

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, February 12, 2014
Time: 10:30 a.m.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 2323 Relating to Research Activities

The Department of Taxation (Department) opposes this measure. Due to the complexity of this tax credit, the Department's ability to administer and enforce the provisions of the tax credit are severely hampered if the tax credit does not track the federal tax credit.

S.B. 2323 provides that sections 41 and 280C(c) of the Internal Revenue Code (IRC) shall be relied upon for calculating the State Tax Credit for Research Activities (TCRA), except that references to the base amount shall not apply and tax credit for all qualified research expenses may be taken without regard to the amount of expenses incurred for previous years. The measure is effective upon approval.

The federal TCRA is an incremental credit based on increases in research activities under IRC § 41(a). Taxpayers may choose to claim the credit under the Regular Research Credit ("RRC") method or the Alternative Simplified Credit ("ASC") method under IRC § 41(c)(5). The TCRA is a highly technical and extremely complex tax credit, such that the Department must rely on the expertise of the Internal Revenue Service (IRS) in determining whether a TCRA claim is justified.

For example, when the federal TCRA and the State TCRA were not in sync under Act 221, Session Laws of Hawaii 2000, the Department expended considerable audit resources to determine whether taxpayer claims for the TCRA were justified. Because the Hawaii TCRA is a refundable credit, the tendency is for taxpayers to be more aggressive in their approach as to what activities and expenditures fall within the parameters of the tax credit.

Validation of tax credit claims requires review of extremely detailed and technical information, and disputes concerning the credit are not easily resolved. Given that the Department does not have the personnel, resources and expertise to insure that claims for the credit are valid, the administration and enforcement of this tax credit is very difficult for the Department.

The TCRA is intended to encourage taxpayers to design, develop, and/or improve products, processes, techniques, formulas or software and intended to reward programs that pursue innovation. The ASC method allows taxpayers to claim research credits, even if research costs remain the same or when costs decline as compared to prior years. As such, it is not necessary to eliminate the reference to the base periods. Taxpayers are still eligible for the TCRA even when the amounts spent on qualified research decline from the previous year.

The RRC equals 20% of a taxpayer's current-year Qualified Research Expenses (QREs) that exceed a base amount, which is determined by applying the taxpayer's historical percentage of gross receipts spent on QREs (the fixed-base percentage) to the four most recent years' average gross receipts. The fixed-base percentage may not exceed 16%, and the base amount may not be less than half of the current-year QREs. The ASC equals 14% of the QREs for the taxable year that exceed 50% of the average QREs for the three taxable years preceding the taxable year for which the credit is being calculated. If the taxpayer has no QREs in any one of the three preceding tax years, the ASC rate equals 6% of the QREs for the taxable year.

Currently, under IRC §§ 41(f)(1)(A)(ii) and 41(f)(1)(B)(ii), a taxpayer is required to allocate research credits to each controlled group member "on a proportionate basis to its share of the aggregate of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, taken into account by such controlled group for purposes of this section." Thus, the group credit is allocated to group members based on a member's share of qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, without regard to whether the member would have a stand-alone entity credit or what the amount of any such credit would be.

This measure would require substantial deviations in making this calculation for State tax purposes, as opposed to using the federal allocation, due to the deletion of the base periods that may be applicable to each taxpayer of the group. As a result, administration and enforcement of this tax credit will divert the Department's limited resources to administer and enforce a tax credit, rather than for revenue collection. The Department opposes this attempt to deviate from the federal TCRA.

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax credit for research activities

BILL NUMBER: SB 2323; HB by 1704 (Identical)

INTRODUCED BY: SB by Kidani, Ige and 8 Democrats; HB by Nishimoto

BRIEF SUMMARY: Amends HRS section 235-110.91 to reinsert the phrase “provided that references to the base amount shall not apply and credit for all qualified research expenses may be taken without regard to the amount of expenses for previous years.”

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The legislature by Act 270 reestablished the income tax credit for qualified research activities which expired on 12/31/10. While Act 270 merely updated the existing law and changed the effective date, it deleted language relating to the calculation of the credit necessitating the proposed measure to clarify the calculation of the state credit. Under the federal Internal Revenue Code section 41 (with respect to the credit for increasing research activities) the credit is allowed for those research expenses incurred in a taxable year over a base amount. Under the proposed measure, all qualified research expenses would be eligible for the credit regardless of any base amount and could result in a drain of the state’s financial resources.

Substantively, over the last decade, Hawaii has adopted various tax incentives to encourage the development of high technology businesses in the state. The acts provided investment and research credits as well as income exclusions providing tax relief to high tech businesses and individuals associated with high tech businesses. While the focus on high technology in the last few years is commendable, it fails to recognize that investments are made with the prospect that the venture will yield a profit. If the prospects for making a profit are absent, no amount of tax credits will attract investment from outside Hawaii’s capital short environment. People do not invest to lose money. It should be remembered that until Hawaii’s high cost of living can be addressed, all the tax incentives in the world will not make a difference in attracting new investment to Hawaii. The only attractive aspect for resident investors to plough money into such activities is the fact that the credit provides a way to avoid paying state taxes.

Digested 2/10/14

From: [Ann Chung](#)
To: [WAM Testimony](#)
Subject: Re: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Tuesday, February 11, 2014 8:15:00 AM

Aloha, please note my testimony is on behalf of an organization, Navatek Ltd.
Mahalo for noting this correction,
Ann Chung

Sent from my iPad

On Feb 10, 2014, at 5:58 PM, "mailinglist@capitol.hawaii.gov"
<mailinglist@capitol.hawaii.gov> wrote:

SB2323

Submitted on: 2/10/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
ann chung	Individual	Support	Yes

Comments: I am Ann Chung, representing Navatek, a research and development company for military and commercial applications. We strongly support SB2323. The R&D credit is based on qualified expenses SPENT IN THE STATE OF HAWAII. Supporting this credit incentivizes R&D companies to spend monies on wages, materials and subcontractors IN THE STATE OF HAWAII. With major reductions in military funding, the R&D credit is very important to the success of our local R&D companies. We recognize that the legislature has been very supportive of the technology industry in the past and continues to recognize the importance of Hawaii's innovation industries to our economy. This bill will support building the R&D industry in Hawaii.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: mitchel@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Monday, February 10, 2014 6:09:52 PM

SB2323

Submitted on: 2/10/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Mitchel Kagawa	Pacific Marine & Supply	Support	No

Comments: I strongly support SB2323.

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Written Statement of
DR. PATRICK K. SULLIVAN
PRESIDENT/CEO OCEANIT

Before the
SENATE COMMITTEE ON WAYS AND MEANS

February 12, 2014
10:30 a.m.

State Capitol, Conference Room 211
In Support of

SB 2323 RELATING TO RESEARCH ACTIVITIES

To: Chair David Y. Ige, Vice Chair Michelle N. Kidani and Members of the Committee

From: Dr. Patrick K. Sullivan, President/CEO

Re: Testimony in Support of SB2323

Honorable Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit testimony **in support of SB2323**

Oceanit currently employs about 125 scientists, engineers and support staff. We regularly host interns, school classes, and conduct numerous outreach activities for elementary thru college levels students to introduce them to science and engineering careers. We let the children of Hawai'i know that there are exciting, good paying jobs for them in right here in this State. Many of them have returned to the islands, equipped with college degrees, wanting to work in science and engineering. It is our hope that we can continue to offer an alternative to those who want to work in an industry that is growing nationally as well as internationally and to show them that world class technical work can thrive in Hawai'i.

The R&D credit has helped to jump start an industry that is in its infancy in Hawai'i. It has been responsible for job creation, as well as many long-term investments Oceanit has made that will set the stage for future growth. The reality is that without the R&D tax credit, Oceanit would not have been able to make these investments.

As a result of forward-looking nature of research, few R&D investments have short-term rewards. This bill would re-establish a temporary refundable R&D income tax credit for qualified research activities in the State of Hawai'i, to help provide longer-term continuity for an industry that is struggling to grow.

We urge you to main, As a local diversified science and engineering company with capabilities/facilities in advanced technology, life sciences, information systems, aerospace and energy Oceanit supports SB2832 and the White Paper attached hereto.

Thank you for your continued support of R&D as the stimulant to an innovative Hawa'i STEM economy that Hawai'i's future generation can be apart of.

Written Statement of
ROBBIE MELTON
Executive Director & CEO
High Technology Development Corporation
before the
SENATE COMMITTEE ON
WAYS AND MEANS

Wednesday, February 12, 2014
10:30 a.m.
State Capitol, Conference Room 211
In consideration of

SB 2323 RELATING TO RESEARCH ACTIVITIES.

Chair Ige, Vice Chair Kidani, and Members of the Committee on Ways and Means.

The High Technology Development Corporation (HTDC) **supports** SB2323 relating to Research Activities. HTDC comments that this bill should be coordinated with HB2338/SB2888 which clarifies that the credit is not available for research conducted outside of the State, eliminates the requirement that the department of taxation certify all research credit claims, clarifies that failure of the taxpayer to submit the required survey to the Department of Business, Economic Development, and Tourism (DBEDT) is a waiver of the right to claim the credit. These bills require companies to submit information to DBEDT as a condition of receiving the tax credit. DBEDT needs resources to manage the compliance infrastructure required by these bills. HTDC suggests that DBEDT be appropriated the resources required to accomplish the proper reporting. HTDC defers to Department of Taxation on the technical aspects of the bill and any questions regarding the revenue impact of this tax credit.

Thank you for the opportunity to offer these comments.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: awhite@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Monday, February 10, 2014 6:09:59 PM

SB2323

Submitted on: 2/10/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Audra White	Individual	Comments Only	No

Comments: I strongly support SB2323.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: bnakaoka@pacificshipyards.com
Subject: *Submitted testimony for SB2323 on Feb 12, 2014 10:30AM*
Date: Tuesday, February 11, 2014 8:58:41 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Ben Nakaoka	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: mr.exit8@gmail.com
Subject: *Submitted testimony for SB2323 on Feb 12, 2014 10:30AM*
Date: Tuesday, February 11, 2014 6:54:55 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
bruce reis	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: cfield@navatekltd.com
Subject: *Submitted testimony for SB2323 on Feb 12, 2014 10:30AM*
Date: Tuesday, February 11, 2014 7:21:40 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Charlie Field	Navatek, Ltd.	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: cbradley@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Tuesday, February 11, 2014 6:43:10 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Christian Bradley	Individual	Support	No

Comments: I strongly support SB2323.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: eschiff5@gmail.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Monday, February 10, 2014 6:12:01 PM

SB2323

Submitted on: 2/10/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Schiff	Individual	Comments Only	No

Comments: I strongly support SB2323

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: gjohnson@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Tuesday, February 11, 2014 6:48:52 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Johnson	Individual	Support	No

Comments: I strongly support SB2323

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To: [WAM Testimony](#)
Cc: gary@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Tuesday, February 11, 2014 11:39:17 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Shimosono	Individual	Support	No

Comments: I strongly support SB2323

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Cc: klock@navatekltd.com
Subject: *Submitted testimony for SB2323 on Feb 12, 2014 10:30AM*
Date: Monday, February 10, 2014 6:29:18 PM

SB2323

Submitted on: 2/10/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Kacey Lock	Navatek, Ltd	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: mcraig@navatekltd.com
Subject: *Submitted testimony for SB2323 on Feb 12, 2014 10:30AM*
Date: Tuesday, February 11, 2014 4:12:36 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret Craig	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: mj.murphy@yahoo.com
Subject: *Submitted testimony for SB2323 on Feb 12, 2014 10:30AM*
Date: Tuesday, February 11, 2014 9:13:29 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Murphy	Navatek Ltd.	Support	No

Comments:

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To: [WAM Testimony](#)
Cc: mbuelsing@navatekltd.com
Subject: *Submitted testimony for SB2323 on Feb 12, 2014 10:30AM*
Date: Tuesday, February 11, 2014 6:52:11 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Buelsing	Individual	Support	No

Comments:

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To: [WAM Testimony](#)
Cc: staketa@lava.net
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Tuesday, February 11, 2014 11:19:02 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Sandra Taketa	Individual	Support	No

Comments: I strongly support SB2323

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Cc: syamashita@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Monday, February 10, 2014 6:42:23 PM

SB2323

Submitted on: 2/10/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Yamashita	Individual	Support	No

Comments: Strongly support sb2323

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Cc: sfitzpatrick@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Tuesday, February 11, 2014 3:33:44 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie Fitzpatrick	Navatek Ltd.	Support	No

Comments: I strongly support SB2323

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To: [WAM Testimony](#)
Cc: steve.schmitz@comcast.net
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Monday, February 10, 2014 9:39:04 PM

SB2323

Submitted on: 2/10/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Schmitz	Individual	Support	No

Comments: I strongly support SB2323

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: smatsuura@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Monday, February 10, 2014 6:20:21 PM

SB2323

Submitted on: 2/10/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Matsuura	Individual	Support	No

Comments: I strongly support SB2323

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Cc: tzangle@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Tuesday, February 11, 2014 3:44:51 AM

SB2323

Submitted on: 2/11/2014

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Submitted By	Organization	Testifier Position	Present at Hearing
Troy Zangle	Individual	Support	No

Comments: I strongly support SB2323

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From: mailinglist@capitol.hawaii.gov
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Cc: vnagahiro@lava.net
Subject: *Submitted testimony for SB2323 on Feb 12, 2014 10:30AM*
Date: Tuesday, February 11, 2014 8:15:36 AM

SB2323

Submitted on: 2/11/2014

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Submitted By	Organization	Testifier Position	Present at Hearing
vicki nagahiro	business	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: jdoyle@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Tuesday, February 11, 2014 6:40:05 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
William Doyle	Navatek	Support	No

Comments: Strongly Support

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: wfoster@navatekltd.com
Subject: *Submitted testimony for SB2323 on Feb 12, 2014 10:30AM*
Date: Tuesday, February 11, 2014 7:42:52 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
William Foster	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: zheshiki@navatekltd.com
Subject: Submitted testimony for SB2323 on Feb 12, 2014 10:30AM
Date: Tuesday, February 11, 2014 8:03:09 AM

SB2323

Submitted on: 2/11/2014

Testimony for WAM on Feb 12, 2014 10:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Zensho Heshiki	Individual	Comments Only	No

Comments: I strongly support SB2323.

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