



1 is the legislature's intent to provide a business and occupation tax  
2 credit for high technology companies performing research and  
3 development in the fields of advanced computing, advanced materials,  
4 biotechnology, electronic device technology, or environmental  
5 technology, in order to reduce the business costs of performing  
6 research and development in specified areas, thereby encouraging  
7 investments in research and development, thereby increasing the number  
8 of firms in the industry performing research and development  
9 activities, thereby increasing the number of jobs performing research  
10 and development in the high technology industry.

11 (3) If a review finds that the number of businesses participating  
12 in this credit program, and the overall number of jobs for businesses  
13 participating in this credit program performing research and  
14 development, have increased compared to the number at the time of  
15 enactment, then the legislature intends to extend the expiration date  
16 of the tax preference.

17 (4) In order to obtain the data necessary to perform the review in  
18 subsection (3) of this section, the joint legislative audit and review  
19 committee may refer to: (a) Employment data available from the  
20 employment security department; and (b) North American industrial code  
21 system (NAICS) from the department of revenue.

22 **Sec. 102.** RCW 82.04.4452 and 2010 c 114 s 114 are each amended to  
23 read as follows:

24 (1) In computing the tax imposed under this chapter, a credit is  
25 allowed for each person whose research and development spending during  
26 the year in which the credit is claimed exceeds 0.92 percent of the  
27 person's taxable amount during the same calendar year.

28 (2)(a) The credit is calculated as follows:

29 ((+a)) (i) Determine the greater of the amount of qualified  
30 research and development expenditures of a person or eighty percent of  
31 amounts received by a person other than a public educational or  
32 research institution in compensation for the conduct of qualified  
33 research and development;

34 ((+b)) (ii) Subtract 0.92 percent of the person's taxable amount  
35 from the amount determined under (a)(i) of this subsection;

36 ((+c)) (iii) Multiply the amount determined under (b) of this  
37 subsection by the following:

1       ~~((i))~~ (A) For the period June 10, 2004, through December 31,  
2 2006, the person's average tax rate for the calendar year for which the  
3 credit is claimed;

4       ~~((ii))~~ (B) For the calendar year ending December 31, 2007, the  
5 greater of the person's average tax rate for that calendar year or 0.75  
6 percent;

7       ~~((iii))~~ (C) For the calendar year ending December 31, 2008, the  
8 greater of the person's average tax rate for that calendar year or 1.0  
9 percent;

10       ~~((iv))~~ (D) For the calendar year ending December 31, 2009, the  
11 greater of the person's average tax rate for that calendar year or 1.25  
12 percent;

13       ~~((v))~~ (E) For the calendar year ending December 31, 2010, and  
14 thereafter, 1.50 percent.

15       (b) For purposes of calculating the credit, if a person's reporting  
16 period is less than annual, the person may use an estimated average tax  
17 rate for the calendar year for which the credit is claimed by using the  
18 person's average tax rate for each reporting period. A person who uses  
19 an estimated average tax rate must make an adjustment to the total  
20 credit claimed for the calendar year using the person's actual average  
21 tax rate for the calendar year when the person files its last return  
22 for the calendar year for which the credit is claimed.

23       (3) Any person entitled to the credit provided in subsection (2) of  
24 this section as a result of qualified research and development  
25 conducted under contract may assign all or any portion of the credit to  
26 the person contracting for the performance of the qualified research  
27 and development.

28       (4) The credit, including any credit assigned to a person under  
29 subsection (3) of this section, must be claimed against taxes due for  
30 the same calendar year in which the qualified research and development  
31 expenditures are incurred. The credit, including any credit assigned  
32 to a person under subsection (3) of this section, for each calendar  
33 year may not exceed the lesser of two million dollars or the amount of  
34 tax otherwise due under this chapter for the calendar year.

35       (5) For any person claiming the credit, including any credit  
36 assigned to a person under subsection (3) of this section, whose  
37 research and development spending during the calendar year in which the  
38 credit is claimed fails to exceed 0.92 percent of the person's taxable

1 amount during the same calendar year or who is otherwise ineligible,  
2 the department must declare the taxes against which the credit was  
3 claimed to be immediately due and payable. The department must assess  
4 interest, but not penalties, on the taxes against which the credit was  
5 claimed. Interest must be assessed at the rate provided for delinquent  
6 excise taxes under chapter 82.32 RCW, retroactively to the date the  
7 credit was claimed, and accrues until the taxes against which the  
8 credit was claimed are repaid. Any credit assigned to a person under  
9 subsection (3) of this section that is disallowed as a result of this  
10 section may be claimed by the person who performed the qualified  
11 research and development subject to the limitations set forth in  
12 subsection (4) of this section.

13 (6) A person claiming the credit provided in this section must file  
14 a complete annual survey with the department under RCW 82.32.585.

15 (7) (~~For the purpose of this section:~~) The definitions in this  
16 subsection apply throughout this section unless the context clearly  
17 requires otherwise.

18 (a) "Average tax rate" means a person's total tax liability under  
19 this chapter for the calendar year for which the credit is claimed  
20 divided by the taxpayer's total taxable amount under this chapter for  
21 the calendar year for which the credit is claimed.

22 (b) "Qualified research and development expenditures" means  
23 operating expenses, including wages, compensation of a proprietor or a  
24 partner in a partnership as determined under rules adopted by the  
25 department, benefits, supplies, and computer expenses, directly  
26 incurred in qualified research and development by a person claiming the  
27 credit provided in this section. The term does not include amounts  
28 paid to a person other than a public educational or research  
29 institution to conduct qualified research and development. Nor does  
30 the term include capital costs and overhead, such as expenses for land,  
31 structures, or depreciable property.

32 (c) "Qualified research and development" (~~shall have~~) has the  
33 same meaning as provided in RCW 82.63.010.

34 (d) "Research and development spending" means qualified research  
35 and development expenditures plus eighty percent of amounts paid to a  
36 person other than a public educational or research institution to  
37 conduct qualified research and development.

1 (e) "Taxable amount" means the taxable amount subject to the tax  
2 imposed in this chapter required to be reported on the person's  
3 combined excise tax returns for the calendar year for which the credit  
4 is claimed, less any taxable amount for which a credit is allowed under  
5 RCW 82.04.440.

6 (8) This section expires January 1, (~~(2015)~~) 2040.

7 **PART II**

8 **SALES AND USE TAX DEFERRAL EXTENSION FOR HIGH TECHNOLOGY**

9 **RESEARCH AND DEVELOPMENT CONSTRUCTION**

10 NEW SECTION. **Sec. 201.** This section is the tax preference  
11 performance statement for the tax deferral contained in section 202 of  
12 this act. This performance statement is only intended to be used for  
13 subsequent evaluation of the tax preference. It is not intended to  
14 create a private right of action by any party or be used to determine  
15 eligibility for preferential tax treatment.

16 (1) The legislature categorizes this tax exemption as one intended  
17 to improve industry competitiveness and create or retain jobs, as  
18 indicated in RCW 82.32.808(2) (b) and (c).

19 (2) It is the legislature's specific public policy objective to  
20 improve industry competitiveness, and create or retain jobs. It is the  
21 legislature's intent to provide a sales and use tax deferral for  
22 certain construction and equipment purchases for new and expending high  
23 technology companies conducting research and development and pilot  
24 scale manufacturing in the fields of advanced computing, advanced  
25 materials, biotechnology, electronic device technology, or  
26 environmental technology, in order to reduce the cost of certain  
27 construction and equipment purchases used for research and development,  
28 thereby increasing the number of firms in the industry performing  
29 research and development activities, thereby increasing the number of  
30 jobs performing research and development in the high technology  
31 industry.

32 (3) If a review finds that the number of businesses participating  
33 in the deferral program, and the overall number of jobs for businesses  
34 participating in the deferral program performing research and  
35 development, have increased compared to the number at the time of

1 enactment, then the legislature intends to extend the expiration date  
2 of the tax preference.

3 (4) In order to obtain the data necessary to perform the review in  
4 subsection (3) of this section, the joint legislative audit and review  
5 committee may refer to: (a) Employment data available from the  
6 employment security department; and (b) North American industrial code  
7 system (NAICS) from the department of revenue.

8 **Sec. 202.** RCW 82.63.030 and 2008 c 15 s 4 are each amended to read  
9 as follows:

10 (1) Except as provided in subsection (2) of this section, the  
11 department (~~shall~~) must issue a sales and use tax deferral  
12 certificate for state and local sales and use taxes due under chapters  
13 82.08, 82.12, and 82.14 RCW on each eligible investment project.

14 (2) No certificate may be issued for an investment project that has  
15 already received a deferral under chapter 82.60 RCW or this chapter,  
16 except that an investment project for qualified research and  
17 development that has already received a deferral may also receive an  
18 additional deferral certificate for adapting the investment project for  
19 use in pilot scale manufacturing.

20 (3) This section (~~shall~~) expires January 1, (~~2015~~) 2040.

### 21 PART III

#### 22 SALES TAX EXEMPTION FOR MACHINERY AND EQUIPMENT USED IN 23 RESEARCH AND DEVELOPMENT OPERATION

24 **Sec. 301.** RCW 82.08.02565 and 2011 c 23 s 2 are each amended to  
25 read as follows:

26 (1)(a) The tax levied by RCW 82.08.020 does not apply to sales to  
27 a manufacturer or processor for hire of machinery and equipment used  
28 directly in a manufacturing operation or research and development  
29 operation, to sales to a person engaged in testing for a manufacturer  
30 or processor for hire of machinery and equipment used directly in a  
31 testing operation, or to sales of or charges made for labor and  
32 services rendered in respect to installing, repairing, cleaning,  
33 altering, or improving the machinery and equipment.

34 (b) Sellers making tax-exempt sales under this section must obtain

1 from the purchaser an exemption certificate in a form and manner  
2 prescribed by the department by rule. The seller must retain a copy of  
3 the certificate for the seller's files.

4 (2) For purposes of this section and RCW 82.12.02565:

5 (a) "Machinery and equipment" means industrial fixtures, devices,  
6 and support facilities, and tangible personal property that becomes an  
7 ingredient or component thereof, including repair parts and replacement  
8 parts. "Machinery and equipment" includes pollution control equipment  
9 installed and used in a manufacturing operation, testing operation, or  
10 research and development operation to prevent air pollution, water  
11 pollution, or contamination that might otherwise result from the  
12 manufacturing operation, testing operation, or research and development  
13 operation. "Machinery and equipment" also includes digital goods.

14 (b) "Machinery and equipment" does not include:

15 (i) Hand-powered tools;

16 (ii) Property with a useful life of less than one year;

17 (iii) Buildings, other than machinery and equipment that is  
18 permanently affixed to or becomes a physical part of a building; and

19 (iv) Building fixtures that are not integral to the manufacturing  
20 operation, testing operation, or research and development operation  
21 that are permanently affixed to and become a physical part of a  
22 building, such as utility systems for heating, ventilation, air  
23 conditioning, communications, plumbing, or electrical.

24 (c) Machinery and equipment is "used directly" in a manufacturing  
25 operation, testing operation, or research and development operation if  
26 the machinery and equipment:

27 (i) Acts upon or interacts with an item of tangible personal  
28 property;

29 (ii) Conveys, transports, handles, or temporarily stores an item of  
30 tangible personal property at the manufacturing site or testing site;

31 (iii) Controls, guides, measures, verifies, aligns, regulates, or  
32 tests tangible personal property at the site or away from the site;

33 (iv) Provides physical support for or access to tangible personal  
34 property;

35 (v) Produces power for, or lubricates machinery and equipment;

36 (vi) Produces another item of tangible personal property for use in  
37 the manufacturing operation, testing operation, or research and  
38 development operation;

1 (vii) Places tangible personal property in the container, package,  
2 or wrapping in which the tangible personal property is normally sold or  
3 transported; or

4 (viii) Is integral to research and development as defined in RCW  
5 82.63.010.

6 (d) "Manufacturer" means a person that qualifies as a manufacturer  
7 under RCW 82.04.110. "Manufacturer" also includes a person that prints  
8 newspapers or other materials.

9 (e) "Manufacturing" means only those activities that come within  
10 the definition of "to manufacture" in RCW 82.04.120 and are taxed as  
11 manufacturing or processing for hire under chapter 82.04 RCW, or would  
12 be taxed as such if such activity were conducted in this state or if  
13 not for an exemption or deduction. "Manufacturing" also includes  
14 printing newspapers or other materials. An activity is not taxed as  
15 manufacturing or processing for hire under chapter 82.04 RCW if the  
16 activity is within the purview of chapter 82.16 RCW.

17 (f) "Manufacturing operation" means the manufacturing of articles,  
18 substances, or commodities for sale as tangible personal property. A  
19 manufacturing operation begins at the point where the raw materials  
20 enter the manufacturing site and ends at the point where the processed  
21 material leaves the manufacturing site. With respect to the production  
22 of class A or exceptional quality biosolids by a wastewater treatment  
23 facility, the manufacturing operation begins at the point where class  
24 B biosolids undergo additional processing to achieve class A or  
25 exceptional quality standards. Notwithstanding anything to the  
26 contrary in this section, the term also includes that portion of a  
27 cogeneration project that is used to generate power for consumption  
28 within the manufacturing site of which the cogeneration project is an  
29 integral part. The term does not include the preparation of food  
30 products on the premises of a person selling food products at retail.

31 (g) "Cogeneration" means the simultaneous generation of electrical  
32 energy and low-grade heat from the same fuel.

33 (h) "Research and development operation" means engaging in research  
34 and development as defined in RCW 82.63.010 by a manufacturer or  
35 processor for hire, if the research and development is integral to the  
36 buyer's development of prewritten computer software for sale as a  
37 product or a service described in RCW 82.04.050(6)(b), or the buyer's  
38 manufacturing operation. For purposes of this section and RCW



1 82.12.02565, persons engaged in the development of prewritten computer  
2 software that is not transferred to purchasers by means of a tangible  
3 storage media are deemed to be manufacturers.

4 (i) "Testing" means activities performed to establish or determine  
5 the properties, qualities, and limitations of tangible personal  
6 property.

7 (j) "Testing operation" means the testing of tangible personal  
8 property for a manufacturer or processor for hire. A testing operation  
9 begins at the point where the tangible personal property enters the  
10 testing site and ends at the point where the tangible personal property  
11 leaves the testing site. The term also includes the testing of  
12 tangible personal property for use in that portion of a cogeneration  
13 project that is used to generate power for consumption within the  
14 manufacturing site of which the cogeneration project is an integral  
15 part. The term does not include the testing of tangible personal  
16 property for use in the production of electricity by a light and power  
17 business as defined in RCW 82.16.010 or the preparation of food  
18 products on the premises of a person selling food products at retail.

19 (3) It is the intent of the legislature that this tax preference is  
20 being amended to correct a technical inconsistency, and these  
21 corrections are not intended to create a new or expanded tax preference  
22 under RCW 82.32.805.

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