HOUSE RESOLUTION

URGING LAW ENFORCEMENT AGENCIES, AND ALL OTHER AGENCIES OF THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS, TO RECOGNIZE THAT ENFORCEMENT OF CANNABIS LAWS UNDER FEDERAL LAW IS A FEDERAL FUNCTION AND DECLINE TO WORK WITH FEDERAL AGENCIES IN ENFORCING FEDERAL LAWS WITH REGARD TO MEDICAL CANNABIS USE ALLOWED IN HAWAI'I.

WHEREAS, while the use of medical marijuana, also known as medical cannabis, has long been touted as a method of treating or alleviating the pain or other symptoms associated with certain debilitating illnesses, it was not until 2000 that the legal use of medical cannabis was allowed in Hawaii after years of discussion and debate; and

WHEREAS, although qualifying individuals were legally able to use medical cannabis in 2000, many of these individuals found it difficult to obtain medical cannabis, particularly if they were unable to grow their own supply, which created a need for a regulated, statewide dispensary system to assist qualifying individuals in obtaining the medical cannabis necessary to alleviate their pain and suffering; and

WHEREAS, in 2015, the legislature worked diligently to craft legislation regulating the distribution of medical cannabis in Hawaii, placing numerous safeguards in the legislation to prevent the diversion of medical cannabis for illegal use; and

WHEREAS, in 2017, two years after passage of Hawaii's medical cannabis dispensary law, the first medical cannabis dispensaries began to open and operate in Hawaii; and

WHEREAS, although states adopted medical cannabis laws, cannabis remained illegal under federal law, and these states found themselves at a crossroads with the federal government when it came to strict enforcement of federal cannabis laws
under the Uniform Controlled Substances Act (CSA), 21 USC §801, et seq.; and

WHEREAS, in an attempt to address this issue, Attorney General James M. Cole issued a memorandum in 2013 to all United States Attorneys, known as the Cole Memorandum, which was published by the Department of Justice, and in part stated that if states implemented a strict, regulatory framework that employed a seed-to-sale tracking system to monitor the growth, distribution, and sale of regulated cannabis to prevent diversion and created a transparent, accountable market, the federal government would not focus on prosecution of cases involving legal cannabis distribution and use; and

WHEREAS, the Executive Branch of the federal government has recently rescinded all memoranda regarding the federal prosecution of cases involving the violation of federal cannabis laws, including the Cole Memorandum, and is now threatening prosecution of cannabis users and industries created in states where cannabis is legally allowed; and

WHEREAS, in December 2014, the United States Congress enacted a rider in an omnibus appropriations bill funding section 538 of the 2015 Appropriations Act, now known as the Rohrabacher-Blumenauer amendment, which prohibited funds made available to the United States Department of Justice to be used against certain states, including Hawaii, to prevent implementation of individual state laws that authorize the use, distribution, possession, or cultivation of medical marijuana and has enacted short-term measures extending that amendment; and

WHEREAS, in the United States of America v. McIntosh, et al., 833 F.3d 1163 (9th Cir. 2016), the appellate court determined that the Department of Justice's spending of federal funds to prosecute individuals for engaging in conduct allegedly permitted by states' medical marijuana laws was spending federal funds to prevent those states from giving practical effect to their medical marijuana laws in violation of the rider attached to appropriation acts; and
WHEREAS, after the government shutdown, on January 22, 2018, the House of Representatives passed H.R. 195, making further continuing appropriations for the fiscal year ending September 30, 2018, thereby temporarily continuing the Rohrabacher-Blumenauer amendment as part of budget negotiations until a vote is taken by the end of the day on February 8, 2018; and

WHEREAS, the fate of extending the protection of the Rohrabacher-Blumenauer amendment is still uncertain, and the Executive Department has rescinded the Cole Memorandum; and

WHEREAS, the United States Supreme Court has held that the federal government may not compel states to enact or administer a federal regulatory program in Printz v. United States, 521 U.S. 898, 117 S. Ct. 2365, 138 L.Ed.2d 914 (1997); and New York v. United States, et al., 505 U.S. 144, 112 S. Ct. 2408, 120 L.Ed.2d 120 (1992); and

WHEREAS, federal law enforcement agency actions, including prosecution, against medical cannabis users and the medical cannabis industry in Hawaii, including the newly opened medical cannabis dispensaries, would be an injustice to both the users of medical cannabis who have been waiting for years for relief from pain and suffering and the dispensaries who have invested millions of dollars to comply with stringent state requirements; and

WHEREAS, every effort should be made to assist the users of medical cannabis, who have been patiently waiting for the legal distribution of medical cannabis, in receiving the help they need to alleviate their pain and suffering; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2018, that law enforcement agencies, and all other agencies of the state or any of its political subdivisions, are urged to recognize that enforcement of cannabis laws under federal law is a federal function and decline to work with federal agencies in enforcing federal laws with regard to medical cannabis use allowed in Hawaii; and
BE IT FURTHER RESOLVED that law enforcement agencies, and all other agencies of the State or any of its political subdivisions, are also urged to refrain from expending taxpayer revenues for any law enforcement activities that work in collaboration with federal law enforcement agencies to enforce federal laws with regard to medical cannabis use which has been legalized in Hawaii; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Attorney General of the United States, the Director of the Federal Bureau of Investigation, the Administrator of the United States Drug Enforcement Agency, the Governor, the Attorney General, the Director of Public Safety, the mayor of each county, the prosecuting attorney of each county, the chief of police of each county, and Hawaii's congressional delegation.

OFFERED BY:

[Signatures]