To: The Joint Standing Committee on Taxation

From: Albert A. DiMillo, Jr., Retired Corporate Tax Director & CPA

Subject: Written Testimony on LD 1313 – Hearing – 4/13/23

Good afternoon members of the Joint Standing Committee on Taxation. Over the past 14 years, I have given testimony to the taxation committee and its subcommittees several times. I am a retired Corporate Tax Director and CPA with more than 30 years of tax experience with both Maine's tax laws and many other states. The first 17 years of my experience included working with major Maine corporations and individuals including over seven years as the Director of Taxes and Chief Tax Officer of Bath Iron Works. I then worked in senior management positions with two international corporations headquartered in Massachusetts including 7 years managing all federal and state taxes as the Director of Income Taxes and Audits for Raytheon Company ($20 billion in sales).

I am opposed to the changes to the Tax Credit for Major business Headquarters Expansion and recommend that the credit be appealed because the credit was passed by the legislature without properly understanding the history of the tax breaks given in 2007 and 2011 that made the passage of this credit duplicative and created unintended tax benefits.

I will get into the details of the 2007 and 2011 Maine tax changes later in detail. Before I get to that it is important to look at the one Maine taxpayer that is currently taking the benefit of the 2007 & 2011 tax changes and the Tax Credit for Major Business Headquarters Expansion (headquarters credit). The one taxpayer is Idexx Laboratories, Inc (Idexx) headquartered in Westbrook, Maine. As reported on Idexx's Form 10-K (which includes the audited financial statements) for the three years ended 12/31/22 it reported as follows:

Revenue	**$ 9.3 billion**	**(See Attachment 1)**
Profit before income taxes	**$ 2.4 billion**	**(See Attachment 1)**
Federal income taxes	**$ 336 million**	**(See Attachment 1)**
Foreign income taxes	**$ 91 million**	**(See Attachment 1)**
Non Maine income taxes	**$ 67 million**	**(See Attachment 1)**
Maine income tax	**$ 0**	**(See Attachment 2)**
2021 ME headquarters credit refund	**$ 800,000**	**(See Attachment 2)**

However, despite Idexx having the majority of its owned real estate, machinery and equipment, office furniture and computer hardware and software in Maine and over 2,500 employees in Maine, it paid no Maine corporate income taxes for these three years. Because the headquarters credit is refundable in addition to paying no corporate income tax for several years Idexx received an $800,000 refund in 2021 (**See Attachment 2**). If this program continues, Idexx is likely to pay no state income taxes for several years into the future and will get the yearly $800,000 refunds.

In 2007, the Maine legislature passed LD 499 which made major changes to the formula used to apportion income to be taxed in Maine for corporations that operated in Maine and other states. The impact of this change was to reduce Maine income taxes on corporations that had significantly more property and wages in Maine and limited sales in Maine. This change created a major tax reduction for Idexx starting in 2007 and continues through today.

When the headquarters credit was passed in 2017, I raised the issue that it was a duplicative program and should be eliminated. In 2018, OPEGA was tasked with reviewing the headquarters credit. Unfortunately, OPEGA did not act on their review for 5 years. Just last month they presented their plan on how the program will be reviewed. **Attachment 3** is my public written testimony on the review by OPEGA of the headquarters credit review, including my original email to the Government Oversight Committee dated March 8, 2018 explaining in detail the millions in tax reductions that Idexx is receiving from the 2007 apportionment law change. I recommend that the taxation committee contact OPEGA and get them to finish their review of the headquarters credit immediately to confirm the duplication of the headquarters credit with the 2007 apportionment law change.

In addition to the 2007 law change, Idexx received significant tax benefits from the Maine Capital Investment Credit (MCIC) enacted in 2011. Unfortunately due to a drafting error in the MCIC law, Idexx and many other multi-state corporations with significant personal property acquisitions from 2011 through 2020 received benefits greatly in excess of the intended tax benefit that corporations that operated solely in Maine received. In 2017 I raised this issue with OPEGA (**See Attachment 4**). Unfortunately OPEGA did not address this issue until 2020 and the legislature finally corrected this error starting with years after 2020.

Attachment 5 is my calculation of the estimated tax reductions Idexx received as result of the 2007 and 2011 tax law changes that eliminated all of Idexx's Maine income tax. **In total, my estimate is that Idexx has saved about $95 million in state corporate income taxes for the years 2007 – 2022.**

Since 2006 the city of Westbrook and the state of Maine have given Idexx property tax rebates under the state tax increment financing program (TIF). In 2018 the city of Westbrook extended the term of the TIF for Idexx until 2037 and added the corporate headquarters expansion building to the TIF. **This TIF will save Idexx about $17 million in property taxes through the 2037 date (See Attachment 6).** This is clear double dipping of tax breaks on the same buildings that the headquarters credit provides refundable tax breaks.

The current suggested changes to the headquarters credit will increase the refundable taxes to Idexx. Based on the duplicate benefits Idexx is receiving from the 2007 apportionment law change and this headquarters tax credit, this change should not be approved. Instead the taxation committee should consider the elimination of the headquarters credit effective with the year 2022.

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aadimillo@yahoo.com

9:34 AM Fri Mar 31

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Open in Chrome Done

Attachment 1

likely than not be sustained. Unrecognized tax benefits are the differences between tax positions taken, or expected to be taken, in tax returns, and the benefits recognized for accounting purposes. We classify uncertain tax positions as long-term liabilities.

Significant judgment is required in determining our worldwide provision for income taxes and our income tax filings are regularly under audit by tax authorities. Any audit result differing from amounts recorded would increase or decrease income in the period that we determine such adjustment is likely. Interest expense and penalties associated with the underpayment of income taxes are included in income tax expense.

Earnings before income taxes were as follows:

(in thousands)	For the Years Ended December 31,		
	2022	**2021**	**2020**
Domestic	$ 684,661	$ 689,994	$ 483,694
International	175,311	212,660	178,291
	$ 859,972	$ 902,654	$ 661,985

The provision (benefit) for income taxes comprised the following:

(in thousands)	For the Years Ended December 31,		
	2022	**2021**	**2020**
Current			
Federal	$ 150,099	$ 112,811	$ 72,921
State	30,529	19,147	17,346
International	35,138	29,288	26,301
	215,766	161,246	116,568
Deferred			
Federal	(31,663)	(7,019)	(14,126)
State	(5,735)	(503)	(2,863)
International	2,515	4,086	(19,725)
	(34,883)	(3,436)	(36,714)
	$ 180,883	$ 157,810	$ 79,854

CONSOLIDATED STATEMENTS OF INCOME

(in thousands, except per share amounts)

	For the Years Ended December 31,		
	2022	2021	2020
Revenue:			
Product revenue	$ 1,928,773	$ 1,875,308	$ 1,586,809
Service revenue	1,438,551	1,340,052	1,119,846
Total revenue	3,367,324	3,215,360	2,706,655
Cost of Revenue:			
Cost of product revenue	656,511	656,823	557,795
Cost of service revenue	706,475	669,105	577,820
Total cost of revenue	1,362,986	1,325,928	1,135,615
Gross profit	2,004,338	1,889,432	1,571,040
Expenses:			
Sales and marketing	524,505	486,735	434,435
General and administrative	326,248	309,660	300,832
Research and development	254,820	161,009	141,249
Income from operations	898,765	932,028	694,524
Interest expense	(39,858)	(29,808)	(33,125)
Interest income	1,065	434	586
Income before provision for income taxes	859,972	902,654	661,985
Provision for income taxes	180,883	157,810	79,854
Net income	679,089	744,844	582,131
Less: Net (loss) income attributable to noncontrolling interest	—	(1)	355
Net income attributable to IDEXX Laboratories, Inc. stockholders	$ 679,089	$ 744,845	$ 581,776
Earnings per Share:			
Basic	$ 8.12	$ 8.74	$ 6.82
Diluted	$ 8.03	$ 8.60	$ 6.71
Weighted Average Shares Outstanding:			
Basic	83,623	85,200	85,342
Diluted	84,600	86,572	86,722

The accompanying notes are an integral part of these consolidated financial statements.

Attachment 2

I. Introduction

Maine Revenue Services ("MRS") is providing this report in compliance with Maine Revised Statutes Title 36, section 5219-QQ, subsection 4, paragraph B, which requires MRS to provide an annual report to the Joint Standing Committee on Taxation of the revenue loss to the State as a result of the credit for major business headquarters expansions. This report follows the annual report on the credit issued by the Department of Economic and Community Development pursuant to Title 36, section 5219-QQ, subsection 4, paragraph A.

II. Description of Benefits

A refundable income tax credit is available to major businesses who meet employment and investment thresholds and are certified by the Commissioner of the Department of Economic and Community Development to receive the credit.

Certification requires, among other things, that a major business has or will have its headquarters located in Maine, employs at least 5,000 full-time employees worldwide of which at least 25% are or will be based in Maine, has business locations in at least three other states or foreign countries, and makes a qualified investment of at least $35,000,000 in its headquarters in the State.

The refundable credit is equal to 2% of the amount of actual qualified investment made by the certified applicant. The credit is disallowed in any year the applicant fails to meet or exceed statutory employment targets. The employment targets increase after 10 years. A major business may claim this credit for up to 19 years after the year of certification.

III. General Fund Revenue Loss for Report Year 2021

MRS is required to report the revenue loss during the report year as a result of this credit for each taxpayer claiming the credit. For purposes of the report, "revenue loss" means the credit claimed by the taxpayer and allowed pursuant to Title 36, section 5219-QQ, subsection 4, paragraph B, consisting of the amount of the credit used to reduce the tax liability of the taxpayer and the amount of the credit refunded to the taxpayer, stated separately. "Report year" means the tax year ending during the immediately preceding calendar year.

For report year 2021, only one taxpayer with a tax year ending in 2021 claimed the credit. The amount of the credit used to reduce the tax liability of the taxpayer was $0, and the amount of the credit refunded to the taxpayer was $800,000. The total revenue loss to the State was $800,000.

Revenue loss to the State from the tax credit for major business headquarters expansions

A Report Prepared for the:
Joint Standing Committee on Taxation

Department of Administrative and Financial Services
Maine Revenue Services

December 31, 2022

Attachment 3

Fwd: Major Business Headquarters Expansion Program

From: Albert DiMillo (aadimillo@yahoo.com)

To: sabrina.carey@legislature.maine.gov

Cc: peter.schleck@legislature.maine.gov; jessica.fay@legislature.maine.gov; mark.blier@legislature.maine.gov; jill.duson@legislature.maine.gov; amy.arata@legislature.maine.gov; sawin.millett@legislature.maine.gov; mike.tipping@legislature.maine.gov; margaret.oniel@legislature.maine.gov; anne-marie.mastraccio@legislature.maine.gov; lisa.keim@legislature.maine.gov; richard.bennett@legislature.maine.gov; jeffrey.timerlake@legislature.maine.com

Date: Wednesday, March 15, 2023 at 03:21 PM EDT

Date: March 15, 2023 at 12:38:37 PM
Subject: Fw: Major Business Headquarters Expansion Program OPEGA Review

My name is Albert A. DiMillo, Jr. I am a retired corporate tax director and CPA with more than 30 years of tax experience. The first 17 years of my experience including working with major Maine corporations including seven years as the Director of Taxes of Bath Iron Works. I then worked in senior management positions with two international corporations in Massachusetts including 7 years as the Director of Income Taxes and Audits for Raytheon Company ($20 billion in sales). I have testified before OPEGA and the taxation committee numerous times over the past 12 years.

Below is an email I sent to OPEGA on March 8, 2018 related to a review of the Major Business Headquarters Expansion Program. I am presenting the below information from 2018 as written comments for the March 24, 2023 review of the proposed evaluation parameters on this program.

Evaluation Objectives number 7 includes a review of other state programs and whether this program is "duplicative". I believe the information below clearly shows that this program provides a duplicative benefit as the 2007 Maine law that changed apportionment of multi state income from a 3 factor formula to a single sale factor apportionment. This law change was enacted to benefit companies that had business headquarters in Maine. I believe any review by OPEGA without taking the 2007 law benefit into consideration would not be a complete and accurate analyses and request that OPEGA include an analysis of the 2007 law change in their review of this program and determine if it is in fact duplicative. I also request that OPEGA complete its review as soon as possible as it has already been 5 years since OPEGA started the review process on this program.

----- Forwarded Message -----
From: Albert DiMillo <aadimillo@yahoo.com>
To: "Roger.Katz@legislature.maine.gov" <roger.katz@legislature.maine.gov>; Anne-Marie Mastraccio <anne-marie.mastraccio@legislature.maine.gov>; "Deane.Rykerson@legislature.maine.gov" <deane.rykerson@legislature.maine.gov>; Geoffrey Gratwick <geoffrey.gratwick@legislature.maine.gov>; "Jeff.Pierce@legislature.maine.gov" <jeff.pierce@legislature.maine.gov>; "Jennifer.DeChant@legislature.maine.gov" <jennifer.dechant@legislature.maine.gov>; "matthew.harrington@legislature.maine.gov" <matthew.harrington@legislature.maine.gov>; Paul Davis <paul.davis@legislature.maine.gov>; Senator Nate Libby <nathan.libby@legislature.maine.gov>; William Diamond <william.diamond@legislature.maine.gov>; Thomas Saviello <thomas.saviello@legislature.maine.gov>; Paula Sutton <paula.sutton@legislature.maine.gov>
Cc: Beth Ashcroft <beth.ashcroft@legislature.maine.gov>
Sent: Thursday, March 8, 2018 10:11 AM
Subject: Major Business Headquarters Expansion Program

Government Oversight Committee members,

On the agenda for the March 9, 2018 meeting is a presentation of OPEGA's Assessment of the Design of the Newly Enacted Major Business Headquarters Expansion Program Report. One of the goals of the law stated in the legislative history Sec 4 was to "encourage the location and expansion of major business headquarters in the State".

Having read OPEGA's report on their planned assessment of the law, there is a major missing historical law change passed by the Maine legislature and made effective on January 1, 2007 that created a tax incentive for all Maine businesses that have corporate headquarters in Maine . **Accordingly, the newly enacted law gives additional tax benefits that are a duplication of corporate tax benefits enacted in 2007. That 2007 law was passed to encourage businesses to increase employment in Maine and to invest in additional property plant and equipment in Maine . Idexx Laboratories Inc. (Idexx), the current expected recipient of the newly enacted law is already receiving a major tax benefit from the 2007 law change that could be as much as $5 million a year in reduced corporate income taxes.**

LD 499, enacted on 6/7/07 amended MRSA Section 5211 subsection 8 which apportions income for multistate businesses operating in Maine (attached word file is the law change related to apportionment). Prior to 2007, Maine used the three factor apportionment method used by the majority of states. The three factors were payroll, property and sales, with the sales factor double weighted. Effective with the year 2007, Maine changed to a single sales factor for apportionment. Single sales factor apportionment makes a state a more attractive place for businesses to expand their property and payroll because it will reduce their corporate income taxes paid in that state as compared to the taxes they would pay under the typical three factor apportionment. Any additional payroll or property added in Maine does not increase that businesses corporate income taxes in Maine and it reduces the corporate income taxes paid to all the other states that use the three factor apportionment. The 2007 law change seems to coincide with the 2006 major expansion by Idexx. The legislative history is not clear who lobbied the Maine legislature for the apportionment change in 2007, but Idexx was clearly a major winner under the law change.

I have attached an excel file that estimates the Maine corporate income tax savings in 2016 and 2017 for Idexx from the law change made in 2007. The tax savings are about $5 million a year. The exact savings to Idexx can be provided by Maine Revenue Services as they continue to request from taxpayers their apportionment numbers for payroll and property, but use only the sales numbers. I believe that Maine Revenue Services collects this data so to have a data base that allows them to calculate the difference in taxes due under the single sales apportionment versus three factor apportionment.

I have also looked at Idexx's effective state income tax rate in 2015-2017 which illustrates that while the average US corporation pays state taxes at about 6% of US income, Idexx had an effective state tax rate or only 3.14%, 3.42% and 1.92% in 2015-2017 respectively. While Maine has a stated corporate tax rate of 8.93%, the impact of the single sales factor apportionment reduces its effective tax rate to less than 2%. With the newly enacted tax incentive, Idexx's Maine corporate income tax is likely to be eliminated and could actually result in a refund or a negative state tax rate. It is my understanding that the supporters of this law pushed to have the credit as refundable, so it is likely Idexx will pay no corporate income tax and will get a refund.

I do not believe that this newly enacted tax credit would have been passed if all the information concerning the 2007 apportionment law change and its impact on Idexx or other businesses with significant payroll and property in Maine (but limited sales in Maine , like those with corporate headquarters in Maine) was known to the legislature. The duplication of the benefits from the single sales factor and the newly enacted headquarters credits needs to be addressed by OPEGA in their review. Their review should include contacting Maine Revenue Services and having them provide the corporate tax savings to Idexx from the 2007 apportionment law change.

Albert A. DiMillo, Jr.
South Portland, Maine

LD 499 - Apportionment 2007.doc
32kB

IDEXX.xls
35kB

Below are the changes to the apportionment enacted as part of LD 499 passed by the Maine legislature on June 7, 2007.

Sec. V-2. 36 MRSA §5211, sub-§8, as amended by PL 1991, c. 502, §1 and as affected by §2, is further amended to read:

8. Formula for apportionment of income to State. All income shall be apportioned to this State by multiplying the income by ~~a fraction, the numerator of which is the property factor plus the payroll factor plus twice~~ the sales factor ~~, and the denominator of which is 4~~.

Sec. V-3. 36 MRSA §5211, sub-§9, as enacted by P&SL 1969, c. 154, §F, is repealed.

Sec. V-4. 36 MRSA §5211, sub-§10, as amended by PL 1999, c. 708, §43, is repealed.

Sec. V-5. 36 MRSA §5211, sub-§11, as enacted by P&SL 1969, c. 154, §F, is repealed.

Sec. V-6. 36 MRSA §5211, sub-§12, as amended by PL 2001, c. 439, Pt. D, §8 and affected by §9, is repealed.

Sec. V-7. 36 MRSA §5211, sub-§13, as enacted by P&SL 1969, c. 154, §F, is repealed.

Sec. V-8. 36 MRSA §5211, sub-§16, as amended by PL 2005, c. 12, Pt. MMMM, §2 and affected by §3, is repealed.

Sec. V-9. 36 MRSA §5211, sub-§16-A is enacted to read:

16-A. Other sales. Sales other than sales of tangible personal property are sourced as follows.

A. Except as otherwise provided by this subsection, receipts from the performance of services must be attributed to the state where the services are received. If the state where the services are received is not readily determinable, the services are deemed to be received at the home of the customer or, in the case of a business, the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering location cannot be determined, the services are deemed to be received at the home or office of the customer to which the services are billed. In instances in which the purchaser of the service is the Federal Government or the receipts are otherwise attributable to a state in which the taxpayer is not taxable, the receipts are attributable to this State if a greater proportion of the income-producing activity is performed in this State than in any other state based on costs of performance.

B. Gross receipts from the license, sale or other disposition of patents, copyrights, trademarks or similar items of intangible personal property must be attributed to this State if the intangible property is used in this State by the licensee or if the taxpayer's commercial domicile is in this State and the taxpayer is not taxable in the state in which the property is used by the licensee. If the intangible personal property is used by the licensee in more than one state, the income must be apportioned to this State according to the portion of use in this State. In instances in which the purchaser or licensee of the intangible personal property is the Federal Government or the receipts are otherwise attributable to a state in which the taxpayer is not taxable, the receipts are attributable to this State if a greater proportion of the income-producing activity is performed in this State than in any other state based on costs of performance.

C. Receipts from the sale, lease, rental or other use of real property is sourced to this State if the real property is located in this State.

D. Receipts from the lease or rental of tangible personal property must be attributed to this State if the property is located in this State.

E. Receipts from items of income described in section 5206-E, subsection 2, paragraphs C to I must be sourced to this State as provided in those paragraphs. For purposes of this paragraph, section 5206-E, subsection 2, paragraphs G and H must include the related payment processing fees.

F. A sale of a partnership interest must be sourced in accordance with the provisions of section 5142, subsection 3-A.

Sec. V-10. 36 MRSA §5211, sub-§17, ¶A, as enacted by P&SL 1969, c. 154, §F, is amended to read:

A. Separate accounting; or

Sec. V-11. 36 MRSA §5211, sub-§17, ¶B, as enacted by P&SL 1969, c. 154, §F, is repealed.

Sec. V-12. 36 MRSA §5211, sub-§17, ¶C, as enacted by P&SL 1969, c. 154, §F, is repealed.

Sec. V-13. 36 MRSA §5212, sub-§2, ¶C, as enacted by PL 1999, c. 754, §1 and affected by §2, is amended to read:

C. Receipts other than from the provision of services described in paragraph B are Maine receipts if they would qualify as Maine sales under section 5211, subsection 15 or ~~16~~ 16-A.

Sec. V-14. 36 MRSA §5244, as amended by PL 1997, c. 24, Pt. C, §12 and affected by §16, is further amended to read:

§ 5244. **Combined report**

The combined report required by section 5220, subsection 5, must include, both in the aggregate and by corporation, a list of the federal taxable income, the modifications provided by section 5200-A, the ~~property, payroll and~~ sales in Maine and everywhere as defined in chapter 821 and the Maine net income of the unitary business. Neither the income nor the ~~property, payroll and~~ sales of a corporation that is not required to file a federal income tax return may be included in the combined report.

Sec. V-15. Application. Those sections of this Part that amend the Maine Revised Statutes, Title 36, sections 5211 and 5244 and apply to tax years beginning on or after January 1, 2007.

IDEXX
INCOME & TAXES

IDEXX INCOME & TAXES - 2015 -2017 (A)

		12/31/15	12/31/16	12/31/17	12/31/17 ESTIMATED EMPLOYEES	ESTIMATED IN MAINE
INCOME BEFORE TAXES						
US OPERATIONS	**(A)**	**187,200,000**	**227,875,000**	**268,714,000**	5,000	2,500
INTERNATIONAL	**(A)**	85,941,000	93,971,000	112,343,000	2,000	
TOTAL INCOME BEFORE TAX		273,141,000	321,846,000	381,057,000	7,000	
CURRENT STATE INCOME TAX	**(A)**	5,353,000	6,608,000	9,258,000		
DEFERRED STATE INCOME TAX	**(A)**	526,000	1,196,000	(4,102,000)		
TOTAL STATE INCOME TAX		**5,879,000**	**7,804,000**	**5,156,000**		
STATE TAX % OF US INCOME		**3.14%**	**3.42%**	**1.92%**		
EXPECTED STATE TAX BASED ON 6.0%	**(B)**	11,232,000	13,672,500	16,122,840		
ACTUAL TAXES ABOVE		5,879,000	7,804,000	5,156,000		
TAX SAVINGS FROM SPECIAL APPORTIONMENT & OTHER INCENTIVES		**5,353,000**	**5,868,500**	**10,966,840**		

(A) - INCOME AND STATE TAXES COME FROM IDEXX LABORATORIES, INC. AUDITED FINANCIAL STATEMENT
(B) - WHILE MAINE'S TAX RATE IS 8.93% THE AVERAGE FOR ALL STATES IS ABOUT 7%. THE 6% NUMBER WAS USED TO BE CONSERVATIVE.

BELOW IS AN ESTIMATION OF THE CORPORATE INCOME TAXES IDEXX SAVES IN 2016 & 2017 FROM THE 2007 LAW CHANGE (L)

2016 YEAR CALCULATION	(S) SALES	SALES	(W) WAGES	(P) PROPERTY	AVERAGE	
APPORTIONMENT & TAX PRE 2007 LAW						
MAINE % OF TOTAL IN US	5.0%	5.0%	50.0%	50.0%	27.5%	**AP**
US INCOME FROM ABOVE					227,875,000	**INC**
MAINE TAXABLE INCOME					62,665,625	**(AP X INC)**
MAINE TAX AT 8.93%					**5,596,040**	**(1)**
APPORTIONMENT & TAX POST 2006 LAW						
MAINE % OF TOTAL IN US	5.0%	5.0%	N/A	N/A	5.0%	**AP**
US INCOME FROM ABOVE					227,875,000	**INC**
MAINE TAXABLE INCOME					11,393,750	**(AP X INC)**
MAINE TAX AT 8.93%					**1,017,462**	**(2)**
REDUCED TAXES (1) - (2)					**4,578,578**	

2017 YEAR CALCULATION	(S) SALES	SALES	(W) WAGES	(P) PROPERTY	TOTAL	
APPORTIONMENT & TAX PRE 2007 LAW						
MAINE % OF TOTAL IN US	5.0%	5.0%	50.0%	50.0%	27.5%	**AP**
US INCOME FROM ABOVE					268,714,000	**INC**
MAINE TAXABLE INCOME					73,896,350	**(AP X INC)**
MAINE TAX AT 8.93%					**6,598,944**	**(1)**
APPORTIONMENT & TAX POST 2006 LAW						
MAINE % OF TOTAL IN US	5.0%	5.0%	N/A	N/A	5.0%	**AP**
US INCOME FROM ABOVE					268,714,000	**INC**
MAINE TAXABLE INCOME					13,435,700	**(AP X INC)**
MAINE TAX AT 8.93%					**1,199,808**	**(2)**
REDUCED TAXES (1) - (2)					**5,399,136**	

(L) - ON JUNE 7,2007 MAINE PASSED LD499, WHICH INCLUDED CHANGING THE APPORTIONMENT OF MULTISTATE BUSINESS INCOME FROM A THREE FACTOR FORMULA OF PAYROLL, PROPERTY AND DOUBLE WEIGHTED SALES TO A SINGLE SALES FACTOR.
(P) - BASED ON INFORMATION INCLUDED IN THE IDEXX ANNUAL 10K FILED WITH THE SEC, A REASONABLE ESTIMATE IS THAT 50% OF ITS PROPERTY IN THE US IS LOCATED IN MAINE. SEE PROPERTY TAB FOR DETAILS.
(W) - BASED ON PUBLIC INFORMATION IDEXX HAS ABOUT 2,500 EMPLOYEES IN MAINE WHICH IS ABOUT 50% OF US TOTAL.
(S) - THE SALES APPORTIONMENT NUMBER IS NOT AVAILABLE FROM PUBLIC RECORDS OR THE FINANCIAL STATEMENTS. HOWEVER, BECAUSE IDEXX SELLS IN ALL STATES AND HAS NEXUS IN MOST STATES THE NUMBER IS PROBABLY VERY LOW. I HAVE USED 5% BUT AS THE CALCULATIONS BELOW SHOW, THE TAX SAVINGS ARE ABOUT THE SAME IF YOU USE 1% OR 10%.

CALCULATION USING 1% SALES APPORTIONMENT INSTEAD OF 5%

2016 YEAR CALCULATION	(S) SALES	SALES	(W) WAGES	(P) PROPERTY	AVERAGE	
APPORTIONMENT & TAX PRE 2007 LAW						
MAINE % OF TOTAL IN US	1.0%	1.0%	50.0%	50.0%	25.5%	**AP**
US INCOME FROM ABOVE					227,875,000	**INC**
MAINE TAXABLE INCOME					58,108,125	**(AP X INC)**
MAINE TAX AT 8.93%					**5,189,056**	**(1)**
APPORTIONMENT & TAX POST 2006 LAW						
MAINE % OF TOTAL IN US	1.0%	1.0%	N/A	N/A	1.0%	**AP**
US INCOME FROM ABOVE					227,875,000	**INC**
MAINE TAXABLE INCOME					2,278,750	**(AP X INC)**
MAINE TAX AT 8.93%					**203,492**	**(2)**
REDUCED TAXES (1) - (2)					**4,985,563**	

2017 YEAR CALCULATION	(S) SALES	SALES	(W) WAGES	(P) PROPERTY	TOTAL	
APPORTIONMENT & TAX PRE 2007 LAW						
MAINE % OF TOTAL IN US	1.0%	1.0%	50.0%	50.0%	25.5%	**AP**
US INCOME FROM ABOVE					268,714,000	**INC**
MAINE TAXABLE INCOME					68,522,070	**(AP X INC)**
MAINE TAX AT 8.93%					**6,119,021**	**(1)**
APPORTIONMENT & TAX POST 2006 LAW						
MAINE % OF TOTAL IN US	1.0%	1.0%	N/A	N/A	1.0%	**AP**
US INCOME FROM ABOVE					268,714,000	**INC**
MAINE TAXABLE INCOME					2,687,140	**(AP X INC)**
MAINE TAX AT 8.93%					**239,962**	**(2)**
REDUCED TAXES (1) - (2)					**5,879,059**	

CALCULATION USING 10% SALES APPORTIONMENT INSTEAD OF 5%

2016 YEAR CALCULATION	(S) SALES	SALES	(W) WAGES	(P) PROPERTY	AVERAGE	
APPORTIONMENT & TAX PRE 2007 LAW						
MAINE % OF TOTAL IN US	10.0%	10.0%	50.0%	50.0%	30.0%	**AP**
US INCOME FROM ABOVE					227,875,000	**INC**
MAINE TAXABLE INCOME					68,362,500	**(AP X INC)**
MAINE TAX AT 8.93%					**6,104,771**	**(1)**
APPORTIONMENT & TAX POST 2006 LAW						
MAINE % OF TOTAL IN US	10.0%	10.0%	N/A	N/A	10.0%	**AP**
US INCOME FROM ABOVE					227,875,000	**INC**
MAINE TAXABLE INCOME					22,787,500	**(AP X INC)**
MAINE TAX AT 8.93%					**2,034,924**	**(2)**
REDUCED TAXES (1) - (2)					**4,069,848**	

2017 YEAR CALCULATION	(S) SALES	SALES	(W) WAGES	(P) PROPERTY	TOTAL	
APPORTIONMENT & TAX PRE 2007 LAW						
MAINE % OF TOTAL IN US	10.0%	10.0%	50.0%	50.0%	30.0%	**AP**
US INCOME FROM ABOVE					268,714,000	**INC**
MAINE TAXABLE INCOME					80,614,200	**(AP X INC)**
MAINE TAX AT 8.93%					**7,198,848**	**(1)**
APPORTIONMENT & TAX POST 2006 LAW						
MAINE % OF TOTAL IN US	10.0%	10.0%	N/A	N/A	10.0%	**AP**
US INCOME FROM ABOVE					268,714,000	**INC**
MAINE TAXABLE INCOME					26,871,400	**(AP X INC)**
MAINE TAX AT 8.93%					**2,399,616**	**(2)**
REDUCED TAXES (1) - (2)					**4,799,232**	

IDEXX
PROPERTY

DEATIL OF PP&E PER F/S

	12/31/17	ESTIMATED AMOUNTS IN US & MAINE			
		US	OUTSIDE US	MAINE	
LAND & IMPROVEMENTS	7,323,000	7,323,000	0	7,323,000	
BUILDINGS & IMPROVEMENTS	180,185,000	172,977,600	7,207,400	164,328,720	
LEASEHOLD IMPROVEMENTS	52,227,000	32,380,740	19,846,260	3,238,074	
MACHINERY & EQUIPMENT	284,375,000	170,625,000	113,750,000	102,375,000	
OFFICE FURNITURE & EQUIPMENT	47,476,000	28,485,600	18,990,400	17,091,360	
COMPUTER HARDWARE & SOFTWARE	206,580,000	123,948,000	82,632,000	74,368,800	
CONSTRUCTION IN PROGRESS	33,470,000				
	811,636,000	535,739,940		368,724,954	
ACCUMULATED DEPRECIATION	(432,540,000)	200,000,000		20,000,000	VALUE OF LEASED PROPERTY
PP&E NET	379,096,000	735,739,940		388,724,954	
				52.8%	ESTIMATE OF MAINE % OF TOTAL US

REAL PROPERTY SQUARE FOOTAGE PER 10K F/S

	MAINE	TENNESSEE	GEORGIA	WISCONSIN	OTHER STATES	SUBTOTAL US	OUTSIDE US	TOTAL	
OWNED SPACE									
HEADQUARTERS	647,000					647,000		647,000	
US LABORATORY SPACE					34,200	34,200		34,200	
UK LABORATORY SPACE							24,800	24,800	
CANADA LABORATORY SPACE							3,100	3,100	
	647,000	0	0	0	34,200	681,200	27,900	709,100	
LEASED SPACE									
LAB, OFFICE & WAREHOUSING	????	????	????	????	????	412,035	221,865	633,900	NO DETAIL, ASSUMED 65% IN US
DISTRIBUTION, WAREHOUSING & OFFICE SPACE						0	126,200	126,200	
DISTRIBUTION CENTER		114,400				114,400		114,400	
MANUFACTURING & WAREHOUSING			84,300			84,300		84,300	
OFFICE & MANUFACTURING SPACE							84,000	84,000	
OFFICE SPACE				69,300		69,300		69,300	
OFFICE, SALES & IT SPACE	65,000					65,000		65,000	
MANUFACTURING						0	8,100	8,100	
	65,000					745,035	440,165	1,185,200	
TOTAL	712,000					1,426,235	468,065	1,894,300	

Attachment 4

[redacted]

SEN. ROGER J. KATZ, SENATE CHAIR
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:
SEN. NATHAN L. LIBBY
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. GEOFFREY M. GRATWICK
SEN. THOMAS B. SAVIELLO
REP. JEFFREY K. PIERCE
REP. JENNIFER L. DECHANT
REP. MATTHEW A. HARRINGTON
REP. DEANE RYKERSON
REP. PAULA G. SUTTON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

To: The Honorable Dana L. Dow, Senate Chair
The Honorable Ryan Tipping, House Chair
And Members of Taxation Committee

From: Senator Roger J. Katz, Senate Chair
Representative Anne-Marie Mastraccio, House Chair
Government Oversight Committee

Date: April 21, 2017

Re: Concerns Regarding Benefits to Out-of-State Corporations from the Maine Capital Investment Credit

At our last meeting on April 14, 2017, the Government Oversight Committee took stakeholder comment on the Evaluation Parameters proposed for an OPEGA review of the Maine Capital Investment Credit. At that time, Mr. Albert DiMillo, Jr. raised concerns about out-of-state corporations who had less than 100% of their sales apportioned to Maine receiving unintended tax benefits due to the way the credit is calculated. Mr. DiMillo also provided documents to illustrate his concerns which he believed showed that as much as $20 million in unintended credits had gone to these corporations. Mr. DiMillo advocated that the Legislature should take immediate action to confirm his concerns were valid and, if so, to make technical corrections to Maine's tax laws to stop the unintended benefits from continuing.

GOC members agreed that this seemed a matter that warranted quicker examination, and potential action, than what an OPEGA evaluation would provide. GOC members also agreed, after conferring with Senator Dow, who was in attendance that the proper avenue for examining the matter with Maine Revenue Services was through the Taxation Committee.

Consequently, we are hereby forwarding this concern to your committee for prompt consideration and action as appropriate. We are including Mr. DiMillo's written testimony and the other documents he provided. An audio recording of Mr. DiMillo's testimony and the GOC's discussion, or the written meeting summary of it, can be made available at your request.

We also respectfully request that you inform the GOC, as soon as possible, whether your Committee intends to take up this matter and, if so, when it expects to do so. We also request to be informed of the results of your examination of the matter and what action, if any, you determined should be taken.

Enclosure
Cc: Julie Jones, Senior Analyst, Office of Fiscal and Program Review
Suzanne Voynik, Analyst, Office of Fiscal and Program Review
Members of the Government Oversight Committee

82 State House Station, Room 107 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

Attachment 5

IDEXX TAX
ST TAX SAVINGS

IDEXX INCOME & TAXES - 2005 -2022 (A) & ESTIMATE OF TAX SAVINGS FROM MAINE 2007 & 2011 TAX LAW CHANGES

		12/31/07	12/31/08	12/31/09	12/31/10	12/31/11	12/31/12	12/31/13	12/31/14	12/31/15	12/31/16	12/31/17	12/31/18	12/31/19	12/31/20	12/31/21	12/31/22	TOTAL
INCOME BEFORE TAXES US OPERATIONS	(A)	92,554,000	123,632,000	124,974,000	151,660,000	169,365,000	184,159,000	184,086,000	148,510,000	187,200,000	227,875,000	268,714,000	337,437,000	377,964,000	483,694,000	689,994,000	684,661,000	4,436,479,000
CURRENT STATE INCOME TAX	(A)	3,398,000	3,839,000	3,984,000	5,079,000	5,591,000	5,879,000	5,639,000	4,692,000	5,353,000	6,608,000	9,258,000	10,415,000	11,967,000	17,346,000	19,147,000	30,529,000	148,724,000
STATE TAX % OF US INCOME		3.67%	3.11%	3.19%	3.35%	3.30%	3.19%	3.06%	3.16%	2.86%	2.90%	3.45%	3.09%	3.17%	3.59%	2.77%	4.46%	3.35%
EXPECTED STATE TAX BASED ON 5.484%	(B)	5,075,661	6,779,979	6,853,574	8,317,034	9,287,977	10,099,280	10,095,276	8,144,288	10,266,048	12,496,665	14,736,276	18,505,045	20,727,546	26,525,779	37,839,271	37,546,809	243,296,508
ACTUAL TAXES ABOVE		3,398,000	3,839,000	3,984,000	5,079,000	5,591,000	5,879,000	5,639,000	4,692,000	5,353,000	6,608,000	9,258,000	10,415,000	11,967,000	17,346,000	19,147,000	30,529,000	148,724,000
TAX SAVINGS FROM SPECIAL APPORTIONMENT & OTHER INCENTIVES	(1, 2)	1,677,661	2,940,979	2,869,574	3,238,034	3,696,977	4,220,280	4,456,276	3,452,288	4,913,048	5,888,665	5,478,276	8,090,045	8,760,546	9,179,779	18,692,271	7,017,809	94,572,508

(A) - INCOME AND STATE TAXES COME FROM IDEXX LABORATORIES, INC. AUDITED FINANCIAL STATEMENTS

(B) - IDEXX'S EFFECTIVE TAX RATE FOR ALL STATES IN 2005 & 2006 AVERAGE A 5.5% EFFECTIVE STATE TAX RATE AS FOLLOWS

AVERAGE SAVING PER YEAR OVER 16 YEARS 5,910,782

		12/31/05	12/31/06	AVERAGE
INCOME BEFORE TAXES US OPERATIONS	(A)	85,401,000	100,445,000	
CURRENT STATE INCOME TAX	(A)	4,680,000	5,512,000	
STATE TAX % OF US INCOME		5.480%	5.488%	5.484%

(1) - ON JUNE 7, 2007 MAINE PASSED LD499, WHICH INCLUDED CHANGING THE APPORTIONMENT OF MULTISTATE BUSINESS INCOME FROM A THREE FACTOR FORMULA OF PAYROLL, PROPERTY AND DOUBLE WEIGHTED SALES TO A SINGLE SALES FACTOR.

(2) BEGINING IN 2011 MAINE PASSED THE MAINE CAPITAL INVESTMENT CREDIT WHICH DUE TO DRAFTING ERROR GAVE IDEXX EXCESSIVE TAX BENEFIT FOR ALL YEARS 2011 THRUOGHT 2020. THE CREDIT WAS AMENDED EFFECTIVE FOR YEARS AFTER 2020 THAT CONTINUED TAX BENEITS THAT CORRECTED THE EXCESSIVE BENEFITS IN THE LAW ONLY FOR YEARS SFTER 2020.

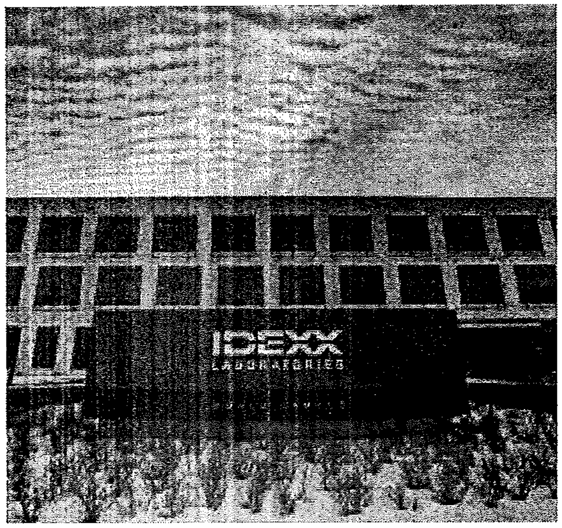
Attachment 6

Westbrook extends tax break for Idexx Laboratories

pressherald.com/2018/02/26/westbrook-extends-tax-break-for-idexx-laboratories/

By Megan Gray

February 27, 2018



WESTBROOK — The Westbrook City Council has voted to extend and expand a tax break for the veterinary technology firm Idexx Laboratories Inc.

Idexx has received a rebate on its property taxes since 2006, when Westbrook approved a tax increment financing district for the company's corporate headquarters. Over the last decade, Idexx has paid a total of more than $8 million in property taxes to the city, and the company has gotten back nearly $600,000, roughly 7.5 percent.

In that time, Idexx has also doubled the number of employees in Westbrook. The company reported revenue of $1.97 billion in 2017, an 11 percent increase over the previous year.

Now Idexx is planning a 135,000-square-foot expansion of its global headquarters in Westbrook. On Monday night, the City Council unanimously agreed to add 10 years to the life of the TIF district and include the new office space. If the expansion is built, the city's projections show Idexx could get nearly $1 million in property taxes back every year until 2037.

"We want Idexx to succeed," at-large Councilor John O'Hara said. "We want them to get bigger. We want to make sure the Greater Portland region and also the city of Westbrook grows and thrives and prospers. One way to do that is to make sure that we form a partnership with these businesses that come to us, and I believe that's what we have with Idexx."

Also on Monday, the City Council heard proposals for two new TIF districts. One, similar to the Idexx agreement, would return tax dollars to the developer of a massive shopping plaza at the former Pike Industries quarry on Main Street. The other would dedicate tax dollars from a controversial apartment complex to pay for expanded bus service in Westbrook. Both received unanimous approval on first reading but will require a final vote on March 5.

TIF districts can be a divisive economic development tool, especially when they establish a tax break for a developer or company. In neighboring Portland, Mayor Ethan Strimling has repeatedly lobbied for changes to the city's TIF policy. In November, the Portland City Council voted to require contractors working on new developments in TIF districts to pay their employees a prevailing wage.

In Westbrook, those types of requirements do not exist. Council President Brendan Rielly, who represents Ward One, asked Monday whether the TIF district for the former Pike Industries quarry could include stipulations like a local hiring preference. He requested the city's staff answer those questions before the final vote in two weeks.

"Obviously, we've got a lot of people here in Westbrook, and these are some exciting new businesses," Rielly said. "I would love to have a local hiring preference worked in so Westbrook citizens get a crack at getting jobs there."

Westbrook has 10 active TIF districts. The majority are agreements that return a portion of property taxes to businesses, like the Idexx agreement, City Administrator Jerre Bryant said Monday.

Idexx has been based in the city since 1991. Today, the company employs more than 7,000 people around the globe, including 2,500 in Westbrook. In 2006, the company outlined a plan for a new 120,000-square-foot administrative office and corporate headquarters. Westbrook approved the original TIF district in anticipation of that project.

At the time, the assessed value of the campus was $40 million. Every year, Idexx pays property taxes on its assessed value, which has added up to more than $8 million in revenue for Westbrook over 10 years.

Under the TIF agreement, when the assessed value of the Idexx campus is greater than $40 million, the company gets tax money back. For example, the assessed value of the campus was $52 million in fiscal year 2017. Idexx paid more than $900,000 in property taxes to Westbrook and got almost $150,000 back.

Now, the city predicts the expanded office will increase the assessed value of the campus by $62 million, which would then boost the return to Idexx under the TIF agreement. By fiscal year 2021, under the current mil rate, Idexx could be getting $926,000 back from its property taxes each year. The TIF will not expire until fiscal year 2037.

The TIF agreement under consideration for the former quarry would work the same way. The developer, Waterstone Properties Group, is required to pay for $9 million to $10 million in offsite improvements to intersections, sidewalks and other infrastructure. The returned tax money is meant to pay for those costs over 25 years. The city estimates that rebate could be $600,000 by 2021. The retail plaza will include a Market Basket and is under construction now.

"The TIF is an important financial element for this project to move forward, and we're excited about forming a partnership with the city to make it a reality," said Greg Day, who represented Waterstone at the City Council meeting.

The second proposed TIF agreement would be different. The tax revenue captured would come from Autumn Woods, an apartment complex also under construction next to Blue Spruce Farm on Spring Street. But the developer, Risbara Bros., would see none of the return from the TIF district. Instead, the city would direct all of that money to cover costs for expanded Metro service in the city. That money would be more than $260,000 per year, according to the city's projections.

City officials have said one of the draws of a TIF district is that it acts as a tax shelter.

The dollar value of all the property in a town or city determines the amount of state aid it gets for schools and services, as well as its county taxes. The higher the town's valuation, the less state aid it gets and the more county taxes it pays. But under a TIF, the increased property value of that development is not counted toward the city's valuation. So the amended TIF would mean the multimillion-dollar expansion at Idexx, for example, wouldn't reduce the money Westbrook gets from the state.

"If we could TIF the whole city, that would be amazing," Ward 2 Councilor Victor Chau said. "I just want to keep our taxes low."

filed under:
westbrook maine