Recommendations on the PREPARE Act

H.R. 2935, the PREPARE Act of 2025

How Open Materia would improve the PREPARE Act, read against the introduced text end to end. H.R. 2935 was introduced on April 17, 2025 by Mr. Joyce of Ohio with Mr. Jeffries and Mr. Miller of Ohio and referred to the Committee on Energy and Commerce and four additional committees. What follows is drafting language anyone is free to use, adapt, or discard. Like the rest of the Whole Plant Act framework it is in the public domain, and nobody needs permission or credit to carry it.

The commission PREPARE creates is the right instrument and the bill is the right vehicle. Four things would make it harder to attack and better at the job. Language for each follows, drafted to be lifted.

Three things in the bill are worth saying first, because they are better than the bill usually gets credit for and because two of them are places where this framework agrees with the bill rather than asking anything of it.

Finding (8) states that cannabis should remain an adult product "aside from the physician prescribed treatment of minors." The carve-out for a minor patient is the part worth crediting, and it is rarer in cannabis legislation than it should be. The framing around it needs two words changed, and Recommendation 4 carries the language.

Finding (7) states that research on medical uses, product safety and impairment standards is severely hindered by schedule I classification, and finding (10) notes that the Department of Health and Human Services has held a patent for medical cannabis as an antioxidant and neuroprotectant since 2003. Those two findings together are the case for a public-domain record of the plant: the research has been suppressed and the patenting has not been.

On impairment standards specifically, finding (7) should carry the standard the Commission is to work toward, because naming the research without naming the standard leaves the metabolite test in place by default. The Commission's recommendations on impairment should rest on all-cause assessment: what is measured is impairment from any cause rather than the presence of a particular substance, and an assessment that detects cannabis rather than impairment does not satisfy the standard. Two 2026 trials show the measure missing impairment in both directions. Wolinsky and colleagues in the Journal of Analytical Toxicology gave 60 adults 100 milligrams of cannabidiol with between zero and 3.7 milligrams of delta-9-tetrahydrocannabinol and found no significant difference from cannabidiol alone on any pharmacodynamic outcome, while urine tests at the federal cutoff turned positive from 1 milligram upward; their conclusion is that a positive urine delta-9-tetrahydrocannabinol test may result from low doses that do not produce intoxication or impairment. A randomized crossover trial in JAMA Network Open found the reverse, oral tetrahydrocannabinol degrading lane control at 10 and 20 milligrams while peak whole-blood concentrations stayed at 1.6 and 3.4 nanograms per millilitre, below the 5 nanogram line states use. A concentration can sit above a cutoff with no impairment and below one with impairment present.

And section 4(c)(21) seats the Director of the National Institute of Standards and Technology on the Commission. That is the right institution for a framework that will turn on measurement, and it is the only federal cannabis bill now live that names it. The Whole Plant Act names the same institution as the federal partner for reference methods, measurement and reference materials, and PREPARE got there first.

If the bill is refreshed to take in hemp, Recommendation 3 is the one that most needs to land in that refresh rather than after it.

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1. The bill has no conflict-of-interest provision

As introduced, H.R. 2935 contains no disclosure requirement, no recusal rule, no gift rule, no ex parte rule, and no post-service restriction. Section 4(k) bars additional compensation and section 4(f)(2) permits removal for missing meetings, and that is the whole of the bill's integrity architecture.

A commission that will recommend the regulatory framework for a multi-billion-dollar market, and that seats agency heads alongside industry representatives, will be attacked on this ground. It is also the ground on which its recommendations are most easily discounted later.

The hard part is that the ordinary conflict rule does not work here. The ordinary rule assumes a disinterested member is available. This commission needs the competence that sits with the people who will be regulated, so a rule that disqualifies an interested member empties the seats of the expertise they exist to supply. The answer is to split the question rather than to pick a side of it.

Suggested language, as a new subsection of section 4:

> (m) Conflict of Interest, Disclosure, and Recusal.—

(1) Disclosure.—Each member shall disclose publicly, on appointment and on any subsequent change, each ownership, employment, consulting, professional, contractual, and immediate-family relationship the member holds with a person engaged in or regulated under State-licensed cannabis activity.

(2) Segment interest not disqualifying.—An interest a member holds by virtue of the constituency the member's seat represents does not disqualify the member from service, from deliberation, or from voting on a recommendation of general application.

(3) Recusal.—A member shall not participate in, or vote on, a recommendation addressed to the member's own operation, to an operation in which the member holds a financial interest, or to a direct competitor of either, and shall state the recusal on the record.

(4) Staff and contractors.—A person employed by, or engaged under contract by, the Commission may not hold a financial interest in, receive compensation from, or act as a lobbyist for a person engaged in or regulated under State-licensed cannabis activity.

(5) Gifts.—A member, employee, or contractor may not solicit or accept a gift, hospitality, travel, meal, loan, or other thing of value from a person engaged in or regulated under State-licensed cannabis activity.

(6) Log of communications.—The Commission shall maintain and publish a log of meetings and substantive communications between a member or a senior employee and a lobbyist or a representative of a person engaged in or regulated under State-licensed cannabis activity concerning a matter before the Commission.

(7) Post-service restriction.—For the two-year period beginning on the date a member or employee leaves the Commission, that person may not accept employment, compensation, or a financial interest from a person engaged in or regulated under State-licensed cannabis activity.

Paragraphs (2) and (3) are the load-bearing pair. Paragraph (6) matters more than it looks: influence on a framework is exercised before the record opens, and a published log is the only instrument that reaches it.

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2. Representation is not at parity

Section 4(c) establishes 29 membership categories. Twenty-three are federal agency heads or their appointees. The non-federal seats are four appointed by the four congressional leaders, one trade-association representative, and two people who have served on State cannabis control commissions.

The result is that several constituencies the framework will decide for have no seat:

Constituency	Seat in H.R. 2935
Patients	None. The HHS appointee at (16) is a federal expert on medical cannabis use and access, not a patient
Designated caregivers, home and noncommercial growers	None
Small, craft and independent producers	None. The seat at (28) is a trade association drawn from "multiple, highly regulated adult goods and consumer package goods"
Legacy operators	None
Tribal governments	None. "Tribal government" is defined at section 4(l)(4) and appears twice in the operative text, in the comment solicitation at 4(b)(2)(A) and in the initial-report directive at 4(b)(3); the Indian Health Service seat at (27) is federal
Workers and labor	None. The Secretary of Labor at (23) is federal
Consumers and the public interest	None
Equity licensees and communities most harmed	None. The SBA appointee at (20) is a federal expert on access for marginalized communities

The same asymmetry runs through the two places the public is heard.

The comment period at section 4(b)(2)(A), within 60 days, solicits comment from industry stakeholders, criminal justice reform advocates, substance use advocates, healthcare experts, State cannabis regulators, the Department of Justice of each State or Tribal government, and the public. A patient is not named, nor is a caregiver, a worker, or a consumer organization; they reach the Commission only as members of the public.

The public witness hearing at section 4(b)(2)(B)(i) guarantees four categories: not less than two single-State

licensees, not less than two multi-State operators, one individual convicted and incarcerated by the Federal Government for a non-violent cannabis offense, and one convicted and incarcerated by a State. The two formerly incarcerated witnesses are a real commitment and the credit belongs to the drafters; the final recommendations must publish the testimony under clause (iii), and clause (ii) leaves the Commission free to add participants. What no clause guarantees is a patient, a designated caregiver, a craft producer, a legacy operator, a Tribal government, a worker, or a consumer organization.

Suggested language, amending section 4(c) by adding at the end:

> (30) One representative of patients who use cannabis under a State medical program, appointed by the Attorney General from among nominations by patient advocacy organizations.
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> (31) One designated caregiver, or one person who cultivates cannabis noncommercially under State law, appointed by the Attorney General.
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> (32) One owner or operator of a small, craft, or independent State-licensed cannabis business, appointed by the Attorney General, who does not hold a license in more than one State.
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> (33) One legacy operator, meaning a person who produced, handled, or prepared cannabis before the State in which that person operated first authorized commercial cannabis activity, appointed by the Attorney General.
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> (34) One representative of a Tribal government, appointed by the Attorney General following consultation with Tribal governments on a government-to-government basis.
>
> (35) One representative of a labor organization representing workers in State-licensed cannabis activity, appointed by the Attorney General.
>
> (36) One representative of consumer or public-interest organizations, appointed by the Attorney General.

And amending section 4(b)(2)(B)(i) by adding to the list of required hearing participants a patient, a designated caregiver or noncommercial grower, an owner of a small or independent licensed business, a legacy operator, a representative of a Tribal government, a worker employed in State-licensed cannabis activity, and a representative of consumer or public-interest organizations.

Two drafting notes worth making explicitly.

No seat on this commission should be named by botanical origin. A seat for "hemp" and a separate seat for "cannabis" would write the origin split into the commission's own composition, and the commission would then recommend the framework its table was shaped to produce. Seats should be drawn by what a product does and who is affected, not by which plant it came from.

Section 4(e) requires that a partisan imbalance after appointment be cured by the congressional leaders of the party with fewer members jointly naming additional members. Seven new seats appointed by the Attorney General could therefore enlarge the Commission further through that mechanism. If the Commission's size is a constraint, the cleaner route is to convert some of the twenty-three federal seats to a non-voting advisory role rather than to add seats on top, and we would support drafting it either way.

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3. The hemp refresh, and the question the commission is told to ask

Section 4(b)(1)(I) directs the Commission to propose measures addressing "the lack of guidance regarding the successful coexistence of individual hemp and cannabis industries, including prevention of cross pollination of cannabis and hemp products."

That clause settles the central question before the Commission convenes. It assumes two industries and asks how they coexist, so the Commission's mandate forecloses the answer that one botanical input sorted by end use and intoxicating potential would remove the problem rather than manage it. Cross-pollination between crops is a real agronomic issue and is worth studying on its own terms; the "individual industries" framing is the part that does the damage.

This is the clause a hemp refresh would touch, which is why it is worth getting right now rather than later. It is where a unified cannabinoid framework either becomes the Commission's question or does not.

Suggested replacement for section 4(b)(1)(I):

> (I) the absence of a unified framework for cannabis and the cannabinoid products derived from it, including the treatment of material grown for fiber, grain, seed, and stalk separately from material consumed for its cannabinoid constituents, the classification of cannabinoid products by their effect at a labeled dose rather than by the botanical origin or the concentration by weight of any single cannabinoid, and the agronomic management of cross-pollination between crops grown for different end uses;

And for section 4(l)(1), which currently defines cannabis by reference to the Controlled Substances Act term "marihuana," so that the bill's subject matter is defined by the very split it exists to help the country move past:

> (1) Cannabis.—The term "cannabis" means the plant Cannabis sativa L. and every part of that plant, whether growing or not, without regard to the concentration by weight of any cannabinoid and without regard to whether the plant or a part or preparation of it has been designated hemp or marihuana.

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4. Two smaller points

The adult-product framing should reach the products that intoxicate, not the plant. Two words in finding (8) do too much work. "Cannabis" sweeps in a non-intoxicating cannabidiol balm, which nobody needs to be 21 to buy. And cannabis is authorized on clinical judgment rather than prescribed, by providers who are not all physicians. "Provider" is not a defined term in this bill, so the clause says the patient's health care provider, which needs no definition to be clear.

Suggested replacement for finding (8):

> (8) Cannabis products that intoxicate at their labeled dose should remain adult products, except as authorized for a minor patient by the patient's health care provider.

And add to the Commission's duty at section 4(b)(1)(F):

> including whether age restriction should attach to whether a product intoxicates at its labeled dose rather than to the presence of a cannabinoid;

The finding is declaratory and section 4(b)(1) is what the Commission is charged with studying, so the second one is the one that binds.

H.R. 9830 shows what the distinction is worth. At section 331(kkk)(2) it makes possession of any hemp-derived cannabinoid product by a person under 21 a federal prohibited act, which reaches a cannabidiol balm a parent buys at a pharmacy.

One drafting note while that clause is open: "cannabis product and safety" reads as a slip for "cannabis product safety."

Section 3 directs that the framework "shall be modeled after Federal and State regulatory frameworks with respect to alcohol." The alcohol model is a good source for some things and a poor one for others, and the instruction does not distinguish. Worth borrowing: farm-direct sale, farm stands, farmers' markets, tasting and on-site consumption, special-event licensing, and small-producer parity, all of which are drawn and politically legible in every State's alcohol code. Worth not importing by default: mandatory three-tier separation, which in cannabis inserts a distribution layer between a small producer and the market and consolidates it. We would suggest the instruction name the parity and farm-direct features it intends rather than incorporating the alcohol model whole.

A sequencing defect. Section 4(g)(1) sets the first meeting at no later than 90 days. Section 4(b)(3) requires the initial findings and recommendations within 120 days. Section 4(b)(2)(B)(i) requires the public witness hearing within 180 days. So the Commission has thirty days between convening and publishing its initial recommendations, and it publishes them, which then go out for the second comment round under 4(b)(4), before it has heard a single public witness. Moving the hearing deadline inside the initial-report deadline, or moving the initial report to 210 days, fixes it.

Why we are offering this

Open Materia maintains the Whole Plant Act, a model State bill with Oregon and federal companions, together with comparisons and amendment packages for the live federal vehicles. The conflict-of-interest language above is adapted from Section 5(13) of our model bill and the representation language from its composition provisions, both of which were drafted for exactly this problem: a body that needs interested members and cannot afford to look captured.

We would rather the PREPARE Commission have this language than that we keep it. Everything in the framework is in the public domain by design, which is the same reason our bill keeps a public-domain record of the plant itself.