

FEB 27 2020

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# SENATE CONCURRENT 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.

1           WHEREAS, the authority to decide the medical use of  
2 substances scheduled according to the Controlled Substances Act  
3 (CSA) is reserved to the states; and  
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5           WHEREAS, the United States Supreme Court confirmed this  
6 authority when it found in *Gonzales v. Oregon*, 546 U.S. 243  
7 (2006), that "[t]he Attorney General has rulemaking power to  
8 fulfill his duties under the CSA. The specific respects in  
9 which he is authorized to make rules, however, instruct us that  
10 he is not authorized to make a rule declaring illegitimate a  
11 medical standard for care and treatment of patients that is  
12 specifically authorized under state law."; and  
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14           WHEREAS, Hawaii lawfully exercised this authority when it  
15 enacted Act 228, Session Laws of Hawaii 2000, and created a  
16 state-regulated medical use of cannabis program; and  
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18           WHEREAS, the United States Department of Justice and the  
19 Drug Enforcement Administration (DEA) have never challenged the  
20 constitutionality of Hawaii's Medical Use of Cannabis program;  
21 and  
22

23           WHEREAS, Hawaii never intended to create a positive  
24 conflict with federal law, as defined in title 21 United States  
25 Code section 903; and  
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27           WHEREAS, the DEA has the authority to recognize exemptions  
28 for legal uses of controlled substances as evidenced by the  
29 federal Schedule I exemption recognizing the use of peyote by  
30 the Native American Church according to title 21 Code of Federal  
31 Regulations section 1307.31, and by the application for



# S.C.R. NO. 44

1 controlled substance exemption that exists under title 21 Code  
2 of Federal Regulations section 1307.03; and  
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4 WHEREAS, the perceived conflict that exists between  
5 Hawaii's Medical Use of Cannabis program and federal drug laws  
6 is causing numerous unintended consequences that are harming  
7 Hawaii's lawful medical cannabis patients; and  
8

9 WHEREAS, a federal scheduling exemption for the medical use  
10 of cannabis in Hawaii will remove the false perception that  
11 Hawaii's Medical Use of Cannabis program is violating federal  
12 law; now, therefore,  
13

14 BE IT RESOLVED by the Senate of the Thirtieth Legislature  
15 of the State of Hawaii, Regular Session of 2020, the House of  
16 Representatives concurring, that the Hawaii Department of Health  
17 is urged to request acknowledgment from the federal government,  
18 consistent with title 21 Code of Federal Regulations section  
19 1307.03, that Hawaii's Medical Use of Cannabis program is exempt  
20 from federal controlled substance restrictions; and  
21

22 BE IT FURTHER RESOLVED that certified copies of this  
23 Concurrent Resolution be transmitted to the Office of the  
24 Governor, Office of the Lieutenant Governor, Department of the  
25 Attorney General, Department of Health, Department of Public  
26 Safety, and Department of Transportation.  
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29

OFFERED BY:

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