



COMMUNICATIONS, FINANCIAL SERVICE & INTERSTATE COMMERCE

2017 NCSL Legislative Summit Boston, Mass.

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1 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, &**
2 **INTERSTATE COMMERCE**

3 **POLICY: BANKING AND FINANCIAL REGULATIONS OF**
4 **MARIJUANA**

5 **TYPE: RESOLUTION**

6 **WHEREAS**, twenty-~~five~~nine states, ~~and~~ Washington, D.C., Guam, and Puerto Rico
7 have legalized certain forms of cannabis usage; and

8 **WHEREAS**, ~~a number of states are poised to legalize certain forms of cannabis this~~
9 ~~upcoming general election~~ Arkansas, North Dakota, and Florida most recently passed
10 measures permitting the use of medical marijuana; and

11 **WHEREAS**, Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, and
12 Washington are creating substantial regulatory regimes with respect to the cannabis
13 industry to ensure compliance with laws related to the growth, sale and usage of
14 cannabis; and

15 **WHEREAS**, these new regulatory schemes relating to cannabis have created a
16 significant expansion of the cannabis industry authorized under state law; and

17 **WHEREAS**, business enterprises need access to financial institutions that provide
18 capital, security, efficiency, and record keeping; and

19 **WHEREAS**, cannabis remains illegal at the federal level as a Schedule I drug under the
20 federal Controlled Substances Act; and

21 **WHEREAS**, the federal Bank Secrecy Act and its implementing regulations impose
22 substantial administrative and operational burdens, compliance risk and regulatory risk
23 that serve as a barrier to banks and credit unions providing banking services to
24 businesses and individuals involved in the cannabis industry; and

25 **WHEREAS**, providing banking services to cannabis related businesses entails
26 additional risk to banks and credit unions arising from the fact that cannabis is a

27 Schedule I drug under the Controlled Substances Act, substantially increasing risk of
28 civil or criminal liability; and

29 **WHEREAS**, the majority of financial institutions have determined that there has been
30 insufficient federal guidance for providing banking services to cannabis related
31 businesses; and

32 **WHEREAS**, federal guidance for the banking industry in working with cannabis related
33 businesses is inadequate to create a regulatory environment as it does not change
34 applicable federal laws, imposes significant compliance burdens and is subject to
35 change at any time; and

36 **WHEREAS**, without banking options, cannabis related businesses are forced to operate
37 exclusively in cash; and

38 **WHEREAS**, a large and growing cash-only industry attracts criminal activity and creates
39 substantial public safety risks; and

40 **WHEREAS**, a cash-only industry reduces transparency in accounting and makes it
41 difficult for the state to implement an effective regulatory regime that ensures
42 compliance; and

43 **WHEREAS**, the inability of cannabis related businesses to pay taxes in a form other
44 than cash, which may only be remitted in person, creates a large burden on state to
45 develop new infrastructure to handle the influx of cash, and on the business owners
46 who may have to travel long distances with large sums of cash; and

47 **WHEREAS**, states have been forced to take expensive security measures to mitigate
48 public safety risks to taxpayers utilizing the system, state employees and the public at
49 large; and

50 **WHEREAS**, states do not have any control over the enforcement of federal laws and
51 cannot enact legislation that provides banks and credit unions with protections
52 necessary to overcome federal law; and

53 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State
54 Legislatures believes that the Controlled Substances Act should be amended to remove

55 cannabis from ~~schedule 4~~ scheduling thus enabling financial institutions the ability to
56 provide banking services to cannabis related businesses; and

57 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures
58 acknowledges that each of its members will have differing and sometimes conflicting
59 views of cannabis and how to regulate it, but in allowing each state to craft its own
60 regulations we may increase transparency, public safety, and economic development
61 where it is wanted.

1 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, & INTERSTATE**
2 **COMMERCE**

3 **POLICY: NCSL URGES THE UNITED STATES CONGRESS TO**
4 **SWIFTLY PASS “THE STOP ACT”**

5 **TYPE: NEW RESOLUTION**

6 **SPONSOR: REPRESENTATIVE BRIAN PATRICK KENNEDY**

7 **WHEREAS**, the United States has experienced a significant increase in the illegal use,
8 sale, and trafficking of dangerous and potentially fatal synthetic drugs, including
9 synthetic cannabinoids, opioids, and carfentanils;

10 **WHEREAS**, an opioid epidemic is sweeping the United States and has reached crisis
11 proportions, killing thousands of Americans, straining the ability of first responders, and
12 pressuring already critically stressed state and local budgets;

13 **WHEREAS**, there are more than 300 synthetic drugs imported into the United States
14 and more than 500 distributed globally, most of them produced in China, according to
15 the United States Department of State;

16 **WHEREAS**, the United States Customs and Border Protection has implemented
17 advance electronic manifesting and security screening as a key tool for identifying and
18 intercepting high-risk shipments that may include illegal or dangerous goods such as
19 synthetic drugs;

20 **WHEREAS**, the Trade Act of 2002 required the provision of advance electronic
21 manifests and security screening data to the U.S. Customs and Border Patrol on all
22 shipments into the United States except for parcel shipments from foreign posts;

23 **WHEREAS**, this gap in security screening of goods entering the U.S. constitutes a
24 threat to U.S. national security;

25 **WHEREAS**, a major avenue for the importation of synthetic drugs is the shipment of
26 small parcels through the international mail system via foreign postal services, and such

27 shipments are the only commercial import shipments that do not currently provide
28 advance electronic manifests and security screening data to federal agencies;

29 **WHEREAS**, the steady growth of internet commerce and electronic platforms that
30 facilitate online purchases has resulted in an enormous increase in the volume of
31 shipments that are imported into the United States from sellers in other countries;

32 **WHEREAS**, the lack of data necessary for the U.S. Customs and Border Patrol to
33 screen imported purchases has made it easier to import illegal products, including
34 opioids and synthetic substances, into the United States; and

35 **NOW, THEREFORE, BE IT RESOLVED**, the National Conference of State Legislatures
36 urges the United States Congress to swiftly pass and send to the President’s desk for
37 enactment the Synthetics Trafficking and Overdose Prevention Act (“The STOP Act”),
38 which would require advance electronic data screening of all inbound shipments to the
39 United States to facilitate identification and interception of illegal synthetic drugs and
40 chemicals, and other dangerous, counterfeit or illicit goods.

1 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, &**
2 **INTERSTATE COMMERCE**

3 **POLICY: NCSL SUPPORTS AND URGES ENACTMENT OF THE**
4 **REMOTE TRANSACTIONS PARITY ACT**

5 **TYPE: RESOLUTION**

6 **WHEREAS**, the 1967 Bellas Hess and the 1992 Quill Supreme Court decisions denied
7 states the authority to require the collection of sales and use taxes by out-of-state
8 sellers that have no physical presence in the taxing state; and

9 **WHEREAS**, the combined weight of the inability to collect sales and use taxes due on
10 remote sales through traditional carriers and the tax erosion from electronic commerce
11 threatens the future viability of the sales tax as a stable revenue source for state and
12 local governments; and

13 **WHEREAS**, a report from the National Taxpayers Union has estimated that from 2015
14 to 2025 states will be unable to collect \$340 billion in sales taxes that are owed from
15 out-of-state purchases; and

16 **WHEREAS**, the Remote Transactions Parity Act is bi-partisan legislation that was
17 introduced in the United States House of Representatives which authorizes each
18 member state under the Streamlined Sales and Use Tax Agreement to require all
19 sellers not qualifying for a small-seller exception to collect and remit sales and use
20 taxes with respect to remote sales, and allows a state that is not a member state under
21 the Agreement to require sellers to collect and remit sales and use taxes with respect to
22 remote sales sourced to such state if the state adopts and implements certain minimum
23 simplification requirements; and

24 **WHEREAS**, unlike federal proposals, such as the Online Sales Simplification Act
25 (OSSA), which would determine a product's taxability based on the location of the
26 seller, the Remote Transactions Parity Act does not preempt or impose new
27 requirements on states that choose not to comply with the legislation's requirements

28 and simplifications; and

29 **WHEREAS**, unlike federal proposals, such as the Online Sales Simplification Act
30 (OSSA), which would determine a product’s taxability based on the location of the
31 seller, the Remote Transactions Parity Act does not: impose new taxes on consumers,
32 fundamentally change how states raise revenue, establish tax havens, or jeopardize the
33 viability of consumption taxes as a revenue source for states; and

34 **WHEREAS**, it has been over three years since the United States Senate overwhelming
35 passed similar legislation, the Marketplace Fairness Act, yet the Remote Transactions
36 Parity Act has not even received a hearing, despite the fact that it has 65 cosponsors
37 and enjoys broad support in the committee of jurisdiction and congress; and

38 **NOW, THEREFORE BE IT RESOLVED**, that the National Conference of State
39 Legislatures (NCSL) appreciates the leadership of U. S. Senators Richard Durbin (Ill.),
40 Mike Enzi (Wyo.), Lamar Alexander (Tenn.) and Heidi Heitkamp (N.D.) for championing
41 this issue in the Senate; and

42 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures
43 opposes federal remote sales tax legislation that preempts the laws of states that
44 choose to not comply with the legislation’s requirements; and

45 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures
46 opposes federal remote sales tax legislation that does not establish parity at the point of
47 purchase, which is necessary to level the playing field between remote sellers and in-
48 state businesses;

49 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures
50 opposes federal remote sales tax legislation that does not establish a destination
51 sourcing tax regime, and

52 **BE IT FURTHER RESOLVED**, that a copy of this resolution be sent to the President of
53 the United States and to all of the members of the 115th Congress.

1 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, &**
2 **INTERSTATE COMMERCE**

3 **POLICY: SUPPORTING THE DEVELOPMENT OF A BALANCED**
4 **NATIONAL SPECTRUM POLICY THAT INCLUDES**
5 **UNLICENSED ACCESS IN THE 5GHZ BAND TO MEET**
6 **THE DEMAND FOR WIRELESS TECHNOLOGIES**

7 **TYPE: RESOLUTION**

8 **WHEREAS**, States have an interest in policies that preserve and encourage continued
9 private investment to deploy broadband technologies, support small and minority
10 businesses and entrepreneurs' participation in the digital economy, and equip minority
11 communities with the skills and education to take advantage of these technologies; and

12 **WHEREAS**, Wi-Fi spectrum in the 2.4 GHz band has become highly congested,
13 especially in densely populated urban areas making it difficult for Wi-Fi providers to
14 deliver the kinds and quality of service that consumers have come to expect and will
15 only accelerate as the number of wireless devices continues to grow; and

16 **WHEREAS**, the 5 GHz band has enormous potential to support continued growth in
17 unlicensed wireless services, including the next generation of Wi-Fi which will create a
18 platform for technological innovation, investment, and economic growth; and

19 **WHEREAS**, the Federal Communications Commission acknowledges the critical role
20 that next generation Wi-Fi technologies can have on consumers and has agreed to take
21 a first step in the 5 GHz band by adding over 100 MHz of spectrum for Wi-Fi, making it
22 available for indoor and outdoor use; and

23 **WHEREAS**, Wi-Fi is essential to unleashing the enormous economic potential of the
24 internet in communities where broadband adoption lags; and

25 **WHEREAS**, while according to the Pew Research Center more Americans are gaining
26 access to broadband in their homes, adoption rates for African Americans and Latinos
27 still lag those of whites by 13 to 20 percentage points respectively and, when

28 accounting for income, only 54 percent of those with a household income under
29 \$30,000 had high speed broadband or a computer at home, increasing the importance
30 of Wi-Fi for these communities; and

31 **WHEREAS**, broadband access through Wi-Fi is critical to empowering minority and
32 women entrepreneurs to develop, grow and improve productivity of their businesses as
33 well as strengthening U.S. competitiveness nationally and worldwide; and

34 **WHEREAS**, unlicensed Wi-Fi is a critical issue that, if left unresolved, will hinder the
35 broadband industry's ability to grow, innovate and compete and limiting access to this
36 important resource will jeopardize consumers' ability to access Wi-Fi; and

37 **WHEREAS**, NCSL agrees that the proliferation of smartphones, tablets and other
38 mobile devices with internet access has grown significantly, placing a greater demand
39 on both licensed and unlicensed spectrum, and adding additional capacity is essential
40 to support continued innovation and achieve the potential to transform many different
41 areas of the American economy by providing a platform for innovation and is likely to
42 have a substantial impact on jobs, growth and investment; and

43 **WHEREAS**, NCSL strongly believes that ensuring the long-term success of unlicensed
44 services in the 5 GHz band for Wi-Fi will enable the broadband industry to provide
45 reliable and affordable services to broadband customers, particularly given communities
46 of colors' high usage of mobile broadband technology as a primary means of connecting
47 to the Internet with the majority of these connection now being Wi-Fi connections;

48 **NOW, THEREFORE, BE IT RESOLVED**, that NCSL supports the Federal
49 Communications Commission's move to allocate additional 5 GHz band spectrum for
50 unlicensed use in order to meet increased demand for wireless technologies; and

51 **BE IT FINALLY RESOLVED**, that NCSL send a copy of this resolution to the President
52 of the United States, Members of Congress, the Federal Communications Commission,
53 State Legislatures and Governors.

1 **COMMITTEE: THE COMMUNICATIONS, FINANCIAL SERVICES, &**
2 **INTERSTATE COMMERCE**

3 **POLICY: RESOLUTION SUPPORTING INTELLECTUAL PROPERTY**
4 **(IP) RIGHTS AND PROTECTIONS TO PROMOTE**
5 **PRODUCTIVITY, COMPETITIVENESS AND JOBS**

6 **TYPE: RESOLUTION**

7 **WHEREAS**, intellectual property (IP) rights and innovation are primary drivers of job
8 creation and America's economic growth; and

9 **WHEREAS**, over 45 million jobs are directly and indirectly supported by IP-intensive
10 industries, according to the U.S. Department of Commerce 2016 report, as significant
11 drivers of GDP, exports and wages in every state of the Union; and

12 **WHEREAS**, IP-intensive industries are responsible for \$6.6 trillion in private sector
13 output (GDP); and

14 **WHEREAS**, according to the U.S. Chamber of Commerce, the average worker in an IP-
15 intensive industry earns 30 percent higher wages than those of non IP-intensive
16 industries; and

17 **WHEREAS**, IP-intensive industries drive American exports accounting for
18 approximately \$1 trillion (74 percent of total U.S. exports); and

19 **WHEREAS**, given the important role that IP plays in sustaining a long-term economic
20 growth, policymakers should give high priority to fostering innovation and protecting
21 intellectual property; and

22 **WHEREAS**, protecting and enforcing the IP rights of businesses are critical to
23 advancing global economic recovery, driving competitiveness and export growth, and
24 creating high-quality jobs; and

25 **WHEREAS**, the National Conference of State Legislatures believes that widespread
26 efforts to promote innovation and intellectual property protection are critical to improving

27 the nation's long-term competitiveness in a global market, and to achieving certain
28 socioeconomic improvements in the quality of American life;

29 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State
30 Legislatures calls upon all levels of governments to work cooperatively with the private
31 sector, nonprofits, and academia to create, develop and implement robust pro-IP
32 awareness and enforcement; and,

33 **BE IT FURTHER RESOLVED**, the National Conference of State Legislatures supports
34 efforts to ensure the Intellectual Property Enforcement Coordinator within the Executive
35 Office of the President has sufficient staff, budget, and authority to fulfill the obligations
36 and achieve the goals outlined in the Prioritizing Resources and Organization for
37 Intellectual Property Act of 2008 (PRO-IP Act) and the National IP Strategy; and

38 **BE IT FURTHER RESOLVED**, the National Conference of State Legislatures support
39 robust IP protection and enforcement provisions in trade agreements and their
40 implementation; and

41 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures
42 supports existing efforts to shut down the top illegal rogue websites globally that are
43 willfully selling counterfeit goods and facilitating digital theft; and

44 **BE IT FURTHER RESOLVED**, that a copy of this resolution be sent to the President of
45 the United States and all members of the 115th Congress.

1 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, &**
2 **INTERSTATE COMMERCE**

3 **POLICY: NCSL SUPPORTS PASSAGE OF THE FEDERAL DIGITAL**
4 **GOODS & SERVICES TAX FAIRNESS ACT**

5 **TYPE: RESOLUTION**

6 **WHEREAS**, digital goods and services are online purchases that are downloaded
7 directly by, or services that are provided electronically to, consumers that can transcend
8 numerous state and local boundaries across the United States; and

9 **WHEREAS**, the exponential growth of digital commerce has demonstrated the
10 importance of digital products to the American economy. In 2009, consumers
11 downloaded 2.5 Billion apps. In 2017, that number is expected to exceed 278 Billion.
12 The revenue from digital commerce was approximately \$18 Billion in 2012 and is
13 expected to grow to \$77 Billion in 2017 and projected to be as high as \$100 billion in
14 2020; and

15 **WHEREAS**, state policymakers recognize that the continued deployment of broadband
16 infrastructure and adoption of broadband services is vital to economic growth and
17 participation in the global economy; and

18 **WHEREAS**, digital goods and services are a major driver of the rapidly growing 21st
19 Century digital economy and as such, fair and rational tax policies are needed that will
20 not impede the continued growth of this segment of the economy; and

21 **WHEREAS**, due to the complex nature of the way digital commerce is transacted,
22 current state and local tax laws governing the taxation of sales transactions are
23 outdated and ill equipped to address many of the issues that surface in taxing today's
24 "borderless" digital economy; and

25 **WHEREAS**, as state and local governments continue to seek to modernize their tax
26 base to include various forms of digital commerce, doing so without establishing a
27 national framework could potentially subject consumers to multiple states claiming the
28 right to tax the same transaction or subject such transactions to discriminatory taxation

29 at rates higher than the rates imposed on the in-state sales of similar goods or services;
30 and

31 **WHEREAS**, establishing a national framework would clearly identify which state and
32 local jurisdiction can tax a digital transaction, providing much needed certainty to
33 consumers, providers required to collect such taxes and state and local governments
34 seeking to tax such goods and services in a fair, uniform and rational manner; and

35 **WHEREAS**, establishing a national framework as set forth in the Digital Goods and
36 Services Tax Fairness Act preserves state sovereignty as the decision to tax digital
37 commerce or not remains solely with the states; and

38 **WHEREAS**, the Mobile Telecommunications Sourcing Act (P.L. 106-252) established
39 uniformity in sourcing mobile telecommunications services for state and local tax
40 purposes using similar concepts to those contained in the Digital Goods and Services
41 Tax Fairness Act; and

42 **WHEREAS**, NCSL has worked with other state and local organizations as well as
43 members of the Download Fairness Coalition to develop the principles contained in the
44 legislation and is poised to assist states as needed in complying with the federal
45 legislation; and

46 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State
47 Legislatures urges Congress to pass the Digital Goods and Services Tax Fairness Act,
48 in conjunction with or after consideration of the Remote Transactions Parity Act, to
49 establish a national framework providing certainty and uniformity for state and local
50 governments in the taxation of digital goods and services, while protecting consumers
51 from multiple and discriminatory taxation and supporting the continued growth of the
52 digital economy.

1 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, &**
2 **INTERSTATE COMMERCE**

3 **POLICY: SMALL CELL DEPLOYMENT**

4 **TYPE: RESOLUTION**

5 **WHEREAS**, wireless communication is a critical part of our everyday lives; and

6 **WHEREAS**, there were 395 million U.S. wireless subscriber connections in 2016
7 representing more than a 4.7% increase from 2015 connections and almost 18 million
8 net add year over year; and

9 **WHEREAS**, demand for wireless service and bandwidth continues to soar as U.S.
10 consumer data usage continued to climb in 2016 with over 13.72 trillion megabytes
11 (MBs) of data used, 1.66 trillion text messages exchanged, and 277.9 billion MMS
12 messages; and

13 **WHEREAS**, the U.S. wireless ecosystem continues to be the recognized global leader
14 in the deployment and adoption of 4th Generation (4G) technology; and

15 **WHEREAS**, the U.S. wireless industry is preparing for the deployment of 5th
16 Generation (5G) technology that will unleash further innovation in the agricultural,
17 education, energy, finance, health care, public safety, and transportation sectors; and

18 **WHEREAS**, Ericsson forecasts nearly 29 billion connected devices by 2022, including
19 around 18 billion related to Internet of Things (IoT) which will ultimately necessitate
20 wireless carrier network upgrades; and

21 **WHEREAS**, U.S. cities are looking to use wireless technology to introduce “Smart City”
22 solutions by employing information and communications technology to improve the
23 efficiency of government services, including transportation and traffic management,
24 public safety, lighting and energy usage, and water and waste management; and

25 **WHEREAS**, U.S. wireless carriers continuously strive to buildout their networks to keep

26 pace with the ever-increasing demand for mobile broadband services, including more
27 than \$203 billion to improve their coverage and capacity and better serve Americans,
28 with \$26.34 billion invested in 2016 alone; and

29 **WHEREAS**, the wireless industry’s deployment of network facilities is evolving to meet
30 the demands of the future and therefore includes the use of more small cell or micro-cell
31 equipment; and

32 **WHEREAS**, the deployment of wireless infrastructure using both micro cell and macro
33 cell wireless facilities is contingent upon approval by local governments; and

34 **WHEREAS**, the streamlining of the permitting process for all wireless facilities would
35 greatly enhance the deployment of such facilities; and

36 **WHEREAS**, access to public rights-of-ways for the placement of wireless facilities will
37 enhance broadband deployment and provide additional resources to both state and
38 local governments for a variety of services; and

39 **WHEREAS**, in 2009, the Federal Communications Commission promulgated
40 regulations, subsequently upheld by the U.S. Supreme Court, that defined timeframes
41 for state and local action on wireless facilities siting requests, while preserving the
42 authority of states and localities to make the ultimate determination on local zoning and
43 land use policies; and

44 **WHEREAS**, in 2012, the President of the United States signed the “Middle Class Tax
45 Relief and Job Creation Act,” which prohibits state and local governments from denying
46 eligible wireless facilities’ requests to modify existing wireless towers or base stations if
47 the modification does not substantially change the dimensions of the facility; and

48 **WHEREAS**, more than 24 states have recently enacted legislation to assist in
49 expediting the placement of both macro and micro wireless facilities, including the
50 enforcement of the Federal Communications Commission’s application processing
51 timelines;

52 **NOW, THEREFORE, BE IT RESOLVED**, that in order to avoid federal preemption,

53 NCSL encourages states to provide regulatory certainty for the deployment of wireless
54 facilities, including micro-cell infrastructure, by streamlining local jurisdiction application
55 processes, allowing access to public rights-of-ways, and adopting a fair fee structure;
56 and

57 **BE IT FURTHER RESOLVED**, that NCSL encourages wireless carriers to work
58 cooperatively with all levels of government to modernize laws and regulations in order to
59 facilitate the deployment and timely placement of wireless facilities while maintaining
60 proper local authority over the siting of such facilities.