2018 farm Bill

SEC. 10113. HEMP PRODUCTION.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

"Subtitle G—Hemp Production

"SEC. 297A. DEFINITIONS.

"In this subtitle:

"(1) HEMP.—The term 'hemp' means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(4) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(5) STATE DEPARTMENT OF AGRICULTURE.—The term 'State department of agriculture' means the agency, commission, or department of a State government responsible for agriculture in the State.

"(6) TRIBAL GOVERNMENT.—The term 'Tribal government' means the governing body of an Indian tribe.

"SEC. 297B. STATE AND TRIBAL PLANS.

"(a) SUBMISSION.—

"(1) IN GENERAL.—A State or Indian tribe desiring to have primary regulatory authority over the production of hemp in the State or territory of the Indian tribe shall submit to the Secretary, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, a plan under which the State or Indian tribe monitors and regulates that production as described in paragraph (2).

"(2) CONTENTS.—A State or Tribal plan referred to in paragraph (1)—

"(A) shall only be required to include—

"(i) a practice to maintain relevant information regarding land on which hemp is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years;

"(ii) a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian tribe;

"(iii) a procedure for the effective disposal of—

"(I) plants, whether growing or not, that are produced in violation of this subtitle; and

"(II) products derived from those plants;

"(iv) a procedure to comply with the enforcement procedures under subsection (e);

"(v) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subtitle;

"(vi) a procedure for submitting the information described in section 297C(d)(2), as applicable, to the Secretary not more than 30 days after the date on which the information is received; and

"(vii) a certification that the State or Indian tribe has the resources and personnel to carry out the practices and procedures described in clauses (i) through (vi); and

"(B) may include any other practice or procedure established by a State or Indian tribe, as applicable, to the extent that the practice or procedure is consistent with this subtitle.

"(3) RELATION TO STATE AND TRIBAL LAW.—

"(A) NO PREEMPTION.—Nothing in this subsection preempts or limits any law of a State or Indian tribe that—

"(i) regulates the production of hemp; and

"(ii) is more stringent than this subtitle.

"(B) REFERENCES IN PLANS.—A State or Tribal plan referred to in paragraph (1) may include a reference to a law of the State or Indian tribe regulating the production of hemp, to the extent that law is consistent with this subtitle.

"(b) APPROVAL.—

"(1) IN GENERAL.—Not later than 60 days after receipt of a State or Tribal plan under subsection (a), the Secretary shall—

"(A) approve the State or Tribal plan if the State or Tribal plan complies with subsection (a); or

"(B) disapprove the State or Tribal plan only if the State or Tribal plan does not comply with subsection (a).

"(2) AMENDED PLANS.—If the Secretary disapproves a State or Tribal plan under paragraph (1)(B), the State, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, may submit to the Secretary an amended State or Tribal plan that complies with subsection (a).

"(3) CONSULTATION.—The Secretary shall consult with the Attorney General in carrying out this subsection.

"(c) AUDIT OF STATE COMPLIANCE.—

"(1) IN GENERAL.—The Secretary may conduct an audit of the compliance of a State or Indian tribe with a State or Tribal plan approved under subsection (b).

"(2) NONCOMPLIANCE.—If the Secretary determines under an audit conducted under paragraph (1) that a State or Indian tribe is not materially in compliance with a State or Tribal plan—

"(A) the Secretary shall collaborate with the State or Indian tribe to develop a corrective action plan in the case of a first instance of noncompliance; and

"(B) the Secretary may revoke approval of the State or Tribal plan in the case of a second or subsequent instance of noncompliance.

"(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to a State or Indian tribe in the development of a State or Tribal plan under subsection (a).

"(e) VIOLATIONS.—

"(1) IN GENERAL.—A violation of a State or Tribal plan approved under subsection (b) shall be subject to enforcement solely in accordance with this subsection.

"(2) NEGLIGENT VIOLATION.—

"(A) IN GENERAL.—A hemp producer in a State or the territory of an Indian tribe for which a State or Tribal plan is approved under subsection (b) shall be subject to subparagraph (B) of this paragraph if the State department of agriculture or Tribal government, as applicable, determines that the hemp producer has negligently violated the State or Tribal plan, including by negligently—

"(i) failing to provide a legal description of land on which the producer produces hemp;

"(ii) failing to obtain a license or other required authorization from the State department of agriculture or Tribal government, as applicable; or

"(iii) producing Cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.

"(B) CORRECTIVE ACTION PLAN.—A hemp producer described in subparagraph (A) shall comply with a plan established by the State department of agriculture or Tribal government, as applicable, to correct the negligent violation, including—

"(i) a reasonable date by which the hemp producer shall correct the negligent violation; and

"(ii) a requirement that the hemp producer shall periodically report to the State department of agriculture or Tribal government, as applicable, on the compliance of the hemp producer with the State or Tribal plan for a period of not less than the next 2 calendar years.

"(C) RESULT OF NEGLIGENT VIOLATION.—A hemp producer that negligently violates a State or Tribal plan under subparagraph (A) shall not as a result of that violation be subject to any criminal enforcement action by the Federal Government or any State government, Tribal government, or local government.

"(D) REPEAT VIOLATIONS.—A hemp producer that negligently violates a State or Tribal plan under subparagraph (A) 3 times in a 5-year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.

"(3) OTHER VIOLATIONS.—

"(A) IN GENERAL.—If the State department of agriculture or Tribal government in a State or the territory of an Indian tribe for which a State or Tribal plan is approved under subsection (b), as applicable, determines that a hemp producer in the State or territory has violated the State or Tribal plan with a culpable mental state greater than negligence—

"(i) the State department of agriculture or Tribal government, as applicable, shall immediately report the hemp producer to—

"(I) the Attorney General; and

"(II) the chief law enforcement officer of the State or Indian tribe, as applicable; and

"(ii) paragraph (1) of this subsection shall not apply to the violation.

"(B) FELONY.—

"(i) IN GENERAL.—Except as provided in clause (ii), any person convicted of a felony relating to a controlled substance under State or Federal law before, on, or after the date of enactment of this subtitle shall be ineligible, during the 10-year period following the date of the conviction—

"(I) to participate in the program established under this section or section 297C; and

"(II) to produce hemp under any regulations or guidelines issued under section 297D(a).

"(ii) EXCEPTION.—Clause (i) shall not apply to any person growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) before the date of enactment of this subtitle.

"(C) FALSE STATEMENT.—Any person who materially falsifies any information contained in an application to participate in the program established under this section shall be ineligible to participate in that program.

"(f) EFFECT.—Nothing in this section prohibits the production of hemp in a State or the territory of an Indian tribe—

"(1) for which a State or Tribal plan is not approved under this section, if the production of hemp is in accordance with section 297C or other Federal laws (including regulations); and

"(2) if the production of hemp is not otherwise prohibited by the State or Indian tribe.

"SEC. 297C. DEPARTMENT OF AGRICULTURE.

"(a) DEPARTMENT OF AGRICULTURE PLAN.—

"(1) IN GENERAL.—In the case of a State or Indian tribe for which a State or Tribal plan is not approved under section 297B, the production of hemp in that State or the territory of that Indian tribe shall be subject to a plan established by the Secretary to monitor and regulate that production in accordance with paragraph (2).

"(2) CONTENT.—A plan established by the Secretary under paragraph (1) shall include—

"(A) a practice to maintain relevant information regarding land on which hemp is produced in the State or

territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years;

"(B) a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian tribe;

"(C) a procedure for the effective disposal of—

"(i) plants, whether growing or not, that are produced in violation of this subtitle; and

"(ii) products derived from those plants;

"(D) a procedure to comply with the enforcement procedures under subsection (c)(2);

"(E) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subtitle; and

"(F) such other practices or procedures as the Secretary considers to be appropriate, to the extent that the practice or procedure is consistent with this subtitle.

"(b) LICENSING.—The Secretary shall establish a procedure to issue licenses to hemp producers in accordance with a plan established under subsection (a).

"(c) VIOLATIONS.—

"(1) IN GENERAL.—In the case of a State or Indian tribe for which a State or Tribal plan is not approved under section 297B, it shall be unlawful to produce hemp in that State or the territory of that Indian tribe without a license issued by the Secretary under subsection (b).

"(2) NEGLIGENT AND OTHER VIOLATIONS.—A violation of a plan established under subsection (a) shall be subject to enforcement in accordance with paragraphs (2) and (3) of section 297B(e), except that the Secretary shall carry out that enforcement instead of a State department of agriculture or Tribal government.

"(3) REPORTING TO ATTORNEY GENERAL.—In the case of a State or Indian tribe covered by paragraph (1), the Secretary shall report the production of hemp without a license issued by the Secretary under subsection (b) to the Attorney General.

"(d) INFORMATION SHARING FOR LAW ENFORCEMENT.—

"(1) IN GENERAL.—The Secretary shall—

"(A) collect the information described in paragraph (2); and

"(B) make the information collected under subparagraph (A) accessible in real time to Federal, State, territorial, and local law enforcement.

"(2) CONTENT.—The information collected by the Secretary under paragraph (1) shall include—

"(A) contact information for each hemp producer in a State or the territory of an Indian tribe for which—

"(i) a State or Tribal plan is approved under section 297B(b); or

"(ii) a plan is established by the Secretary under this section;

"(B) a legal description of the land on which hemp is grown by each hemp producer described in subparagraph (A); and

"(C) for each hemp producer described in subparagraph (A)—

"(i) the status of—

"(I) a license or other required authorization from the State department of agriculture or Tribal government, as applicable; or

"(II) a license from the Secretary; and

"(ii) any changes to the status.

"SEC. 297D. REGULATIONS AND GUIDELINES; EFFECT ON OTHER LAW.

"(a) PROMULGATION OF REGULATIONS AND GUIDELINES; REPORT.—

"(1) REGULATIONS AND GUIDELINES.—

"(A) IN GENERAL.—The Secretary shall promulgate regulations and guidelines to implement this subtitle as expeditiously as practicable.

"(B) CONSULTATION WITH ATTORNEY GENERAL.—The Secretary shall consult with the Attorney General on the promulgation of regulations and guidelines under subparagraph (A).

"(2) REPORT.—The Secretary shall annually submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing updates on the implementation of this subtitle.

"(b) AUTHORITY.—Subject to subsection (c)(3)(B), the Secretary shall have sole authority to promulgate Federal regulations and guidelines that relate to the production of hemp, including Federal regulations and guidelines that relate to the implementation of sections 297B and 297C.

"(c) EFFECT ON OTHER LAW.—Nothing in this subtitle shall affect or modify—

"(1) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

"(2) section 351 of the Public Health Service Act (42 U.S.C. 262); or

"(3) the authority of the Commissioner of Food and Drugs and the Secretary of Health and Human Services—

"(A) under—

"(i) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

"(ii) section 351 of the Public Health Service Act (42 U.S.C. 262); or

"(B) to promulgate Federal regulations and guidelines that relate to the production of hemp under the Act described in subparagraph (A)(i) or the section described in subparagraph (A)(ii).

"SEC. 297E. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this subtitle.".

SEC. 10114. INTERSTATE COMMERCE.

(a) RULE OF CONSTRUCTION.—Nothing in this title or an amendment made by this title prohibits the interstate commerce of hemp (as defined in section 297A of the Agricultural Marketing Act of 1946 (as added by section 10113)) or hemp products.

(b) TRANSPORTATION OF HEMP AND HEMP PRODUCTS.—No State or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 (as added by section 10113) through the State or the territory of the Indian Tribe, as applicable.

SEC. 10115. FIFRA INTERAGENCY WORKING GROUP.

Section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 13a(c)) is amended by adding at the end the following:

"(11) INTERAGENCY WORKING GROUP.—

"(A) DEFINITION OF COVERED AGENCY.—In this paragraph, the term 'covered agency' means any of the following:

"(i) The Department of Agriculture.

"(ii) The Department of Commerce.

"(iii) The Department of the Interior.

"(iv) The Council on Environmental Quality.

"(v) The Environmental Protection Agency.

"(B) ESTABLISHMENT.—The Administrator shall establish an interagency working group, to be comprised of representatives from each covered agency, to provide recommendations regarding, and to implement a strategy for improving, the consultation process required under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) for pesticide registration and registration review.

"(C) DUTIES.—The interagency working group established under subparagraph (B) shall—

"(i) analyze relevant Federal law (including regulations) and case law for purposes of providing an outline of the legal and regulatory framework for the consultation process referred to in that subparagraph, including—

"(I) requirements under this Act and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(II) Federal case law regarding the intersection of this Act and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

"(III) Federal regulations relating to the pesticide consultation process;

"(ii) provide advice regarding methods of—

"(I) defining the scope of actions of the covered agencies that are subject to the consultation requirement referred to in subparagraph (B); and

"(II) properly identifying and classifying effects of actions of the covered agencies with respect to that consultation requirement;

"(iii) identify the obligations and limitations under Federal law of each covered agency for purposes of pro-

"(2) a State cooperative institution.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2019 through 2023.".

SEC. 7127. UNIVERSITY RESEARCH.

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended by striking "2018" each place it appears in subsections (a) and (b) and inserting "2023".

SEC. 7128. EXTENSION SERVICE.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking "2018" and inserting "2023".

SEC. 7129. SUPPLEMENTAL AND ALTERNATIVE CROPS; HEMP.

Section 1473D of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d) is amended—

(1) in subsection (a)—

(A) by striking "2018" and inserting "2023"; and

(B) by striking "crops," and inserting "crops (including canola),";

(2) in subsection (b)—

(A) by inserting "for agronomic rotational purposes and as a habitat for honey bees and other pollinators" after "alternative crops"; and

(B) by striking "commodities whose" and all that follows through the period at the end and inserting "commodities.";

(3) in subsection (c)(3)(E), by inserting "(including hemp (as defined in section 297A of the Agricultural Marketing Act of 1946))" after "material"; and

(4) in subsection (e)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph: "(3) $2,000,000 for each of fiscal years 2019 through 2023.".

SEC. 7130. NEW ERA RURAL TECHNOLOGY PROGRAM.

Section 1473E of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319e) is amended—

(1) in subsection (b)(1)(B)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iv) precision agriculture."; and

(2) in subsection (d), by striking "2008 through 2012" and inserting "2019 through 2023".

SEC. 7131. CAPACITY BUILDING GRANTS FOR NLGCA INSTITUTIONS.

Section 1473F(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319i(b)) is amended by striking "2018" and inserting "2023".

SEC. 7413. NATURAL PRODUCTS RESEARCH PROGRAM.

Section 7525(e) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 5937(e)) is amended by striking "2018" and inserting "2023".

SEC. 7414. SUN GRANT PROGRAM.

Section 7526(g) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8114(g)) is amended by striking "2018" and inserting "2023".

Subtitle E—Amendments to Other Laws

SEC. 7501. CRITICAL AGRICULTURAL MATERIALS ACT.

(a) HEMP RESEARCH.—Section 5(b)(9) of the Critical Agricultural Materials Act (7 U.S.C. 178c(b)(9)) is amended by inserting ", and including hemp (as defined in section 297A of the Agricultural Marketing Act of 1946)" after "hydrocarbon-containing plants".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 16(a)(2) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)(2)) is amended by striking "2018" and inserting "2023".

SEC. 7502. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.

(a) 1994 INSTITUTION DEFINED.—

(1) IN GENERAL.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended to read as follows:

"SEC. 532. DEFINITION OF 1994 INSTITUTION.

"In this part, the term '1994 Institution' means any of the following colleges:

"(1) Aaniiih Nakoda College.
"(2) Bay Mills Community College.
"(3) Blackfeet Community College.
"(4) Cankdeska Cikana Community College.
"(5) Chief Dull Knife College.
"(6) College of Menominee Nation.
"(7) College of the Muscogee Nation.
"(8) D–Q University.
"(9) Dine College.
"(10) Fond du Lac Tribal and Community College.
"(11) Fort Peck Community College.
"(12) Haskell Indian Nations University.
"(13) Ilisagvik College.
"(14) Institute of American Indian and Alaska Native Culture and Arts Development.
"(15) Keweenaw Bay Ojibwa Community College.
"(16) Lac Courte Oreilles Ojibwa Community College.
"(17) Leech Lake Tribal College.
"(18) Little Big Horn College.
"(19) Little Priest Tribal College.
"(20) Navajo Technical University.
"(21) Nebraska Indian Community College.
"(22) Northwest Indian College.
"(23) Nueta Hidatsa Sahnish College.
"(24) Oglala Lakota College.

SEC. 7604. ASSISTANCE FOR FORESTRY RESEARCH UNDER THE MCINTIRE-STENNIS COOPERATIVE FORESTRY ACT.

Section 2 of Public Law 87–788 (commonly known as the "McIntire-Stennis Cooperative Forestry Act") (16 U.S.C. 582a–1) is amended in the second sentence—

(1) by striking "and" before "1890 Institutions"; and

(2) by inserting "and 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)) that offer an associate's degree or a baccalaureate degree in forestry," before "and (b)".

SEC. 7605. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.

(a) IN GENERAL.—Section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (a), respectively, and moving the subsections so as to appear in alphabetical order;

(2) in subsection (a) (as so redesignated)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

"(3) STATE.—The term 'State' has the meaning given such term in section 297A of the Agricultural Marketing Act of 1946.";

(3) in subsection (b) (as so redesignated), in the subsection heading, by striking "IN GENERAL" and inserting "INDUSTRIAL HEMP RESEARCH"; and

(4) by adding at the end the following:

"(c) STUDY AND REPORT.—

"(1) IN GENERAL.—The Secretary shall conduct a study of agricultural pilot programs—

"(A) to determine the economic viability of the domestic production and sale of industrial hemp; and

"(B) that shall include a review of—

"(i) each agricultural pilot program; and

"(ii) any other agricultural or academic research relating to industrial hemp.

"(2) REPORT.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall submit to Congress a report describing the results of the study conducted under paragraph (1).".

(b) REPEAL.—Effective on the date that is 1 year after the date on which the Secretary establishes a plan under section 297C of the Agricultural Marketing Act of 1946, section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) is repealed.

SEC. 7606. COLLECTION OF DATA RELATING TO BARLEY AREA PLANTED AND HARVESTED.

For all acreage reports published after the date of enactment of this Act, the Secretary, acting through the Administrator of the National Agricultural Statistics Service, shall include the State of New York in the States surveyed to produce the table entitled "Barley Area Planted and Harvested" in those reports.

servation and management of the fish or wildlife described in subsection (c).

SEC. 12618. DATA ON CONSERVATION PRACTICES.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended by adding at the end the following:

"SEC. 1247. DATA ON CONSERVATION PRACTICES.

"(a) DATA ON CONSERVATION PRACTICES.—The Secretary shall identify available data sets within the Department of Agriculture regarding the use of conservation practices and the effect of such practices on farm and ranch profitability (including such effects relating to crop yields, soil health, and other risk-related factors).

"(b) REPORT.—Not later than 1 year after the date of enactment of the Agriculture Improvement Act of 2018, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes—

"(1) a summary of the data sets identified under subsection (a);

"(2) a summary of the steps the Secretary would have to take to provide access to such data sets by university researchers, including taking into account any technical, privacy, or administrative considerations;

"(3) a summary of safeguards the Secretary employs when providing access to data to university researchers;

"(4) a summary of appropriate procedures to maximize the potential for research benefits while preventing any violations of privacy or confidentiality; and

"(5) recommendations for any necessary authorizations or clarifications of Federal law to allow access to such data sets to maximize the potential for research benefits.".

SEC. 12619. CONFORMING CHANGES TO CONTROLLED SUBSTANCES ACT.

(a) IN GENERAL.—Section 102(16) of the Controlled Substances Act (21 U.S.C. 802(16)) is amended—

(1) by striking "(16) The" and inserting "(16)(A) Subject to subparagraph (B), the"; and

(2) by striking "Such term does not include the" and inserting the following:

"(B) The term 'marihuana' does not include—

"(i) hemp, as defined in section 297A of the Agricultural Marketing Act of 1946; or

"(ii) the".

(b) TETRAHYDROCANNABINOL.—Schedule I, as set forth in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)), is amended in subsection (c)(17) by inserting after "Tetrahydrocannabinols" the following: ", except for tetrahydrocannabinols in hemp (as defined under section 297A of the Agricultural Marketing Act of 1946)".

And the Senate agree to the same.

(8) Hemp production

The Senate amendment provision amends the Agricultural Marketing Act of 1946 to allow States to regulate hemp production based on a state or tribal plan. The amendment requires that such plan includes information on locations of hemp production, testing for THC concentration, disposal of plants that are out of compliance, and negligence or other violations of the state or tribal plan. It requires the Secretary to establish a plan, in consultation with the U.S. Attorney General, for States and tribes without USDA approved plans to monitor and regulate hemp production. The section clarifies that nothing in this subtitle affects or modifies the Federal Food, Drug, and Cosmetic Act or authorities of the HHS Secretary and FDA Commissioner and clarifies that nothing in this title authorizes interference with the interstate commerce of hemp. (Sections 10111 & 10112)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment, including auditing authority and a grandfather clause regarding program participation. (Sections 10113 and 10114)

In Sec. 297A, the Managers intend to clarify, within the hemp production subtitle, that hemp is defined as the plant cannabis sativa L, or any part of that plant, including seeds, derivatives, and extracts, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis.

In Sec. 297B, the Managers intend to authorize states and tribal governments to submit a state plan to the Secretary for approval to have primary regulatory authority over the growing and production of hemp. The Managers do not intend to limit what states and tribal governments include in their state or tribal plan, as long as it is consistent with this subtitle. For example, states and tribal governments are authorized to put more restrictive parameters on the production of hemp, but are not authorized to alter the definition of hemp or put in place policies that are less restrictive than this title.

Within 60 days of receiving a state or tribal plan, the Secretary must approve or deny the plan. The Secretary is required to consult with the Attorney General regarding the approval or denial of state plans, but the Managers intend for the final decision to be made by the Secretary. The consultation with the Attorney General should not alter the 60 day requirement to approve or deny a plan.

The Managers authorized the Secretary to audit state and tribal compliance with an approved plan and take corrective action, including revoking approval, based on a state or tribal government's noncompliance, as appropriate. The Managers intend to allow state and tribal governments to appeal decisions by the Secretary pertaining to a state or tribal plan for hemp production and do not intend to preclude a state or tribal government from resubmitting a new state or tribal plan for consideration at a later date. If a state or tribal plan is denied or revoked, the Managers intend for hemp production in that state or tribal area to fall under the Secretary's jurisdiction as authorized in section 297C.

The Secretary is authorized to provide technical assistance to states and Indian tribes to aid in the development of a state or tribal plan.

The Managers define negligent and other types of producer violations that require enforcement under a state or tribal plan. The Managers also set limits on who may participate in state or tribal plans. Any person convicted of a felony relating to a controlled substance shall be ineligible to participate under the state or tribal plan for a

10-year period following the date of the conviction. However, this prohibition shall not apply to producers who have been lawfully participating in a state hemp pilot program as authorized by the Agricultural Act of 2014, prior to enactment of this subtitle. Subsequent felony convictions after the date of enactment of this subtitle will trigger a 10-year nonparticipation period regardless of whether the producer participated in the pilot program authorized in 2014. Additionally, anyone who materially falsifies any information in their application to participate in hemp production through a state, tribal, or USDA plan shall be ineligible.

In Sec. 297C, the Managers intend to require the Secretary to develop a USDA plan or plans to be implemented in states and tribal territories that forego developing and submitting a state or tribal hemp production plan. The Managers expect the USDA plan or plans to meet the same content requirements as state and tribal plans in Sec. 297B. The USDA plan may contain, as determined by the Secretary, additional practices and procedures that are otherwise consistent with this subtitle. It is the Managers intent that the Secretary have discretion regarding the appropriate number of plans, one or more than one, needed to implement Sec. 297C.

The Managers require the Secretary to collect, maintain, and make accessible to Federal, state, territorial, and local law enforcement, real-time information regarding the status of a license or other authorization for all hemp producers, whether participating under a state, tribal, or USDA plan. The Managers encourage the Secretary to develop a memorandum of understanding with Federal law enforcement agencies to define the parameters of this system and to potentially share the costs of such information sharing system.

In Sec. 297D, the Managers clarify that the Secretary has the sole authority to issue guidelines and regulations regarding the production of hemp. However, nothing in this subtitle shall affect or modify the authority granted to the Food and Drug Administration and the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262), including for hemp-derived products. The Secretary is required to consult with the Attorney General on the promulgation of regulations, but ultimately, the regulations shall only be issued by the Secretary of Agriculture. To ensure that the Secretary moves forward with issuing regulations in as timely a fashion as possible, the Secretary shall periodically report to Congress with updates regarding implementation of this title.

While states and Indian tribes may limit the production and sale of hemp and hemp products within their borders, the Managers, in Sec. 10112, agreed to not allow such states and Indian tribes to limit the transportation or shipment of hemp or hemp products through the state or Indian territory.

(9) Recognition and role of State lead agencies

The House bill amends section 2(aa) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") to include a definition of "State lead agency" for the purposes of FIFRA. It amends section 22(b) of FIFRA by limiting regulations to those promulgated by the EPA or within the authority of a State lead agency. The subsection further amends section 23(a)(1) of FIFRA to authorize States or Tribes to establish and maintain uniform regulation of pesticide through cooperative agreement with the Administrator of the EPA ("Administrator"). The section further amends section 24(a) of