

## Directive for Banking & Financial Regulation of Cannabis

### **States Regulation on Cannabis Usage**

The National Conference of State Legislatures (NCSL) recognizes that the majority of states and territories have legalized medical cannabis usage. Further, NCSL recognizes that a growing number of states have legalized adult-use recreational cannabis. Many of these states are creating substantial regulatory regimes with respect to the cannabis industry to ensure compliance with the law, prevent diversion into the illegal market and provide transparent financial oversight of licensed businesses.

### **Harm to Financial Institutions**

These new regulatory schemes relating to cannabis have created a significant expansion of the cannabis industry authorized under state law. NCSL acknowledges that due to the expansion of legal cannabis, legitimate business enterprises need access to financial institutions that provide capital, security, efficiency, and record keeping. Despite many states passing their own regulations, cannabis remains illegal at the federal level as a Schedule I drug under the federal Controlled Substances Act. NCSL is concerned that under this law, the federal Bank Secrecy Act and concordant regulations impose substantial administrative and operational burdens, compliance risk and regulatory risk that serve as a barrier to banks and credit unions providing banking services to businesses and individuals involved in the cannabis industry. NCSL believes that this form of federal prohibition on cannabis jeopardizes the financial services industry as well as the cannabis industry. Providing banking services to cannabis related businesses entails additional risk to banks and credit unions because cannabis is a Schedule I drug under the Controlled Substances Act, substantially increasing risk of civil or criminal liability.

### **Business Protection**

Current federal regulations force financial institutions to incur inordinate risk, should they decide to provide banking services to licensed cannabis businesses. The National Conference of State Legislatures recognizes that allowing access to banking services will improve the regulation of cannabis businesses. NCSL recognizes that the current federal guidance for providing financial services to cannabis businesses is insufficient, as it does not change applicable federal laws, imposes significant compliance burdens and is subject to change at any time. NCSL recognizes that without banking options, cannabis related businesses are forced to operate exclusively in cash, while a large and growing cash-only industry attracts criminal activity and creates substantial public safety risks. NCSL acknowledges that a cash-only industry reduces transparency in accounting and makes it difficult for states to implement an effective regulatory regime that ensures compliance. NCSL is concerned with the inability of cannabis related businesses to pay taxes in a form other than cash, which may only be remitted in person. NCSL acknowledges that this creates a substantial burden for state governments to develop new infrastructure to handle the influx of cash and for business owners who may have to travel long distances with large sums of cash. States have been forced to take expensive security measures to mitigate public safety risks to taxpayers utilizing the system, state employees and the public at large. NCSL is concerned that states do not have any control over the enforcement of federal

laws and cannot enact legislation that provides banks and credit unions with protections necessary to secure their business interests in light of federal law.

**Controlled Substances Act**

National Conference of State Legislatures calls on Congress to amend the Controlled Substances Act to remove cannabis from scheduling, thus enabling financial institutions the ability to provide banking services to cannabis related businesses. NCSL additionally acknowledges each of its members will have differing and sometimes conflicting views of cannabis and how to regulate it, but in allowing each state to craft its own regulations, we may increase transparency, public safety, and economic development where there is support to do so.