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STATE HOUSE NEWS FOR FINANCE OFFICERS

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LEGAL MARIJUANA

On Monday, a joint committee of the Senate Budget and Appropriations Committee and Assembly Appropriations Committee favorably reported **SENATE, NO. 2703/ASSEMBLY, NO. 4497** *(Scutari D-22/Sweeney D-3)(Quijano D-20/Holley D-20),* which would legalize the personal use of cannabis.

In general, this legislation would provide for the personal use of marijuana for persons 21 years of age or older, who may possess, use, purchase, or transport: marijuana paraphernalia; one ounce or less of marijuana; 16 ounces or less of marijuana infused product in solid form; 72 ounces or less in liquid form; 7 grams or less of marijuana concentrate; and up to 6 immature marijuana plants. The bill would also provide that a person may transfer of one ounce or less of marijuana; 16 ounces or less of marijuana infused product in solid form; 72 ounces or less in liquid form; 7 grams or less of marijuana concentrate; and up to 6 immature plants, without marijuana cultivation facility to a person who is of or over the legal age for purchasing marijuana items, provided that such transfer is for non-promotional, non-business purposes. The bill would prohibit a person to consume or smoke marijuana items openly in a public place, except as may be permitted in consumption areas.

The measure would also levy a tax upon marijuana sold or otherwise transferred by a marijuana cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store. The tax would include the prevailing sales tax and an additional tax rate of 12%. The bill would further require the Department of the Treasury to establish procedures for the collection of all taxes levied and would require that two percent of the revenues collected would be allocated annually to the local governmental entity where is marijuana establishment is located and must to be dedicated to drug prevention and treatment. The measure would not levy a tax upon marijuana intended for the sale at medical marijuana centers pursuant to the "New Jersey Compassionate Use Medical Marijuana Act."

The legislation would also authorize municipalities to enact an ordinance or regulation governing the time, place or manner and number of marijuana establishment operations and provides for civil penalties violating those ordinances. A municipality may enact ordinances or regulations, not in conflict with the provisions of the bill. The bill would additionally provide that a municipality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance. Under the bill, the failure of a municipality to enact an ordinance prohibiting the operation of a marijuana establishment within 180 days following the effective date of the bill would permit the operation of a marijuana retail establishment within the local governmental entity for a period of five years, at the end of which five year period, and every five year period thereafter, the municipality would again be permitted to prohibit the operation of a marijuana establishment.

The legislation would not: require an employer to permit or accommodate marijuana in the workplace; allow driving under the influence of marijuana; or permit marijuana in a school, hospital or correctional facility. The legislation would establish a Marijuana Regulation Review Commission which shall be responsible to review and approve regulations developed by the division. Finally, the legislation would permit the possession of up to an ounce of marijuana punishable by a civil violation during the period of enactment until legalization becomes effective; and, would amend several sections under the criminal code in 2C of the New Jersey Statutes to reflect the decriminalization of marijuana. S-2703 and 4497 are on Second Reading in the respective houses, but its unclear at this time if the legislation will pass in its current form or if Governor Murphy will sign the bill into law as written.

LEGISLATIVE DISTRICTS

Also on Monday, the Senate Budget and Appropriations Committee favorably reported **SENATE CONCURRENT RESOLUTION, NO. 43** *(Scutari D-22/Sweeney),* which would propose a constitutional amendment to make various changes to the Legislative Apportionment Commission.

In summary, this concurrent resolution would increase the membership of the Legislative Apportionment Commission from 10 to 13 members and would impose certain requirements on the process and composition of the districts established by the Commission for the New Jersey Legislature. The resolution would require the chairs of both State committees to appoint two members to the Commission with at least one of each of those appointments being a member of the public. The amendment would further require the four legislative leaders from both major political parties to each appoint two members with at least one of each of those appointments being a member of the Legislature. The bill would require the Chief Justice of the Supreme Court of New Jersey to appoint the 13th member.

The Commission would be required to certify a plan establishing legislative districts that ensures fair representation, which pursuant to the resolution, would mean that each of the two major political parties have an equal number of districts more favorable to that party. A district would be more favorable to a political party if the percentage of the combined two-major-party votes received in that district in all Statewide general elections by that party over the last 10 years for the offices of United States President, United States Senator, and Governor exceeds the Statewide percentage of the combined two-major-party votes received by that party in those elections. A major political party's percentage of the combined two-major-party votes would be calculated by dividing the number of votes received by that political party by the combined total number of votes received by the two major political parties.

The Commission would also be required to certify a plan to establish legislative districts that enhances the competitiveness by ensuring that at least 25 percent all districts are more favorable to either major political party by no more than five percentage points of the average Statewide percentage of the combined two-major-party votes received in all Statewide general elections by that party over the preceding decade for the offices of United States President, United States Senator, and Governor. Of those districts included therein, for each district in which the percentage of the combined two-major-party votes for a party exceeds that party's percentage of the combined two-major-party votes in those Statewide elections, there will be a corresponding district in which that party's percentage of the combined votes is less than the other major party's percentage of the combined votes in the Statewide elections by approximately the same percentage. SCR 43 is on Second Reading in the Senate, which is expected to pass the measure along partisan lines. The companion version, **ASSEMBLY CONCURRENT RESOLUTION, NO. 60** (Greenwald D-6/Murphy D-7) is currently in the Assembly State and Local Government Committee awaiting consideration. If the measure passes both houses in identical form it will appear on the ballot at the General Election in 2019 as the State's concurrent resolution do not require gubernatorial action.

COMMON SENSE SHARED SERVICES PILOT PROGRAM ACT

On November 27th, Governor Murphy signed into law **ASSEMBLY, NO. 1100/SENATE, NO.** 1586 *(Downey D-11/Houghtaling D-11)(Gopal D-11/Singleton D-7)*, which would add Monmouth and Atlantic counties as pilot counties under the Common Sense Shared Services Pilot Program Act.

In summary, this new law authorizes the sharing of services for a municipal clerk, chief financial officer, assessor, tax collector, municipal treasurer, or municipal superintendent of public works without regard to the tenure rights that persons who hold those positions may have. Under the pilot program, municipalities may enter into shared service agreements for the services of tenured employees; and, provide for the dismissal of any tenured local employees who are not selected to be service providers under the shared services agreement. Under current law, Camden, Morris, Ocean, Sussex, and Atlantic counties operate under the pilot program.

The new law requires a shared services agreement under the pilot program to address the proportion of work hours that a selected municipal clerk, chief financial officer, assessor, tax collector, municipal treasurer, or municipal superintendent of public works would be required to dedicate to each pilot municipality. The law further requires a shared services agreement to address any additional compensation that the selected employee may receive for assuming additional duties under the agreement. If the selected employee receives additional compensation for assuming additional duties under the shared services agreement, the additional compensation would not be reduced during the term of the agreement without good cause. The law clarifies that such a tenured local official who is reappointed to the their former position upon the cancellation or expiration of a shared services agreement within the two-year period immediately following their dismissal would be entitled to the same level of salary or wages the employee had received at the time of their dismissal, augmented by any increases in salary granted to all other tenured employees while the shared services agreement was in effect.

STATUTE OF LIMITATIONS

The Senate Judiciary Committee will likely consider at one of its upcoming meetings **SENATE, NO. 477** *(Vitale D-19/Scutari D-22),* which would eliminate the statute of limitations in certain civil actions for sexual abuse, expand the categories of defendants liable in such actions, and remove the safeguards provided local governing bodies under the New Jersey Tort Claims Act (TCA).

In summary, this legislation would eliminate the current two-year statute of limitations in civil actions for the sexual abuse of a child; the willful, wanton or grossly negligent act or omission of a sexual assault or other crimes of a sexual nature brought against a trustee, director, officer, employee, agent, servant or volunteer of a nonprofit corporation, society or association organized exclusively for religious, charitable or educational purposes; and, the sexual offense committed against a minor due to the negligent hiring, supervision or retention of an employee, agent or servant of a nonprofit corporation, society or association organized exclusively for religious, charitable, educational or hospital purposes. The bill would also expand the category of persons who are potentially liable in any civil action alleging the sexual abuse of a child to include *any person* who knowingly permitted or acquiesced in the sexual abuse would be civilly liable. Finally, the measure would eliminate the protections afforded local governing bodies under the "New Jersey Tort Claims Act," and would further hold public entities liable in actions for damages alleging the sexual abuse of a child.

Although organizations such as the New Jersey State League of Municipalities (NJLM), the New Jersey Association of Counties (NJAC), and the New Jersey School Boards Association (NJSBA) applaud the sponsors for their efforts to provide the victims of sexual abuse with additional remedies against the person and entities guilty of committing such heinous crimes, the organizations have made the following general recommendations: eliminate the statute of limitations in civil actions against the perpetrators of sexual abuse; and, extend the statute of limitations from 2 to 7 years in civil actions for sexual abuse filed against local governing bodies. The groups submit that these recommendations would expand the ability of the victims of sexual abuse to pursue civil actions against the person that committed such terrible acts; and, would reasonably preserve the safeguards contemplated by the Tort Claims Act as local governing bodies defend all lawsuits with limited property taxpayer dollars. These groups have also asked the sponsors to have the Office of Legislative Services (OLS) conduct a Legislative Fiscal Estimate to determine the measure's potential fiscal impact on local governing bodies. The companion version **ASSEMBLY, NO. 3648** *(Quijano D-20/Vainieri HuttleD-37)* is currently in the Assembly Judiciary Committee awaiting consideration.

NEW JERSEY, WORST OF ALL THE STATES FOR SPENDING MORE MONEY THAN IT RAISES
John Reitmeyer, NJ Spotlight, November 26, 2018

New Jersey's longstanding tradition of spending more than the state collects in revenue each year is exposed as a national outlier in a new analysis of the budgeting practices that all 50 states have used over the last 15 years.

The comprehensive review by the nonpartisan Pew Charitable Trusts places New Jersey dead last among the states when it comes to maintaining fiscal balance, which is raising enough revenue on an annual basis to cover expenses for the same given year. Only Illinois came close to matching New Jersey's poor fiscal performance going back to 2003. The Pew analysis also shows the Garden State's worst year of overspending just occurred during the 2017 fiscal year, even as many other states were cleaning up their acts during the ongoing recovery from the Great Recession.

The Pew analysis is just the latest loud warning sign for New Jersey, which already has one of the worst credit ratings of any U.S. state, behind only Illinois. It also comes just a few years after former Republican Gov. Chris Christie convinced Democratic legislative leaders to enact a series of tax cuts without reducing any spending, and as Gov. Phil Murphy, a first-term Democrat, has clashed with legislative leaders from his own party over undoing some of those tax cuts. It remains to be seen what, if anything, will change in the wake of Pew's findings. Senate President Steve Sweeney (D-Gloucester) has been calling for a new round of public-employee benefit cuts to slash state costs, but they have not been endorsed by Murphy, who still favors higher taxes.

Between the 2003 and 2017 fiscal years, Pew determined that the median amount of revenue raised by the states, including taxes and federal grants, was equal to 102.1 percent of their total expenses. That means the typical state maintained fiscal balance over the 15 years. But Pew found that 10 states operated with an aggregate negative fiscal balance over the 15-year period, with the largest gaps appearing in New Jersey, 91.3 percent; Illinois, 93.8 percent; and Massachusetts, 96.1 percent. Among the top-performing states over the same period were Alaska, 135.9 percent; Wyoming, 126.1 percent; and North Dakota, 120.8 percent. The analysis spanned the years of the Great Recession, and the median number of years that states operated with a fiscal imbalance was three. Montana was the only state to come through the 15-year period without a deficit in any given year, while New Jersey and Illinois were the only two states to experience a deficit in every year that Pew looked at. They were also the only states where the aggregate shortfalls were over 5 percent.

To conduct the state-by-state review fairly, Pew compared audited financial statements from all 50 states instead of their annual budgets, giving researchers the ability to account for the fiscal stunts that states often use to obscure deficit spending. "Zooming out from a narrow focus on annual or biennial budgets offers a big-picture look at whether state governments have lived within their means, or whether higher revenue or lower expenses may be necessary to bring a state into fiscal balance," the analysis said. Pew's research revealed that New Jersey's worst deficit occurred during the 2017 fiscal year, when just 84 percent of the revenues that were needed to cover annual spending were collected.

The state's second-worst performance was in fiscal 2009, which was amid the recession, when revenues totaled 84.7 percent spending. Although New Jersey's post-recession tax collections have expanded, the fiscal 2017 imbalance that was tracked by Pew occurred after Christie and lawmakers agreed in 2016 to reduce several major sources of revenue. They cut the sales tax, from 7 percent to 6.625 percent, and phased out the estate tax, among other changes. But they also hiked overall spending during fiscal 2017 as contributions to the public-employee pension system were increased and Christie prioritized new funding for anti-addiction programs amid the building opioid crisis. While Pew's findings cast the handling of state finances during Christie's tenure in a negative light, it remains to be seen whether Murphy will be able to work with lawmakers to make any improvements. Earlier this year, Murphy convinced legislative leaders to hike the state income-tax rate on earnings over $5 million, and to increase the top-end corporate-tax rate on businesses with more than $1 million in annual profits. This was done to support increased spending on public education, mass transit and the pension system, which remains one of the nation's worst-funded state retirement plans.

But lawmakers resisted Murphy's call to restore the 7 percent sales tax and to hike the personal-income tax on earnings over $1 million, even while accepting the governor's major spending priorities — and tacking on some of their own to the appropriations bill that Murphy ultimately signed into law in early July. The Pew analysis explained why states should generally strive to maintain fiscal balance, comparing them to the average American family that on occasion can absorb a year where household income falls short of expenses. "But chronic shortfalls — as with New Jersey and Illinois each year since at least fiscal 2002 — are one indication of a more serious structural deficit in which revenue will continue to fall short of spending absent policy changes," the analysis said. "Without offsetting surpluses, long-running imbalances can create an unsustainable fiscal situation."

TWO WORDS FROM FED CHAIRMAN JEROME POWELL SENT MARKETS SOARING
Binyamin Appelbaum, NY Times, November 28, 2018

With just two words on Wednesday, the Federal Reserve's chairman sent stocks surging by raising hopes that the central bank might be closer to ending its push to drive up interest rates. The chairman, Jerome H. Powell, said the Fed's benchmark interest rate was "just below" the neutral level, meaning the central bank was close to the point where it would not be tapping on the brakes or pressing on the gas. Only last month, Mr. Powell had said it was "a long way" from neutral, leaving investors worried that the rate increases would crimp growth. The small change sent stocks soaring 2.3 percent, erasing the losses from a rocky November. To investors, the new wording meant that the Fed might leave rates closer to their current level, keeping in place the steady fuel that low rates have provided to a 10-year-long bull market. Analysts quickly warned that investors were overreacting. There was little evidence in the rest of Mr. Powell's speech that he intended to signal a change in plans.

But the market's euphoria underscored the chairman's struggles to strike the right pitch in an increasingly challenging economic and political environment, as President Trump attacks the Fed and the country's growth comes under pressure. The market has been jittery over concerns that further rate increases could undermine the economy at a time when the prospects for companies and consumers may be softening. The economy has been a picture of health, expanding at a 3.5 percent annualized pace during the third quarter. The unemployment rate has fallen to 3.7 percent, its lowest level in almost half a century. Inflation has picked up this year, and Mr. Powell on Wednesday highlighted signs of increased risk-taking in some financial markets, including lending to corporations.

But Mr. Trump has relentlessly criticized the central bank, and Mr. Powell in particular, for raising interest rates, arguing that the Fed is choking growth. Emerging signs of weakness in some parts of the economy, including auto manufacturing, agriculture and housing, are also raising concerns that the best part of the long recovery might now be in the rearview mirror. "We're in the 10th year of the expansion, and there are some soft points," said Ellen Hughes-Cromwick, a former chief economist at the Ford Motor Company and the Commerce Department who is now the associate director of the University of Michigan's Energy Institute. "The auto sales cycle has peaked, and the housing cycle also has peaked."

Ms. Hughes-Cromwick said that she did not foresee an imminent end to growth, but that higher interest rates, combined with rising inflation and faltering corporate confidence, could set the stage for a recession. If those things happen, "I don't really see how the economy can keep powering ahead," she said. Most economic forecasters, including at various government agencies and big Wall Street banks, expect the American economy to continue growing in 2019. But there is a broad consensus that the pace will slow as the sugar high provided by the Trump administration's $1.5 trillion tax cut and spending increases begins to wear off. Some forecasters see a small, but growing, chance of a recession.

"This is a geriatric expansion," said David Kelly, chief global strategist at J. P. Morgan Asset Management. He noted that if growth continued through next summer, this would become the longest expansion of the American economy since at least the Civil War. Economists have long argued that expansions do not die of old age. But the end of Mr. Trump's stimulus is likely to drop growth back toward a 2 percent annual rate, leaving little margin for error. "It wouldn't take much to go wrong to put us into a recession," Mr. Kelly said. Mr. Trump's chief economic adviser, Larry Kudlow, tried to play down such concerns on Tuesday. "There's a certain amount of pessimism I'm reading about. Maybe it has to do with a mild stock market correction," Mr. Kudlow said, before saying such fears were misplaced. He rattled off recent economic data — including the latest jobs report, which he described as "very spiffy" — before concluding, "We're in very good shape."

Mr. Powell also reiterated Wednesday that the economy was doing well, that inflation was under control and that no glaring risks were on the horizon. Against that backdrop, the Fed is still expected to raise its benchmark rate in December. Mr. Powell emphasized that the Fed would make decisions about future increases by keeping a close eye on the economy. "We know that moving too fast would risk shortening the expansion," he said Wednesday, in remarks before the Economic Club of New York. "We also know that moving too slowly — keeping interest rates too low for too long — could risk other distortions in the form of higher inflation or destabilizing financial imbalances." The Fed's benchmark rate currently sits in a range of 2 percent to 2.25 percent. In September, Fed officials estimated that the neutral rate is between 2.5 percent and 3.5 percent. Most officials predicted the central bank would raise rates three times in 2019.

In the view of many analysts, Mr. Trump and Mr. Powell themselves pose the greatest threats to continued growth. Mr. Trump's trade war with China is inflicting pain on some parts of the economy, notably in the Midwestern farm belt, where growers of soybeans and other crops have lost access to their largest export market. The Fed's interest rate increases are also weighing on some parts of the economy, including home building. Sales of new and existing homes have fallen in recent months as interest rates on mortgage loans have risen. The automobile industry is being battered by the tariffs and rate increases. Mr. Trump's tariffs on aluminum and steel have raised costs, while higher rates have discouraged some potential buyers. Auto sales have been in decline since 2016, and General Motors said this week that it would cut 14,000 jobs and shut down five North American factories.

Mr. Trump has insisted loudly and repeatedly that the Fed should be held responsible for any economic weakness. In an interview with The Washington Post on Tuesday, the president said the Fed was a "much bigger problem than China." "I'm not being accommodated by the Fed," Mr. Trump told The Post. "I'm not happy with the Fed. They're making a mistake because I have a gut, and my gut tells me more sometimes than anybody else's brain can ever tell me."

In publicly berating the Fed, Mr. Trump is breaking sharply with the practice of recent administrations, which maintained a studied silence about monetary policy. One reason is that urging the Fed to move can be counterproductive. The Fed likes to present itself as a technocratic institution that floats above the political fray. While some policymakers and economic analysts argue that the Fed should suspend rate increases, such a pause would now expose the Fed to criticism that it is acceding to Mr. Trump. Mr. Powell has insisted that the Fed will act without regard to Mr. Trump's statements. In a recent speech, he emphasized that the central bank is overseen by Congress, not the president. But Mr. Powell added to his own challenges in October, in an unscripted answer to a question about how high the Fed might need to raise rates.

“We may go past neutral,” Mr. Powell said during an interview at the Atlantic Festival, “but we’re a long way from neutral at this point, probably.” Mr. Powell’s subsequent remarks on the subject strongly suggest that he would have liked to have chosen his words more carefully. Mr. Powell and other Fed officials also have emphasized that the exact level of the neutral rate is not important to the central bank’s plans. Some Fed officials, however, have said they want to pause at that point to consider whether further increases are warranted. Others have said they want to raise rates more, judging that the economy will need a little restraint. Richard H. Clarida, the Fed’s vice chairman, said on Tuesday that deciding how high to go would require “judgment and humility.”