

File No. 210428

Committee Item No. _____

Board Item No. 35

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: April 27, 2021

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- U.S. Senate Bill 910 - 3/23/21
- National League of Cities Position
- _____
- _____
- _____
- _____
- _____
- _____

Prepared by: Lisa Lew

Date: April 23, 2021

Prepared by: _____

Date: _____

1 [Supporting United States Senate Bill 910 (Merkley) - SAFE Banking Act of 2021]

2

3 **Resolution urging the passage of the United States Senate Bill 910, introduced by**
4 **United States Senator Jeff Merkley (D-OR), the Secure and Fair Enforcement Banking**
5 **(SAFE) Act of 2021, and the urgent introduction of federal legislation to legalize**
6 **cannabis.**

7

8 WHEREAS, Despite being illegal at the federal level, thirty-three states, four U.S.
9 territories, and the District of Columbia have authorized the use of medical cannabis; and

10 WHEREAS, 22 states, the U.S. Virgin Islands, and the District of Columbia have
11 decriminalized cannabis and ten states, the Northern Mariana Islands, the District of
12 Columbia, and three Native American tribes have legalized adult use of cannabis; and

13 WHEREAS, Cannabis is classified as a Schedule I drug under the Controlled
14 Substances Act, classifying it among the most dangerous drugs in the Act; and

15 WHEREAS, The federal classification of cannabis as a Schedule I drug creates
16 significant challenges to medical cannabis dispensaries and cannabis-related businesses that
17 are operating legally pursuant to state law and presents difficulties for consumers or
18 businesses that are authorized to grow, sell, or purchase cannabis products under state law;
19 and

20 WHEREAS, Due to the conflict between state and federal law, the vast majority of
21 financial institutions and insurers are unwilling to provide services and those that do could be
22 subject to severe criminal and civil penalties; and

23 WHEREAS, Legislation has been introduced in Congress and passed in the House of
24 Representatives to provide protection and immunity from federal prosecution for institutions
25 providing financial services to cannabis-related businesses acting under state law; and

1 WHEREAS, The United States has an incarceration crisis that has destabilized millions
2 of Americans, caused intergenerational harm and trauma to families, decimated entire
3 communities, and disproportionately impacted communities of color, particularly Black
4 communities; and

5 WHEREAS, The legalization of cannabis is a key step in helping to heal communities
6 of color who have been damaged deeply by the war on drugs; and

7 WHEREAS, The House of Representatives introduced and passed H.R.1996 Secure
8 and Fair Enforcement Banking Act of 2021 (SAFE Banking Act of 2021) which would prohibit
9 a federal banking regulator from penalizing a depository institution for providing banking
10 services to a legitimate cannabis-related business; and

11 WHEREAS, The Senate introduced its counterpart S.910 SAFE Banking Act of 2021
12 on March 23, 2021; and

13 WHEREAS, Senate Majority Leader Chuck Schumer has publicly stated he is
14 preparing to introduce a federal cannabis legalization legislation in the coming months; and

15 WHEREAS, The City and County of San Francisco and the San Francisco Board of
16 Supervisors have repeatedly passed ordinances, resolutions, and propositions supporting the
17 expansion and legalization of cannabis use throughout its history; now, therefore, be it

18 RESOLVED, The San Francisco Board of Supervisors urges the United States Senate
19 to pass the SAFE Banking Act of 2021; and, be it

20 FURTHER RESOLVED, The San Francisco Board of Supervisors supports the urgent
21 introduction of federal legislation to remove cannabis from the federal Controlled Substance
22 Act, expunge prior marijuana convictions, and provide financial services and other resources
23 for small, and Black and Brown-owned cannabis businesses; and

24

25

1 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the
2 Board to transmit a copy of this Resolution to the Offices of Senate Majority Leader Chuck
3 Schumer, Senator Dianne Feinstein, and Senator Alex Padilla.

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117TH CONGRESS
1ST SESSION

S. 910

To create protections for financial institutions that provide financial services to cannabis-related legitimate businesses and service providers for such businesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 2021

Mr. MERKLEY (for himself, Mr. DAINES, Mr. MENENDEZ, Ms. SINEMA, Mr. MARKEY, Mr. PADILLA, Mr. LEAHY, Mr. DURBIN, Mr. WYDEN, Ms. HIRONO, Ms. SMITH, Mr. KING, Ms. CORTEZ MASTO, Mr. BENNET, Mr. TESTER, Ms. ROSEN, Mr. CRAMER, Mr. SULLIVAN, Mrs. GILLIBRAND, Ms. WARREN, Mr. MURPHY, Mr. PETERS, Mr. SANDERS, Mr. SCHATZ, Mrs. MURRAY, Ms. KLOBUCHAR, Mr. PAUL, Mr. CASSIDY, Ms. LUMMIS, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To create protections for financial institutions that provide financial services to cannabis-related legitimate businesses and service providers for such businesses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; PURPOSE.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Secure And Fair Enforcement Banking Act of 2021” or
 4 the “SAFE Banking Act of 2021”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
 6 this Act is as follows:

- Sec. 1. Short title; table of contents; purpose.
- Sec. 2. Safe harbor for depository institutions.
- Sec. 3. Protections for ancillary businesses.
- Sec. 4. Protections under federal law.
- Sec. 5. Rules of construction.
- Sec. 6. Requirements for filing suspicious activity reports.
- Sec. 7. Guidance and examination procedures.
- Sec. 8. Annual diversity and inclusion report.
- Sec. 9. GAO study on diversity and inclusion.
- Sec. 10. GAO study on effectiveness of certain reports on finding certain persons.
- Sec. 11. Application of this act with respect to hemp-related legitimate businesses and hemp-related service providers.
- Sec. 12. Banking services for hemp-related legitimate businesses and hemp-related service providers.
- Sec. 13. Requirements for deposit account termination requests and orders.
- Sec. 14. Definitions.

7 (c) **PURPOSE.**—The purpose of this Act is to increase
 8 public safety by ensuring access to financial services to
 9 cannabis-related legitimate businesses and service pro-
 10 viders and reducing the amount of cash at such busi-
 11 nesses.

12 **SEC. 2. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.**

13 (a) **IN GENERAL.**—A Federal banking regulator may
 14 not—

15 (1) terminate or limit the deposit insurance or
 16 share insurance of a depository institution under the
 17 Federal Deposit Insurance Act (12 U.S.C. 1811 et

1 seq.), the Federal Credit Union Act (12 U.S.C. 1751
2 et seq.), or take any other adverse action against a
3 depository institution under section 8 of the Federal
4 Deposit Insurance Act (12 U.S.C. 1818) solely be-
5 cause the depository institution provides or has pro-
6 vided financial services to a cannabis-related legiti-
7 mate business or service provider;

8 (2) prohibit, penalize, or otherwise discourage a
9 depository institution from providing financial serv-
10 ices to a cannabis-related legitimate business or
11 service provider or to a State, political subdivision of
12 a State, or Indian Tribe that exercises jurisdiction
13 over cannabis-related legitimate businesses;

14 (3) recommend, incentivize, or encourage a de-
15 pository institution not to offer financial services to
16 an account holder, or to downgrade or cancel the fi-
17 nancial services offered to an account holder solely
18 because—

19 (A) the account holder is a cannabis-re-
20 lated legitimate business or service provider, or
21 is an employee, owner, or operator of a can-
22 nabis-related legitimate business or service pro-
23 vider;

1 (B) the account holder later becomes an
2 employee, owner, or operator of a cannabis-re-
3 lated legitimate business or service provider; or

4 (C) the depository institution was not
5 aware that the account holder is an employee,
6 owner, or operator of a cannabis-related legiti-
7 mate business or service provider;

8 (4) take any adverse or corrective supervisory
9 action on a loan made to—

10 (A) a cannabis-related legitimate business
11 or service provider, solely because the business
12 is a cannabis-related legitimate business or
13 service provider;

14 (B) an employee, owner, or operator of a
15 cannabis-related legitimate business or service
16 provider, solely because the employee, owner, or
17 operator is employed by, owns, or operates a
18 cannabis-related legitimate business or service
19 provider, as applicable; or

20 (C) an owner or operator of real estate or
21 equipment that is leased to a cannabis-related
22 legitimate business or service provider, solely
23 because the owner or operator of the real estate
24 or equipment leased the equipment or real es-

1 tate to a cannabis-related legitimate business or
2 service provider, as applicable; or

3 (5) prohibit or penalize a depository institution
4 (or entity performing a financial service for or in as-
5 sociation with a depository institution) for, or other-
6 wise discourage a depository institution (or entity
7 performing a financial service for or in association
8 with a depository institution) from, engaging in a fi-
9 nancial service for a cannabis-related legitimate
10 business or service provider.

11 (b) **SAFE HARBOR APPLICABLE TO DE NOVO INSTI-**
12 **TUTIONS.**—Subsection (a) shall apply to an institution ap-
13 plying for a depository institution charter to the same ex-
14 tent as such subsection applies to a depository institution.

15 **SEC. 3. PROTECTIONS FOR ANCILLARY BUSINESSES.**

16 For the purposes of sections 1956 and 1957 of title
17 18, United States Code, and all other provisions of Fed-
18 eral law, the proceeds from a transaction involving activi-
19 ties of a cannabis-related legitimate business or service
20 provider shall not be considered proceeds from an unlawful
21 activity solely because—

22 (1) the transaction involves proceeds from a
23 cannabis-related legitimate business or service pro-
24 vider; or

25 (2) the transaction involves proceeds from—

1 (A) cannabis-related activities described in
2 section 14(4)(B) conducted by a cannabis-re-
3 lated legitimate business; or

4 (B) activities described in section
5 14(13)(A) conducted by a service provider.

6 **SEC. 4. PROTECTIONS UNDER FEDERAL LAW.**

7 (a) IN GENERAL.—With respect to providing a finan-
8 cial service to a cannabis-related legitimate business
9 (where such cannabis-related legitimate business operates
10 within a State, political subdivision of a State, or Indian
11 country that allows the cultivation, production, manufac-
12 ture, sale, transportation, display, dispensing, distribution,
13 or purchase of cannabis pursuant to a law or regulation
14 of such State, political subdivision, or Indian Tribe that
15 has jurisdiction over the Indian country, as applicable) or
16 a service provider (wherever located), a depository institu-
17 tion, entity performing a financial service for or in associa-
18 tion with a depository institution, or insurer that provides
19 a financial service to a cannabis-related legitimate busi-
20 ness or service provider, and the officers, directors, and
21 employees of that depository institution, entity, or insurer
22 may not be held liable pursuant to any Federal law or
23 regulation—

24 (1) solely for providing such a financial service;
25 or

1 (2) for further investing any income derived
2 from such a financial service.

3 (b) PROTECTIONS FOR FEDERAL RESERVE BANKS
4 AND FEDERAL HOME LOAN BANKS.—With respect to
5 providing a service to a depository institution that pro-
6 vides a financial service to a cannabis-related legitimate
7 business (where such cannabis-related legitimate business
8 operates within a State, political subdivision of a State,
9 or Indian country that allows the cultivation, production,
10 manufacture, sale, transportation, display, dispensing, dis-
11 tribution, or purchase of cannabis pursuant to a law or
12 regulation of such State, political subdivision, or Indian
13 Tribe that has jurisdiction over the Indian country, as ap-
14 plicable) or service provider (wherever located), a Federal
15 reserve bank or Federal Home Loan Bank, and the offi-
16 cers, directors, and employees of the Federal reserve bank
17 or Federal Home Loan Bank, may not be held liable pur-
18 suant to any Federal law or regulation—

19 (1) solely for providing such a service; or

20 (2) for further investing any income derived
21 from such a service.

22 (c) PROTECTIONS FOR INSURERS.—With respect to
23 engaging in the business of insurance within a State, polit-
24 ical subdivision of a State, or Indian country that allows
25 the cultivation, production, manufacture, sale, transpor-

1 tation, display, dispensing, distribution, or purchase of
2 cannabis pursuant to a law or regulation of such State,
3 political subdivision, or Indian Tribe that has jurisdiction
4 over the Indian country, as applicable, an insurer that en-
5 gages in the business of insurance with a cannabis-related
6 legitimate business or service provider or who otherwise
7 engages with a person in a transaction permissible under
8 State law related to cannabis, and the officers, directors,
9 and employees of that insurer may not be held liable pur-
10 suant to any Federal law or regulation—

11 (1) solely for engaging in the business of insur-
12 ance; or

13 (2) for further investing any income derived
14 from the business of insurance.

15 (d) FORFEITURE.—

16 (1) DEPOSITORY INSTITUTIONS.—A depository
17 institution that has a legal interest in the collateral
18 for a loan or another financial service provided to an
19 owner, employee, or operator of a cannabis-related
20 legitimate business or service provider, or to an
21 owner or operator of real estate or equipment that
22 is leased or sold to a cannabis-related legitimate
23 business or service provider, shall not be subject to
24 criminal, civil, or administrative forfeiture of that

1 legal interest pursuant to any Federal law for pro-
2 viding such loan or other financial service.

3 (2) FEDERAL RESERVE BANKS AND FEDERAL
4 HOME LOAN BANKS.—A Federal reserve bank or
5 Federal Home Loan Bank that has a legal interest
6 in the collateral for a loan or another financial serv-
7 ice provided to a depository institution that provides
8 a financial service to a cannabis-related legitimate
9 business or service provider, or to an owner or oper-
10 ator of real estate or equipment that is leased or
11 sold to a cannabis-related legitimate business or
12 service provider, shall not be subject to criminal,
13 civil, or administrative forfeiture of that legal inter-
14 est pursuant to any Federal law for providing such
15 loan or other financial service.

16 **SEC. 5. RULES OF CONSTRUCTION.**

17 (a) NO REQUIREMENT TO PROVIDE FINANCIAL
18 SERVICES.—Nothing in this Act shall require a depository
19 institution, entity performing a financial service for or in
20 association with a depository institution, or insurer to pro-
21 vide financial services to a cannabis-related legitimate
22 business, service provider, or any other business.

23 (b) GENERAL EXAMINATION, SUPERVISORY, AND
24 ENFORCEMENT AUTHORITY.—Nothing in this Act may be
25 construed in any way as limiting or otherwise restricting

1 the general examination, supervisory, and enforcement au-
 2 thority of the Federal banking regulators, provided that
 3 the basis for any supervisory or enforcement action is not
 4 the provision of financial services to a cannabis-related le-
 5 gitimate business or service provider.

6 (c) BUSINESS OF INSURANCE.—Nothing in this Act
 7 shall interfere with the regulation of the business of insur-
 8 ance in accordance with the Act of March 9, 1945 (59
 9 Stat. 33, chapter 20; 15 U.S.C. 1011 et seq.) (commonly
 10 known as the “McCarran-Ferguson Act”) and the Dodd-
 11 Frank Wall Street Reform and Consumer Protection Act
 12 (12 U.S.C. 5301 et seq.).

13 **SEC. 6. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY**
 14 **REPORTS.**

15 Section 5318(g) of title 31, United States Code, is
 16 amended by adding at the end the following:

17 “(5) REQUIREMENTS FOR CANNABIS-RELATED
 18 LEGITIMATE BUSINESSES.—

19 “(A) IN GENERAL.—With respect to a fi-
 20 nancial institution or any director, officer, em-
 21 ployee, or agent of a financial institution that
 22 reports a suspicious transaction pursuant to
 23 this subsection, if the reason for the report re-
 24 lates to a cannabis-related legitimate business
 25 or service provider, the report shall comply with

1 appropriate guidance issued by the Financial
2 Crimes Enforcement Network. Not later than
3 the end of the 180-day period beginning on the
4 date of enactment of this paragraph, the Sec-
5 retary shall update the February 14, 2014,
6 guidance titled ‘BSA Expectations Regarding
7 Marijuana-Related Businesses’ (FIN-2014-
8 G001) to ensure that the guidance is consistent
9 with the purpose and intent of the SAFE
10 Banking Act of 2021 and does not significantly
11 inhibit the provision of financial services to a
12 cannabis-related legitimate business or service
13 provider in a State, political subdivision of a
14 State, or Indian country that has allowed the
15 cultivation, production, manufacture, transpor-
16 tation, display, dispensing, distribution, sale, or
17 purchase of cannabis pursuant to law or regula-
18 tion of such State, political subdivision, or In-
19 dian Tribe that has jurisdiction over the Indian
20 country.

21 “(B) DEFINITIONS.—For purposes of this
22 paragraph:

23 “(i) CANNABIS.—The term ‘cannabis’
24 has the meaning given the term ‘mari-

1 huana’ in section 102 of the Controlled
2 Substances Act (21 U.S.C. 802).

3 “(ii) CANNABIS-RELATED LEGITIMATE
4 BUSINESS.—The term ‘cannabis-related le-
5 gitimate business’ has the meaning given
6 that term in section 14 of the SAFE
7 Banking Act of 2021.

8 “(iii) INDIAN COUNTRY.—The term
9 ‘Indian country’ has the meaning given
10 that term in section 1151 of title 18.

11 “(iv) INDIAN TRIBE.—The term ‘In-
12 dian Tribe’ has the meaning given that
13 term in section 102 of the Federally Rec-
14 ognized Indian Tribe List Act of 1994 (25
15 U.S.C. 479a).

16 “(v) FINANCIAL SERVICE.—The term
17 ‘financial service’ has the meaning given
18 that term in section 14 of the SAFE
19 Banking Act of 2021.

20 “(vi) SERVICE PROVIDER.—The term
21 ‘service provider’ has the meaning given
22 that term in section 14 of the SAFE
23 Banking Act of 2021.

24 “(vii) STATE.—The term ‘State’
25 means each of the several States, the Dis-

1 trict of Columbia, the Commonwealth of
2 Puerto Rico, and any territory or posses-
3 sion of the United States.”.

4 **SEC. 7. GUIDANCE AND EXAMINATION PROCEDURES.**

5 Not later than 180 days after the date of enactment
6 of this Act, the Financial Institutions Examination Coun-
7 cil shall develop uniform guidance and examination proce-
8 dures for depository institutions that provide financial
9 services to cannabis-related legitimate businesses and
10 service providers.

11 **SEC. 8. ANNUAL DIVERSITY AND INCLUSION REPORT.**

12 The Federal banking regulators shall issue an annual
13 report to Congress containing—

14 (1) information and data on the availability of
15 access to financial services for minority-owned and
16 women-owned cannabis-related legitimate businesses;
17 and

18 (2) any regulatory or legislative recommenda-
19 tions for expanding access to financial services for
20 minority-owned and women-owned cannabis-related
21 legitimate businesses.

22 **SEC. 9. GAO STUDY ON DIVERSITY AND INCLUSION.**

23 (a) STUDY.—The Comptroller General of the United
24 States shall carry out a study on the barriers to market-
25 place entry, including in the licensing process, and the ac-

1 cess to financial services for potential and existing minor-
2 ity-owned and women-owned cannabis-related legitimate
3 businesses.

4 (b) REPORT.—The Comptroller General shall issue a
5 report to the Congress—

6 (1) containing all findings and determinations
7 made in carrying out the study required under sub-
8 section (a); and

9 (2) containing any regulatory or legislative rec-
10 ommendations for removing barriers to marketplace
11 entry, including in the licensing process, and ex-
12 panding access to financial services for potential and
13 existing minority-owned and women-owned cannabis-
14 related legitimate businesses.

15 **SEC. 10. GAO STUDY ON EFFECTIVENESS OF CERTAIN RE-**
16 **PORTS ON FINDING CERTAIN PERSONS.**

17 Not later than 2 years after the date of the enact-
18 ment of this Act, the Comptroller General of the United
19 States shall carry out a study on the effectiveness of re-
20 ports on suspicious transactions filed pursuant to section
21 5318(g) of title 31, United States Code, at finding individ-
22 uals or organizations suspected or known to be engaged
23 with transnational criminal organizations and whether any
24 such engagement exists in a State, political subdivision,
25 or Indian Tribe that has jurisdiction over Indian country

1 that allows the cultivation, production, manufacture, sale,
 2 transportation, display, dispensing, distribution, or pur-
 3 chase of cannabis. The study shall examine reports on sus-
 4 picious transactions as follows:

5 (1) During the period of 2014 until the date of
 6 the enactment of this Act, reports relating to mari-
 7 juana-related businesses.

8 (2) During the 1-year period after date of the
 9 enactment of this Act, reports relating to cannabis-
 10 related legitimate businesses.

11 **SEC. 11. APPLICATION OF THIS ACT WITH RESPECT TO**
 12 **HEMP-RELATED LEGITIMATE BUSINESSES**
 13 **AND HEMP-RELATED SERVICE PROVIDERS.**

14 (a) IN GENERAL.—The provisions of this Act (other
 15 than sections 6 and 10) shall apply with respect to hemp-
 16 related legitimate businesses and hemp-related service pro-
 17 viders in the same manner as such provisions apply with
 18 respect to cannabis-related legitimate businesses and serv-
 19 ice providers.

20 (b) DEFINITIONS.—In this section:

21 (1) CBD.—The term “CBD” means cannabi-
 22 diol.

23 (2) HEMP.—The term “hemp” has the meaning
 24 given that term under section 297A of the Agricul-
 25 tural Marketing Act of 1946 (7 U.S.C. 1639o).

1 (3) HEMP-RELATED LEGITIMATE BUSINESS.—

2 The term “hemp-related legitimate business” means
3 a manufacturer, producer, or any person or company
4 that—

5 (A) engages in any activity described in
6 subparagraph (B) in conformity with the Agri-
7 cultural Improvement Act of 2018 (Public Law
8 115–334) and the regulations issued to imple-
9 ment such Act by the Department of Agri-
10 culture, where applicable, and the law of a
11 State or political subdivision thereof or Indian
12 Tribe; and

13 (B) participates in any business or orga-
14 nized activity that involves handling hemp,
15 hemp-derived CBD products, and other hemp-
16 derived cannabinoid products, including culti-
17 vating, producing, drying, storing, extracting,
18 remediating, purifying, testing, manufacturing,
19 selling, transporting, transferring, displaying,
20 dispensing, distributing, or purchasing hemp,
21 hemp-derived CBD products, and other hemp-
22 derived cannabinoid products.

23 (4) HEMP-RELATED SERVICE PROVIDER.—The
24 term “hemp-related service provider”—

1 (A) means a business, organization, or
2 other person that—

3 (i) sells goods or services to a hemp-
4 related legitimate business; or

5 (ii) provides any business services, in-
6 cluding the sale or lease of real or any
7 other property, legal or other licensed serv-
8 ices, or any other ancillary service, relating
9 to hemp, hemp-derived CBD products, or
10 other hemp-derived cannabinoid products;
11 and

12 (B) does not include a business, organiza-
13 tion, or other person that participates in any
14 business or organized activity that involves han-
15 dling hemp, hemp-derived CBD products, or
16 other hemp-derived cannabinoid products, in-
17 cluding cultivating, producing, drying, storing,
18 extracting, remediating, purifying, testing, man-
19 ufacturing, selling, transporting, transferring,
20 displaying, dispensing, distributing, or pur-
21 chasing hemp, hemp-derived CBD products,
22 and other hemp-derived cannabinoid products.

1 **SEC. 12. BANKING SERVICES FOR HEMP-RELATED LEGITI-**
2 **MATE BUSINESSES AND HEMP-RELATED**
3 **SERVICE PROVIDERS.**

4 (a) FINDINGS.—The Congress finds that—

5 (1) the Agriculture Improvement Act of 2018
6 (Public Law 115–334) legalized hemp by removing
7 it from the definition of “marihuana” under the
8 Controlled Substances Act;

9 (2) despite the legalization of hemp, some hemp
10 businesses (including producers, manufacturers, and
11 retailers) and service providers continue to have dif-
12 ficulty gaining access to banking products and serv-
13 ices; and

14 (3) businesses involved in the sale of hemp-de-
15 rived CBD products are particularly affected, due to
16 confusion about the legal status of such products.

17 (b) FEDERAL BANKING REGULATORS’ HEMP BANK-
18 ING GUIDANCE.—Not later than the end of the 90-day pe-
19 riod beginning on the date of enactment of this Act, the
20 Federal banking regulators shall update their existing
21 guidance, as applicable, regarding the provision of finan-
22 cial services to hemp-related legitimate businesses and
23 hemp-related service providers to address—

24 (1) compliance with financial institutions’ exist-
25 ing obligations under Federal laws and imple-
26 menting regulations determined relevant by the Fed-

1 eral banking regulators, including subchapter II of
2 chapter 53 of title 31, United States Code, and its
3 implementing regulation in conformity with this Act
4 and the Department of Agriculture’s rules regulating
5 domestic hemp production (7 C.F.R. 990); and

6 (2) best practices for financial institutions to
7 follow when providing financial services, including
8 processing payments, to hemp-related legitimate
9 businesses and hemp-related service providers.

10 (c) DEFINITIONS.—In this section:

11 (1) FINANCIAL INSTITUTION.—The term “fi-
12 nancial institution”—

13 (A) has the meaning given that term under
14 section 5312(a) of title 31, United States Code;
15 and

16 (B) includes a bank holding company, as
17 defined under section 2(a) of the Bank Holding
18 Company Act of 1956 (12 U.S.C. 1841(a)).

19 (2) HEMP TERMS.—The terms “CBD”,
20 “hemp”, “hemp-related legitimate business”, and
21 “hemp-related service provider” have the meaning
22 given those terms, respectively, under section 11.

1 **SEC. 13. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMI-**
2 **NATION REQUESTS AND ORDERS.**

3 (a) **TERMINATION REQUESTS OR ORDERS MUST BE**
4 **VALID.—**

5 (1) **IN GENERAL.—**An appropriate Federal
6 banking agency may not formally or informally re-
7 quest or order a depository institution to terminate
8 a specific customer account or group of customer ac-
9 counts or to otherwise restrict or discourage a de-
10 pository institution from entering into or maintain-
11 ing a banking relationship with a specific customer
12 or group of customers unless—

13 (A) the agency has a valid reason for such
14 request or order; and

15 (B) such reason is not based solely on rep-
16 utation risk.

17 (2) **TREATMENT OF NATIONAL SECURITY**
18 **THREATS.—**If an appropriate Federal banking agen-
19 cy believes a specific customer or group of customers
20 is, or is acting as a conduit for, an entity which—

21 (A) poses a threat to national security;

22 (B) is involved in terrorist financing;

23 (C) is an agency of the Government of
24 Iran, North Korea, Syria, or any country listed
25 from time to time on the State Sponsors of
26 Terrorism list;

1 (D) is located in, or is subject to the juris-
2 diction of, any country specified in subpara-
3 graph (C); or

4 (E) does business with any entity described
5 in subparagraph (C) or (D), unless the appro-
6 priate Federal banking agency determines that
7 the customer or group of customers has used
8 due diligence to avoid doing business with any
9 entity described in subparagraph (C) or (D),
10 such belief shall satisfy the requirement under para-
11 graph (1).

12 (b) NOTICE REQUIREMENT.—

13 (1) IN GENERAL.—If an appropriate Federal
14 banking agency formally or informally requests or
15 orders a depository institution to terminate a spe-
16 cific customer account or a group of customer ac-
17 counts, the agency shall—

18 (A) provide such request or order to the
19 institution in writing; and

20 (B) accompany such request or order with
21 a written justification for why such termination
22 is needed, including any specific laws or regula-
23 tions the agency believes are being violated by
24 the customer or group of customers, if any.

1 (2) JUSTIFICATION REQUIREMENT.—A jus-
2 tification described under paragraph (1)(B) may not
3 be based solely on the reputation risk to the deposi-
4 tory institution.

5 (c) CUSTOMER NOTICE.—

6 (1) NOTICE REQUIRED.—Except as provided
7 under paragraph (2) or as otherwise prohibited from
8 being disclosed by law, if an appropriate Federal
9 banking agency orders a depository institution to
10 terminate a specific customer account or a group of
11 customer accounts, the depository institution shall
12 inform the specific customer or group of customers
13 of the justification for the customer’s account termi-
14 nation described under subsection (b).

15 (2) NOTICE PROHIBITED.—

16 (A) NOTICE PROHIBITED IN CASES OF NA-
17 TIONAL SECURITY.—If an appropriate Federal
18 banking agency requests or orders a depository
19 institution to terminate a specific customer ac-
20 count or a group of customer accounts based on
21 a belief that the customer or customers pose a
22 threat to national security, or are otherwise de-
23 scribed under subsection (a)(2), neither the de-
24 pository institution nor the appropriate Federal
25 banking agency may inform the customer or

1 customers of the justification for the customer's
2 account termination.

3 (B) NOTICE PROHIBITED IN OTHER
4 CASES.—If an appropriate Federal banking
5 agency determines that the notice required
6 under paragraph (1) may interfere with an au-
7 thorized criminal investigation, neither the de-
8 pository institution nor the appropriate Federal
9 banking agency may inform the specific cus-
10 tomer or group of customers of the justification
11 for the customer's account termination.

12 (d) REPORTING REQUIREMENT.—Each appropriate
13 Federal banking agency shall issue an annual report to
14 the Congress stating—

15 (1) the aggregate number of specific customer
16 accounts that the agency requested or ordered a de-
17 pository institution to terminate during the previous
18 year; and

19 (2) the legal authority on which the agency re-
20 lied in making such requests and orders and the fre-
21 quency on which the agency relied on each such au-
22 thority.

23 (e) DEFINITIONS.—For purposes of this section:

1 (1) APPROPRIATE FEDERAL BANKING AGEN-
2 CY.—The term “appropriate Federal banking agen-
3 cy” means—

4 (A) the appropriate Federal banking agen-
5 cy, as defined under section 3 of the Federal
6 Deposit Insurance Act (12 U.S.C. 1813); and

7 (B) the National Credit Union Administra-
8 tion, in the case of an insured credit union.

9 (2) DEPOSITORY INSTITUTION.—The term “de-
10 pository institution” means—

11 (A) a depository institution, as defined
12 under section 3 of the Federal Deposit Insur-
13 ance Act (12 U.S.C. 1813); and

14 (B) an insured credit union.

15 **SEC. 14. DEFINITIONS.**

16 In this Act:

17 (1) BUSINESS OF INSURANCE.—The term
18 “business of insurance” has the meaning given such
19 term in section 1002 of the Dodd-Frank Wall Street
20 Reform and Consumer Protection Act (12 U.S.C.
21 5481).

22 (2) CANNABIS.—The term “cannabis” has the
23 meaning given the term “marihuana” in section 102
24 of the Controlled Substances Act (21 U.S.C. 802).

1 (3) CANNABIS PRODUCT.—The term “cannabis
2 product” means any article which contains cannabis,
3 including an article which is a concentrate, an edi-
4 ble, a tincture, a cannabis-infused product, or a top-
5 ical.

6 (4) CANNABIS-RELATED LEGITIMATE BUSI-
7 NESS.—The term “cannabis-related legitimate busi-
8 ness” means a manufacturer, producer, or any per-
9 son or company that—

10 (A) engages in any activity described in
11 subparagraph (B) pursuant to a law established
12 by a State or a political subdivision of a State,
13 as determined by such State or political subdivi-
14 sion; and

15 (B) participates in any business or orga-
16 nized activity that involves handling cannabis or
17 cannabis products, including cultivating, pro-
18 ducing, manufacturing, selling, transporting,
19 displaying, dispensing, distributing, or pur-
20 chasing cannabis or cannabis products.

21 (5) DEPOSITORY INSTITUTION.—The term “de-
22 pository institution” means—

23 (A) a depository institution as defined in
24 section 3(c) of the Federal Deposit Insurance
25 Act (12 U.S.C. 1813(c));

1 (B) a Federal credit union as defined in
2 section 101 of the Federal Credit Union Act
3 (12 U.S.C. 1752); or

4 (C) a State credit union as defined in sec-
5 tion 101 of the Federal Credit Union Act (12
6 U.S.C. 1752).

7 (6) FEDERAL BANKING REGULATOR.—The
8 term “Federal banking regulator” means each of the
9 Board of Governors of the Federal Reserve System,
10 the Bureau of Consumer Financial Protection, the
11 Federal Deposit Insurance Corporation, the Federal
12 Housing Finance Agency, the Financial Crimes En-
13 forcement Network, the Office of Foreign Asset
14 Control, the Office of the Comptroller of the Cur-
15 rency, the National Credit Union Administration,
16 the Department of the Treasury, or any Federal
17 agency or department that regulates banking or fi-
18 nancial services, as determined by the Secretary of
19 the Treasury.

20 (7) FINANCIAL SERVICE.—The term “financial
21 service”—

22 (A) means—

23 (i) a financial product or service, as
24 defined in section 1002 of the Dodd-Frank
25 Wall Street Reform and Consumer Protec-

1 tion Act (12 U.S.C. 5481) regardless of
2 whether the customer receiving the product
3 or service is a consumer or commercial en-
4 tity; or

5 (ii) a financial product or service, or
6 any combination of products and services,
7 permitted to be provided by—

8 (I) a national bank or a financial
9 subsidiary pursuant to the authority
10 provided under—

11 (aa) the provision designated
12 “Seventh” of section 5136 of the
13 Revised Statutes of the United
14 States (12 U.S.C. 24); or

15 (bb) section 5136A of the
16 Revised Statutes of the United
17 States (12 U.S.C. 24a); or

18 (II) a Federal credit union, pur-
19 suant to the authority provided under
20 the Federal Credit Union Act; and

21 (B) includes—

22 (i) the business of insurance;

23 (ii) whether performed directly or in-
24 directly, the authorizing, processing, clear-
25 ing, settling, billing, transferring for de-

1 posit, transmitting, delivering, instructing
2 to be delivered, reconciling, collecting, or
3 otherwise effectuating or facilitating of
4 payments or funds, where such payments
5 or funds are made or transferred by any
6 means, including by the use of credit
7 cards, debit cards, other payment cards, or
8 other access devices, accounts, original or
9 substitute checks, or electronic funds
10 transfers;

11 (iii) acting as a money transmitting
12 business which directly or indirectly makes
13 use of a depository institution in connec-
14 tion with effectuating or facilitating a pay-
15 ment for a cannabis-related legitimate
16 business or service provider in compliance
17 with section 5330 of title 31, United
18 States Code, and any applicable State law;
19 and

20 (iv) acting as an armored car service
21 for processing and depositing with a depos-
22 itory institution or a Federal reserve bank
23 with respect to any monetary instruments
24 (as defined under section 1956(c)(5) of
25 title 18, United States Code.

1 (8) INDIAN COUNTRY.—The term “Indian coun-
2 try” has the meaning given that term in section
3 1151 of title 18.

4 (9) INDIAN TRIBE.—The term “Indian Tribe”
5 has the meaning given that term in section 102 of
6 the Federally Recognized Indian Tribe List Act of
7 1994 (25 U.S.C. 479a).

8 (10) INSURER.—The term “insurer” has the
9 meaning given that term under section 313(r) of
10 title 31, United States Code.

11 (11) MANUFACTURER.—The term “manufac-
12 turer” means a person who manufactures, com-
13 pounds, converts, processes, prepares, or packages
14 cannabis or cannabis products.

15 (12) PRODUCER.—The term “producer” means
16 a person who plants, cultivates, harvests, or in any
17 way facilitates the natural growth of cannabis.

18 (13) SERVICE PROVIDER.—The term “service
19 provider”—

20 (A) means a business, organization, or
21 other person that—

22 (i) sells goods or services to a can-
23 nabis-related legitimate business; or

24 (ii) provides any business services, in-
25 cluding the sale or lease of real or any

1 other property, legal or other licensed serv-
2 ices, or any other ancillary service, relating
3 to cannabis; and

4 (B) does not include a business, organiza-
5 tion, or other person that participates in any
6 business or organized activity that involves han-
7 dling cannabis or cannabis products, including
8 cultivating, producing, manufacturing, selling,
9 transporting, displaying, dispensing, distrib-
10 uting, or purchasing cannabis or cannabis prod-
11 ucts.

12 (14) STATE.—The term “State” means each of
13 the several States, the District of Columbia, the
14 Commonwealth of Puerto Rico, and any territory or
15 possession of the United States.

○

Lew, Lisa (BOS)

From: BOS Legislation, (BOS)
Subject: FW: Introduction Haney - Resolution Supporting S.910
Attachments: BILLS-117s910is.pdf

From: Zou, Han (BOS) <han.zou@sfgov.org>
Sent: Thursday, April 22, 2021 9:26 AM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: RivamonteMesa, Abigail (BOS) <abigail.rivamontemesa@sfgov.org>; Mahogany, Honey (BOS) <honey.mahogany@sfgov.org>; Barnett, Monica (BOS) <monica.barnett@sfgov.org>
Subject: Re: Introduction Haney - Resolution Supporting S.910

Hi Lisa,

Attached is the copy of S.910

And I can confirm affirmative for both. The NLC has not taken a position on this bill - they did take a position on the House version from a previous session of Congress but not this.

Thank you,
Han

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Haney

Subject:

Resolution - Supporting Senate S.910 (Sen. Merkley, Jeff [D-OR])

The text is listed:

Resolution urging the passage of the Senate Bill S.910 Secure and Fair Enforcement Banking Act of 2021 (SAFE Banking Act of 2021) and the urgent introduction of federal legislation to legalize cannabis

Signature of Sponsoring Supervisor: