Cannabis Legalization

Issue Description
The trends in state cannabis reform legislation began with California Proposition 215 in 1996, which legalized medical cannabis. Since that time, a total of 33 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands have legalized medical cannabis and 14 states and territories have approved adult-use recreational cannabis. In addition, 26 states and the District of Columbia have decriminalized possession of small amounts of cannabis and at least 15 states passed legislation addressing expungement of certain cannabis convictions. Currently, cannabis is classified as a Schedule I substance under the Controlled Substances Act (CSA) which makes federal law in direct conflict with state cannabis laws and policies.

NCSL Position
NCSL has long-standing policy on cannabis and federalism. While NCSL supports a strong intergovernmental partnership to fight illicit drugs, NCSL believes that federal laws, including the CSA, should be amended to explicitly allow states to set their own cannabis policies without federal interference. Where states have made a
policy choice to legalize and regulate cannabis, the federal government should respect those state decisions. In states that have authorized cannabis production, distribution and possession by establishing an effective regulatory scheme, the administration should direct federal prosecutors to respect state cannabis laws around enforcement. It should prioritize its enforcement actions against criminal enterprises engaged in cannabis production and sale, and not against citizens who are compliant with state cannabis laws. Legalizing cannabis and removing it from the CSA permits states to determine which cannabis laws and regulations work best to improve the public safety, health and economic development of their communities.

**Cannabis Banking and Taxation**

**Issue Description**

The conflict between federal and state cannabis laws creates challenging obstacles for states in the areas of banking and taxation. The federal Bank Secrecy Act and its implementing regulations impose substantial administrative and operational burdens, compliance risk and regulatory risk that serve as a barrier to banks and credit unions seeking to provide financial services to marijuana-related businesses. Allowing financial institutions to provide services to cannabis businesses in states where it has been legalized would help law enforcement track legal cannabis sales and assist in the collection of appropriate taxes. It would also increase public safety by getting large amounts of cash off the streets and into federally regulated banking institutions.

**NCSL Position**

Allowing access to banking services will improve the regulation of cannabis businesses and NCSL supports these, like many banking decisions, taking place at the state level. Due to the expansion of legal cannabis, legitimate business enterprises need access to financial institutions that provide capital, security, efficiency and record keeping. NCSL also recognizes that without banking options, cannabis businesses are forced to operate exclusively in cash, which can attract criminal activity and create substantial public safety risks. Without access to banking services, a cash-only cannabis industry reduces transparency in accounting and makes it difficult for states to implement effective regulatory regimes that ensure compliance. Access to financial services for legal cannabis businesses in states that choose to allow it would enable each state to craft its own regulations, increase transparency, encourage economic development and promote public safety.