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MEMORANDUM

To: House Committee on Agriculture
From: Kyle Hamilton, Assistant Revisor of Statutes
Date: February 13, 2019
Subject: Bill Brief on HB 2173

The 2018 United States Farm Bill requires any state wishing to regulate the commercial production of industrial hemp within such state to submit a regulatory plan to the United States department of agriculture for approval. In cases where a state plan is not approved, the USDA would create its own regulatory plan for the state and would license commercial hemp producers within the state.

Section 1, subsection (a), would allow the Kansas department of agriculture to submit a state plan to the USDA in consultation with the governor and the attorney general.

Section 1, subsection (b), lists different measures that are required to be included in a state regulatory plan, which include: procedures to maintain information regarding land where industrial hemp is produced; procedures to test the hemp to ensure its not above the 0.3% THC limit; procedures for the effective disposal of hemp that is found to be in violation of the law; licensing requirements; procedures for conducting annual inspections; and other procedures as deemed necessary by the state department for inclusion in the state plan.

Section 1, subsection (c), concerns negligent violations committed by hemp producers. A negligent violation would require corrective action but would not result in a local or state criminal enforcement action. However, if a producer commits three negligent violations within a five-year period, that person would be ineligible to produce hemp for the next five years after the third conviction. Any violation committed with a higher culpable mental state than negligence would be reported to the state attorney general and the producer could be held criminally liable.

Section 1, subsection (d), states that an applicant will not be eligible to become a producer if the applicant has been convicted of a felony concerning controlled substances within the preceding 10 years or if the applicant submitted false information in their application.

Section 1, subsection (e), would give the secretary of agriculture the authority to promulgate rules and regulations to implement the state commercial industrial hemp plan.

Section 1, subsection (f), concerns the discontinuation of the research program. If the provision in the 2014 farm bill that authorized the research program is repealed or if a federal commercial plan or state commercial plan is adopted, then the state department of agriculture may discontinue the research program.

Section 1, subsection (g), would direct licensing and other fees to the alternative crop act licensing fee fund.

Section 1, subsection (h) would make section 1 part of the alternative crop research act.

Section 2 would create definitions for the terms “commercial” and “hemp producer”.

Sections 3 and 4 would amend other statutes that are part of the alternative crop research act to strike the word “research” from the name of the act.

Sections 5 and 6 would amend statutes that concern crimes involving controlled substances to exempt industrial hemp that is cultivated, produced, possessed or used for activities that are authorized by the alternative crop act. They would also update references to the act.

Sections 7 and 8 would similarly amend provisions of the controlled substances act to exempt industrial hemp that is authorized under the act and update references to the act.

The exemption language in Sections 5 through 8 were amended in last session’s Senate Bill 263, which created the research program. SB 263 became effective on May 3, 2018. However, those same statutes were also amended by SB 282, which became effective on May 24, 2018. Because

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both bills amended K.S.A. 65-4101, 65-4105 and K.S.A. 2018 Supp. 21-5701 in different ways, the changes made in SB 282 were put into the main statute, and the changes made in SB 263 were put into newly created K.S.A. 65-4101c, 65-4105b and K.S.A. 2018 Supp. 21-5701a. HB 2173 would repeal K.S.A. 65-4101c, 65-4105b and K.S.A. 2018 Supp. 21-5701a, which currently hold the amendments made in SB 263 and pull those amendments into K.S.A. 65-4101, 65-4105 and K.S.A. 2018 Supp. 21-5701. The language being pulled in has only been changed to remove the word “research” from references to the “alternative crop research act” and to add the word “produce” to the list of authorized activities.

HB 2173 would become effective upon publication in the statute book, on July 1, 2019.