SENATE RESOLUTION

URGING THE DEPARTMENT OF HEALTH TO REQUEST ACKNOWLEDGMENT FROM
THE DRUG ENFORCEMENT ADMINISTRATION THAT HAWAII'S MEDICAL
CANNABIS PROGRAM IS EXEMPT FROM FEDERAL CONTROLLED
SUBSTANCE RESTRICTIONS.

WHEREAS, the authority to decide the medical use of
substances scheduled according to the Controlled Substances Act
(CSA) is reserved to the states; and

WHEREAS, the United States Supreme Court confirmed this
authority when it found in Gonzales v. Oregon, 546 U.S. 243
(2006), that "[t]he Attorney General has rulemaking power to
fulfill his duties under the CSA. The specific respects in
which he is authorized to make rules, however, instruct us that
he is not authorized to make a rule declaring illegitimate a
medical standard for care and treatment of patients that is
specifically authorized under state law."; and

WHEREAS, Hawaii lawfully exercised this authority when it
enacted Act 228, Session Laws of Hawaii 2000, and created a
state-regulated medical use of cannabis program; and

WHEREAS, the United States Department of Justice and the
Drug Enforcement Administration (DEA) have never challenged the
constitutionality of Hawaii's Medical Use of Cannabis program;
and

WHEREAS, Hawaii never intended to create a positive
conflict with federal law, as defined in title 21 United States
Code section 903; and

WHEREAS, the DEA has the authority to recognize exemptions
for legal uses of controlled substances as evidenced by the
federal Schedule I exemption recognizing the use of peyote by
the Native American Church according to title 21 Code of Federal
Regulations section 1307.31, and by the application for
controlled substance exemption that exists under title 21 Code
of Federal Regulations section 1307.03; and
WHEREAS, the perceived conflict that exists between Hawaii's Medical Use of Cannabis program and federal drug laws is causing numerous unintended consequences that are harming Hawaii's lawful medical cannabis patients; and

WHEREAS, a federal scheduling exemption for the medical use of cannabis in Hawaii will remove the false perception that Hawaii's Medical Use of Cannabis program is violating federal law; now, therefore,

BE IT RESOLVED by the Senate of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2020, that the Hawaii Department of Health is urged to request acknowledgment from the federal government, consistent with title 21 Code of Federal Regulations section 1307.03, that Hawaii's Medical Use of Cannabis program is exempt from federal controlled substance restrictions; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Office of the Governor, Office of the Lieutenant Governor, Department of the Attorney General, Department of Health, Department of Public Safety, and Department of Transportation.

OFFERED BY:

[Signatures]