the general fund almost immediately. The Department prefers a nonrefundable credit, which spreads out the cost to the general fund over time.

**REVENUE LOSS**—This measure will result in a revenue loss of $50 million due to the aggregate cap in credit claims.

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
PEARL IMADA IBOSHI
DEPUTY DIRECTOR

# DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Comments of
**EUGENE TIAN**
**Acting Economics Research Administrator**
Department of Business, Economic Development, and Tourism
before the

**SENATE COMMITTEE ON TOURISM**
Tuesday, February 2, 2009
2:45 p.m.
State Capitol, Conference Room 229
in consideration of

**SB 2712**
**RELATING TO REMODELING TAX CREDITS**

Chair Nishihara, Vice Chair Galuteria, and members of the Senate Committee on Tourism.

The Department of Business, Economic Development and Tourism supports SB 2712, an administration measure, which provides a ten percent tax credit on costs incurred for the construction or renovation of a hotel or resort property through December 31, 2012.

This bill allows a taxpayer to deduct the tax credit from the taxpayer's net income, general excise, and transient accommodation tax liabilities. The bill also sets a qualified spending floor of $10 million, a ceiling of $100 million, and a cap of $50 million credit per year, for three years.

This bill disqualifies spending on design and planning, and projects funded, in whole or in part, by government grants, government –issued loans, or property assessed clean energy financing when claiming the tax credit.

This bill could significantly increase investment and jobs in construction over the next several years and generate additional jobs in the community. We calculate that if 100% of the designated tax credits are used, there is a potential to create or sustain 23,000 jobs over the three-year period, with positive impacts on business receipts and state tax revenues as well.

Thank you for the opportunity to offer these comments.

LINDA LINGLE
GOVERNOR
MARSHA WIENERT
TOURISM LIAISON

# TOURISM LIAISON

Hawai'i State Capitol, Office of the Governor, 4th Floor
Honolulu, Hawai'i 96813

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Statement of
**MARSHA WIENERT**
**Tourism Liaison**
Office of the Governor
before the
**SENATE COMMITTEE ON TOURISM**
Tuesday, February 2, 2010
2:45 p.m.
State Capitol, Conference Room 229

in consideration of
**SB 2712**
**RELATING TO REMODELING TAX CREDITS.**

Chair Nishihara, Vice Chair Galuteria and Members of the Senate Committee on Tourism.

SB 2712 provides a ten percent tax credit on costs incurred for the construction or renovation of hotel or resort facilities. We humbly urge this committee to support this measure.

As a result of the current economic downturn, a number of Hawai'i real estate projects have been delayed or cancelled in the past two years. This has had a huge impact on Hawai'i's construction industry. Between November 2008 and November 2009, there was a loss of 5,800 jobs, or 15 percent, of construction jobs statewide.

Since the construction and visitor industries have been among the hardest hit during this economic downturn and large-scale hotel and resort projects have the potential to hire large numbers of construction workers, it is essential to incentivize key construction activities as soon as possible to get our residents back to work. Additionally, renovation of existing hotels and the build out of new resorts will re-energize our visitor accommodations, improving our visitor product.

SB 2712 stimulates construction activity by establishing a ten percent tax credit, applicable to costs incurred in the construction or renovation of hotel or resort facilities. The non-refundable credit may be used to offset corporate income, general excise and transient accommodation taxes.

We need to provide an immediate boost to the construction industry, while jump starting Hawai'i's overall economy and improving our visitor accommodations now. SB 2712 will deliver short-term rewards and we ask for your support of this measure.

Thank you for the opportunity to testify on SB 2712.

LINDA LINGLE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

# Hawai'i Tourism Authority

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Testimony of
**Mike McCartney**
President and Chief Executive Officer
Hawai'i Tourism Authority
on
**S.B. 2125 Relating to Taxation and**
**S.B. 2712 Relating to Remodeling Tax Credits**

Senate Committee on Tourism
Tuesday, February 2, 2010
2:45 p.m.
Conference Room 229

The Hawai'i Tourism Authority (HTA) supports the intent of the following measures:

- S.B. 2125, which proposes a tax credit of 10% of the costs of construction or renovation of qualified hotel facilities incurred from January 1, 2010 to December 31, 2015; and
- S.B. 2712, which proposes a tax credit of 10% of the costs of construction or renovation of qualified hotel facilities incurred from January 1, 2010 to December 31, 2012, where the costs are a minimum of $10 million up to a maximum of $100 million.

The HTA is tasked with marketing and promoting Hawai'i as a visitor destination, with the goal of increasing visitor spending. One of the keys to branding Hawai'i's visitor industry and increasing visitor spending is the improvement of the state's tourism product, which includes the physical infrastructure. As such, the HTA supports both measures which provide the private sector with investment incentives to upgrade Hawai'i's hotel facilities. This will help Hawai'i remain competitive as a destination while providing enhancements to the visitor experience.

The HTA would also like to point out the following:

- S.B. 2712 does not include in the qualified costs plans, designs, and permitting, which often make up the significant costs of the first two years of a project.
- To our knowledge, there may be few projects that are ready to break ground at this time that could benefit from the tax credit in S.B. 2712 which has a December 31, 2012 sunset date.

For these reasons, the HTA prefers the 6-year period in S.B. 2125 which will provide an even greater benefit to stimulate Hawai'i's visitor industry and the State of Hawai'i.

Thank you for the opportunity to provide these comments.

Eric J. Masutomi
Vice President
Planning

OUTRIGGER®
ENTERPRISES GROUP
*Hospitality • Retail • Development*

February 1, 2010

The Honorable Clarence K. Nishihara
Chair, Committee on Tourism
Hawaii State Senate
State Capital
415 South Beretania Street
Honolulu, Hawaii 96813

RE: SB 2712 RELATING TO TAXATION

Chair Nishihara and Members of the Committee:

The intent and purpose of SB 2712 is similar to that of SB 2125 – to establish a 10 percent tax credit for construction or renovation costs for hotel and other visitor-related facilities in qualified resort areas throughout the State.

The two bills, however, differ in three key areas:

- SB 2712 would be applicable to costs incurred during a 3-year period, from January 1, 2010 to December 31, 2012. SB 2125 establishes a 5-year window, from January 1, 2010 to December 31, 2015.
- SB 2712 limits eligible costs to a minimum of $10 million and a maximum of $100 million. SB 2125 establishes no such limits.
- SB 2712 makes credits applicable only to an entity's net income tax liability and caps annual credits to $50 million. SB 2125 provides a refundable tax credit and places no limit on annual reimbursements.

Significantly, both bills recognize the value of targeted hotel construction tax credits as a means to stimulate the local economy. Subject to further analysis, however, we feel that the limitations imposed under SB 2712 may be too restrictive and could serve to severely blunt the potential effectiveness of the credits. Accordingly, Outrigger Enterprises Group recommends that SB 2712 be amended to more closely align with the provisions of SB 2125, or be deferred in favor of SB 2125.

Thanks you for this opportunity to testify.

Sincerely,

Eric J. Masutomi

EJM:lth

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L E G I S L A T I V E

# TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Hotel and resort property construction and renovation tax credit

BILL NUMBER: SB 2712; HB 2559 (Identical)

INTRODUCED BY: SB by Hanabusa by request; HB by Say by request

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers subject to HRS chapter 235, HRS chapter 237 and HRS chapter 237D to claim a nonrefundable hotel and resort property construction and renovation tax credit of 10% of the construction or renovation costs incurred after December 31, 2009 and before January 1, 2013; provided that the construction and/or renovation costs shall be required to be between $10 million and $100 million in the aggregate for a qualified hotel facility. The credit may be deductible again the taxpayer's net income, general excise, and transient accommodations tax liability for the taxable year the credit is claimed. The credit shall not be applicable to costs of construction or improvement for which another income tax credit was claimed for the taxable year. Establishes an annual cap of $50 million on all tax credits granted under this section.

In the case of a partnership, S corporation, estate or trust, or association of a qualified hotel facility, time share owners association, or any developer of a time share project, the credit shall be based on qualified costs incurred by the entity with costs on which the credit is computed determined at the entity level. To qualify for the credit, the taxpayer shall be in compliance with all applicable federal, state, and county statutes, rules, and regulations. If a deduction is taken under IRC section 179 (with respect to election to expense depreciable business assets), no tax credit shall be allowed for such qualified costs for which the deduction was taken. The basis of eligible property for depreciation or accelerated cost recovery system purposes shall be reduced by the amount of credit allowable and claimed.

Credits in excess of a taxpayer's income tax liability shall be applied to subsequent tax liability. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year. Stipulates that renovation or construction costs financed with funds that represent government grants, government-issued loans, or property assessed clean energy financing, shall not be eligible for the credit.

Defines "construction and/or renovation cost"as any cost incurred in Hawaii after December 31, 2009 and before January 1, 2013 for construction, remodeling, or modification to a qualified hotel facility including the cost of labor, material, and supplies; except that the costs for plans, designs, and permitting are not included. Also defines "net income tax liability," "qualified hotel facility" and "qualified resort area" for purposes of the measure.

This act shall be repealed on January 1, 2013.

EFFECTIVE DATE: Tax years beginning after December 31, 2009

STAFF COMMENTS: This is an administration measure submitted by the office of the governor GOV-20(10). The legislature by Act 195, SLH 2000, enacted a hotel construction and renovation tax credit of 4% for hotel renovations effective for tax years beginning after December 31, 1998 but before December 31, 2002. Act 10 of the Third Special Session of 2001 increased the hotel renovation tax credit to 10% for construction costs incurred before July 1, 2003. Act 10 also provided that the credit shall revert back to 4% on July 1, 2003 and sunset on December 31, 2005. This measure proposes a similar credit for hotel renovation costs incurred in a taxable year.

The original tax credit was promoted on the argument that the tax credit would be an incentive for hotels to refurbish their properties in order to remain competitive with other destinations around the world. The credit amount was set at 4% to seemingly offset the 4% general excise tax. When 9/11 hit, the momentum of the crisis fostered support for an increase in the credit to 10% to supposedly keep projects which were already in progress going. However, the governor objected and threatened to veto the sweetened credit. The legislature compromised and provided that the 10% credit would be nonrefundable.

While this measure proposes to reestablish a hotel renovation tax credit, it should be noted that no evaluation has been done to validate the effectiveness of this credit in spurring substantial renovations of hotel resort properties. While some may argue that this credit is necessary to make their upcoming renovations pencil out, one must ask whether or not it is the role of government to subsidize private investments. While the credit might be viewed as critical to a taxpayer's project or to the continued renovation of the resort plant, one must ask how long must all other taxpayers suffer the heavy burden of taxation so that this subsidy can be extended to a few? One thing learned from the last credit was that the credit spurred construction activity beyond the capacity of the workforce and supply of materials driving the cost of construction artificially higher at a much faster pace. While it may have been good news for the industry, the long term effect is that the higher cost of construction aggravated the affordability of projects and securing the financing.

It would be a very different picture if those who are asking for the subsidy would be willing to forgo other public services or make recommendations on how government can rein in spending, but that is not the case. Now, more than ever, lawmakers need to recognize that they need to set priorities for what precious few dollars taxpayers can part with to run state and local government. One must ask how lawmakers can provide subsidies like this proposal when they raised the general excise tax on all other taxpayers to pay for a transit system in Honolulu? Taking care of a few taxpayers at the expense of all other taxpayers is certainly a cavalier attitude.

More importantly, if the intent of this measure is to entice hotel owners to undertake major renovations, then the sponsors do not understand what is happening to the nation's economy. In order to undertake large scale construction or renovations, either the hotel owner has to be cash rich or have access to the credit markets. As the nation now knows, the credit markets have frozen and despite herculean efforts to thaw those credit markets, it will be a long road to recovery. Given that fact, it is doubtful that any hotel owner will undertake new renovation projects, in fact, some who had such projects underway have pulled back or completely shut down those projects for the time being. Thus, the sponsors of this proposal may find this incentive useless in this environment.

Instead of perpetuating these targeted tax incentives and subsidies, lawmakers should look at the broader picture and enact tax relief that will benefit all taxpayers. Perpetuating targeted tax credits, like this, merely perpetuates the high burden of taxes in Hawaii which, in turn, places a barrier on any recovery. From a global perspective, what effect will these credits have on the cost of construction in Hawaii?

Given the lengthy process necessary for the planning and design, as well as the financing, of such large scale projects, the window of opportunity proposed in this measure will probably benefit only those projects that are currently on the drawing boards. While the 10% credit may seem enticing, it is probably not enough to offset the cost of credit in these difficult times let alone the availability of the credit.

Digested 2/1/10

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# TESTIMONY OF MURRAY TOWILL
# PRESIDENT
# HAWAI'I HOTEL & LODGING ASSOCIATION

**DATE: February 2, 2010**

**RE: SB 2125 Relating to Taxation & SB 2712 Relating to Remodeling Tax Credits**

Good afternoon Chairperson Nishihara and members of the Senate Committee on Tourism. I am Murray Towill, President of the Hawai'i Hotel & Lodging Association.

The Hawai'i Hotel & Lodging Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 150 hotels representing over 48,000 rooms. Our hotel members range from the 2,680 rooms of the Hilton Hawaiian Village to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

The Hawai'i Hotel & Lodging Association supports SB 2125 Relating to Taxation & SB 2712 Relating to Remodeling Tax Credits. Each of these bills provides a 10% construction tax credit for hotel and resort construction. The bills also have a variety of provisions that vary from one another.

We support these measures because they both provide incentives to stimulate reinvestment in the visitor product. Perhaps most importantly in our current economic situation stimulating construction is a good way to get people back to work. It is especially valuable to get people in the construction sector back to work since they have been hit very hard by the current recession.

Currently there are a number of obstacles to investments including the uncertainty in the financial markets and the financial challenges facing many due to the recession. A tax credit of this type would be a stimulus to trigger investment.

We believe the 6-year period covered by SB 2125 will provide the greater stimulus in large part due to the length of time it takes projects to go through the regulatory approval process. Unless a project has most or all of its approvals, it will have a difficult time being underway by 2012.

SB 2712 also contains a provision that limits the minimum size of a project to $10 million. We believe this is too restrictive. If the committee decides to include a minimum, we would recommend this minimum amount be lowered to $1 or $2 million.

Again, mahalo for this opportunity to testify.

# *SAH - Subcontractors Association of Hawaii*

*1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938*
*Phone: (808) 537-5619 ✦ Fax: (808) 533-2739*


February 2, 2010

Testimony To: Senate Committee on Tourism
Senator Clarence K. Nishihara, Chair

Presented By: Tim Lyons
President

Subject: S.B. 2712 – RELATING TO REMODELING TAX CREDITS.

Chair Nishihara and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. SAH is composed of nine separate and distinct subcontracting organizations including:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We support this bill.

Short and simple, our members are in need of work. People are not spending money on residential renovations, commercial renovations or even hotel renovations. A tax credit? This bill is as simple as the fact that it would provide for a tax credit to do that type of work. That will benefit our members, as well as the economy.

Based on the above, we support this bill.

# BIA-HAWAII

**BUILDING INDUSTRY ASSOCIATION**

February 2, 2010

LATE

Senator Clarence Nishihara, Chair
Committee on Tourism
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: SB 2712 Relating to Remodeling Tax Credits

Dear Chair Nishihara and Members of the Committee on Tourism:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii strongly supports SB 2712 Relating to Remodeling Tax Credits. The bill would provide a ten percent tax credit on costs incurred for the construction or renovation of a hotel or resort property through December 31, 2012. During these extremely difficult economic times for the construction industry, we would welcome this type of incentive to get projects started and put people back to work. The unemployment statistics in our industry are staggering and it is anticipated that it will take many years to get back to the era when we couldn't find enough skilled workers in the construction industry.

Thank you for the opportunity to share our views with you.

Karen T. Nakamura

Chief Executive Officer

BIA-Hawaii

# Waikīkī Improvement Association

Statemento f
**Rick Egged**
**President, Waikiki Improvement Association**
Before the
**Senate Committees on Tourism**
Tuesday, February 2, 2009
2:45 PM
State Capitol, Conference Room 229
in consideration of

LATE

SB 2125 RELATING TO TAXATION &
SB 2712 RELATING TO REMODELING TAX CREDITS 1186

Good morning Chair Nishihara,V ice Chair Galuteria and members of the Committee:

I am Rick Egged testifying on behalf of the Waikiki ImprovementA ssociation. WIA is a nonprofito rganization representing 170 leading businesses and stakeholders in Waikiki. WIA strongly supports the passage of this bill.

Hotel Construction and Renovation Tax Credits work. A 2004 study prepared by Hospitality Associates, Inc. and economics professor Dr. James Mak found that:

1. The tax credits produced a sizable increase in hotel construction and renovation activity. Against the backdrop of a sluggish State economy, the jobs, earnings, and tax revenues generated by this increase in construction activity are extremely significant.

2. The gain in tax revenues from increased hotel construction and renovation activity far exceed the estimated amount of the tax credits given. In addition to increased tax revenues from construction activities, the improvements are generating higher room rates, which translate into higher GET and TAT collections over time.

3. The renovations spurred by the credits are attracting higher spending visitors. The key to sustainable tourism in Hawaii is our ability to increase per capita visitor spending. By facilitating hotel renovations, the tax credits have proven to be an effective tool in helping to improve the quality of Hawaii's hotel and visitor market. Higher visitor spending, of course, produces even greater tax revenues.