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To: Municipal Officials

Fr: Garrett Corbin, MMA State and Federal Relations

Re: Importance of LD 335

When the 129th Legislature adjourned its first regular session, lawmakers carried over a number of bills for additional consideration at a future session. Included in the list of "carryovers" is MMA's platform legislation, LD 335, *An Act To Require the State To Distribute 25 Percent of Adult Use Marijuana Retail Sales and Excise Tax Revenue to Generating Municipalities*. It is expected that this bill, which has always sought a share of tax proceeds and has never proposed a new or additional tax, will be revisited in the second regular session of the Legislature that begins in January.

As amended by the Legislature, the portion of the distribution to municipalities of new tax revenues generated by the non-medical "adult use" industry was reduced from the 25% percent share proposed by the MMA Legislative Policy Committee, down to 12%. After being reduced by a separate 12% state Public Health and Safety Fund, and state staff administrative costs, the amended version of LD 335 would effectively return roughly 10% of the tax revenues generated by the adult use industry for the state back to the communities which "opt in" to allow adult use businesses.

For comparison, the following percentages reflect the local revenue available in the eleven states which have legalized marijuana for non-medical purposes, in the form of local option taxes, revenue sharing, or a combination thereof. The figures show the new local revenue as a percent of the total tax imposed on adult use marijuana at the price of $200 per ounce (not counting any general, non-marijuana specific state/municipal revenue sharing distributions):

- Alaska – 23%
- California – 36%
- Colorado – 18%
- Illinois – 25%
- Maine – 0%
- Massachusetts – 25%
- Michigan – 17%
- Nevada – 10%
- Oregon – 9%
- Vermont – TBD (legislation pending)
- Washington – 7%

The best case scenario, with the bill being enacted immediately after reconvening, is some share of revenue returning to the municipalities where it was generated by the end of calendar year 2020. Municipal officials considering whether or not to opt in should take note that it is entirely possible the worst case scenario will come to pass, with this legislation not being enacted and Maine remaining the only legalizing state that does not provide an avenue for its local governments to receive a return on investment in the new adult use industry, or even to recoup all of their costs.

It should also be noted that LD 335 was passed to be enacted by a margin of 88 to 54 in the House, but hit a roadblock at the Appropriations Committee, where a decision regarding funding was put off until next year. Unfortunately, ordinary fiscal note drafting rules resulted in the bill appearing to impose a significant new cost for the state. Of course, the bill is all but guaranteed to open the door to new revenues for the state, not the other way around.

The reason the bill will lead to increased state revenues is two-fold. First, only communities that opt in to allow adult use marijuana businesses will generate new revenue for the state. The state receives zero revenue from municipalities that do not opt in. Second, Maine's municipalities, even those who are proponents of legalization, generally are not inclined to opt in if it is going to create a new hole in their budgets.

Reports from other states that have legalized marijuana for adult use purposes, and from Maine's experience with medical marijuana operations, indicate anticipated costs will include:

- Legal fees associated with potential litigation (i.e., challenges to local ordinances and licensing and enforcement actions);
- Increased risk of fires and power outages as a result of faulty electrical wiring or extraction operations;
- Mold resulting from the moisture created when plants are grown indoors, causing habitability and resale issues;
- Fertilizer runoff that can negatively impact waste water and storm water treatment efforts;
- Increased electrical and water usage and related demand on infrastructure and resources;
- Nuisance-level odor and lighting;
- Parking and transportation safety at high traffic operations; and
- General criminal issues such as OUI, and theft or burglary related in large part to this being a cash-only industry as a result of federally insured banks' reluctance to engage in activities associated with a federally scheduled drug.

To the Association's knowledge, less than five percent of Maine's municipalities have opted in to date to allow adult use businesses. Questions about legislation and rules may be directed to Garrett Corbin at gcorbin@memun.org and questions related to ordinances and other local regulatory efforts should be directed to MMA's Legal Services Department at legal@memun.org. Staff can also be reached over the phone at 1-800-452-8786.