



October 16, 2023

Rep. Jason Hoskins  
Chair, Economic Development Committee  
Michigan House of Representatives  
P.O. Box 30014  
Lansing, MI 48909-7514

Dear Chair Hoskins,

I am writing regarding HBs 5099, 5100, 5101 and 5102 that propose to institute a state research and development tax credit for qualifying companies.

As the statewide biosciences industry association, MichBio, has long been a strong advocate for establishing such an incentive, particularly for a R&D-intensive cluster like ours. The elimination of Michigan's previous R&D Tax Credit in 2011 because of the creation of the Michigan Business Tax, was a huge blow to the statewide bio-industry and greatly reduced our competitiveness relative to other domestic bioscience hubs. Michigan remains among only a dozen states without a R&D Tax Credit, while other regions with bioscience clusters have either instituted or upgraded their incentives to ensure that bio-industry research and development is thriving and expanding.

An MIT study showed regions in the U.S. that introduced R&D tax credits experienced a 20 percent increase in high-quality, new firm formation over a 10-year period, and had a significant effect on entrepreneurship. The study concluded that R&D tax credits help ambitious startups flourish and evolved into a powerful driver of long-term economic growth and job creation.

It's precisely that kind of approach that Michigan should take and improve its competitiveness in the realm of bioscience discovery and product development. Our legacy biopharma, medical technology, and healthtech companies and research institutions, the innovative start-ups in Ann Arbor, Lansing/East Lansing, Kalamazoo, Grand Rapids, Detroit, Oakland County, and even in Traverse City and UP, and everywhere in between – are defined by research and development.

To harvest the good jobs and positive ripple effect of private sector investment across the Michigan economy, it is critical to recognize the unique R&D profile of bioscience companies.

The incentive for companies is: do your research and development here, make your vast research and development investments here, take your risks here, and we will give you a credit against *future* income.

The bargain is, the benefit to the state is: Michigan gets the benefit *now* of all those investment dollars infused into our economy, plus the state receives all the income and property and sales taxes paid by bioscience companies and employees, all for a credit against *future* income. It cannot be underscored enough: research and development tax credits are earned by companies only *after* they've made an investment, *after* they've spent funds in Michigan.

With that in mind, we support the intent behind HBs 5099, 5100, 5101 and 5102 to re-establish a R&D tax credit in Michigan and applaud the legislature's recognition that the value of research and development spending to the state is through the tax code.

As this legislation moves forward with due diligence, we offer the following considerations for re-establishing a state R&D tax credit:

- Funding pool - the total amount of R&D tax credits or fund pool to be allocated in a calendar year is of critical importance. The size of the funding in the proposed bills is significant. In turn, it raises a question regarding long-term sustainability. Such large sums endanger fiscal predictability and program consistency. Better to have more modest funding pools enacted for multiple years. Many states have expiration or sunset provisions – we would strongly recommend at least five years or more – that give companies surety.
- Eligibility criteria – what requirements will determine who is eligible to receive a R&D tax credit, for instance, would it be i) only those companies with headquarters in Michigan, ii) any company with an existing presence or facility in Michigan, or iii) any company irrespective of corporate location seeking expansion or launch of business activities in Michigan? A distinction will help define what kind of economic development tool this incentive is intended to be. Flexibility will enhance the prospect of its use and reward innovative corporate strategies that undergird growth companies, regardless of industry.
- Equitable access – we applaud Rep. Rogers and co-sponsors to ensure equitable access to credits by small companies, as developed in HB 5101. Other state experiences disproportionately favored large companies and didn't require expansion of a company's R&D efforts. Thus, rather than fostering growth and commercial performance, such credits permitted a "windfall" of credit for R&D activities that would have occurred even without the credit. In short, it resulted in a poor return of tax dollar investment. On the other hand, R&D tax credits for small companies have proven to be a great ROI for states in terms of economic impact and job growth.
- Credit calculation – most states' credits vary significantly but in essence are calculated based on the amount of a business' research expenses that exceeds a certain base amount ("incremental"). Much depends on how a state defines the

**Serving Michigan's Bio-Industry Since 1993**

3520 Green Court, Suite 175 Ann Arbor, MI 48105  
(o) 734-527-9150 (f) 734-302-4933 [michbio.org](http://michbio.org)

base amount...and there a variety of models across the country. Whatever the calculation, it should be defined by statute and clear to applicants.

An interesting feature to be applauded is described in HB 5102, that being where an additional credit calculation is offered at a higher level (e.g., 20%) on expenditures made to a state's universities and non-profit organizations, or for that matter other in-state companies. This is a "win-win" as it incentivizes both the R&D company and furthers business within the state. HB 5102 would allow Michigan to differentiate itself as most states don't offer that kind of premium.

- Credit carryover – research expenses should be allowed carryover for a at least seven years or even as high as 15 years, like a number of states permit.
- Refundability of credits – a refund or exchange of the R&D tax credit so that even if a taxpayer has no tax liability is a significant consideration for early-stage, bioscience companies with no products on the market and hence no profits. Such a refund component would be a valuable incentive to promote technology commercialization and further product development, while a sorely needed cash benefit. We suggest that HBs 5100, 5101 and 5102 be amended to offer refundability. Eleven states allow for such a refund or exchange, in some cases as low as 50% of the eligible amount, in others, the full 100%. Indeed, Virginia allows the credit to refunded to small companies, but not large ones, whereas Massachusetts and Iowa permit refunds if companies meet certain job creation measures.
- Qualified expenses - qualified R&D expenses should be broad and include:
  - Expenditures incurred in connection with the taxpayer's trade or business represent R&D costs in the experimental, laboratory, research, and product development sense;
  - All costs such as wages, supplies, consulting fees, equipment rental or others incident to the research and development or improvement of a product, including any pilot model, process, formula, invention, technique, or similar property. The product can be used by the corporation in its trade or business (internal R&D) or can be held for sale, lease, or license; or
  - Costs (not to exceed \$50,000) associated with patent application filing and preliminary freedom-to-operate/patentability search.
  - Direct company costs or those incurred through professional service arrangements (not to exceed \$50,000) related to product/technology regulatory filings and review.
  - Qualifying businesses can be C Corporations, S Corporations, partnerships and LLCs.

Expenses for more than what is defined federally would make Michigan's R&D tax credit very competitive. Connecticut has taken this approach and its early-stage bioscience companies find the added coverage very attractive. Irrespective, bill language should be explicit that Michigan's statute does not follow sec 41 and stands alone or at least indicate the specific sections it does follow as exceptions.

- Administration – it is imperative that the application and supporting documents be as easy as possible for prospective applicants. Surprisingly, in many states, this is not the case, and as a result companies, especially small ones are disinclined from applying for the credit. Lessons can be learned from Indiana, Illinois, among others on how establish and administer a R&D tax credit. Also, the state needs to ensure that all the “fine points” and rules laid by the state credit do not conflict with federal IRS guidelines – this is a significant problem according to those providers who work in R&D tax credit space nationally. Ensuring alignment with federal rules will prevent headaches for filers.
- Return on investment and performance – numerous states require regular evaluation of economic development tax incentives. These measures stand to provide tangible evidence on the outcomes of the incentives, information that can be used to shape further policies to ensure fiscal prudence and a good return for taxpayers.

Recent studies have found that the introduction of a state R&D tax credit is associated with increased business formation and are most effective in states that already have a significant level of research activity and a substantial high-tech business community. For Michigan to see a similar impact, entrepreneurs and mid-size growth companies will have to be confident that the any new R&D tax credit model will ensure equitable access and be reliable and beneficial to business growth.

In closing, a well-structured, R&D Tax Credit would greatly strengthen the Michigan’s economic development competitiveness in the domestic biosciences landscape. HBs 5099, 5100, 5101, and 5102 in their current form are an excellent starting point, but the considerations noted above should be critically addressed to ensure that the most impactful tool is deployed.

Further discussions with stakeholders, including experts in the management/servicing of R&D tax credits should be of the highest priority before moving the legislation forward. MichBio would be pleased to engage in such discussions and can furnish a one-pager outlining essential elements of an optimal R&D tax credit for consideration.

Thank you for the opportunity to provide commentary.

Sincerely,



Stephen Rapundalo, PhD  
President and CEO  
Michigan Biosciences Industry Association (MichBio)