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SFA BILL ANALYSIS

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House Bill 6073 (Substitute H-5 as discharged)
Sponsor: Representative Barb Vander Veen
House Committee: Energy and Technology
Senate Committee: Finance

**CONTENT**

The bill would amend the Single Business Tax Act to allow an eligible taxpayer to claim a credit against the tax for qualified research expenses related to the taxpayer's pharmaceutical-based business activity in this State. The credit could be claimed for tax years beginning after 2002. The total of all credits allowed under the bill could not exceed $10 million in any one tax year.

An "eligible taxpayer" would be a company that, within 18 months after the bill's effective date, was engaged primarily in manufacturing, research and development, and sale of pharmaceuticals; had at least 8,500 employees in Michigan, with the primary places of employment for all the employees located within a 100-mile radius of each other; and, of the employees located in Michigan, had at least 5,000 engaged primarily in research and development of pharmaceuticals. "Qualified research expenses" would mean that term as defined in Section 41 of the Internal Revenue Code (i.e., sums paid or incurred by a taxpayer, to carry on trade or business, for "in-house research expenses" and "contract research expenses").

The credit that an eligible taxpayer could claim would be equal to 6.5% of the excess of qualified research expenses paid in the tax year related to the taxpayer's pharmaceutical-based business activity in Michigan, over the taxpayer's average qualified research expenses of such business activity in Michigan paid in the three preceding tax years. The credit in any year could not exceed 200% of the taxpayer's average qualified research expenses for the three preceding tax years.

If the credit and any unused carryforward of the credit exceeded the taxpayer's tax liability for a tax year, the excess could not be refunded but could be carried forward to offset tax liability in subsequent tax year, for up to seven years. An eligible taxpayer could assign all or a portion of the credit to another taxpayer, who could not subsequently assign the credit.

Proposed MCL 208.39f Legislative Analyst: George Towne

**FISCAL IMPACT**

It is estimated that under this bill Pfizer would qualify for the maximum $10 million credit each year beginning with the 2003 tax year. This loss in single business tax revenue would affect General Fund/General Purpose revenue. Key issues regarding this bill include:

- It appears that the only company that would qualify for this credit would be Pfizer after it has taken over Pharmacia. It also appears that, presently, Pfizer and Pharmacia combined have slightly over 5,000 employees in Michigan involved in their research and development R&D) activities. As a result, in order to qualify for the credit, they would have to maintain this level of research and development activity in Michigan after the takeover.

- The criteria for a company to qualify for the credit would have to be met within 18 months of the effective date of the bill. If the company met all of the criteria 18 months after the bill's effective date, but did not continue to meet the criteria 24 months after the effective date, it appears that the company would still qualify for the credit.

- The bill would allow a qualifying company to assign or sell 40% of its credits to other companies. Presumably, a company would assign only those credits that it would not be able to use itself. The credits could be sold to any other company, whether based in Michigan or outside of Michigan. Other companies would be interested in these credits because they could be used to offset the company's single business tax liability.

- There could be a timing problem in the bill in regard to when assigned credits would have to be claimed by the other company. The bill would require that the assigned credits be claimed in the tax year in which the R&D expenses were incurred, but the credits could not be calculated until after the tax year was over because the credits would be dependent on the total R&D expenses incurred during the tax year. Therefore, there is no way that the assigned credits could be claimed in the same tax year.

- The assigned credits could create a situation in which more than one taxpayer was claiming credits, with the total of the claimed credits exceeding $10 million, which would exceed the annual allowable maximum of all credits. The bill does not indicate how this issue would be resolved.

Date Completed: 9-26-02 Fiscal Analyst: Jay Wortley

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