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To: The Honorable Marcus R. Oshiro, Chair
and Members of the House Committee on Finance

Date: Monday, April 2, 2012
Time: 2:00 p.m.
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 3048 S.D. 2 Relating to Travel and Tourism Stimulus Initiatives

The Department of Taxation (Department) appreciates the intent of SB 3048 S.D. 2, but must oppose this bill in its current form because it is excessively complicated and contains several unclear provisions, making it difficult for the Department to administer and implement.

S.B. 3048 S.D. 2 creates a refundable income tax credit equal to 4.5% of the wages an employer pays employees at newly created positions at new or renovated hotel or resort facilities. The measure also creates a general excise tax exemption for gross income earned from the construction or renovation of a hotel facility or resort facility.

The Department notes the following concerns:

- **The measure is unnecessarily complicated.** For instance, in order to claim the tax credit for wages paid, a taxpayer must reference the provisions of the general excise tax exemption in an entirely different chapter of the code. The Department recommends each provision contain all the necessary language for its enforcement within one section, or at least one chapter. This would make the measure easier for taxpayers to understand and easier for the Department to administer.

- **A deduction already exists.** Employee wages may already be deductible from gross income of a business, lowering the total amount of income subject to tax. This refundable tax credit would be in addition to the deduction already allowed.

- **There is conflicting language.** In Section 2 of the bill, subsection (d) states that the credit "shall be available" for seven years after the facility's construction or renovation is substantially completed. However, in subsection (b) the measure states that the credit must be claimed within twelve months following the close of the taxable year in which the credit may be claimed, which is generally consistent with tax credit language.

If a taxpayer fails to claim the credit within the twelve months under subsection (b), it is unclear how a credit could still "be available" under subsection (d). Also, since the credit is refundable, there is no need to provide a mechanism for carrying credits forward into subsequent tax years. The Department believes this subsection must be clarified in order for the measure to be administered.

- **There is tremendous potential for abuse and no mechanism to correct or prevent it.** To claim the credit or the exemption, a project need merely be pre-certified with the Department of Business, Economic Development and Tourism. The pre-certification is only a description of estimated costs expected to exceed $50 million in aggregate.

  As written, substantial refundable tax credits may be taken by a business for expenses starting with the 2012 taxable year, but before the Department is able to confirm whether a project actually qualifies for the tax credit until after June 30, 2017.

  However, at that point in time, the statute of limitations for recovery of incorrectly claimed tax credits in the first years would have expired, thereby eliminating any incentive to properly claim the tax credit. This potential for abuse is true of the general excise tax exemption as well.

- **Defining "department" differently is confusing.** S.B. 3048 S.D. 2 defines "department" as the Department of Business, Economic Development, and Tourism. However, this measure amends sections in chapters 235 and 237, where "department" refers to the Department of Taxation.

  The Department recommends that rather than define "department" to mean DBEDT, that instead, DBEDT should be specifically referenced in the appropriate provisions, similar to Section 235-17 relating to the motion picture, digital media and film production income tax credits.

The broad and vague provisions of this tax credit could have a substantial impact on the state's financial plan. Furthermore, as written, the provisions of this measure will make it difficult for the Department to administer and implement.

Thank you for the opportunity to provide comments.

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
Richard C. Lim
Director

Department of Business, Economic Development, and Tourism
before the

HOUSE FINANCE COMMITTEE

Monday, April 2, 2012
2:00 PM
State Capitol, Conference Room 308

In consideration of

SB 3048, SD2
RELATING TO TRAVEL AND TOURISM STIMULUS INITIATIVES

Chair Oshiro, Vice Chair Lee, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB 3048, SD2, subject to amendments to minimize the impact of potential free rider costs associated with this legislation.

DBEDT recognizes that continuous upgrades are needed to keep our tourism facilities competitive and that wage and investment incentives also serve to increase construction jobs and service industry jobs in Hawaii.

Thank you for the opportunity to offer these comments.

HAWAI'I TOURISM AUTHORITY

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kelepona tel 808 973 2255
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kahua pa'a web hawaiitourismauthority.org

Neil Abercrombie
Governor

Mike McCartney
President and Chief Executive Officer

Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. 3048, S.D. 2
Relating to Travel and Tourism Stimulus Initiatives

House Committee on Finance
Monday, April 2, 2012
2:00 p.m.
Conference Room 308

The Hawai'i Tourism Authority (HTA) supports S.B. 3048, S.D. 2, which:

- Provides a tax credit to an employer for wages paid to certain employees for seven years after completion of hotel and resort construction and renovation; and,
- Provides an excise tax exemption for hotel and resort construction and renovation and for the operation of the hotel and resorts for seven years after the construction and renovation.

S.B. 3048 requires that the construction and renovation of a hotel or resort facility be completed by June 30, 2017, to be eligible for the exemption, and provides that the tax credit applies to the tax years after December 31, 2011.

S.B. 3048 will provide a strong incentive for the upgrading of some of Hawai'i's aging hotel and resort facilities. One of the keys to branding the Hawai'i visitor industry product and increasing visitor spending is the improvement and enhancement of the Hawai'i tourism brand, including the physical infrastructure. As such, the HTA supports S.B. 3048, which provides the private sector with investment incentives to improve hotel and resort facilities.

Mahalo for the opportunity to offer these comments.

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, GENERAL EXCISE, Employer tax credit; hotel construction and remodeling tax exemption

BILL NUMBER: SB 3048, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to provide that each qualified employer shall be allowed a tax credit of 4.5% of the wages paid to each qualified employee during a tax year. The tax credit allowed under this section shall be available for the seven tax years following the end of the taxable year in which the certified facility was substantially completed as defined under HRS section 237-____. The tax credit shall be applicable to tax years beginning after December 31, 2011.

Credits in excess of a taxpayer's income tax liability may be refunded to the taxpayer provided such amount is over $1. 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. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit.

Defines "certified facility" as a hotel facility or resort facility that was the subject of a pre-certification issued by the department under section 237- ___. Also defines "department," "qualified employee," "qualified employer" and "wages" for purposes of the measure.

Adds a new section to HRS chapter 237 to provide that gross income earned from the construction or renovation of the hotel or resort facility shall be exempt from the general excise tax. Defines "construction or renovation of a hotel facility or a resort facility" as the planning, design, construction, furniture and fixtures above routine maintenance, materials, and equipment related to new construction, alterations, remediation, or modifications of a hotel facility or resort facility in the state that is substantially completed by June 30, 2017; provided that: (1) the costs exceed $50 million by June 30, 2017; and (2) the general contractor and any subcontractors of the construction or renovation are signatory parties to collective bargaining agreements with the appropriate construction trade unions covering construction work in the state. The general excise tax exemption shall be applicable to taxable periods beginning after June 30, 2012.

The exemption shall be conditioned on the department of business, economic development and tourism (DBEDT) pre-certifying the construction or renovation of a hotel facility or resort facility based upon an application that: (1) is submitted by the owner, developer, or general contractor of the hotel facility or resort facility at any time before or during construction or renovation of the hotel facility or resort facility; (2) describes, in sufficient detail, the construction or renovation of the hotel facility or resort facility; (3) estimates the costs of construction or renovation and tax exemptions and credits to be claimed under this section and HRS section 235- ; and (4) includes all other information prescribed by the department.

Requires DBEDT to maintain records of the names of taxpayers claiming the exemption, the amount of the exemption claimed, and prepare an annual report of the records that shall be made public.

Defines "department," "hotel facility," "resort facility" and "substantially completed" for purposes of the measure.

EFFECTIVE DATE: July 1, 2050; applicable to tax years beginning after December 31, 2011

STAFF COMMENTS: The legislature by Act 195, SLH 2000, enacted a hotel construction and renovation income tax credit of 4% for hotel renovations effective for tax years beginning after 12/31/98 but before 12/31/02. Act 10 of the Third Special Session of 2001 increased the hotel renovation tax credit to 10% for construction costs incurred before 7/1/03. Act 10 also provided that the credit shall revert back to 4% on 7/1/03 and sunset on 12/31/05.

The original income 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.

Rather than an income tax credit, this measure proposes a general excise tax exemption for: (1) the gross income earned from the construction or renovation of a hotel facility or resort facility in the state that is completed by June 30, 2017; and (2) an income tax credit for the hiring of employees for the newly constructed or renovated hotel facility for a period of seven years after the completion of such construction or renovation.

It should be noted that no evaluation has been done to validate the effectiveness of previous income tax credits 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?

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 while 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.

It should be remembered that exemptions from the general excise tax that are not predicated on providing tax relief tend to skew the economic landscape, shifting not only tax burdens but economic activity from one period to another. Such was the case for the general excise tax exemption for the building of affordable housing in the early 1990's. The incentive was that the first 10,000 affordable housing units built before December 31, 1994 would be exempt from the state general excise tax. As a result, developers rushed in to build as many affordable housing units as they could before that deadline. Unfortunately, just as the deadline arrived, the Japanese bubble burst and the developers were left holding huge unsold inventories of housing as there were no buyers in the market for those units.

How the economic recovery will shake up is anyone's guess. Many of the hotel renovation projects which were shuttered are a by-product of not only tight capital markets but also a sluggish visitor market. Why renovate hotel rooms when the prospect for a pick-up in visitor count is dour?

Instead of subsidizing construction in order to get construction workers off the bench, government can assist in a number of other ways. Streamlining the permitting process, allowing certification of building plans by professional architects and engineers instead of approval by the building departments are but a few ways construction activity can be rejuvenated. For government subsidized housing, the approval process for bond financing and issuance of low-income housing tax credits could be enhanced rather than drawn through the lengthy approval process.

Thus, rather than tinkering with the economy, lawmakers should rein back the role of government, or in other words, get out of the way and let the market lead the way to recovery. If nothing else, this measure demonstrates that lawmakers do not understand what makes the economy run and how businesses make their decisions. It is certainly sad that groups of people who have little, if any, business experience are attempting to tell businesses how they should be run.

While the measure also proposes an income tax credit for a portion of the wages of employees hired for the newly constructed or renovated hotel or resort facility, it should be remembered that the tax system is a poor means of achieving such social goals. Providing such credits against the state income tax merely reduces state revenues which may necessitate a shift in the tax burden to other taxpayers who are not able to claim the credit. The proposed tax credits have absolutely no relationship to the burden of taxes imposed on the employer/taxpayer or the taxpayer's ability or inability to pay those taxes and cannot be justified. The credit is nothing more than a partial subsidy to an employer with state funds.

Digested 3/9/12

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TESTIMONY OF MUFI HANNEMANN
PRESIDENT & CEO
HAWAI'I LODGING & TOURISM ASSOCIATION

April 2, 2012

Senate Bill 3048 SD2 Relating to Travel and Tourism Stimulus Initiatives

Aloha Chairperson Oshiro and members of the House Committee on Finance. I am Mufi Hannemann, President & CEO of the Hawai'i Lodging & Tourism Association (fka The Hawaii Hotel & Lodging Association).

The Hawai'i Lodging & Tourism Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes ~~ov~~r 150 lodging properties representing over 48,000 rooms. Our lodging 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.

On behalf of the Hawaii Lodging & Tourism Association, permit me to offer this testimony regarding Senate Bill 3048 SD2, which proposes to provide an exemption from the general excise tax for hotel and resort construction and renovations.

The Hawaii Lodging & Tourism Association supports this measure, which we believe could stimulate the revitalization of aging hotel properties throughout the Hawaiian Islands. Investing in our lodging infrastructure is critical to our ability to compete against other destinations because it enables us to keep our hotels and resorts fresh and appealing and creates new reasons for visitors to travel here.

Government support for tourism, in the form of tax credits and other incentives and assistance, has spurred investment in such projects as the Hilton Hawaiian Village's Kalia Tower, Marriott Waikiki Beach Resort, Aston Waikiki Beach, Outrigger Wailea, Outrigger Waikoloa, Waikiki Beach Walk, and resorts in Ko Olina.

We believe Senate Bill 3048 SD 2 can provide an important incentive for new investment in our visitor industry, while concurrently generating jobs for the construction industry and related businesses, and urge its passage.

Mahalo.

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HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON FINANCE
Representative Marcus Oshiro, Chair

4/2/12
Rm. 308, 2:00 PM

SB 3048 SD 2
Relating to Travel & Tourism Stimulus Initiatives

Chair Oshiro and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels and Resorts to support SB 3048.

This bill offers state financial assistance to the hotel industry for renovation or construction thru an employer tax credit and GET exemptions.

In 1999, $1.2 million in hotel tax credits were granted, which went up to $7.4 million in 2001. What the State got in return was a better tourism infrastructure like the Kalia Towers in the Hawaiian Hilton Village complex and other improvements in Waikiki, which shows that these tax credit works.

I believe that the facts show that this credit has done what it was intended to do – spur additional needed construction activity, either thru renovations of properties or new construction, which keep Hawaii's people employed and generate positive tax revenue for the state.

We believe however that the $50M threshold is a little on the high side. This may work for new construction or total renovations, however it has been our experience that most of the renovations average between $10M to $30M, depending on the property. Maybe a good incentive that would work for everyone, whether they are a big or a small property, is a graduated scale formula. In other words, the more you spend, the more tax credit or exemptions you get, the less you spend the less you get.

Mahalo for allowing me to testify.

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TO: Representative Marcus R. Oshiro
Chair, Committee on Finance
Hawaii State Capitol, Room 306
Via Capitol Web Page

FROM: Gary M. Slovin / Mihoko E. Ito

DATE: April 1, 2012

RE: **S.B. 3048, SD2 – Relating to Travel and Tourism Stimulus Initiatives**
Hearing: Monday, April 2, 2012 at 2:00 p.m.
Conference Room 308, Agenda #1

Dear Chair Oshiro and Members of the Committee on Finance:

Wyndham Vacation Ownership offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham brands.

Wyndham **supports** S.B. 3048, SD2 which provides an employer tax credit and a general excise tax exemption for qualified hotel and resort construction and renovation and includes timeshare projects and properties.

Timeshare is important for the State of Hawaii and is an important component of a strong visitor industry. Timeshare provides stability for the visitor industry through its occupancy rates, which mitigates negative economic impacts during periods of uncertainty. Timeshare properties have been a key to investment in new construction and renovation projects. In order for Hawaii to continue to attract visitors in the global marketplace, resorts must offer a quality experience to our visitors and maintain and improve their physical infrastructure. S.B. 3048, SD2 provide the private sector with investment incentives to develop new and improved existing visitor properties throughout the State.

For these reasons, Wyndham strongly supports this bill.

Thank you very much for the opportunity to submit testimony regarding this measure.

The Pacific Resource
PARTNERSHIP

Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

Monday, April 2, 2012
2:00 PM
Conference Room 308

SB 3048, SD2 – RELATING TO TRAVEL AND TOURISM STIMULUS INITIATIVES

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee:

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters, formerly the Hawaii Carpenters Union.

PRP supports the intent of SB 3048, SD2 – Relating to Travel and Tourism Stimulus Initiatives which provides an employer tax credit paid by a qualified employer to certain employees after completion of hotel and resort construction and renovation. This measure also provides general excise tax exemption for hotel and resort construction and renovation and for the operation of these hotels and resorts for seven years after completion of construction and renovation; requires construction and renovation of a hotel facility or resort facility to be completed by 6/30/2017 to be eligible for the exemption.

PRP supports the intent of SB 3048, SD2, however, we would like to request to amend the hotel and resort construction and renovation general excise tax exemption which would apply to taxable periods to begin after 6/30/2012 instead of 7/1/2050.

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Senate Concurrent Resolution No.132 (2009) established a Construction Industry Task Force to determine the economic contributions of the construction industry in Hawaii and to develop a series of proposals for state actions to preserve as well as to create new jobs.

As an active participant in the Construction Industry Task Force, PRP believes it was and still is crucial to jump start Hawaii's economy with active pursuit in new construction and renovation plans that would otherwise be delayed by the prevailing financial climate.

With our economy in recession, stimulus and other initiatives are needed to counteract the negative impact on our state. A hotel construction and resort general excise tax exemption can provide excellent means to boost Hawaii's tourism and construction industries.

Thank you for the opportunity to share our views with you and we respectfully ask for your support on SB 3048, SD2 – Relating to Travel and Tourism Stimulus Initiatives.