

**TESTIMONY OF
MICHAEL J. ALLEN, ASSOCIATE COMMISSIONER FOR TAX POLICY
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation
Hearing Date: *May 16, 2025, Friday at 1:00 P.M.*

LD 1869 – “*An Act to Lower Property Taxes by Allowing a Local Option Sales Tax on Recreational Cannabis Sales*”

Senator Grohoski, Representative Cloutier, and members of the Taxation Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Against LD 1869, “*An Act to Lower Property Taxes by Allowing a Local Option Sales Tax on Recreational Cannabis Sales.*”

This bill would allow a municipality to approve by referendum a local option sales tax of up to 1% on sales of adult use cannabis and adult use cannabis products. The use of the local sales tax revenue would be limited to funding public safety and education initiatives.

Over the course of this Administration, the Legislature and the Governor have collaborated to improve the revenue resource landscape for the State’s municipalities. However, the Administration has consistently opposed local option sales tax bills in past Sessions on tax policy grounds and opposes LD 1869 now before this Committee. In addition, the legal validity of local option sales taxes remains uncertain under the Maine Constitution.

If the Committee wishes to move forward with this bill, there are important aspects that should be clarified. As drafted, municipalities would be permitted to

impose any tax rate up to 1%, meaning local rates could differ. It is strongly recommended that the bill be amended to require every local option sales tax to have a uniform rate. Further, the proposed imposition language, “1% on cannabis products” (p.1, line 22), should be amended to read “1% on the value of adult use cannabis and adult use cannabis products sold at retail in this State. Value is measured by the sale price.” The definition of “cannabis product” should be struck since “adult use cannabis” and “adult use cannabis product” are already defined within the Sales and Use Tax Law (see 36 M.R.S. §§ 1752(1-I), (1-J)).

Additionally, the terms “revenue attributable” and “retailer in a participating municipality” should be defined or otherwise clarified. If the intent is to allocate tax revenue to the municipality in which a taxable sale occurs, the bill should use the phrase “sourced to each municipality under 36 M.R.S. § 1819.”

I will note that for MRS to apportion revenue by municipality, adult use cannabis retailers making delivery sales would be required to source each delivery to a municipality and file a schedule breaking out those sales by municipality, neither of which is currently required.

The bill should also set a timeframe for when a local option sales tax would take effect after passage, either as a certain number of days after the referendum or a specified date in 2026, whichever is later. Further, the proposed 90-day deadline for a municipality to inform MRS of a successful referendum would not provide adequate notice—MRS would require at least six months’ advance notice to implement a local option sales tax. To minimize complexity and ease burdens on retailers and MRS, the bill should limit how frequently a municipality may enact and repeal the tax.

This could be accomplished by requiring (1) local option tax changes become effective at the beginning of a calendar year; or (2) at least one year elapse between a local option tax's enactment and repeal or vice versa. Without language to the contrary, MRS would interpret the proposed language to allow a municipality to impose only a year-round local option sales tax. Express statutory direction to this effect should be added to the bill.

Additionally, the bill should provide a monthly date when MRS must determine the amount of revenue attributable to each municipality, specifically “in the previous month” (p.1, lines 32-33). Similar revenue sharing bills from this session (for example, LDs 283 and 347) also establish funds to hold revenue before distribution to municipalities, which would improve administrability.

I will again note that there remains some uncertainty about the legal validity of a local option sales tax under the Maine Constitution, art. IX, § 9, which provides: “The Legislature shall never, in any manner, suspend or surrender the power of taxation.” Relatedly, as a statutory drafting matter, given the authorization to impose the local sales tax as proposed in Section 2 of the bill, the intended legal effect of proposed 28-B M.R.S. § 407(1) is unclear—and if not clarified it should be struck.

As written, retail sales at cannabis establishments located in the unorganized territory would be “deemed to occur in municipalities,” but the bill contains no mechanism for a community in the unorganized territory to enact a local option sales tax. Proposed 28-B M.R.S. § 407(2) should be clarified accordingly and relocated within proposed 36 M.R.S. § 1818-A. Specifically, the bill should clarify how local sales tax revenue that is sourced to the unorganized territory would be distributed, with the background understanding that reporting and redistributing

revenues in smaller communities may result in transparency of information that otherwise would be considered confidential taxpayer information.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee's questions.