Testimony in Support of LD 1475,
An Act to Promote Biomanufacturing and Biotechnology by Establishing A Tax Credit

April 18, 2023

Senator Grohoski, Representative Perry and Members of the Taxation Committee, my name is Jonathan A. Block. I am a Maine tax attorney residing in Portland, and I am testifying today on behalf of the Foundation for a Strong Maine Economy.

I was involved in drafting this bill and I would like to walk the Committee through it in plain English so that everyone understands what it does.

This bill is intended to encourage the establishment of biotech incubators and biomanufacturing facilities in the State of Maine. A biotech incubator is defined as a facility of at least 5,000 square feet that offers lab space, management and meeting space and other resources to start-up, early-stage or established biotech companies seeking to develop new biotechnology products. Biomanufacturing is defined as a facility of at least 5,000 square feet that engages in advanced manufacturing of biotech products, which is also defined in the bill.

In order to be eligible to apply for this tax credit, the applicant would have to make an investment of at least $5 million to build a biotech incubator or biomanufacturing facility in Maine. The amount of investment that qualifies for the credit is capped at $15 million.

The process begins when a qualified applicant applies to the Commissioner of DECD for a certificate of approval. The Commissioner will then review the application and determine if the applicant is qualified. If the Commissioner approves the application, she will issue a certificate of approval to the applicant that describes the qualified investment and the total amount approved for the tax credit, which many not exceed $15,000,000.

No tax credit is given until the qualified investment is <u>completed</u>. Upon completing the qualified investment, the applicant must submit an application to the Commissioner for a certificate of completion. If the Commissioner determines that the qualified investment was made, the commissioner issues a certificate of completion to the investor.

If the applicant fails to make the qualified investment within 2 years of receiving the certificate of approval, the certificate of approval is revoked.

Once the certificate of completion is granted, the applicant is entitled to a refundable tax credit equal to 6% of the qualified investment each year for a total of 5 years. So the 6% annual credit for each of 5 years amounts to 30% of the qualified investment. The credit can be taken beginning with the tax year during which the certificate of completion is issued or the tax year beginning in 2025, whichever is later.

There are various limits baked into this bill. First, the Commissioner may not issue certificates of approval that total more than $30,000,000 of qualified investment for biotech incubators nor more than $30,000,000 of qualified investment for biomanufacturing facilities. So that is a maximum of $60,000,000 in qualified investment, which translates to a maximum of $18 million in total tax credits over the life of the program. The State's maximum investment in this program is a total of $3.6 million per year, or $18 million total. If all the credits were issued in year one, this $18 million would be spread over a 5 year period. But it's more likely that not all the credits would be issued in the very first year, so this $18 million would be spread over more than 5 years.

Another limitation is that no taxpayer can receive a credit of more than $900,000 in any tax year (6% X $15,000,000 cap) or $4,500,000 over the 5-year life of the credit ($900,000 X 5).

There are also several safeguards and reporting requirements to make sure that the credit is being used as intended:

- As I mentioned, the credit cannot be taken until after the investment has been completed and a certificate of completion has been issued.
- A certificate cannot be transferred without the Commissioner's approval.
- Except for the first year that the credit is available, no credit can be taken in any tax year in which more than 25% of the facility is being used for a purpose other than biotech incubation or biomanufacturing.
- The certificate of approval or certificate of completion is revoked if the applicant ceases operation of the biotech incubator or biomanufacturing facility for more than 6 months, or if the certificate of approval is transferred to another person without the Commissioner's approval.
- There is a clawback of the credits if the certificate is revoked. The amount of the clawback depends on how many years the credit has been taken.
- Annual reports are required to be filed providing the Commissioner and the State Tax Assessor with information concerning the usage of the facility, the incremental investment made in each year, and the names of all businesses occupying the facility. These reports will be provided to this committee as well.

The State Tax Assessor is required to file an annual report with this Committee stating the revenue loss as a result of this program for each taxpayer claiming the credit. These reports are declared to be public documents.

The bill also specifies that the program shall be reviewed by OPEGA and specifies performance measures for OPEGA to consider in its evaluation process.

I would be happy to answer any questions.