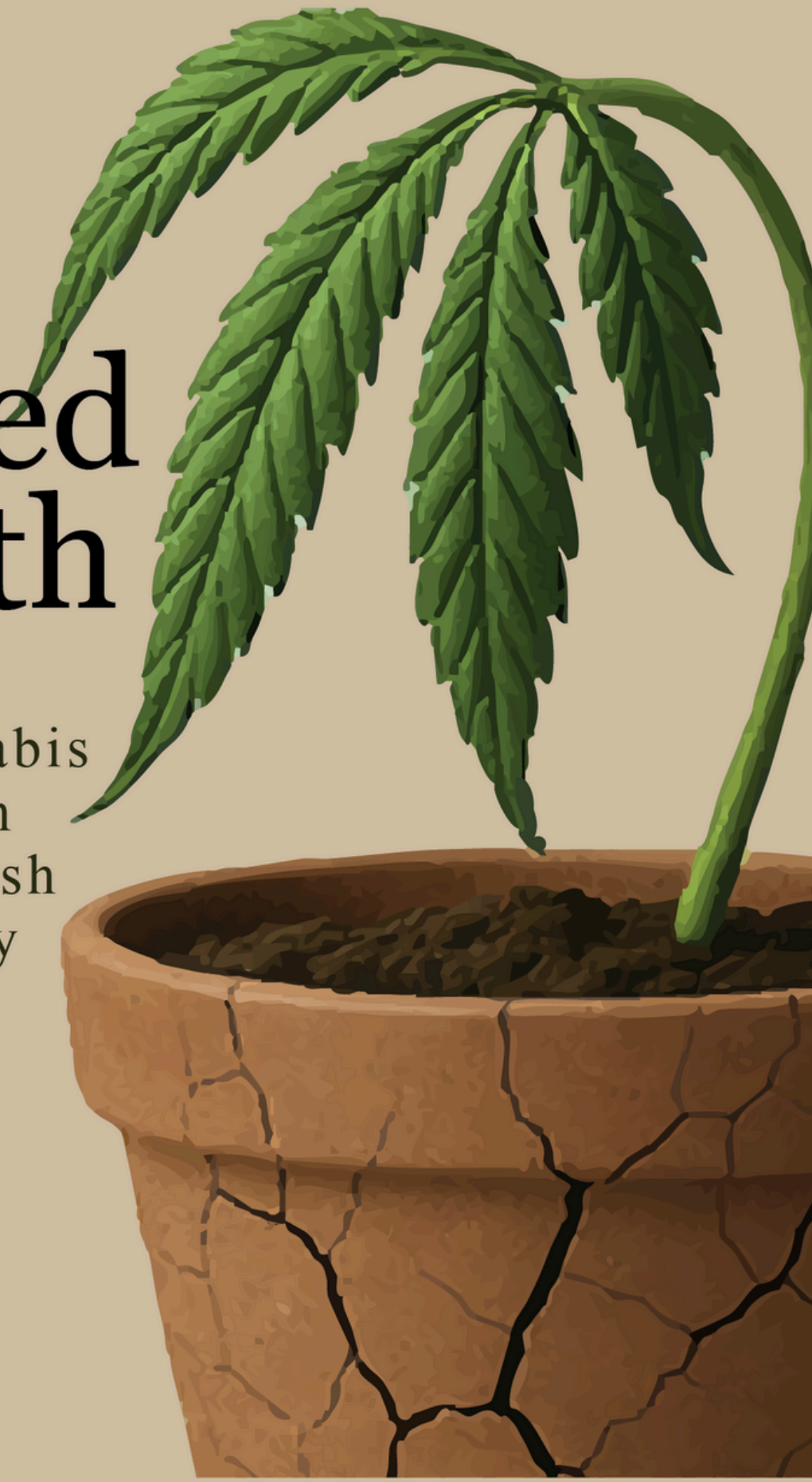


# Stunted Growth

Why the cannabis industry's high hopes may crash into DC reality



## THE BOTTOM LINE

Hopes for a regulatory reset in the cannabis industry appear overblown. Despite campaign-trail assurances from President Trump that he supports rescheduling marijuana and easing banking restrictions, Capstone expects little progress. The Drug Enforcement Agency is unlikely to reclassify cannabis as a Schedule III substance, and the Secure and Fair Enforcement Regulation (SAFER) Banking Act faces resistance from Senate Republicans. Investors betting on swift reform may be disappointed in a sector stuck in limbo. With key administration posts filled by cannabis skeptics, policy decisions are more likely to reflect inertia than ambition. For now, the industry's high hopes are likely to go up in smoke.

- During his 2024 campaign, President Trump said he supported rescheduling cannabis and allowing the industry to use traditional banking services. However, we believe that, as during his first term, Trump has staffed his administration with opponents of cannabis reform and that he will allow them to set policy on the matter.
- We assign a 20% probability that cannabis will be reclassified as a Schedule III substance in 2025. We assign a 15% probability that significant cannabis banking reform (such as the SAFER Banking Act) will be signed into law in 2025. Cannabis policy is not to be a priority for this administration, though we find it possible for some movement to occur in 2026.
- Reclassifying cannabis as a Schedule III drug would establish a platform for cannabis operators to grow by taking advantage of tax deductions, reducing effective tax rates from about 70% to roughly 25%. Cannabis banking reform would give operators access to large banks, insurers, and other financial services, allowing players in the industry to finance like traditional companies.

## Call at a Glance

### Our Prediction

**Schedule III Drug Reclassification:** We assign a 20% probability that cannabis will be reclassified to Schedule III by the end of 2025

**Cannabis Banking Reform:** We assign a 15% probability that significant cannabis banking reform will become law by the end of 2025.

### Companies Impacted

Curaleaf Holdings Inc. (CURLF), Verano Holdings Corp. (VRNOF), Trulieve Cannabis Corp. (TCNNF), Cresco Labs Inc. (CRLBF), Columbia Care Inc. (CCHWF), Ayr Wellness Inc. (AYRWF)

### Potential Impact

Reclassifying cannabis as a Schedule III drug would remove the Section 280E tax burden, allowing cannabis companies to take tax deductions for business expenses, decreasing their effective federal tax rates by roughly 50 percentage points. Banking reform would enable the industry to utilize traditional financial services.

\*Capstone's predictions are informed by rigorously examining historical occurrences and current conditions while rooting out cognitive biases systematically. We update our probabilities often to reflect the latest information. Read more [here](#).

## A DEEPER LOOK

# Background

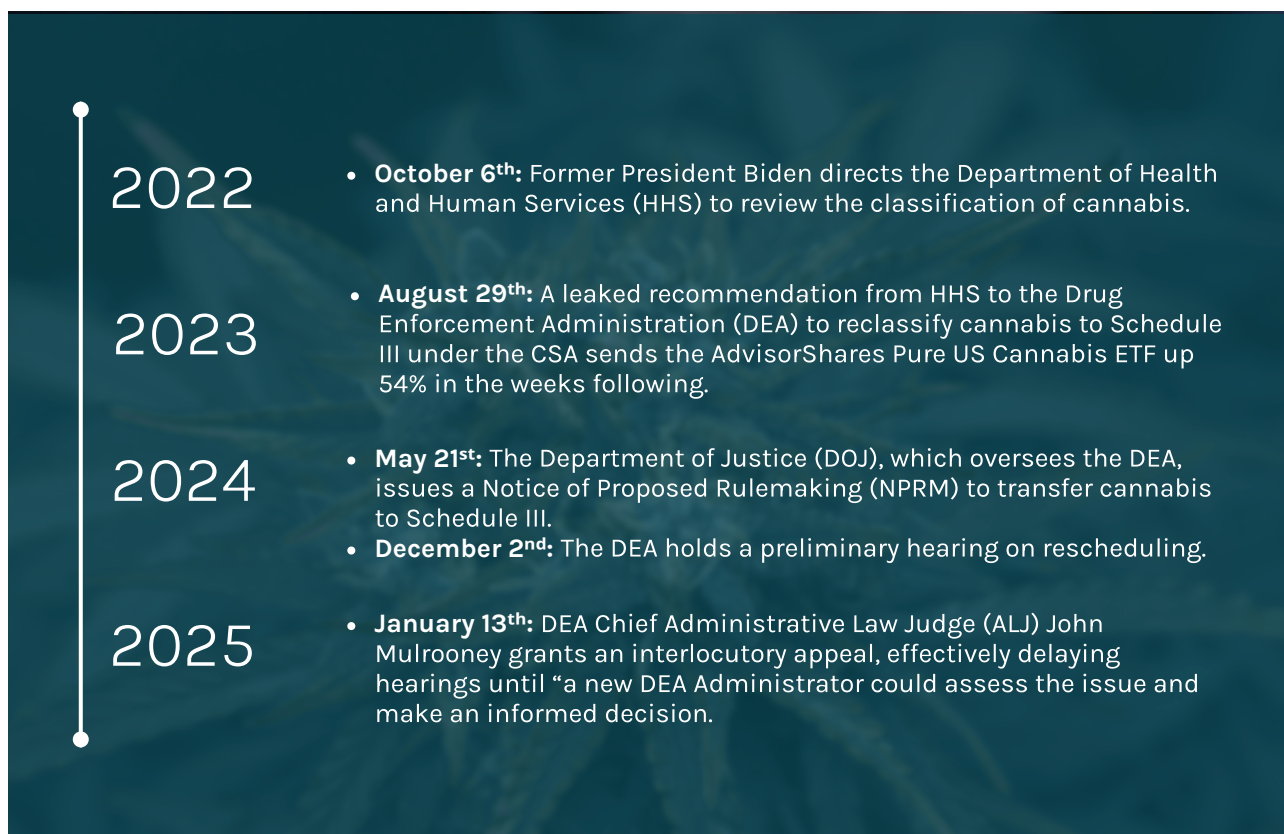
While the cannabis industry benefited from some regulatory progress during the Biden administration, efforts to reschedule the drug under the Controlled Substances Act (CSA) remain in limbo. The Trump administration, which has held a variety of conflicting policy positions on cannabis, now has the ability to set policy on rescheduling. Under federal law, cannabis is classified as [Schedule I](#), putting it in a class of drugs that are deemed to present a high potential for abuse and that lack an accepted medical purpose. There has been a push to reclassify the drug to [Schedule III](#), which would define cannabis as having a “moderate to low potential for physical and psychological dependence” with safe and accepted medical uses.

Importantly, reclassifying cannabis to Schedule III would vastly reduce federal tax burdens on licensed cannabis businesses in states where it is legal by exempting them from Internal Revenue Code Section 280E. Currently, these businesses are taxed at an effective rate of roughly 70% because they are not allowed to deduct “ordinary business expenses” such as rent, marketing, and health insurance from taxable income. Reclassifying cannabis to Schedule III would reduce effective tax rates to about 25% by allowing them to use the same tax deductions as traditional businesses.

### Exhibit 1



#### Timeline of Cannabis Rescheduling Efforts



Source: DEA, HHS

The DEA currently has the authority to decide whether to unpause the rescheduling process. If the DEA resumes the process, hearings will continue, and the agency will continue responding to every comment left on the docket, which we expect would take several months. DEA will then make a decision on rescheduling and draft a final rule—again, a process that would take some time. The entire rescheduling process can take years, but the US is far along in this process. If DEA is motivated to act on rescheduling, the remainder of these steps could be accomplished in approximately six months, although we believe the DEA will slow-walk any resumption of reform efforts.

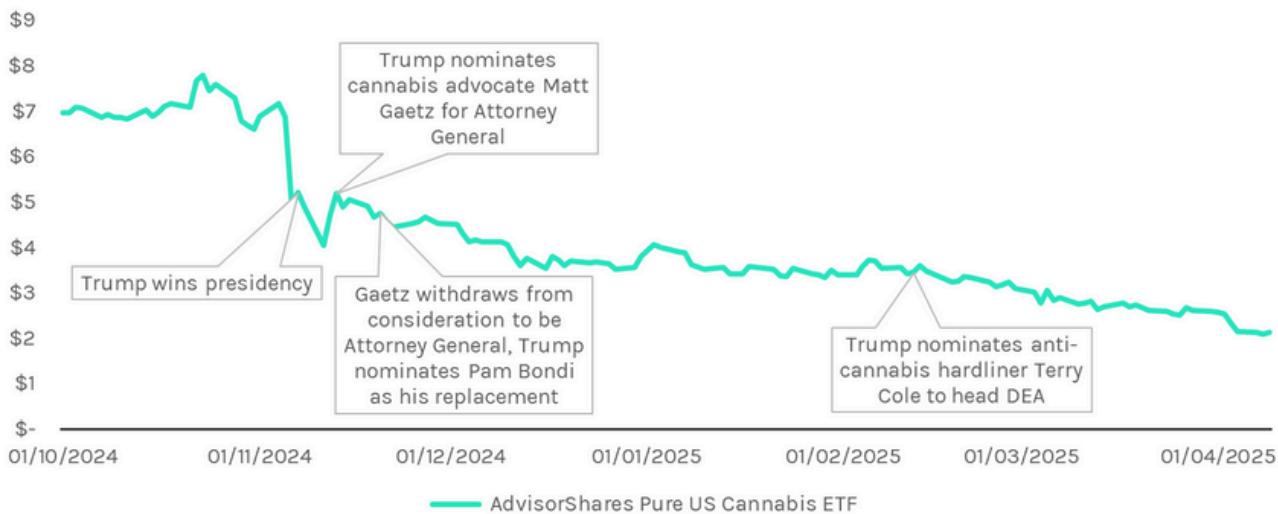
## DEA Rescheduling Efforts Unlikely to Proceed Under Anti-Cannabis Trump Appointees

We believe that Terry Cole, Trump’s appointee to become DEA Administrator, and Attorney General (AG) Pam Bondi will have discretion over the decision to resume hearings on the rescheduling of cannabis. With Trump having a history of shifting positions on cannabis policy, we believe that the precedent set by the first Trump administration—allowing cabinet members to call the shots on cannabis policy—will continue. While Bondi is less of an anti-cannabis hardliner than Trump’s first AG, Jeff Sessions, we believe her lack of clear policy positions increases the likelihood she delegates this decision to the DEA, which, upon Senate confirmation, will be led by an ardent opponent of the cannabis industry.

### Exhibit 2



#### US Cannabis ETF Reacts Strongly to Trump Victory and Cabinet Choices (\$/share)



Source: AdvisorShares



## Appointed DEA Administrator Terry Cole

Now that DEA Chief Administrative Law Judge John Mulrooney has delayed hearings on cannabis rescheduling, Trump's appointee for DEA Administrator, Terry Cole, will have discretion over if/when the hearings resume. Additionally, even if Mulrooney recommends cannabis be rescheduled, the DEA Administrator has the authority to deny the petition. This authority is traditionally delegated to the DEA under the legal authority of the US Attorney General.

Cole is currently the Secretary of Public Safety and Homeland Security in Virginia, overseeing the state's Cannabis Control Authority. Cole has a limited history of commenting on cannabis policy. Still, in 2024, he [posted](#) on LinkedIn: "Everybody knows my stance on marijuana after 30 plus years in law enforcement, so don't even ask! #justsayno #disorders #notlegal4distribution #healthissues #thinblueline #backtheblue."

It is possible that Cole's opinion on cannabis has evolved over the past year, but the hashtags in his post suggest that he adheres to a Reagan-era, War on Drugs philosophy—a mindset that is not conducive to supporting the legalization of recreational cannabis use. The "#disorders" and "#healthissues" indicate his skepticism of the medical benefits of cannabis claimed by legalization proponents. It is crucial to remember that under cannabis's current federal classification (Schedule I), it is deemed to have a high potential for abuse and lacks an accepted medical purpose. Cole's Senate confirmation hearing has yet to be [scheduled](#), but we expect him to be continuously questioned about cannabis. We believe Cole will maintain the current classification of cannabis and take no action to resume hearings.



## Attorney General Pam Bondi

Attorney General Pam Bondi oversees the DEA as the head of the Department of Justice (DOJ). It is unclear whether she plans to weigh in on cannabis rescheduling, but if her decision conflicts with that of the DEA, she has the [legal authority](#) to override the DEA's decision. Under the original language in the CSA, the AG has [final say](#) on drug classifications. Bondi served as one of Trump's personal lawyers during his first impeachment trial in 2019 and frequently appeared on Fox News claiming election fraud following the 2020 election.

Bondi has little public record of commenting on cannabis and refused to specify how she would handle rescheduling or the enforcement of federal cannabis laws during her confirmation hearing, instead [responding](#) that, "If confirmed, I will give the matter careful consideration after consulting with appropriate department officials." We believe that Bondi's noncommittal responses indicate that she will follow the DEA's decision on cannabis rescheduling unless given another directive from Trump.

In her former tenure as Florida's Attorney General, her office opposed a 2014 initiative to legalize medical cannabis. It is unclear how Bondi would rule if prompted to reschedule cannabis, but we do believe she is a much less cannabis-friendly pick than Trump's initial appointee for AG, Matt Gaetz. Gaetz has called for cannabis to be fully [descheduled](#) and was one of five Republicans who voted for the [Marijuana Opportunity Reinvestment and Expungement \(MORE\) Act](#), which would have removed cannabis from the CSA. However, Gaetz faced controversies over past misconduct, and Trump replaced him with Bondi. The loss of Gaetz in the role is a significant headwind to cannabis companies, which now face a diminished probability that regulations will be eased.

# President Donald Trump

Although the CSA gives the Attorney General authority to decide drug classifications, Trump wields a great deal of control over his cabinet, which he has staffed with ardent supporters. We believe that if Trump feels a certain way on cannabis rescheduling, the DEA and DOJ will act at his direction. However, Trump’s words and actions on cannabis often contradict each other.

### Exhibit 3



### Trump’s Varying Positions on Cannabis Policy



Quotes During Campaign and in Office	Proposed Impact of Quotes on Cannabis	Actions in Office	Impact of Actions on Cannabis
First Term			
Medical marijuana, medical? I'm in favor of it 100%. - February 12, 2016	●	Trump's FY2021 budget proposed eliminating the Rohrabacher-Farr Amendment, which protects state medical programs from federal interference <sup>1</sup> .	●
I support Senator Gardner. I know exactly what he's doing; we're looking at it. But I probably will end up supporting that (the STATES Act <sup>2</sup> ), yes. - June 8, 2018	●	Trump AG Jeff Sessions revoked the Cole Memorandum, an Obama-era policy that deprioritized federal enforcement in states with legal cannabis.	●
Second Term			
As President, we will continue to focus on research to unlock the medical uses of marijuana to a Schedule 3 drug, and work with Congress to pass common sense laws, including safe banking for state authorized companies, and supporting states' rights to pass marijuana laws, like Florida, that work so well for their citizens. - September 8, 2024	●	Trump appointed Terry Cole, an anti-cannabis DEA Administrator. It is unclear if Trump plans to direct the DEA to act on cannabis rescheduling.	●

Source: Fox News, Washington Post, Truth Social  
Note 1: Medical cannabis protections were then included by Congress and included in the final budget.  
Note 2: The STATES Act would have amended the CSA to allow states to create their own laws on cannabis.  
Key: ● = is negative for the cannabis industry, ● = is positive for the cannabis industry, ● = unknown impact

During his time in office, Trump has done little to benefit the cannabis industry. Although he has opined on medical use and states’ rights, he has not stopped anti-cannabis hardliners in his administration from taking action to restrict cannabis distribution and use. It is unclear what position on cannabis policy Elon Musk, the head of the Department of Government Efficiency and a close adviser to Trump, holds, but Musk could impact Trump’s policy perspectives.

Musk famously smoked a joint on The Joe Rogan Experience podcast (and later claimed he [never inhaled](#) and had never smoked before) and has [shared](#) details of his experiences using ketamine, a Schedule III drug. Many of Musk’s policy positions have changed since his association with Trump, and we are unsure if he will weigh in on the issue. Ultimately, we believe that Trump will defer to the DEA and DOJ on cannabis policy—a headwind for the industry.

## Secretary of Health and Human Services Robert F. Kennedy Jr.

We believe Health and Human Services (HHS) Secretary Robert F. Kennedy Jr. will avoid rescheduling proceedings and refrain from commenting on cannabis during his time in Trump's cabinet. In his [Senate testimony](#), Kennedy said, "If an assessment backed by robust evidence concludes that marijuana has accepted medical uses, I have no reason to question that assessment," hinting he has no plans to rescind HHS's 2023 recommendation to reschedule cannabis. However, it is a concern for the cannabis industry that Kennedy, once a strong advocate for federal legalization of cannabis, refused to take a stance on rescheduling in his testimony, instead deferring to the DEA.

## SAFER Banking

If cannabis is not rescheduled, the industry can try to address its financial struggles through the reintroduction of the [SAFER \(Secure And Fair Enforcement Regulation Banking\) Banking Act](#). Currently, any bank that offers financial services to the cannabis industry faces significant risks to its business. The Federal Deposit Insurance Corporation (FDIC) could revoke its deposit insurance, and a bank can be penalized under anti-money laundering laws that flag any proceeds from cannabis sales. If SAFER is enacted, it would have "safe harbor" provisions protecting banks, insurers, and other financial institutions that work with cannabis businesses. However, we believe it is unlikely for cannabis industry banking reform to occur in 2025 due to continued roadblocks in the Senate.



## Banking Reform for Cannabis Has Faced Roadblocks in the Senate

The SAFER Banking Act (previously called the SAFE Banking Act) was introduced in the 116<sup>th</sup>, 117<sup>th</sup>, and 118<sup>th</sup> Congresses, passing through the House seven times as either an attachment or a standalone bill. However, it has never passed through the Senate.

## Exhibit 4



### SAFE/SAFER Banking Act Has Consistently Faced Senate Roadblocks



Congress	Legislative Vehicle	House of Representatives		Senate	
116 <sup>th</sup>	SAFE Banking Act	<a href="#">H.R.1595</a> passed 321 to 103	●	<a href="#">S.1200</a> died in committee	●
116 <sup>th</sup>	Attached to HEROES Act	<a href="#">H.R.6800</a> passed 208 to 199	●	<a href="#">H.R. 6800</a> was sent to the Senate and died in committee	●
116 <sup>th</sup>	Attached to HEROES Act 2.0 (introduced as the ACE Act)	<a href="#">H.R.925</a> passed 214 to 207	●	<a href="#">H.R.925</a> was sent to the Senate and died in committee	●
117 <sup>th</sup>	SAFE Banking Act	<a href="#">H.R.1996</a> passed 321 to 101	●	<a href="#">H.R.1996</a> died in the Senate Banking Committee because fmr. Sen. Sherrod Brown (D-OH) and Sen. Chuck Schumer (D-NY) favored broader cannabis legislation	●
117 <sup>th</sup>	Attached to National Defense Authorization Act for FY2022	The first version of <a href="#">H.R.4350</a> included the SAFE Banking Act and passed the House, but was not included in the final	●	Not included in Senate version	●
117 <sup>th</sup>	Attached to America COMPETES Act	<a href="#">H.R.4521</a> passed 222 to 210	●	The final bill, renamed as the CHIPS and Science Act, did not include the SAFE Banking Act	●
117 <sup>th</sup>	Attached to National Defense Authorization Act for FY2023	The initial version of <a href="#">H.R.7776</a> included the SAFE Banking Act and passed the House, but was not included in the final	●	Not included in Senate version	●
118 <sup>th</sup>	SAFE Banking Act	<a href="#">H.R.2891</a> died in committee	●	Not introduced in Senate	●
118 <sup>th</sup>	SAFE Banking Act	Not introduced in House	●	<a href="#">S.2860</a> passed through the Senate Banking Committee on a 14 to 9 vote, but was never scheduled for a full vote	●

Source: Congress.gov

Key: ● = did not pass, ● = passed



## SAFER Banking Unlikely to Pass Senate Under Current Congress

We believe SAFER Banking will face a difficult path under the current Congress once introduced. The recent appointment of Rep. French Hill (R-AR) to chair the House Financial Services Committee is a moderate tailwind for the legislation passing through the House. Hill previously [supported](#) the SAFE Banking Act under the 116<sup>th</sup> and 117<sup>th</sup> Congress. He is by no means a cannabis advocate, but his track record suggests he supports [protections for financial services](#). It is worth mentioning that to pass through the full House, legislation must be put up for a vote by Speaker Mike Johnson (R-LA), who has voted [against](#) cannabis legislation at every opportunity.

Should banking reform for the cannabis industry win in the House, it remains unlikely to happen due to opposition in the Senate. The appointment of Sen. Tim Scott (R-SC) to chair the Senate Committee on Banking, Housing, and Urban Affairs is a headwind for the legislation. Scott was one of nine “no” votes on SAFER Banking during the 118<sup>th</sup> Congress and has expressed reservations about the potential for the legislation to create loopholes in anti-money laundering laws. The committee held a hearing focused on debanking on February 5, 2025, but clarified that only federally legal businesses would be discussed—eliminating any discussion of cannabis banking reform.



Even if the bill passes through committee in the Senate, Senate Majority Leader John Thune (R-SD) would have to schedule the legislation for a floor vote. He has never voted on cannabis banking reform because it has never been brought for a full vote in the Senate. However, Thune opposed the attachment of SAFE Banking to the HEROES Act, saying that, “in case Democrats didn’t realize, Americans aren’t suffering from a lack of cannabis right now.” It is worth noting that Trump expressed his support for SAFE Banking in a September 2024 [message](#) of support for the Florida amendment, although we believe he is unlikely to spend the political capital necessary to whip votes to boost the cannabis industry.

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### Impact on Multi-State Operators

Multi-state operators (MSOs) such as Curaleaf Holdings Co. (CURLF) and Trulieve Cannabis Corp. (TCNNF) have spoken optimistically regarding the Trump administration deregulating cannabis, but their recent actions to invest more in hemp-derived THC products (such as infused seltzers) is a sign they harbor doubts about his outlook. Hemp-derived THC is legal under a loophole in the [2018 Farm Bill](#), so companies have used it to enter markets where medical and recreational cannabis remains illegal, such as Texas. We believe additional investment into hemp shows that MSOs are confident that the next iteration of the Farm Bill will maintain hemp’s legality and that they are skeptical about the regulatory environment of traditional cannabis.

# What's Next

- DEA Administrator Terry Cole, upon Senate confirmation, has the discretion to resume hearings on rescheduling cannabis. If he does not resume the hearings, rescheduling efforts will not proceed. On April 10<sup>th</sup>, DEA attorneys [affirmed](#) that “no briefing schedule has been set” to resume hearings.
- SAFER Banking has yet to be introduced under the current (119<sup>th</sup>) Congress, although we expect it will be in the coming months due to its constant presence in previous sessions.
- To get an early look at attitudes on cannabis under the current Congress, we will be monitoring [H.R. 1447](#), a bill recently introduced by Rep. Jodey Arrington (R-TX), who chairs the important House Budget Committee. The legislation proposes to amend the Internal Revenue Code to specifically prohibit tax deductions for companies involved in “trafficking marijuana.” If enacted, this policy would eliminate the tax benefits from the reclassification of cannabis to Schedule III, maintaining the status quo of a massive federal tax burden. The text of the bill (and its [Senate counterpart](#)) has not yet been released. We believe Arrington will use his authority to propose the bill as an amendment in the budget reconciliation process, although it is unclear at this time if it will withstand [Byrd Rule](#) scrutiny in the Senate. The legislation was introduced on the heels of major MSOs Curaleaf, Trulieve, and Cresco Labs Inc. (CRLBF) [claiming](#) that their operations are not subject to Internal Revenue Code Section 280E and filing for a refund—a bold move that prompted a [statement](#) from the Internal Revenue Service (IRS) to reiterate the law.
- On March 5<sup>th</sup>, [news](#) of a Trump administration staffer asking an industry advocate to submit a proposal on the political advantages of legalizing cannabis sent the AdvisorShares Pure US Cannabis ETF soaring over 11% in just ten minutes. We do not believe this news to be materially important due to Trump’s current focus on trade and we believe it overvalues names such as Curaleaf, Verano, and Trulieve.
- **States to Watch:**
  1. Pennsylvania Governor Josh Shapiro (D) has included recreational cannabis legalization in his [FY2026](#) budget proposal. However, Shapiro also did this in his [FY2024](#) and [FY2025](#) budgets to no avail. Capstone believes it is unlikely that major reform will pass through Pennsylvania’s [split legislature](#).
  2. Hawaii legalized medical cannabis back in 2000, but has yet to legalize recreational use despite having a Democratic trifecta. Legislation is technically progressing through Hawaii’s Senate, but the House has already voted to postpone the legislation until 2026. Capstone believes it is unlikely Hawaii will pass legislation legalizing recreational cannabis in 2025.

## Unpacking our Probability and Timing

### Rescheduling Efforts to Stay Paused Due to Anti-Cannabis DEA Head

The DEA has consistently followed HHS scheduling recommendations throughout its history, going as far back as 1971, leading us to establish a 99% base rate of the DEA reclassifying cannabis as Schedule III. However, incoming DEA Administrator Terry Cole is a staunch cannabis opponent, Attorney General Bondi has refused to affirm that she would follow HHS recommendations on rescheduling during her confirmation hearing, and Trump has a history of conflicting rhetoric and policy actions on cannabis. To address these factors, we then adjust our base rate down by 79 percentage points to reach a 20% probability that cannabis will be reclassified to Schedule III in 2025. Even if action is taken to resume hearings, we do not believe the timeline of rescheduling (hearings, comment periods, rule drafting) is conducive for action within the year.

### SAFER Banking Reform Unlikely to Pass Congress

The SAFE/SAFER Banking Act has been introduced (either attached to omnibus legislation or standalone) nine times and has failed to pass the Senate each time. To reflect this, we establish a base rate of 0% for its passage into law. We then adjust our base rate up 15 percentage points to reflect Trump's support during his campaign, leading to a 15% probability that SAFER Banking will pass in 2025.

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## Risks to Our Thesis

- Trump reaffirms his campaign promise of reclassifying cannabis to Schedule III, directing the DEA to continue hearings.
- Trump reaffirms his campaign promise of supporting cannabis banking reform, boosting the prospects of the SAFER Banking Act upon reintroduction.
- DEA Administrator Terry Cole changes his position on cannabis, allowing hearings to resume.

