

Calling for the Decriminalization, Commercialization and Taxation of Cannabis | Resolutions 2017 | NHCSL

Sponsored by: Rep. Dan Pabon (CO)

WHEREAS, according to the National Organization for the Reform of Marijuana Laws, recreational marijuana has been used by nearly 100 million Americans, and some 25 million have smoked marijuana in the United States in the past year; and,

WHEREAS, during the 1920's and 1930's, when it was first penalized in various states, cannabis use was portrayed as a cultural vice of Mexican immigrants to the United States, and racist and xenophobic politicians and government officials used cannabis prohibition specifically to target and criminalize Mexican-American culture and incarcerate Mexican-Americans and, therefore, the prohibition of cannabis is fundamentally rooted in discrimination against Hispanics; and,

WHEREAS, the racist politicians who first criminalized cannabis, used the term "marijuana" (sometimes spelled "marihuana") to refer to it, precisely because they wanted to underscore that it was a Latino, particularly Mexican "vice," and that word, with all its implications, has become the most common names for cannabis in the United States today; , and,

WHEREAS, the first commissioner of the U.S. Treasury Department's Federal Bureau of Narcotics, Harry Jacob Anslinger, a cannabis prohibition activist, testified before Congress in 1937 in support of federal restrictions on marijuana in part by reading a letter addressed to him by the then City Editor of The Alamosa (Colorado) Daily Courier which stated that, "I wish I could show you what a small marihuana cigaret can do to one of our degenerate Spanish-speaking residents. That's why our problem is so great; the greatest percentage of our population is composed of Spanish-speaking persons, most of who (sic) are low mentally, because of social and racial conditions;" and,

WHEREAS, Mr. Anslinger's testimony to Congress also included an anecdotal scaremongering report from the then Commissioner of Public Safety of New

Orleans, Louisiana, who called marijuana "a more alarming menace to society than all other habit forming drugs" stating, among other things that, "we find then that Colorado reports that the Mexican population there cultivates on an average of 2 to 3 tons of the weed annually. This the Mexicans make into cigarettes, which they sell at two for 25 cents, mostly to white high school students." That report further cited a St. Louis Star Times article, which in turn quoted a statement supposedly given to a Louisville, Kentucky newspaper by an unnamed so-called "gentleman of the byways" saying that "The worst thing about that loco weed is the way these kids go for them. Most of them, boys and girls, are just punks and when they get high on the stuff you can write your own ticker." All of this shows that the basis for the so-called "danger" was shoddy, anecdotal, and uncorroborated, relying on prejudice, xenophobia, and unnamed sources; and,

WHEREAS, Mr. Anslinger's testimony further included a report entitled "Marihuana as a Developer of Criminals" from Eugene Stanley, district attorney of New Orleans, Louisiana, which was suffused with intrinsic bias and xenophobia targeting many groups. Against Hispanics in particular, it included a heading stating that "Marihuana is the Mexican term for Cannabis Indica." But its bias did not stop there. It also stated that, "in the South, amongst the Negroes, it is termed 'mooter,'" and later, to underscore the attack on African Americans, it stated that "it is popularly known amongst the criminal element as 'muggles', or 'mooter,'" implicitly linking African Americans with criminal behavior. In fact, both Mr. Stanley's report and Mr. Anslinger's main testimony to Congress blamed marijuana for the "numerous acts of cruelty" of the ancient cult of Assassins, with Mr. Anslinger going so far as to state that "it is said the Mohammedan leaders, opposing the Crusaders, utilized the services of individuals addicted to the use of hashish for secret murders," in a thinly veiled religious attack against Muslims; and,

WHEREAS, Mr. Anslinger's testimony led directly to the enactment of the Marihuana Tax Act of 1937; and,

WHEREAS, prior to the passage of the Marihuana Tax Act in 1937, the word marijuana (or marihuana) was sparsely used by English language speakers in the United States and was not included in U.S. English dictionaries but became commonly included after passage of that Act, showing how its enactment

entrenched bias and discrimination into the language; and,

WHEREAS, the United States Supreme Court found the Marihuana Tax Act of 1937 unconstitutional in *Leary v. United States*, 396 U.S. 6 (1969), because it exposed persons to the risk of self-incrimination, not because of its racist basis which was not brought as an argument before the Court; and,

WHEREAS, the U.S. Congress shortly thereafter repealed the Marihuana Tax Act and replaced it in 1970 with the Controlled Substances Act which is still the law today (as amended) and which inherited the same intrinsically racist, xenophobic and anti-Hispanic bias of the original Marihuana Tax Act regarding cannabis; and,

WHEREAS, in 1994, years after he left office, counsel and Assistant to President Nixon for Domestic Affairs John Ehrlichman revealed that the intention behind the War on Drugs was that, "we knew we couldn't make it illegal to be either against the [Vietnam] war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities," Ehrlichman said. "We could arrest their leaders. Raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did;" and,

WHEREAS, the United States Supreme Court has stated that animus, private biases, hostility, animosity, prejudice and fear cannot serve as the basis for government acts and that legislation enacted with such bases is unconstitutional. See *United States v. Windsor*, 570 U.S. ____, 133 S. Ct. 2675 (2013); *Romer v. Evans*, 517 U.S. 620 (1996); *Dept. of Agriculture v. Moreno*, 413 U.S. 528 (1973); *Palmore v. Sidotti*, 466 U.S. 429 (1984); and *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432 (1985); and,

WHEREAS, marijuana is in fact not toxic, cannot cause death by overdose and, conversely, has shown health benefits; and,

WHEREAS, the use of cannabis has specifically been shown to slow of the advance of Alzheimer's disease in patients, ease multiple sclerosis pain, relieve arthritis pain, and aid in controlling epileptic seizures; and,

WHEREAS, research is ongoing internationally regarding even more potential medicinal uses of cannabis; and,

WHEREAS, despite the above, the Controlled Substances Act classifies marijuana as a Schedule 1 drug, stating that marijuana holds great potential for abuse, and has no medicinal value, which is scientifically false; and,

WHEREAS, scheduling marijuana with narcotics such as heroin, lysergic acid diethylamide (LSD), 3,4-methylenedioxymethamphetamine (ecstasy), methaqualone, and peyote, results in the enforcing of the harshest federal penalties, and presents a bureaucratic hindrance for researchers who wish to study marijuana because the Drug Enforcement Administration (DEA) controls all the sources of research cannabis, dispensing it only to whom it deems fit and then only with a quality that is wholly subpar to the market quality; and,

WHEREAS, marijuana was originally classified into Schedule 1 as a placeholder while more information was gathered; and President Richard M. Nixon created the National Commission on Marihuana and Drug Abuse, led by then Pennsylvania Governor Raymond P. Shafer which later concluded that “the Commission recommends ... [that the] possession of marijuana for personal use no longer be an offense, [and that the] casual distribution of small amounts of marihuana for no remuneration, or insignificant remuneration, no longer be an offense;” , and,

WHEREAS, the DEA admits that marijuana use has resulted in no overdose deaths, as compared to excessive alcohol consumption in which the CDC approximates to have resulted in 88,000 deaths from 2006 – 2010; and,

WHEREAS, over \$10 billion of taxpayer money is used to fund the enforcement of anti-marijuana laws nationwide; and,

WHEREAS, since the State of Colorado legalized recreational marijuana in 2012, the overall crime rate has decreased by 10.1%, while violent crime rate dropped by 5.2%, homicide rates dropped to less than half by 2014, and motor vehicle theft dropped by 33% by 2014; and,

WHEREAS, taxation of legal recreational marijuana generated \$76 million dollars in tax revenue, licenses and fees for the State of Colorado in just the year 2014; and,

WHEREAS, decriminalization of recreational marijuana will ease the burden off the criminal justice system and law enforcement agencies, allowing police officers, judges, and prosecutors to focus on violent offenses and other criminal

activity more deserving of priority, and freeing-up space in prisons and decreasing the budgetary impact from keeping marijuana users incarcerated; and,

WHEREAS, regulated marijuana retailing greatly hinders black-market drug dealers , prevents marijuana's (unproven but widely alleged) use as a gateway drug, and directs much-needed revenue to legal business owners, states and local governments instead of organized crime; and,

WHEREAS, not decriminalizing and fomenting medical research on cannabis places United States pharmacological businesses and potential cannabis patients suffering from myriad conditions at a disadvantage to those in other countries.

THEREFORE, BE IT RESOLVED, that the National Hispanic Caucus of State Legislators strongly condemns the racist, xenophobic, anti-Minority and, specifically, anti-Latino animus and scaremongering that led to the prohibition of, and the national crusade against, cannabis/marijuana in the first place, which makes the prohibition unconstitutional; and,

BE IT FURTHER RESOLVED that the National Hispanic Caucus of State Legislators authorizes that its name be used in, or in support of, an appropriate lawsuit or lawsuits, as determined by the officers, to address and redress the unconstitutional nature of this prohibition; and,

BE IT FURTHER RESOLVED, that the National Hispanic Caucus of State Legislators advises President Donald J. Trump and Members of Congress to enact and sign legislation to federally decriminalize marijuana whether for medical or recreational uses; and,

BE IT FINALLY RESOLVED, the NHCSL advises state legislators to enact legislation to decriminalize marijuana, provide for the of sealing of records for drug convictions for underlying behavior that is legalized and enact responsible and appropriate policies, should a jurisdiction decide to regulate its sale as a legitimate article of commerce, to prevent youth access and curtail cartel and criminal activity.

THIS RESOLUTION WAS ADOPTED ON AUGUST 9, 2017, AT THE NHCSL EXECUTIVE COMMITTEE MEETING HELD IN BOSTON, MA.

1. <http://norml.org/aboutmarijuana>
2. <http://www.canorml.org/background/caloriginsmjproh.pdf>
3. <http://www.npr.org/sections/codeswitch/2013/07/14/201981025/the-mysterious-history-of-marijuana>
4. <https://www.washingtonpost.com/news/wonk/wp/2016/12/16/marijuana-or-marihuana-its-all-weed-to-the-dea/>
5. <http://www.druglibrary.org/schaffer/hemp/taxact/anslng1.htm>
6. Ibid.
7. Ibid., citing St. Louis Star Times, February 4, 1935. Louisville Paper Finds Marihuana a Menace There.
8. Ibid.
9. See Editors of the American Heritage Dictionary, Spanish Word Histories and Mysteries: English Words that Come From Spanish, 142–43 (Houghton Mifflin Harcourt 2007); Martin Booth, Cannabis: A History, 179–80 (Picador 2005); OXFORD DICTIONARY
10. Dan Baum, Legalize It All, How to win the war on drugs (Harper's April 2016), available at <https://harpers.org/archive/2016/04/legalize-it-all/>
11. https://www.dea.gov/druginfo/drug_data_sheets/Marijuana.pdf
12. <http://www.health.harvard.edu/blog/the-health-effects-of-marijuana-from-recreational-and-medical-use-2016081910180>
13. <https://www.dea.gov/druginfo/ds.shtml>
14. https://www.washingtonpost.com/news/wonk/wp/2017/03/13/government-marijuana-looks-nothing-like-the-real-stuff-see-for-yourself/?utm_term=.168fc536d2d7
15. https://www.washingtonpost.com/news/in-theory/wp/2016/04/28/how-racism-and-bias-criminalized-marijuana/?utm_term=.f5a6a60c1bb9
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17. <http://www.newsindata.com/drug-overdose-deaths>
18. <https://www.cato.org/publications/white-paper/budgetary-impact-ending-drug-prohibition>
19. <https://www.rt.com/usa/163644-colorado-marijuana-crime-drop/>