February 17, 2020

Representative Sean Tarwater
Chair, Commerce, Labor and Economic Development Committee
Kansas House of Representatives

Re: Support for House Bill 2689

Mr. Chairman and members of the Kansas House Committee on Commerce, Labor and Economic Development,

As the President & CEO of BioKansas, I'm writing you as a proponent to HB 2689, which would renew the angel investor tax credits. I would be an especially strong proponent of the bill if the amendments outlined within this statement were included.

Our organization is a non-profit organization that works to grow and support the bioscience ecosystem within the state. Through our efforts, we aim to support companies, academic institutions, and individuals that are working to – not only – improve global health and medical technology but also the Kansas economy. For taxpayer funded science to positively impact national and state economies, it requires that we move discoveries from academic research institutions into the marketplace and clinic. To accomplish this, requires significant investment in entrepreneurial companies.

The angel investor tax credit program has provided entrepreneurs in Kansas a competitive advantage to attract investment from outside of the state. These external investment funds are important for raising the capital necessary to adequately fund the creation and sustainability of innovative companies. While discoveries and ideas are essential for the inception of a company, early stage companies lack the revenue and collateral to fully support their business. Therefore, investment money is essential until companies can reach the point that they are revenue positive.

Proposed Amendments:

- ***Eliminate the qualifications and limitations on transferees***
  Current law limits the amount of Kansas Angel Investor Tax Credits that can be issued in a year to a single investor in a single company. There are also limits on the amount of credits that can be purchased in a year from angel investors in a single company. While the cap applied to investors in a single company appears prudent, there is no apparent compelling state interest in limiting the purchase of credits from investors in a company.

  Current law also provides that an individual must be an accredited investor to be eligible to purchase a Kansas Angel Investor Tax Credit. The qualification standard to acquire credits is unnecessary, as the accredited investor standard is a protection for investors from securities fraud and other securities related issues. As the tax credits are not securities, this protective standard is neither warranted nor necessary, and further inhibits the raising of capital by Kansas companies.

- ***Broaden credit transfer eligibility to encourage individuals who live in other states to invest capital in Kansas businesses***

Inequitable tax treatment of angel investors hurts Kansas taxpayers and inhibits raising of capital. Nonresidents of Kansas who work in Kansas or have previously made investments in Kansas companies are unable to benefit as investors from the Kansas Angel Investor Tax Credit program because of their current or prior economic activity in Kansas. These individuals have generated Kansas income and under current tax law their home state effectively captures all of the benefit of the credit from Kansas by not recognizing the use of the credit as taxes paid, resulting in the loss of the deduction allowed for taxes paid in other states. The result is a transfer of money from the Kansas Department of Revenue to the Department of Revenue in the other state. The current law penalizes out of state investors already doing business in Kansas, reducing the flow of capital from other states to Kansas.

By passing HB 2689 with the proposed amendments, Kansas will have a greater competitive advantage that will result in an increased ability to attract and retain innovative companies and people.

Sincerely,

Sonia M. Hall, PhD
President & CEO
BioKansas