

**Neutral Testimony on HB 2184
to the House Committee on Federal and State Affairs
by Kenneth Titus, Chief Counsel
Kansas Department of Agriculture
February 25, 2021**

Chairman Barker and members of the committee, I am Kenneth Titus and I serve as Chief Counsel to the Kansas Department of Agriculture (KDA). I appreciate the opportunity to provide neutral testimony regarding House Bill 2184.

House Bill 2184 would make KDA responsible for the licensing of medical marijuana cultivators and independent medical marijuana testing laboratories. KDA has no position on the legalization of marijuana in Kansas, medical or otherwise. However, over the past several years, KDA has consistently maintained that the regulation of marijuana should not be placed with our agency. It is important that KDA's regulation of industrial hemp not be mixed with regulation of marijuana.

On January 15, 2021, the U.S. Department of Agriculture (USDA) released their final rule regarding the establishment of a domestic hemp production program. (86 FR 5596 and 7 CFR 990 *et seq.*) The final rule requires that prior to harvest, all industrial hemp crops must be tested in a lab registered by the Drug Enforcement Agency (DEA). Any lab that is registered by the DEA must agree to comply with all federal laws, which may prohibit handling marijuana grown pursuant to HB 2184 because all marijuana is illegal under federal law. Although HB 2184 lacks many details about what is expected of KDA when it comes to regulating marijuana cultivators and handling marijuana, for testing purposes or otherwise, KDA's obligations regarding industrial hemp may not make it possible for KDA to fulfill both roles without being at risk of having the state's industrial hemp plan revoked by USDA. Further, KDA has limited expertise available to assist with the regulation and operation of private laboratories.

In addition to concerns about our own laboratory's operations, KDA also has concerns that combining the administration of industrial hemp and marijuana may create a greater risk of illicit activities due to the similar appearance of the crops and the greater security risks involved with marijuana cultivation. There are also distinct differences in approach, as industrial hemp is an agricultural commodity and medical marijuana is treated as a drug. For this reason, the majority of states which have legalized marijuana in some form have chosen to place the regulation of cultivators and laboratories with their public health department, taxing agency, or liquor/cannabis control agencies.

KDA does remain willing to serve on any advisory board as our experience with the development of the industrial hemp program may be useful to other agencies and stakeholders as medical

marijuana regulations are developed. Otherwise, we ask all other duties assigned to KDA by HB 2184 be transferred to a more appropriate state agency.

Thank you for the opportunity to provide testimony on House Bill 2184.