MASSBIO

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May 19, 2026

The Honorable Barry R. Finegold
Senate Chair, Joint Committee on Economic Development and Emerging Technologies
State House, Room 109-D
Boston, MA 02133

The Honorable Carole A. Fiola
House Chair, Joint Committee on Economic Development and Emerging Technologies
State House, Room 236
Boston, MA 02133

RE: Opposition to §§ 96-97 of H5386 An Act relative to Massachusetts winning global investment, talent, and innovation ("Mass Wins")

Dear Chair Finegold, Chair Fiola, and members of the Committee,

On behalf of MassBio, which represents over 1,700 life sciences organizations that power our state's innovation economy, I write to express our opposition to Sections 96 and 97 of H5386, An Act relative to Massachusetts winning global investment, talent, and innovation ("Mass Wins"). While we strongly support Mass Wins as a whole – particularly the inclusion of new capital investments that will greatly benefit the life sciences sector in Massachusetts – Sections 96 and 97 make changes to the Massachusetts Noncompetition Agreement Act that will adversely impact our members by limiting their flexibility to negotiate good-faith noncompetition agreements and weakening protections of proprietary science and IP-adjacent knowledge.

Mass Wins makes several new investments that will benefit the life sciences sector and our state's innovation economy. We appreciate the Healey-Driscoll Administration putting forward a bill that includes a $25 million capital grant program for business constructing or expanding facilities, $75 million for grants to support the development of AI technologies, $100 million for defense-sector infrastructure, $25 million for research and development of robotics technology, and a $50 million seed fund for the benefit of early or growth stage companies with a Massachusetts presence. These targeted investments will help maintain Massachusetts' competitive edge and its position as the world hub for life sciences.

While we support these broader provisions of the bill, Sections 96 and 97 could undermine key elements of Massachusetts' competitive advantage as a global leader in research and innovation. Sections 96 and 97 amend the Massachusetts Noncompetition Agreement Act of 2018, the product of a years-long political compromise between the business community and labor advocates that protected employers' legitimate business interests and improved employee mobility. The changes outlined in these sections are particularly harmful to early-stage biotech startups, which are pre-revenue and at greater risk of having trade secrets and proprietary information lost to competitors. By requiring that any alternative to garden leave be negotiated at separation and be at least equivalent in value to garden leave payments, companies and employees lose the flexibility to structure noncompetition agreements in a manner that reflects the specific circumstances of the employee, the company, and the underlying intellectual property. This would turn noncompetition agreements into a financial liability for small, early-stage companies that often lack the resources to provide garden leave or equivalent compensation, effectively rendering them unusable. In turn, this could lead to instability in the talent market, with increased employee churn, poaching, and ultimately weakened protections around proprietary research and early-stage innovation.

For the reasons stated above, I respectfully urge the Committee to maintain the protections of the Noncompetition Agreement Act and exclude Sections 96 and 97 from the final bill. Thank you for your time and consideration of MassBio's testimony. Should you have further questions or require additional information, please do not hesitate to contact me directly.

Sincerely,

Kendalle Burlin O'Connell
CEO & President
Massachusetts Biotechnology Council (MassBio)