COMMITTEE: Law, Criminal Justice and Public Safety Committee

POLICY: In Support of States Determining Their Own Marijuana and Hemp Policies Without Federal Interference

TYPE: Resolution

WHEREAS, one of the areas in which states have traditionally held the greatest authority is in the exercise of their police powers to determine appropriate law enforcement policies reflective of local values and needs; and

WHEREAS, the federal government cannot force a state to criminalize cultivating, possessing, or distributing marijuana or hemp—whether for medical, recreational, industrial or other uses—because doing so would constitute unconstitutional commandeering; and

WHEREAS, states are increasingly serving as laboratories for democracy by adopting a variety of policies regarding marijuana and hemp; and

WHEREAS, nearly half of the states and the District of Columbia allow the medical use of marijuana; and

WHEREAS, 15 additional states have enacted measures that allow patients suffering from intractable epilepsy—and sometimes other conditions—to use strains of marijuana that have low concentrations of THC; and

Whereas, nearly half of the states have passed laws or resolutions relative to the cultivation of hemp; and

WHEREAS, since 2012, voters in the states of Washington Colorado, Oregon and Alaska have enacted laws to replace their prohibitions on adults’ use of marijuana with systems of taxation and regulation similar to alcohol; and
WHEREAS, many banks have been unwilling to do business with medical and adult use marijuana businesses because of federal law and policy, resulting in many retailers becoming cash-only businesses, thus increasing the risk of robbery and inhibiting the ability of states to collect taxes; and

WHEREAS, the possibility of federal intervention could prevent the implementation of recent laws to allow low-THC strains of marijuana for patients suffering from intractable epilepsy; and

WHEREAS, Congress, in the Consolidated and Continuing Appropriations Act of 2015, codified a funding restriction that prohibits the Department of Justice from using any funds to prevent states from implementing their own state laws that authorize the use, distribution, possession, or cultivation of marijuana for medical purposes.

NOW, THEREFORE, BE IT RESOLVED that the National Conference of State Legislatures believes that federal laws, including the Controlled Substances Act, should be amended to explicitly allow states to set their own marijuana and hemp policies without federal interference and urges the administration not to undermine state marijuana and hemp policies.

BE IT FURTHER RESOLVED that the National Conference of State Legislatures recognizes that its members have differing views on how to treat marijuana and hemp in their states and believes that states and localities should be able to set whatever marijuana and hemp policies work best to improve the public safety, health, and economic development of their communities.