The Whole Plant Act

Comparison: H.R. 5068, the Marijuana Opportunity Reinvestment and Expungement Act

A comparison of the Whole Plant Act, in its standalone federal form and its amendment-package form, against H.R. 5068, the Marijuana Opportunity Reinvestment and Expungement Act, the MORE Act below.

Read against the introduced text of H.R. 5068 as printed, end to end, introduced August 29, 2025 by Mr. Nadler with forty cosponsors and referred to the Committee on the Judiciary and eight additional committees. Every section citation below was checked against that text. Citations to the Whole Plant Act are to the standalone Federal Whole Plant Act unless otherwise marked. Independent policy analysis.

What kind of bill this is

The MORE Act is not a regulatory bill, and reading it as one misreads it. It ends federal prohibition, repairs the harm prohibition caused, and funds that repair from a tax on the industry that prohibition's end creates. It does not set a product standard, does not classify cannabis items, does not build or name a regulator for the market, and does not establish a medical program. Section 14 names the agencies that implement it: the Department of the Treasury, the Department of Justice, and the Small Business Administration. A tax collector, a prosecutor, and a lender.

That is a deliberate scope, not an oversight, and the comparison below is written on that understanding. The question this document answers is not whether the MORE Act is pointed the right way. It is what happens in the space the bill leaves open, and what the Whole Plant Act puts there.

Where they agree

The common ground is larger here than with any other federal vehicle, and almost all of it is ground the Whole Plant Act adopts rather than replaces.

Both remove cannabis from the schedules. Section 3(a)(1) strikes marihuana and tetrahydrocannabinols from schedule I in the statute itself, and section 3(a)(2) directs the Attorney General to finalize the conforming rulemaking within 180 days, deemed effective as of enactment for any offense committed, case pending, or conviction entered. Section 3(d) makes the amendments retroactive in terms. That is the precondition for everything else, and the Whole Plant Act does the same thing.

Both expunge and resentence, and both carry the machinery rather than the declaration. Section 10(a) directs every federal district to conduct a comprehensive review and issue expungement orders within one year for non-violent federal cannabis convictions and juvenile adjudications entered on or after May 1, 1971, together with the associated arrests. Section 10(a)(2) requires notification of the people whose records were cleared. Section 10(a)(3) preserves a petition route and appoints counsel for an indigent petitioner. Section 10(b) provides sentencing review for a person still under sentence, with resentencing as if the Act had been in effect when the offense was committed. Section 10(c) lets a person treat the record as though it never existed and immunises them from perjury and false-statement liability for not disclosing it. Section 13 defines a cannabis offense broadly enough to reach conduct a state has since made lawful or reduced. Section 10(b) deserves particular notice, because it is the proceeding CAOA refers to and never creates. It is a real sentencing review hearing, available on the motion of the person, the Director of the Bureau of Prisons, the Government, or the court, with appointed counsel for an indigent person, and it requires the court to expunge, vacate and resentence as though the Act had been in force. On this point the MORE Act is the strongest of the federal vehicles and the framework adopts it outright.

Federal Whole Plant Act Sections 8(8) through 8(15) run the same course and reach things the MORE Act leaves out: duties on the agencies that hold the records rather than on the courts alone, a bar on a United States Attorney opposing relief as a class, the cancellation of fines, costs and garnishments arising from a relieved offence, and the rule that an employer may not be required to terminate an employee holding a relieved offence. Section 10(e)(2) defines expunge as removal from each official index or public record, which does not reach the commercial background-check files that resell the record, and that is the gap the agency duties close. The MORE Act in turn carries two the framework adopted from it, the notification duty and appointed counsel for an indigent petitioner.

Two limits on the relief are worth stating plainly rather than leaving for a constituent to discover. Section 10 reaches a non-violent federal cannabis offence only, so a person whose cannabis conviction carried a companion count is outside the sweep. And section 10(d) makes a person ineligible if they received an aggravating-role adjustment under Sentencing Guideline 3B1.1(a), with no mitigating-factors escape at all, where CAOA's equivalent carve-out at least allows a court to find mitigating factors. The amendment package addresses both.

Both protect the person against the two penalties that survive decriminalization. Section 8 bars denial of a federal

public benefit on the basis of cannabis, and section 9 bars adverse immigration consequence, including for a prior offense, with conforming amendments running through seven provisions of the Immigration and Nationality Act. The immigration provision does something no state instrument can do, and the Whole Plant Act's own state-facing provisions say so rather than overclaiming.

Section 8(b) goes further than anything in the other federal vehicles and further than the framework's own draft: federal agencies may not use past or present cannabis use as criteria for granting, denying, or rescinding a security clearance. That is a flat bar rather than an impairment test, and it reaches the one adverse action a person can almost never appeal. The framework adopts it as written and the amendment package retains it unchanged.

Both discipline sub-regulatory guidance. Section 14 provides that after the first year no publicly issued sub-regulatory guidance, including a compliance guide, manual, advisory or notice, may issue without 60 days' notice to the appropriate congressional committees, with a description and a justification. That is the same provision as Federal Section 5(11), and its presence here matters beyond this bill: when the framework asks CAOA for guidance discipline, the answer is that a bill in this Congress already carries it.

And both clean the statute book. Section 11 strikes marihuana and marijuana wherever they appear in the statutes of the United States and in agency rulings, regulations and interpretations, and inserts cannabis. CAOA section 801 asks the Comptroller General to recommend that; the MORE Act does it.

Both fund repair from the industry rather than from general revenue. Section 5 establishes the Opportunity Trust Fund at a new section 9512 of the Internal Revenue Code, and section 6 establishes the programs it pays for. The allocation is set in the statute: half to the Attorney General for community reinvestment, a tenth to the Attorney General for the second program, and a fifth each to the Small Business Administration for the two business programs.

Both open capital and business-support access. Section 7 extends Small Business Administration programs and services to cannabis-related legitimate businesses and service providers, barring a decline of service across small business development centers, women's business centers, SCORE, veteran business outreach centers, 7(a) loans and guarantees, disaster loans, microloans, small business investment company debentures, and state and local development company loans. Section 6(b) separately establishes the Cannabis Restorative Opportunity Program and the Equitable Licensing Grant Program.

Section 6(b)(2) is better built than it is usually credited. A grantee must adopt at least four of five named elements, and three of them are provisions the framework would write itself: a licence-fee waiver for a first-time applicant below 250 percent of the federal poverty level, a bar on denying a licence for a pre-legalization cannabis conviction, and a bar on a licensee drug-testing employees without suspicion except for safety-sensitive positions under part 40 of title 49. Section 6(b)(3)(A) also conditions a state's eligibility on that state having created an automatic, no-cost expungement process and eliminated supervision violations for cannabis offences, which is a conditioning lever the framework had not thought to use.

Both carry a severability clause, at section 12, and both clean up the statutory vocabulary, at section 11.

Every one of these survives in the Whole Plant Act. This is not a rival descheduling bill and should not be read as one in any room.

The divergence in one table

Axis	H.R. 5068	The Whole Plant Act
Regulatory frame	None. The Food and Drug Administration's existing authority is expressly preserved (Sec. 3(e)) and the bill's regulatory requirement is one public meeting within a year (Sec. 3(f)); the implementing agencies are Treasury, Justice and the Small Business Administration (Sec. 14)	One lead regulator setting product, testing, labeling and authentication standards, conforming to a recognized national standard (Federal Sec. 5, 13)
Sorting principle	Marihuana and tetrahydrocannabinols leave the schedules, but the Agricultural Marketing Act hemp definition is untouched, the pre-enactment marihuana definition is preserved by name for testing (Sec. 3(g)(2), 3(h)(2)), and industrial hemp is excluded from the tax base (new IRC Sec. 5902)	One botanical input, classified downstream by intoxicating potential at the labeled dose (Federal Sec. 3, 4)
Product safety	No testing, labeling, contaminant, packaging or dose standard	Farm-to-shelf testing, certificates of analysis, adulteration and misbranding, child-resistant packaging, dose and onset labeling (Federal Sec. 4)
Tax base	5, 6, 7 then 8 percent of removal price over the first five years, then per ounce for most products and per gram of tetrahydrocannabinol for THC-measurable products, each at 8 percent of a prevailing price the Secretary determines, attaching when the product comes into existence; an FDA-approved article and	One excise on intoxicating items by intoxicating potential at the labeled dose, imposed at retail only, disciplined below the point price

	industrial hemp are outside the base entirely (new IRC Sec. 5901, 5902)	returns buyers to the unlicensed market, and graduated by scale (Federal Sec. 11)
The person at work	Federal employee testing may expressly continue (Sec. 3(g)), and transportation screening authority is preserved by defining a controlled substance to include what was scheduled on December 1, 2018 (Sec. 3(c)(3)–(6), 3(h))	A metabolite without evidence of impairment is not a basis for action, with a narrow exception for genuinely safety-critical federally mandated programs directed toward impairment-based standards (Federal Sec. 9)
Medical use	Silent. No program, no patient, no provider, no reimbursement	Public-health infrastructure: no qualifying-condition list, reimbursement pathway, provider protection, recognition across state lines (Federal Sec. 7)
The commons	No public record of the plant, no prior-art provision, no registry; descheduling arrives with nothing underneath it	A public-domain reference standard and registry as prior art, and the drug-preclusion clause disapplied for naturally occurring cannabinoids (Federal Sec. 6)
Equity criteria	Keyed in part to protected-class status: the Small Business Act term for concerns owned and controlled by socially and economically disadvantaged individuals (Sec. 6(b)(1)), and a licensing board reflective of racial, ethnic, economic and gender composition as one of five elements a grantee may adopt (Sec. 6(b)(2)(E)). The bill's own definition of an individual adversely impacted by the War on Drugs is already harm-keyed and income-keyed (Sec. 6(b)(3)(B))	Harm-keyed and race-neutral: prior conviction, disproportionately policed community, legacy or small operator (Federal Sec. 10)

Where they diverge

1. A market with no regulator

Section 3(e) provides that nothing in the subtitle affects the Federal Food, Drug, and Cosmetic Act, section 351 of the Public Health Service Act, or the authority of the Commissioner of Food and Drugs. Section 3(f) requires the Secretary, acting through the Commissioner, to hold not less than one public meeting within a year to address the regulation, safety, manufacturing, product quality, marketing, labeling, and sale of products containing cannabis. That meeting is the whole of the bill's product-safety architecture.

Preserving the Food and Drug Administration's authority is the right instinct and the Whole Plant Act does not disturb it either. The difficulty is that the preserved authority is the authority that produced the present impasse. The drug-preclusion rule is what keeps cannabidiol out of food and supplements, and leaving that authority untouched while descheduling the plant means the regulatory question is answered by the agency that has declined to answer it, on the same terms, with a meeting added.

Section 14 confirms the shape. The agencies directed to issue rules within a year are Treasury, Justice and the Small Business Administration. No agency is assigned the product. A consumer who buys a cannabis item the day after enactment has a tax stamp behind it and no standard.

The Whole Plant Act supplies exactly this layer. Section 4 sets classification by intoxicating potential and the testing, labeling and authentication standards; section 5 names one lead regulator and directs administering agencies within their competence; section 13 conforms to a recognized national standard rather than authoring a rival one. None of that displaces a single provision of the MORE Act.

2. The origin split survives its own abolition

Section 3(a)(1)(B) strikes the schedule I entry for tetrahydrocannabinols together with its carve-out for tetrahydrocannabinols in hemp. Inside the schedules, the hemp distinction therefore disappears, which is further than CAOA goes.

Outside the schedules it survives intact, in three places the bill puts it there itself. The hemp definition at section 297A of the Agricultural Marketing Act of 1946 is untouched, so the 0.3 percent line and the regulatory split it produces continue to govern everything the Controlled Substances Act does not. Section 3(g)(2) defines marijuana for federal employee testing by reference to the marihuana definition as it stood the day before enactment, which preserves the pre-enactment definition, hemp exclusion and all, inside federal personnel law. Section 3(h)(2) does the same for transportation screening, reaching back to what was covered on December 1, 2018, which is the day before the 2018 Farm Bill took hemp out.

And the new tax base repeats it: under new Internal Revenue Code section 5902 a cannabis product excludes industrial hemp. So the one line the bill removes from the schedules is re-drawn in the tax code, in personnel law,

and in transportation law on the same page.

This is the Whole Plant Act's central objection wherever it appears, and it is not a drafting quibble. A product's legal treatment still turns on which plant it came from rather than what it does at the labeled dose, which is the arbitrage the framework exists to close.

3. The tax prices the molecule

New Internal Revenue Code section 5901 imposes the excise two ways. For a cannabis product that is not THC-measurable, the rate is per ounce, set at 8 percent of the prevailing sales price of cannabis flowers sold in the United States over the preceding twelve months, expressed per ounce. For a THC-measurable cannabis product, the rate is per gram of tetrahydrocannabinol, set at 8 percent of the prevailing sales price of tetrahydrocannabinol sold in the United States over the same period, expressed per gram.

Three consequences follow, and they are structural rather than matters of rate.

A per-gram-of-THC tax is a concentration tax. It prices a single molecule rather than the effect of the item at the dose on its label, which means the tax base and the Whole Plant Act's classification run on different measures: the framework asks what an item does at its labeled dose, and the tax asks how many grams of one cannabinoid it contains. An item engineered to deliver its effect through cannabinoids other than tetrahydrocannabinol is taxed as though it were inert. That is the same product engineering the classification by intoxicating potential exists to catch, rewarded here by the revenue code.

The reference price has to be constructed. There is a visible national price for cannabis flower. There is no comparable market in tetrahydrocannabinol sold as such outside concentrate and isolate, so the Secretary must derive a per-gram price for the molecule from the thinnest and most volatile segment of the market and then apply it to the entire THC-measurable base.

And the tax attaches at the wrong point. Section 5901(d) provides that the tax attaches to a cannabis product as soon as it is in existence as such, whether or not it is later separated or transferred into another substance. That is a production-stage tax, and production-stage taxes pyramid through a supply chain, which falls hardest on an operator who cannot absorb it and consolidates the market the bill's own equity provisions are trying to open. The Whole Plant Act imposes its excise at retail only and imposes no tax on cultivation or on a transfer between licensees, for that reason.

4. The person is left in the trap the bill was meant to spring

The MORE Act protects benefits at section 8 and immigration status at section 9, and then preserves the two testing regimes that reach most working people.

Section 3(g) adds a subsection to the Supplemental Appropriations Act, 1987 providing that notwithstanding the MORE Act and the amendments made by it, the Secretary of Health and Human Services may continue to include marijuana in federal employee drug testing. Section 3(c)(3) through (6) and section 3(h) preserve screening authority for commercial drivers, pilots, rail and transit workers, and the Coast Guard, by defining a controlled substance to include any substance covered as of December 1, 2018.

The effect is that a federal worker and a commercial driver can be disciplined or disqualified for a metabolite that establishes past use and not impairment, for conduct the same Act has just made lawful and has retroactively expunged. The bill ends the criminal penalty and leaves the employment penalty in place.

Federal Whole Plant Act section 9 answers this directly. The presence of a cannabinoid or its metabolite without evidence of impairment is not a basis for an adverse action, with a narrow exception for a genuinely safety-critical federally mandated programme, and even those programmes are directed toward validated all-cause impairment-based assessment as it matures, measuring impairment from any cause rather than the presence of a particular substance. Federal Section 9(9) then funds the research that direction depends on and requires it published with its data and methods, so no proprietary assay becomes the condition of proving impairment. Two 2026 trials show why the measure has to change: Wolinsky and colleagues in the Journal of Analytical Toxicology found urine tests at the federal cutoff turning positive from 1 milligram of delta-9-tetrahydrocannabinol upward at doses producing no pharmacodynamic difference from cannabidiol alone, and a randomized crossover trial in JAMA Network Open found oral tetrahydrocannabinol degrading lane control at 10 and 20 milligrams with peak whole-blood concentrations of 1.6 and 3.4 nanograms per millilitre, below the 5 nanogram line. The metabolite that disqualifies a federal worker is evidence of exposure. The MORE Act commissions a study on marijuana impairment at its own Section 16, directing the Secretary of Transportation through the National Highway Traffic Safety Administration to study the technologies and methods law enforcement may use to determine whether a driver is impaired by marijuana, with $10,000,000 authorized, and a National Institute for Occupational Safety and Health workplace study with employer best practices at Section 17. Those are real, funded evidence bases, and Federal Section 9(9) is built to extend rather than replace them. What the bill never does is connect either one to the testing authority it preserves. That is a difference about the person rather than about the industry, which is where the framework's priority sits.

4a. Market entry, and the operator the equity provisions are for

The MORE Act takes no position on product regulation and a strong position on market entry, in the tax code, and the two sit against each other.

New section 5921(a) makes it unlawful to plant, cultivate, harvest, grow, manufacture, produce, compound, convert, process, prepare or package any cannabis product anywhere except on the bonded premises of a cannabis production facility authorized under the chapter. Section 5921(a)(3) excepts the individual whose only production is for personal or family use and not for sale, which is a genuine noncommercial carve-out and the framework credits it. What it does not reach is the designated caregiver growing for a patient, the patient's household member, or the cooperative and its growers. Under the bill as drafted each of those is an unpermitted producer of a taxable article.

New section 5911 imposes a flat occupational tax of $1,000 per year for each premises, and section 5911(b) makes willful failure to pay it punishable by a fine of up to $5,000 or two years' imprisonment. A flat per-premises charge is the most scale-selective form a tax can take, and a custodial penalty for not paying a $1,000 registration fee is a criminal exposure attached to a bookkeeping failure.

New sections 5922 and 5923 then run entry through a permit the Secretary may deny where the premises "will not be adequate to protect the revenue after commencing operations," and section 5933(a)(3) reaches a person who, without any intent to defraud, possesses or sells a product in a non-conforming package.

The framework's answer is Federal Section 10 and Federal Section 13: antitrust with no cooperative exemption, standards that do not favor the largest, no mandatory tier, authentication on data operators already keep, and a protected noncommercial ecosystem of patients, designated caregivers, home cultivators and cooperatives. A bill that funds equitable licensing at section 6(b) and prices entry at section 5911 is working against itself, and the amendment package reconciles the two.

5. Descheduling without a moat is the enclosure event

The MORE Act deschedules and builds no public record of the plant. There is no reference standard, no registry, no prior-art provision, and no change to the drug-preclusion rule.

The consequence is the one the framework was built around. Cannabinoid patents become enforceable against a now-lawful national market at the moment descheduling takes effect, and the party best placed to hold them is the party that could afford to file during prohibition. A bill whose stated purpose is to reinvest in the people prohibition harmed hands the plant's commercially valuable characterizations to whoever got there first, because nothing in it establishes what was already known.

Federal Whole Plant Act section 6 is the answer: a public-domain reference standard and registry treated as prior art, no proprietary-only route to compliance, and the drug-preclusion clause disapplied for naturally occurring cannabinoids so that an approval cannot enclose the plant. Section 15(7) makes certification a milestone and a duty to report, not a gate: removal takes effect on the effective date, each part of the record is prior art as it publishes, and Section 6 limits remedies against state-lawful activity for a transition period while counting its prior use.

6. Medicine is absent

The MORE Act contains no patient, no authorizing provider, no medical program, no reimbursement pathway and no access protection. Medical use rides whatever the states and the Food and Drug Administration separately provide.

For a bill that ends prohibition this is a defensible omission, and for a framework that treats medical use as public-health infrastructure it is the largest single gap. The people whose access depends on a medical route are the people least able to wait for a market to supply them, and the April 2026 medical Schedule III order has already made the federally registered prescription lane the one with institutional momentum behind it.

Federal Whole Plant Act section 7 supplies the layer: authorization on clinical assessment with no qualifying-condition list, no registration fee, reimbursement and payer integration, provider protection, a patient-held record, and recognition of a patient authorized in another state operating on the same frame.

7. The repair is the part a court can strike

Section 6(b) keys business eligibility in part to protected-class status. Section 6(b)(1) runs the Cannabis Restorative Opportunity Program through the Small Business Act term for a small business concern owned and controlled by socially and economically disadvantaged individuals, which carries that term's racial presumption. Section 6(b)(2)(E) offers, as one of five elements a grantee may adopt, a licensing board reflective of the racial, ethnic, economic and gender composition of the state or locality.

The second is the smaller exposure, because a grantee need adopt only four of the five and can simply choose the other four. The first is the live one, because it is the operating criterion of a loan and technical-assistance program rather than one option among several.

The difficulty is the same one the Whole Plant Act raises against CAOA and it is a difficulty about durability rather than about intent. After Students for Fair Admissions a race-conscious licensing or capital preference is the provision

an opponent enjoins, and section 12's severability clause means a successful challenge leaves the descheduling, the tax and the trust fund standing while striking the provisions that do the repair. An equity programme that is struck down repairs no one.

Federal Whole Plant Act section 10 keys the same relief to the harm prohibition caused: a prior cannabis conviction, residence in a community disproportionately subjected to cannabis enforcement, or status as a legacy or small operator. Those criteria reach substantially the same people, because the harm fell where the enforcement fell, and they give a challenger nothing race-based to strike.

The bottom line

Of the federal vehicles now live, the MORE Act is the one the Whole Plant Act overlaps least and complements most.

CAOA stops halfway in the same place three times, holding its own mechanisms for classifying by intoxicating potential to an origin line. H.R. 9830 regulates hemp by raising the origin threshold and builds no record of the plant. Neither of those is a scope choice; both are architectural positions the framework has to argue against.

The MORE Act takes no architectural position at all on the questions the framework answers. It ends prohibition, clears the records, protects benefits and status, and funds repair, and then stops, expressly leaving product regulation where it found it. That is not a bill pointed the wrong way or a bill that stops halfway. It is a bill that does two things the framework does not attempt on its own, federal expungement at scale and a funded trust, and declines the thing the framework exists to supply.

Five corrections are needed even so, and they are corrections rather than redirection: the tax should follow intoxicating potential at the labeled dose and attach at retail rather than price a molecule at production; the preserved testing regimes should not punish conduct the same Act has legalized and expunged; the bill should build the public record alongside descheduling, at minimum in parallel, with transition remedies and prior use in place on the effective date; the equity criteria should key to harm so the repair survives the challenge that will come; and the entry conditions in the tax code should not price out the operator the equity provisions exist to bring in, or leave a designated caregiver outside the only production exception the bill draws.

One drafting defect to pass to the sponsor's office as well. New section 9512(c)(1) and (2) direct half the trust fund to the Attorney General to carry out "section 3052(a) of part OO" and a tenth to carry out "section 3052(b)" of the same part. Section 6(a)(2) of the bill creates part PP, sections 3056 through 3058, and new section 3057 points back to section 9512(c)(1) and (2). The expenditure authority and the program it funds cite each other across a part and section numbering that does not match.

The accompanying amendment package makes those changes and adds the regulatory layer as new sections, leaving the MORE Act's own eighteen sections substantially intact. Most of it adds rather than corrects, which is a measure of how little there is to disagree with.