(1) the person is an applicant for or the holder of a license that authorizes the person to possess a firearm; and 

(2) the offense for which the person was convicted is a misdemeanor crime of domestic violence as that term is defined by 18 U.S.C. Section 921.

SECTION 2. The change in law made by this Act applies to an application for, or a disciplinary proceeding regarding, a license or other authorization that is pending with a licensing authority on the effective date of this Act or an application filed or a disciplinary proceeding commenced on or after that date.

SECTION 3. This Act takes effect September 1, 2013.

Passed by the House on April 25, 2013: Yeas 136, Nays 0, 2 present, not voting; the House concurred in Senate amendments to H.B. No. 798 on May 16, 2013: Yeas 140, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 15, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.
Effective September 1, 2013.

CHAPTER 1266

H.B. No. 800

AN ACT

relating to a sales and use tax exemption and a franchise tax credit related to certain research and development activities.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. LEGISLATIVE FINDINGS AND PURPOSES. (a) The legislature finds that:

(1) Texas economic activity accounts for more than eight percent of the economic activity in the United States, but accounts for only five percent of research and development spending in the United States;

(2) research and development activities create:

(A) high-paying jobs that provide substantial benefits to the Texas economy; and

(B) new technologies and applications that generate economic efficiency and growth;

and

(3) private-sector research and development activities create partnerships between private-sector entities and institutions of higher education, and those partnerships expand opportunities for innovation and learning.

(b) Based on the findings specified in Subsection (a) of this section, the purposes of this Act are to:

(1) make Texas economically competitive in the field of research and development;

(2) reduce the tax burden on research and development activities in Texas and encourage new investments in this state;

(3) promote the creation of new, highly skilled, high-paying jobs in Texas; and

(4) complement this state's manufacturing industries by encouraging innovation and efficiency in applying new technologies and producing new products.

SECTION 2. SALES AND USE TAX EXEMPTION. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3182 to read as follows:

Sec. 151.3182. CERTAIN PROPERTY USED IN RESEARCH AND DEVELOPMENT ACTIVITIES; REPORTING OF ESTIMATES AND EVALUATION. (a) In this section:

(1) "Depreciable tangible personal property" means tangible personal property that:

(A) has a useful life that exceeds one year; and

3206
(B) is subject to depreciation under:
(i) generally accepted accounting principles; or
(ii) Section 167 or 168, Internal Revenue Code.

(2) “Internal Revenue Code” has the meaning assigned by Section 171.651.

(3) “Qualified research” has the meaning assigned by Section 41, Internal Revenue Code.

(b) The sale, storage, or use of depreciable tangible personal property directly used in qualified research is exempted from the taxes imposed by this chapter if the property is sold, leased, or rented to, or stored or used by, a person who:
(1) is engaged in qualified research; and
(2) will not, as a taxable entity as defined by Section 171.0002 or as a member of a combined group that is a taxable entity, claim a credit under Subchapter M, Chapter 171, on a franchise tax report for the period during which the sale, storage, or use occurs.

(c) Before the beginning of each regular session of the legislature, the comptroller shall submit to the legislature and the governor:
(1) an estimate of the total number of persons who received exemptions under this section and an estimate of the total amount of those exemptions; and
(2) an evaluation of the effect of the exemption under this section, in combination with the credit authorized by Subchapter M, Chapter 171, that is conducted by an independent researcher at a center for research authorized by Section 1.005, Education Code, on:
(A) the amount of qualified research performed in this state;
(B) employment in research and development in this state;
(C) economic activity in this state; and
(D) state tax revenues.

(d) The comptroller shall require a person who receives an exemption under this section to complete a form to provide the information necessary for the comptroller to make the evaluation required by Subsection (c)(2). The information provided on the form is confidential and not subject to disclosure under Chapter 552, Government Code.

(e) The comptroller shall provide the estimates and evaluation required by Subsection (c) as part of the report required by Section 403.014, Government Code.

(f) This section expires December 31, 2026.

SECTION 3. FRANCHISE TAX CREDIT. Chapter 171, Tax Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. TAX CREDIT FOR CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

Sec. 171.651. DEFINITIONS. In this subchapter:
(1) “Internal Revenue Code” means the Internal Revenue Code of 1986 in effect on December 31, 2011, excluding any changes made by federal law after that date, but including any regulations adopted under that code applicable to the tax year to which the provisions of the code in effect on that date applied.

(2) “Public or private institution of higher education” means:
(A) an institution of higher education, as defined by Section 61.003, Education Code; or
(B) a private or independent institution of higher education, as defined by Section 61.003, Education Code.

(3) “Qualified research” has the meaning assigned by Section 41, Internal Revenue Code, except that the research must be conducted in this state.

(4) “Qualified research expense” has the meaning assigned by Section 41, Internal Revenue Code, except that the expense must be for research conducted in this state.
Ch. 1266, § 3 83rd LegisLature—Regular Sess ion

Sec. 171.652. Eligibility for Credit. A taxable entity is eligible for a credit against the tax imposed under this chapter in the amount and under the conditions and limitations provided by this subchapter.

Sec. 171.653. Ineligibility for Credit for Certain Periods. (a) A taxable entity is not eligible for a credit on a report against the tax imposed under this chapter for qualified research expenses incurred during the period on which the report is based if the taxable entity, or a member of the combined group if the taxable entity is a combined group, received an exemption under Section 151.3182 during that period.

(b) A taxable entity's ineligibility under this section for a credit on a report for the period on which the report is based does not affect the taxable entity's eligibility to claim a carryforward of unused credit under Section 171.659 on that report.

Sec. 171.654. Amount of Credit. (a) Except as provided by Subsections (b), (c), and (d), the credit for any report equals five percent of the difference between:

1. The qualified research expenses incurred during the period on which the report is based, subject to Section 171.655; and
2. 50 percent of the average amount of qualified research expenses incurred during the three tax periods preceding the period on which the report is based, subject to Section 171.655.

(b) If the taxable entity contracts with one or more public or private institutions of higher education for the performance of qualified research and the taxable entity has qualified research expenses incurred in this state by the taxable entity under the contract during the period on which the report is based, the credit for the report equals 6.25 percent of the difference between:

1. All qualified research expenses incurred during the period on which the report is based, subject to Section 171.655; and
2. 50 percent of the average amount of all qualified research expenses incurred during the three tax periods preceding the period on which the report is based, subject to Section 171.655.

(c) Except as provided by Subsection (d), if the taxable entity has no qualified research expenses in one or more of the three tax periods preceding the period on which the report is based, the credit for the period on which the report is based equals 2.5 percent of the qualified research expenses incurred during that period.

(d) If the taxable entity contracts with one or more public or private institutions of higher education for the performance of qualified research and the taxable entity has qualified research expenses incurred in this state by the taxable entity under the contract during the period on which the report is based, but has no qualified research expenses in one or more of the three tax periods preceding the period on which the report is based, the credit for the period on which the report is based equals 3.125 percent of all qualified research expenses incurred during that period.

(e) Notwithstanding whether the time for claiming a credit under this subchapter has expired for any tax period used in determining the average amount of qualified research expenses under Subsection (a)(2) or (b)(2), the determination of which research expenses are qualified research expenses for purposes of computing that average must be made in the same manner as that determination is made for purposes of Subsection (a)(1) or (b)(1). This subsection does not apply to a credit to which a taxable entity was entitled under Subchapter O, as that subchapter existed before January 1, 2008.

(f) The comptroller may adopt rules for determining which research expenses are qualified research expenses for purposes of Subsection (a) or (b) to prevent disparities in those determinations that may result from the taxable entity using different accounting methods for the period on which the report is based, as compared to any preceding tax periods used in determining the average amount of qualified research expenses under Subsection (a)(2) or (b)(2).

Sec. 171.655. Attribution of Expenses Following Transfer of Controlling Interest. (a) If a taxable entity acquires a controlling interest in another taxable entity or in a separate unit of another taxable entity during a tax period with respect
to which the acquiring taxable entity claims a credit under this subchapter, the amount of
the acquiring taxable entity's qualified research expenses equals the sum of:

(1) the amount of qualified research expenses incurred by the acquiring taxable entity
during the period on which the report is based; and

(2) subject to Subsection (d), the amount of qualified research expenses incurred by the
acquired taxable entity or unit during the portion of the period on which the report is
based that precedes the date of the acquisition.

(b) A taxable entity that sells or otherwise transfers to another taxable entity a controlling
interest in another taxable entity or in a separate unit of a taxable entity during a period on
which a report is based may not claim a credit under this subchapter for qualified research
expenses incurred by the transferred taxable entity or unit during the period if the taxable
entity is ineligible for the credit under Section 171.653 or if the acquiring taxable entity
claims a credit under this subchapter for the corresponding period.

(c) If during any of the three tax periods following the tax period in which a sale or other
transfer described by Subsection (b) occurs, the taxable entity that sold or otherwise
transferred the controlling interest reimburses the acquiring taxable entity for research
activities conducted on behalf of the taxable entity that made the sale or other transfer, the
amount of the reimbursement is:

(1) subject to Subsection (e), included as qualified research expenses incurred by the
 taxable entity that made the sale or other transfer for the tax period during which the
 reimbursement was paid; and

(2) excluded from the qualified research expenses incurred by the acquiring taxable
 entity for the tax period during which the reimbursement was paid.

(d) An acquiring taxable entity may not include on a report the amount of qualified
research expenses otherwise authorized by Subsection (a)(2) to be included if the taxable
entity that made the sale or other transfer described by Subsection (b) received an exemption
under Section 151.3182 during the portion of the period on which the acquiring taxable
entity's report is based that precedes the date of the acquisition.

(e) A taxable entity that makes a sale or other transfer described by Subsection (b) may
not include on a report the amount of reimbursement otherwise authorized by Subsection
(c)(1) to be included if the reimbursement is for research activities that occurred during a
tax period under this chapter during which that taxable entity received an exemption under
Section 151.3182.

Sec. 171.656. COMBINED REPORTING. (a) A credit under this subchapter for quali-

fied research expenses incurred by a member of a combined group must be claimed on the
combined report required by Section 171.1014 for the group, and the combined group is the
taxable entity for purposes of this subchapter.

(b) An upper tier entity that includes the total revenue of a lower tier entity for purposes
of computing its taxable margin as authorized by Section 171.1015 may claim the credit
under this subchapter for qualified research expenses incurred by the lower tier entity to the
extent of the upper tier entity's ownership interest in the lower tier entity.

Sec. 171.657. BURDEN OF ESTABLISHING CREDIT. The burden of establishing
entitlement to and the value of the credit is on the taxable entity.

Sec. 171.658. LIMITATIONS. The total credit claimed under this subchapter for a
report, including the amount of any carryforward credit under Section 171.659, may not
exceed 50 percent of the amount of franchise tax due for the report before any other
applicable tax credits.

Sec. 171.659. CARRYFORWARD. If a taxable entity is eligible for a credit that exceeds
the limitation under Section 171.658, the taxable entity may carry the unused credit forward
for not more than 20 consecutive reports. Credits, including credit carryforwards, are
considered to be used in the following order:

(1) a credit carryforward of unused credits accrued under Subchapter O before its
repeal on January 1, 2008, and claimed as authorized by Section 18(d), Chapter 1 (H.B. 3),
Acts of the 79th Legislature, 3rd Called Session, 2006;

3209
Sec. 171.660. ASSIGNMENT PROHIBITED. A taxable entity may not convey, assign, or transfer the credit allowed under this subchapter to another entity unless all of the assets of the taxable entity are conveyed, assigned, or transferred in the same transaction.

Sec. 171.661. APPLICATION FOR CREDIT. A taxable entity must apply for a credit under this subchapter on or with the tax report for the period for which the credit is claimed.

Sec. 171.662. RULES. The comptroller shall adopt rules and forms necessary to implement this subchapter.

Sec. 171.663. REPORTING OF ESTIMATES AND COLLECTION OF INFORMATION. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the legislature and the governor estimates of:

(1) the total number of taxable entities that applied credits under this subchapter against the tax imposed under this chapter;

(2) the total amount of those credits; and

(3) the total amount of unused credits carried forward.

(b) The comptroller may require a taxable entity that claims a credit under this subchapter to complete a form to provide the information necessary for the comptroller to make the evaluations required by Section 151.3182. The information provided on the form is confidential and not subject to disclosure under Chapter 552, Government Code.

(c) The comptroller shall provide the estimates required by this section as part of the report required by Section 463.014, Government Code.

Sec. 171.664. DEPOSIT OF CERTAIN REVENUE. Notwithstanding any other law, for each fiscal year, the comptroller must deposit to the credit of the property tax relief fund an amount of revenue received from the tax imposed under this chapter sufficient to offset any decrease in deposits to that fund that results from the implementation of this subchapter.

Sec. 171.665. EXPIRATION. (a) This subchapter expires December 31, 2026.

(b) The expiration of this subchapter does not affect the carryforward of a credit under Section 171.659 or a credit authorized under this subchapter established before the date this subchapter expires.

SECTION 4. INITIAL REPORTING OF INFORMATION. The comptroller of public accounts shall submit the initial estimates required by Sections 151.3182(c)(1) and 171.663, Tax Code, as added by this Act, before the 84th Regular Legislative Session commences in January 2015. Notwithstanding Section 151.3182(c)(2), Tax Code, as added by this Act, the comptroller is not required to submit the initial evaluation required by that section until January 2017, but shall submit that evaluation before the 85th Regular Legislative Session commences.

SECTION 5. TRANSITION PROVISION. Section 151.3182, Tax Code, as added by this Act, does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 6. APPLICABILITY. Subchapter M, Chapter 171, Tax Code, as added by this Act, applies only to a report originally due on or after the effective date of this Act.

SECTION 7. EFFECTIVE DATE. This Act takes effect January 1, 2014.

Passed by the House on May 2, 2013: Yeas 146, Nays 1, 2 present, not voting; passed by the Senate on May 21, 2013: Yeas 27, Nays 4.

Approved June 14, 2013.

Effective January 1, 2014.