July 31, 2007

THE *AMERICAN LIFE SCIENCES COMPETITIVENESS ACT OF 2007*

STATEMENT OF INTRODUCTION

For the Congressional Record

REPRESENTATIVE KEVIN BRADY (R-TX)

Madam Speaker, today I am introducing, together with my colleague, Representative Allyson Schwartz, the *American Life Sciences Competitiveness Act of 2007*. This legislation proposes new tax changes designed to spur the development of the life sciences industry in the United States, including biotech and medical device companies. Representative Schwartz and I are pleased to be joined in this effort by our distinguished colleagues on the Ways and Means Committee, Representatives Richard Neal and Wally Herger.

The life sciences industry is a key part of the America's innovation economy. This leading, cutting-edge industry supports nearly half a million U.S. jobs, which pay, on average, 50 percent more than those in other industries. In my home State, there are more than 3,000 biopharmaceutical, medical device, diagnostic, and general life science companies that employ 78,900 Texans. These firms are making important contributions to the health care system in the United States, as they often partner with state academic research institutions, like the Texas Medical Center in Houston, in conducting their clinical trials.

The vast majority of these companies, however, are small research-oriented firms that do not yet have a product approval for sale. They face major hurdles to growth and progress, including steep research and development costs that can take decades to realize. Last year alone, biotech firms spent $27 billion on developing therapies aimed at fighting cancer, Alzheimer's, heart disease, diabetes, multiple sclerosis and AIDS – generating a total net loss of $5.6 billion. Nearly two-thirds of every dollar in sales goes back into research and development. Like biotech firms, most medical device companies are small manufacturers, employing less than 100 people. Yet they pour millions back into R&D, three times more than the overall U.S. average, and the result is cutting-edge innovations that help improve the quality of life for millions of Americans.

But as with any industry, there is a limit to this investment. *The American Life Sciences Competitiveness Act of 2007* will help ease the burden of those research

costs, allow companies to invest even more in their life-saving products, draw even more outside investment, and allow the U.S. to retain its position as the world's leader on innovative health care.

The legislation contains two important modifications to the existing R&D tax credit. It would increase, from 65 percent to 100 percent, the amount of contract research expenses by life sciences firms eligible for the R&D credit. And it would increase the amount of basic research payments to universities from life sciences companies that qualify for the full R&D credit.

Our bill also recognizes the threat our country faces from bio-terrorist attacks and a potential avian flu epidemic, and contains tax incentives designed to encourage development of effective countermeasures. This provision provides a 20 percent credit on qualified pre-clinical and clinical trial expenses associated with the development of a countermeasure to combat pandemic flu or bioterrorist attacks.

And we make an important change to the orphan drug tax credit, allowing clinical trial expenses incurred after an application is made to the FDA, but before the orphan designation is received, to qualify for the credit. This change will remove the current incentive to delay research and will, as such, help speed new orphan drug therapies to the market.

Specifically, this comprehensive legislation includes a number of provisions that would remove barriers to capital formation currently in our tax code. For example, the legislation will modify the Net Operating Loss (NOL) rules of Section 382, with the goal of easing the ability of life sciences firms to leverage capital into high-tech, high-risk cutting-edge research. This will ensure that neither the raising of new research capital by biotech companies nor a business-driven merger of two biotech loss companies will trigger the 382 Net Operating Loss (NOL) limitations. Neither of these changes runs counter to the long-standing tax policy behind section 382: to prevent corporations from trafficking in NOLs.

In addition to the corporate-sector incentives, the *American Life Sciences Competitiveness Act of 2007* also contains two important provisions targeted towards the life sciences investor. One provision allows capital gains on the sale of stock in a life sciences company held for longer than six months to be deferred as long as the proceeds are reinvested in another life sciences company within 60 days. The second provision provides a 20 percent credit for investors in biotech firms engaging in incubational research. Incubational research refers to early, cutting-edge research that often occurs shortly after university lab research and prior to large-scale clinical trials. This stage of research is frequently termed the "Valley of Death" because the dearth of investment usually results in promising

investigational therapies and products withering on the vine for lack of adequate capital.

Mr. Speaker, we should do more to encourage the development of America's life sciences industry. Biotech and medical device products will be in demand from billions of people worldwide, generating significant growth for economies that develop these products. Other countries, including India and China, are working to grow their own biotechnology and medical device industries. *The American Life Sciences Competitiveness Act of 2007* help give American companies the tools to answer this challenge, and help retain the United States as the world's leader in life sciences innovation.

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