



THE MARYLAND HOUSE OF DELEGATES ANNAPOLIS, MARYLAND 21401

Delegate Vanessa E. Atterbeary
Chair, House Ways and Means Committee
House Office Building – Room 130
Annapolis, MD 21401

Chair Atterbeary,

I am writing in favor of HB 35: Economic Development - Income Tax Benefit Transfer Program - Establishment (Net Operating Loss (NOL) Act).

Maryland's budget is currently facing a \$300 million deficit this year, with a projected \$3 billion deficit by 2026.¹ A key solution to closing this gap lies in stimulating the state's stagnant economy. One effective strategy is to increase financing opportunities such as income tax benefit transfer programs for growing startup companies—including tech and biotech—which are important to Maryland's long term economic stability. This plan aligns with Governor Moore's mission to strengthen Maryland's economy, particularly by investing in new innovative tech companies, ultimately helping to address the budget deficit.² Notably, Governor Moore supports advanced innovation projects such as ION Storage Systems since their "success underscores our state's growing leadership in science, technology, and advanced manufacturing" and urges the need to "take another step toward driving public investment in the innovation economy, creating jobs and spurring growth."³

The HB 35 Economic Development - Income Tax Benefit Transfer Program - Establishment (Net Operating Loss (NOL) Act) aims to support eligible technology companies in Maryland by

¹ Josh Kurtz Bryan P. Sears, *Governor's budget proposal to include tax cuts and "growth agenda" spending* *Maryland Matters* (2025), <https://marylandmatters.org/2025/01/14/governors-budget-proposal-to-include-tax-cuts-and-growth-agenda-spending/>

² *Governor Moore announces economic growth agenda for the 2025 Legislative Session*, Press Releases - News - Office of Governor Wes Moore (2025), <https://governor.maryland.gov/news/press/pages/governor-moore-announces-economic-growth-agenda-for-the-2025-legislative-session.aspx>

³ *Governor Moore tours Ion Storage Systems and announces \$11 million investment to support Maryland-based Advanced Manufacturing and Innovation Projects*, Press Releases - News - Office of Governor Wes Moore (2023), <https://governor.maryland.gov/news/press/pages/governor-moore-tours-ion-storage-systems-and-announces-11-million-investment-to-support-maryland-based-advanced-manufacturing.aspx>

allowing them to transfer unused NOL income tax credits to other larger business taxpayers. This act will assist in funding operational expenses that technology companies face. Specifically, administered by the Department of Commerce, in consultation with the Comptroller, the Act will:

- Establish an income tax benefit transfer program that enables eligible technology companies to transfer unused tax credits to other businesses for financial support.
 - To be considered as an eligible technology company, the technology company must have at least 1 qualified employee in the state if the company has been incorporated for less than 3 years, has at least 10 qualified employees in the state if the company has been incorporated for at least 5 years, and must have fewer than 225 employees in the United States.
 - The company must also be in good standing, has paid all required tax obligations, and is not in debt.
 - Furthermore, the company must be involved in innovation through research, development, or commercialization in an eligible technology sector.
- Each year, the Maryland Economic Development Commission (MEDC) will assess the potential economic growth of Maryland's technology sectors and recommend eligible technology sectors to the Department of Commerce. The Department of Commerce will also consider the recommendation from the MEDC and create a list of technology sectors that qualify for the income tax benefit transfer.
- The NOL subtraction modification will allow eligible technology companies to transfer unused net operating loss tax credits. The research and development (R&D) tax credit will enable eligible companies to transfer unused R&D credits to other Maryland businesses.
- Establish a recapture program if the eligible technology company fails to use the funds from the transfer tax benefits or fails to operate in Maryland within five years of receiving the tax credit. The Department of Commerce and the Comptroller will recover these funds, ensuring accountability and incentivizing early stage in state technology companies. This recapture will also ensure technology companies stay in Maryland and continue to grow, benefiting our state greatly.
- The total amount of transfers of income tax benefits approved by the Department of Commerce will have a cap of \$35 million. The Department of Commerce will also approve of the transfers which safeguards against a single company dominating the entirety of the funding. This will be through the \$15 million cap that is set, which is the maximum lifetime value of tax benefits that an eligible technology company is allowed to transfer.
- An eligible technology company may apply to the Department of Commerce for the transfer of unused amounts of NOL or income tax credits to another taxpayer in Maryland not affiliated with the eligible technology company in exchange for at least 80% of the transferred tax benefit amount. The program will take effect July 1, 2025, and will be applicable to all taxable years beginning after December 31, 2024.

HB 35 is modeled after a successful program in New Jersey that has been operating for 25 years. Established through statute in 2013, New Jersey enacted the Emerging Technology and Biotechnology Financial Assistance Act, which allows tech and life sciences companies to sell their NOLs and R&D tax credits for cash.⁴ Buyers of these credits can use them to offset taxable income at a discounted rate. The program provides up to \$75 million annually, with \$15 million specifically allocated toward businesses in Innovation Zones, Opportunity Zones, or those certified in the Minority and/or Women Business Enterprise.⁵ This program provides significant benefits by converting NOLs and R&D tax credits into capital which can be used to support growth and operating, such as working capital or further funding research. Maryland aims to replicate this success through HB 35.

Similar bills such as the Biotechnology Investment Incentive Tax Credit have helped early stage biotech companies survive the “valley of death,” a beginning phase for startups that is often difficult to avoid if the company is not generating any revenue.⁶ Additionally, the Climate Technology Founder’s Fund (SB 960), passed last year, supports new innovative energy startups through the Maryland Energy Innovation Institute, by expanding its seed grant program.⁷ The Maryland Energy Innovation Institute, established in just 2017, has already helped create 58 new in-state companies, generated 225 new jobs within the community, attracted \$79 million in private investment, and secured \$111 million in grant funding solely through SB 960.⁸ Furthermore, HB 35 aligns with the Governor’s ongoing mission through successful programs such as the Build Our Future Grant Pilot Program which provides grants of up to \$2 million to private companies and local governments. Initiatives like the aforementioned program and HB 35 furthers the Governor’s goal to make Maryland more competitive by “turbocharging the areas of our economy that are producing fresh ideas and innovative new technologies that will establish tools and resources to support growing industries.”⁹

Programs like HB 35 can fuel economic growth, create jobs, and ultimately contribute to reducing the budget deficit. With this bill, eligible technology companies will be able to fund expenses incurred in operation such as material costs, start-up costs, working capital, salaries, and R&D expenses. Overall, this program is revenue-neutral: it helps companies to access tax

⁴ N.J. Stat. § 34:1B-7.37

⁵ New Jersey Economic Development Authority (2024), “Net Operating Loss (NOL) Program ERA-Update,” State of New Jersey. Available at: <https://www.njeda.gov/technology-business-tax-certificate-transfer-nol-program-era/>

⁶ *Biotechnology investment incentive tax credit (BIITC)*, Bio Tax Credit | Maryland Department of Commerce (2025), <https://commerce.maryland.gov/fund/programs-for-businesses/bio-tax-credit>

⁷ *Climate Technology Founder’s Fund (SB0960) to support new energy startups*, A. James Clark School of Engineering, University of Maryland (2025), <https://eng.umd.edu/news/story/climate-technology-founders-fund-sb0960-to-support-new-energy-startups>

⁸ Annual Report FY2024, Maryland Energy Innovation Institute (2024), <https://energy.umd.edu/sites/energy.umd.edu/files/MSAR13862-FY2024.pdf>.

⁹ *Governor Moore announces recipients of Maryland Department of Commerce “Build Our Future” grants*, Build Our Future Grants | Maryland Department of Commerce, <https://commerce.maryland.gov/media/governor-moore-announces-recipients-of-maryland-department-of-commerce-build-our-future-grants>

credits they have received but are not able to use yet, thus stimulating growth and job creation which will generate new tax revenue for the state. By providing early-stage companies with the liquidity they need, this initiative helps prevent the “valley of death” that holds back innovation. This program provides a mutual benefit to bigger companies, who receive tax benefits, while giving smaller companies cash needed to grow, maximizing industry growth.

Thank you for your consideration, I urge a favorable report on HB 35.

Respectfully,

A handwritten signature in black ink, appearing to read "David Fraser-Hidalgo", written in a cursive style.

Delegate David Fraser-Hidalgo