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May 5, 2025

Re: LD 1672, An Act to Allow Participation in the Adult Use Cannabis Tracking System to Be Voluntary

Senator Hickman, Representative Supica, Members of the Joint Standing Committee on Veterans and Legal Affairs:

The Office of Cannabis Policy (OCP) respectfully submits the following comments in strong opposition to LD 1672, a bill that will eliminate the State's closed loop inventory tracking system, disrupt an existing contract, and prohibit the Office from issuing an award in response to its current request for proposals (RFP # 202501014). Additionally, as we have explained to this committee during the 130<sup>th</sup> and the 131<sup>st</sup> Legislature, the alternative "inventory control system" contemplated by this bill will be incredibly costly for the State to build and even more costly to administer.<sup>1</sup> Furthermore, at a time when banking for cannabis businesses is subject to close scrutiny by federal regulators, and both banks and credit unions in the state have shared with this committee the value of the adult use program's inventory tracking system records, this bill raises profound concerns about licensees' continued ability to access even the most basic banking services.

As we noted last session regarding a previous effort to disrupt the State's existing cannabis inventory tracking contract, legislative efforts to terminate existing contracts or disrupt ongoing procurement processes threaten the certainty and enforceability of all contracts with the State. This uncertainty will lead to increased contracting costs for all state agencies, not just our office, as prospective vendors attempt to account for the risk of future legislative intervention into their contracts with the State.

Next, the "inventory control system" offered as an optional alternative to the State's existing comprehensive, closed-loop inventory tracking system will be extremely costly to build, implement, and administer. For years we have come before this committee with evidence to dispel the misapprehension by some that the State can develop and maintain an inventory tracking system more efficiently than contracting with a third party vendor for the provision of those services. The truth is that at the end of OCP's six-year contract with Metrc, LLC in February 2026, the State will have paid out less than \$1,000,000 to that vendor for inventory tracking system services. In contrast, when OCP asked MaineIT in 2023 to estimate the cost for the State to build its own inventory tracking system, we received a rough estimate of

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<sup>1</sup> Attached for reference are copies of OCP's testimony to the 130<sup>th</sup> (LD 1817) and 131<sup>st</sup> (LDs 1757 and 1529) Legislatures regarding previous proposals to eliminate or greatly reduce the functionality of the inventory tracking system.

\$7,000,000—and that estimate did not include ongoing maintenance, upkeep, and reconfiguration to address changing programmatic needs. OCP also estimated additional personal services costs of \$1.9 million in response to a bill last session that would have required the creation of a two-tiered system of inventory tracking, to ensure tax compliance and to increase the frequency of on-site inspection of licensees and their business records. It is reasonable to expect that the technology buildout and personal services costs quoted during the 131<sup>st</sup> Legislature have increased beyond the figures quoted herein.

Inventory tracking of cannabis requires a closed loop system from seed-to-sale and is a fundamental tool of the vast majority of regulated markets. Simply put: A voluntary inventory tracking system is not an effective regulatory tool. Without standardized inventory tracking, there is not reliability in the mandatory testing program. This bill will also make it harder for licensees to maintain access to banking and further empower the illicit cannabis market by eliminating regulator visibility into the market.

We do not need to guess about the impact of efforts to eliminate inventory tracking as we can simply learn from the lessons of other regulated cannabis markets. Washington State attempted years ago to implement its own inventory tracking system as a stopgap measure between commercial inventory tracking vendors. Attached to our testimony is a summary of the report from the Washington State Auditor that details the unmitigated failure of those efforts from 2018 through last year.<sup>2</sup> The Auditor's report found that the state-developed inventory tracking system was ineffective in achieving any of Washington State's goals in regulating cannabis: preventing diversion for illegal distribution, ensuring product safety, and collection of taxes. Our colleagues in Washington have described their system as at best unable to adequately address their needs as regulators and at worst completely unsatisfactory to regulators and licensees alike.

We cannot overstate the threat this bill poses to cannabis businesses' access to financial services through banks and credit unions in this state. As was explained earlier this session, the inventory tracking records maintained by adult use cannabis businesses through the State's inventory tracking system are an important part of the due diligence required of those financial institutions to comply with the Treasury Department's Financial Crimes Enforcement Network (FinCEN) guidance for institutions providing services to cannabis businesses.<sup>3</sup> Elimination of inventory tracking will result in loss of banking for some adult use licensees and higher fees and additional compliance costs for others.

For the foregoing reasons, we strongly urge this committee to reject LD 1672 and instead focus the remainder of your efforts this spring on ensuring that inventory tracking and testing are implemented in the State's medical cannabis program. As Governor Mills shared in her State of the Budget Address earlier this year, the time has come to better regulate the medical market with testing and tracking requirements so that patients can be confident that those products are

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<sup>2</sup> The full report, Evaluating Washington State Oversight of the Cannabis Industry: Follow-up issues, is available at: <https://sao.wa.gov/reports-data/audit-reports/evaluating-oversight-cannabis-industry-follow-up-issues> (accessed April 30, 2025).

<sup>3</sup> Financial Crimes Enforcement Network (FinCEN). BSA Expectations Regarding Marijuana-Related Businesses. February 14, 2014. <https://www.fincen.gov/resources/statutes-regulations/guidance/bsa-expectations-regarding-marijuana-related-businesses> (accessed April 30, 2025).

safe. Thank you for your consideration, we are happy to answer any questions you may have at the work session.