

Comments of IDEXX Laboratories, Inc.
In response to OPEGA ETIF Evaluation Report

Chairman Chenette, Chairwoman Mastraccio, and honorable members of the Government Oversight Committee;

My name is Geoff Baur and I am a resident of Portland and the Vice President of Tax at IDEXX Laboratories, Inc. which is proudly headquartered in Westbrook, Maine. As the global leader in animal health diagnostics, IDEXX conducts business in over 22 countries, and the products manufactured in Westbrook are exported and used in over 200 countries. We have grown considerably from our roots as a start-up company in Portland 34 years ago, and to accommodate that growth, we broke ground last year on a building expansion, which will allow us to add hundreds of high-quality jobs in Maine.

That expansion is the reason I am before you today. Specifically, I would like to respond to the Office of Program Evaluation and Government Accountability (OPEGA) report on Employment Tax Increment Financing (ETIF). That report includes a recommendation that the legislature clarify whether a business participating in the Major Business Headquarters Expansion tax credit (MBHE) is also eligible to participate in ETIF. Should this Committee decide to provide that clarity, for reasons I hope to make clear, we believe it was the intent of the 128th Legislature that a business be eligible for both the MBHE and ETIF and relied on that belief when we began our project. If the current legislature believes a modification to the law is appropriate, we hope that the fact that IDEXX has relied on that belief would lead you to conclude that any currently certified projects should be grandfathered in the event of any modification.

I want to begin by providing this Committee with some background information on the MBHE and its enactment in the 128th Legislature. Leading up to 2017, it became clear that IDEXX needed to expand its facilities to accommodate growth. In 2017, IDEXX began looking at the possibility of expanding our Westbrook campus. In weighing our decision, we examined positive and negative factors. The positive factors included the benefit of innovation that occurs with co-locating numerous disciplines on a single campus. The negative factors included the availability of skilled labor, the geographical distance from our customer base, the cost of energy and the general cost of Maine's operating environment. We also looked at the availability of Maine's economic development incentives compared to those in other geographic regions. When it became clear that the available economic development incentives were not sufficient to compete with other regions, we sought partnership from the State in the form of an additional incentive.

Ultimately, the 128th Legislature enacted the MBHE which provided that essential additional competitive element and helped to level the playing field. However, as with all good legislation, the MBHE went through a careful deliberative process here at the legislature. Original drafts of the legislation included more substantial benefits, but the bill was pared back to represent a reasonable, practical approach to incentivizing the growth and development of businesses headquartered in Maine, including IDEXX.

In crafting the final iteration of the law, we worked with the Taxation Committee to include best practices in business incentive legislation such as: the requirement that the business make the investment, complete construction, and reach new job creation benchmarks before any benefits are received; a claw back to protect the State; and a certification process through the Department of Economic and Community Development (DECD) to ensure transparency. Additionally, the MBHE included a provision that required OPEGA to review the structure and design of the law for other best practices in economic development incentive programs.

That review, which was completed by OPEGA in February 2018, included a comprehensive assessment of the design of the MBHE in the form of a report issued to both the Taxation and Government Oversight Committees. Notably, that report touched on the interplay between the MBHE and other economic development incentive programs. In the context of discussing how much the enactment of the MBHE may contribute to the State's overall tax base, OPEGA stated that:

Many factors affect whether these potential increases in the tax base would be realized. One significant factor in the short term is the participation of the MBHE businesses in other State tax incentive programs such as the Employment Tax Increment Financing, Business Equipment Tax Exemption or Pine Tree Development Zone Programs. Participation in these programs could offset some, or all, of the direct increases in sales, property and income taxes for the duration of a business's participation in these other programs. (Assessment of the Design of the Newly Enacted Major Business Headquarters Expansion Program, pg.9, 2018).

The direct acknowledgement that a business may participate in the MBHE in addition to other economic development incentive programs makes sense – there are different programs for different purposes.

Ultimately, the OPEGA report led to legislation – LD 1903, An Act to Improve the Effectiveness of the Major Business Headquarters Expansion Tax Credit. That legislation included tweaks to the design of the program, and was enacted by the 128th Legislature and became public law on April 24, 2018. Had the Legislature intended to disallow participation in ETIF, it could have done so when it considered the OPEGA report last year.

In reliance on the MBHE as it was enacted and amended by the 128th Legislature, IDEXX has already applied for and received a Certificate of Approval from the DECD and construction is well underway on our Westbrook headquarters expansion.

Today, we are before you in the context of the OPEGA review of the ETIF program, to try to help answer the question of whether the current law needs to be clarified. For the reasons I have just given, we believe the intent of the 128th Legislature was clear, but to the extent this Committee wishes to clarify the law, we would support clarification that a business participating in the MBHE is also eligible to participate in ETIF. If the Committee wishes to disallow a business from participation in both programs, we would urge you not to apply such a prohibition to a company, like IDEXX, which has already received its Certificate of Approval under the MBHE program in reliance on the law as it is currently written. Such a decision would create great uncertainty in any new or existing economic development incentive offered by the State. To avoid creating that uncertainty, we would hope you would grandfather application of both the MBHE and ETIF to existing holders of the MBHE Certificate of Approval who have commenced investment.

IDEXX looks forward to opening our new facility in Westbrook, and we hope that you will recognize the importance of maintaining the economic development landscape upon which we have based our decision to expand. We appreciate the partnership that the Legislature and the State of Maine have shown us, and we look forward to strengthening that relationship.

Thank you.

Sincerely,

Geoff Baur