

AMENDMENTS TO LB137

(Amendments to E and R amendments, ER72)

Introduced by Wayne, 13.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Sections 1 to 78 of this act shall be known and may be
4 cited as the Medicinal Cannabis Act.

5 Sec. 2. For purposes of the Medicinal Cannabis Act, the definitions
6 found in sections 3 to 27 of this act apply.

7 Sec. 3. Allowable amount of cannabis means:

8 (1) Two and one-half ounces or less of cannabis in any form other
9 than a cannabis product;

10 (2) Cannabis products containing no more than two thousand
11 milligrams of delta-9-tetrahydrocannabinol; or

12 (3) A specific greater amount authorized by a medical necessity
13 waiver pursuant to subdivision (3) of section 39 of this act.

14 Sec. 4. Bona fide practitioner-patient relationship means:

15 (1) A health care practitioner and patient have a treatment or
16 consulting relationship, during the course of which the health care
17 practitioner has completed an assessment of the patient's medical history
18 and current medical condition, including an appropriate examination; and

19 (2) The health care practitioner has consulted with the patient with
20 respect to the patient's qualifying medical condition.

21 Sec. 5. (1) Cannabis means any species of the cannabis plant, or
22 any mixture or preparation of any species of the cannabis plant,
23 including whole plant extracts and resins. Cannabis includes cannabis
24 products.

25 (2) Cannabis does not include (a) any prescription drug approved
26 under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.

1 355, as such section existed on January 1, 2024, or (b) hemp or hemp
2 products as allowed under the Nebraska Hemp Farming Act.

3 Sec. 6. (1) Cannabis accessory means any delivery device or related
4 supplies and educational materials used in the administration of cannabis
5 as allowed under the Medicinal Cannabis Act.

6 (2) Cannabis accessory does not include a bong, pipe, rolling paper,
7 or other paraphernalia that is used to smoke cannabis in violation of
8 section 57 of this act.

9 Sec. 7. (1) Cannabis product means a product (a) that is infused
10 with cannabis or an extract thereof or that consists of cannabis resin or
11 extract and (b) that is intended for use or consumption by humans.

12 (2) Cannabis product includes, but is not limited to, a concentrate,
13 a topical product, an ointment, an oil, a pill, or a tincture. Cannabis
14 product does not include an edible cannabis product, except for a pill.

15 Sec. 8. Certified patient means a Nebraska resident who:

16 (1)(a) Has been issued a written certification within the past
17 ninety days;

18 (b) Is not prohibited from participating pursuant to section 54 of
19 this act;

20 (c) Has signed a disclosure form if the department has provided a
21 disclosure form on its web site; and

22 (d) In the case of a patient younger than eighteen years of age, has
23 an affidavit which is signed by the patient's parent or legal guardian
24 with responsibility for health care decisions for the patient, which
25 states that the parent or legal guardian grants permission for the
26 patient's medicinal use of cannabis, and which states that the parent or
27 legal guardian agrees to control the use of cannabis by the patient; or

28 (2) Is enrolled in the registry program.

29 Sec. 9. Department means the Cannabis Enforcement Department.

30 Sec. 10. Designated caregiver means:

31 (1) In the case of a person who is not the parent or legal guardian

1 of a patient, a natural person who:

2 (a) Is at least twenty-one years of age;

3 (b) Has been designated by a patient to assist the patient with the
4 medicinal use of cannabis in a sworn and signed affidavit, signed by the
5 patient, that affirms that the person is the only person serving as a
6 caregiver for the patient unless more than one designated caregiver is
7 authorized by the department as provided in section 34 of this act; and

8 (c) Is not prohibited from participating in the registry program
9 pursuant to section 54 of this act;

10 (2) The parent or legal guardian of a patient if not prohibited from
11 participating in the registry program pursuant to section 54 of this act;
12 or

13 (3) A health care facility as defined in section 71-413 or a home
14 health agency as defined in section 71-417 if the facility or agency has
15 registered with the department and agreed to serve as a designated
16 caregiver.

17 Sec. 11. Dispensary means an entity registered by the department to
18 acquire, possess, or dispense cannabis, cannabis products, and cannabis
19 accessories.

20 Sec. 12. Felony offense means a violation of Nebraska or federal
21 law that is a felony or of another state's law which would be a felony if
22 committed in Nebraska, regardless of the sentence imposed. Felony offense
23 does not include an offense that consists of conduct for which the
24 Medicinal Cannabis Act would likely have prevented a conviction, except
25 that the conduct either occurred prior to the operative date of this
26 section or was prosecuted by an authority other than this state.

27 Sec. 13. Health care practitioner means a person licensed (1) under
28 the Medicine and Surgery Practice Act to practice medicine and surgery or
29 osteopathic medicine and surgery, (2) under the Medicine and Surgery
30 Practice Act to practice as a physician assistant, or (3) under the
31 Advanced Practice Registered Nurse Practice Act to practice as a nurse

1 practitioner.

2 Sec. 14. Laboratory means a person or entity registered by the
3 department to test cannabis for potency and contaminants.

4 Sec. 15. (1) Medicinal use includes the acquisition,
5 administration, delivery, possession, preparation, transfer,
6 transportation, or use of cannabis, cannabis products, or cannabis
7 accessories relating to the administration of cannabis to treat or
8 alleviate a patient's qualifying medical condition or symptoms associated
9 with the patient's qualifying medical condition.

10 (2) Medicinal use does not include:

11 (a) The cultivation of cannabis unless the cultivation is done by a
12 producer; or

13 (b) The extraction of resin from cannabis by solvent extraction
14 unless the extraction is done by a processor.

15 Sec. 16. Nonresident caregiver means a person who:

16 (1) Is the parent, legal guardian, conservator, or other person with
17 authority to consent to the medical treatment of a patient who has been
18 diagnosed with a qualifying medical condition;

19 (2) Is not a resident of Nebraska or has been a resident of Nebraska
20 for less than forty-five days; and

21 (3) Holds a currently valid registry verification or its equivalent
22 under the laws of another state, district, territory, commonwealth,
23 insular possession of the United States, or country recognized by the
24 United States that allows the person to assist a patient to use cannabis
25 for medicinal purposes in the jurisdiction of issuance.

26 Sec. 17. Nonresident patient means a person who:

27 (1) Has been diagnosed with a qualifying medical condition;

28 (2) Is not a resident of Nebraska or has been a resident of Nebraska
29 for less than forty-five days; and

30 (3) Holds a currently valid registry verification or its equivalent
31 under the laws of another state, district, territory, commonwealth,

1 insular possession of the United States, or country recognized by the
2 United States that allows the person to use cannabis for medicinal
3 purposes in the jurisdiction of issuance.

4 Sec. 18. Participating health care practitioner means a health care
5 practitioner who (1) is treating a certified patient and (2) complies
6 with the requirements of section 37 of this act.

7 Sec. 19. Patient registry number means a unique identification
8 number assigned by the department to a patient enrolled in the registry
9 program.

10 Sec. 20. Process means to process harvested cannabis materials into
11 cannabis products or concentrated cannabis.

12 Sec. 21. Processor means a person registered by the department to
13 process cannabis in this state.

14 Sec. 22. (1) Produce means to manufacture, plant, cultivate, grow,
15 or harvest cannabis.

16 (2) Produce does not include:

17 (a) The drying of cannabis by a processor if the processor is not
18 otherwise producing cannabis; or

19 (b) The cultivation and growing of an immature cannabis plant by a
20 processor if the processor purchased or otherwise received the plant from
21 a producer.

22 Sec. 23. Producer means a person registered by the department to
23 produce cannabis in this state.

24 Sec. 24. Qualifying medical condition means a current diagnosis of
25 any of the following conditions:

26 (1) Amyotrophic lateral sclerosis;

27 (2) Autism with frequent or severe self-injurious or aggressive
28 behavior;

29 (3) Cancer;

30 (4) Crohn's disease or ulcerative colitis;

31 (5) Epilepsy or epileptic seizures;

- 1 (6) Glaucoma;
- 2 (7) Hepatitis C that causes moderate to severe nausea or cachexia;
- 3 (8) Human immunodeficiency virus or acquired immune deficiency
- 4 syndrome;
- 5 (9) Huntington's disease;
- 6 (10) Parkinson's disease;
- 7 (11) Spinal cord injury or disease with residual neurological
- 8 deficits;
- 9 (12) Terminal illness with a probable life expectancy of under one
- 10 year;
- 11 (13) Tourette's syndrome;
- 12 (14) A serious medical condition, or the treatment of a serious
- 13 medical condition, that causes severe nausea or cachexia;
- 14 (15) Severe and persistent muscle spasms caused by multiple
- 15 sclerosis, spinal cord injury, or muscular dystrophy; or
- 16 (16) Severe or chronic pain lasting longer than six months that is
- 17 not adequately managed, in the opinion of a health care practitioner,
- 18 despite treatment attempts using (a) conventional medications other than
- 19 opioids or opiates or (b) physical interventions.

20 Sec. 25. Registry program means the voluntary patient registry

21 established under the Medicinal Cannabis Act.

22 Sec. 26. Registry verification means the verification provided by

23 the department that a patient is enrolled in the registry program

24 pursuant to subsection (5) of section 35 of this act.

25 Sec. 27. Written certification means a document that is made in

26 accordance with sections 37 and 39 of this act and that states that a

27 patient has been diagnosed with a qualifying medical condition.

28 Sec. 28. (1) Nothing in the Medicinal Cannabis Act permits any

29 person to engage in or prevents the imposition of any civil, criminal, or

30 other penalties for:

31 (a) Undertaking any task that would constitute negligence or

1 professional malpractice due to the use of cannabis;

2 (b) Possessing or engaging in the use of cannabis:

3 (i) On a school bus or van;

4 (ii) On the grounds of any preschool or primary or secondary school
5 except as provided in section 29 of this act;

6 (iii) In any jail, adult or juvenile correctional facility, or youth
7 rehabilitation and treatment center; or

8 (iv) On the grounds of any child care facility or home daycare
9 except as provided in section 29 of this act;

10 (c) Inhaling cannabis by means of vaporization:

11 (i) Where the vapor would be inhaled by a nonpatient minor child; or

12 (ii) In any public place, including any indoor or outdoor area used
13 by or open to the general public or a place of employment as defined in
14 section 71-5724, other than with an aerosol inhaler;

15 (d) Inhaling or consuming cannabis in a motor vehicle;

16 (e) Having a container or package of cannabis within the passenger
17 area of a motor vehicle in violation of section 60-6,211.08; or

18 (f) Operating, navigating, or being in actual physical control of
19 any motor vehicle, aircraft, train, or motorboat, or working on
20 transportation property, equipment, or facilities, while under the
21 influence of cannabis.

22 (2) Nothing in the Medicinal Cannabis Act:

23 (a) Requires an employer to permit or accommodate the growing,
24 possession, consumption, use, distribution, display, transfer,
25 transportation, or sale of cannabis;

26 (b) Affects the ability of an employer to restrict the use of
27 cannabis by employees;

28 (c) Requires any employer to accommodate the medicinal use of
29 cannabis; or

30 (d) Requires the medical assistance program or any employer or
31 insurance carrier pursuant to the Nebraska Workers' Compensation Act to

1 reimburse a person for costs associated with the medicinal use of
2 cannabis.

3 (3) Nothing in the Medicinal Cannabis Act shall be construed to:

4 (a) Prohibit an employer from including in any contract a provision
5 prohibiting the use of cannabis;

6 (b) Permit a cause of action against an employer for wrongful
7 discharge or discrimination;

8 (c) Prohibit a person, an employer, a corporation, or any other
9 entity which occupies, owns, or controls property from prohibiting or
10 otherwise regulating the growing, possession, consumption, use,
11 distribution, display, transfer, transportation, or sale of cannabis, on
12 or in that property; or

13 (d) Prohibit an employer from establishing and enforcing a drug-
14 testing policy, drug-free workplace policy, or zero-tolerance drug
15 policy.

16 (4) An employee who is discharged from employment for misconduct
17 relating to (a) the consumption or use of cannabis, (b) working while
18 under the influence of cannabis, or (c) testing positive for a controlled
19 substance shall be disqualified from receiving benefits under the
20 Employment Security Law as provided in section 48-628.10.

21 Sec. 29. (1) Any school, health care facility or health care
22 service licensed pursuant to the Health Care Facility Licensure Act,
23 licensed child care facility as defined in section 43-4308, or foster
24 care facility as defined in section 43-1301 may adopt reasonable
25 restrictions on the use of cannabis by students, residents, or persons
26 receiving care or services, including that:

27 (a) The school, facility, or service and agents thereof are not
28 responsible for providing the cannabis;

29 (b) Cannabis may not be inhaled using vaporization other than with
30 an aerosol inhaler; and

31 (c) Cannabis may be consumed only in a place specified by the

1 school, facility, or service.

2 (2) Nothing in this section requires a school, facility, or service
3 listed in subsection (1) of this section to adopt restrictions on the
4 medicinal use of cannabis.

5 (3) A school, facility, or service listed in subsection (1) of this
6 section shall not unreasonably limit a patient's access to or use of
7 cannabis authorized under the Medicinal Cannabis Act unless failing to do
8 so would cause the school, facility, or service to lose a monetary or
9 license-related benefit under federal law or regulations.

10 Sec. 30. (1) Nothing in the Medicinal Cannabis Act allows the
11 medical assistance program established pursuant to the Medical Assistance
12 Act to reimburse an enrollee or a provider under the medical assistance
13 program for costs associated with the medicinal use of cannabis. The
14 medical assistance program shall continue to provide coverage for all
15 other services related to treatment of an enrollee's qualifying medical
16 condition if the service is covered under the medical assistance program.

17 (2) Nothing in the Medicinal Cannabis Act requires a private insurer
18 to reimburse an insured or any other person for costs associated with the
19 medicinal use of cannabis. The private insurer shall continue to provide
20 coverage for all services related to treatment of an insured's qualifying
21 medical condition if the service is covered under the insurance policy.

22 Sec. 31. (1) The department shall establish and maintain a
23 voluntary registry program for patients and caregivers. The registry
24 shall include (a) the name, address, and telephone number of each patient
25 voluntarily enrolling in the registry program, (b) the participating
26 health care practitioner for the patient, and (c) the designated
27 caregiver for the patient, if any.

28 (2) The registry program shall assign a patient registry number to
29 each certified patient who voluntarily registers. The patient registry
30 number shall be a random, unique ten-digit alphanumeric identification
31 number.

1 (3) A patient may apply to the department for enrollment in the
2 registry program by submitting an application pursuant to section 34 of
3 this act. The department shall ensure that the application and related
4 information are kept confidential to protect the privacy of the
5 applicant.

6 Sec. 32. (1) A certified patient or nonresident patient may engage
7 in the medicinal use of cannabis.

8 (2) A certified patient or designated caregiver shall not be subject
9 to citation, arrest, prosecution, or penalty in any manner, or denied any
10 right or privilege, including, but not limited to, any civil penalty or
11 disciplinary action by a court or occupational or professional licensing
12 board, for:

13 (a) The medicinal use of cannabis pursuant to the Medicinal Cannabis
14 Act if the certified patient or designated caregiver (i) does not possess
15 more than the allowable amount of cannabis and (ii) is in possession of
16 (A) the patient's written certification or a copy of the patient's
17 written certification and, in the case of a designated caregiver, any
18 affidavit required by section 8 or 10 of this act or (B) the patient's
19 valid registry verification;

20 (b) Reimbursement by a certified patient to the patient's designated
21 caregiver for direct costs incurred by the designated caregiver for
22 assisting with the certified patient's medicinal use of cannabis;

23 (c) Transferring cannabis to a laboratory for testing; or

24 (d) Compensating a dispensary or a laboratory for goods or services
25 provided.

26 (3) A nonresident patient or nonresident caregiver shall not be
27 subject to citation, arrest, prosecution, or penalty in any manner, or
28 denied any right or privilege, including, but not limited to, any civil
29 penalty or disciplinary action by a business or occupational or
30 professional licensing board, for transporting, purchasing, possessing,
31 or using cannabis pursuant to the Medicinal Cannabis Act if the

1 nonresident patient or nonresident caregiver does not possess more than
2 an allowable amount of cannabis and the nonresident patient or
3 nonresident caregiver is in possession of any documentation required by
4 section 16 or 17 of this act.

5 (4) There is a presumption that a certified patient, designated
6 caregiver, nonresident patient, or nonresident caregiver is engaged in
7 the medicinal use of cannabis pursuant to the Medicinal Cannabis Act if
8 the person possesses (a) an amount of cannabis that does not exceed the
9 allowable amount and (b) the documentation required by this section. The
10 presumption may be rebutted by evidence that conduct related to cannabis
11 was not for the purpose of treating or alleviating a certified patient's
12 or nonresident patient's qualifying medical condition or symptoms
13 associated with the certified patient's or nonresident patient's
14 qualifying medical condition pursuant to the Medicinal Cannabis Act.

15 (5) If a certified patient, designated caregiver, nonresident
16 patient, or nonresident caregiver is cited, arrested, or prosecuted for
17 possession or consumption of an allowable amount of cannabis at a time
18 when the person does not have in such person's possession the
19 documentation required by this section, the prosecution, civil offense,
20 or disciplinary proceeding shall be immediately dismissed upon production
21 and verification of the documentation.

22 Sec. 33. No person may be subject to arrest, prosecution, or
23 penalty in any manner, or denied any right or privilege, including any
24 civil penalty or disciplinary action by a court or occupational or
25 professional licensing board, for:

26 (1) Providing or selling cannabis accessories to a certified
27 patient, designated caregiver, nonresident patient, nonresident
28 caregiver, dispensary, producer, processor, or laboratory;

29 (2) Being in the presence or vicinity of the medicinal use of
30 cannabis that is permitted under the Medicinal Cannabis Act;

31 (3) Allowing the person's property to be used for activities that

1 are permitted under the Medicinal Cannabis Act; or

2 (4) Assisting a certified patient or nonresident patient with the
3 act of using or administering cannabis as permitted under the Medicinal
4 Cannabis Act.

5 Sec. 34. (1) The department shall develop an application for
6 patient enrollment in the registry program. The application shall be
7 available to the patient and given to participating health care
8 practitioners in Nebraska. The application shall include:

9 (a) The name, mailing address, and date of birth of the patient;

10 (b) The name, mailing address, and telephone number of the patient's
11 participating health care practitioner;

12 (c) The name, mailing address, and date of birth of the patient's
13 designated caregiver, if any;

14 (d) A copy of the written certification;

15 (e) If the patient requests more than one designated caregiver at
16 any given time, documentation demonstrating that a greater number of
17 designated caregivers is needed due to the patient's age or medical
18 condition;

19 (f) All other signed affidavits and enrollment forms required by the
20 department under the Medicinal Cannabis Act, including, but not limited
21 to, the disclosure form required under subsection (3) of this section and
22 the informed consent form as required under subsection (4) of this
23 section; and

24 (g) An oath, affirmation, or statement to the effect that its
25 representations are true as far as the patient executing the application
26 knows or should know.

27 (2) In order to renew a certified patient's registry verification,
28 the certified patient shall submit a written certification on an annual
29 basis which is dated within ninety days prior to submission.

30 (3) The department shall develop a disclosure form and require, as a
31 condition of enrollment, that the patient sign a copy of the disclosure

1 form. The disclosure form shall include:

2 (a) A statement that the department, or any employee of any state
3 agency, may not be held criminally liable for any injury, loss of
4 property, personal injury, or death caused by any act or omission while
5 acting within the respective scope of office or employment under the
6 Medicinal Cannabis Act; and

7 (b) The patient's acknowledgment that enrollment in the registry
8 program is conditional on the patient's agreement to comply with the
9 Medicinal Cannabis Act.

10 (4) The department shall require a patient to give written, informed
11 consent for the use of the cannabis. Written, informed consent shall
12 consist of a signed disclosure and consent form executed by the patient,
13 or the patient's parent or legal guardian if the patient is a minor,
14 that:

15 (a) Contains a statement that the patient's health insurance carrier
16 is not obligated to pay for any care or treatments consequent to the use
17 of cannabis; and

18 (b) Makes clear that the patient understands that the patient is
19 liable for all expenses consequent to the use of cannabis.

20 Sec. 35. (1) Within thirty days after receipt of an application and
21 signed disclosure and consent forms, the department shall give notice of
22 denial under subsection (2) of this section or enroll the patient in the
23 registry program and issue the certified patient and the designated
24 caregiver, if applicable, a registry verification. A patient's enrollment
25 in the registry program shall only be denied if the patient:

26 (a) Does not submit a written certification;

27 (b) Has not signed and returned to the department the disclosure and
28 consent forms required under subsections (3) and (4) of section 34 of
29 this act;

30 (c) Does not provide the information required under the Medicinal
31 Cannabis Act;

1 (d) Has previously been removed from the registry program for a
2 violation of section 54, 55, 56, 57, or 58 of this act; or

3 (e) Provides false information under the act.

4 (2) The department shall give written notice to a patient of the
5 reason for denying enrollment in the registry program.

6 (3) Denial of enrollment in the registry program may be appealed.
7 The appeal shall be in accordance with the Administrative Procedure Act.

8 (4) A patient's enrollment in the registry program shall only be
9 revoked if a patient violates section 54, 55, 56, 57, or 58 of this act,
10 provides false information under the act, or upon the death of the
11 patient.

12 (5) The department shall develop a registry verification to provide
13 to the patient and to the dispensary. The registry verification may be in
14 the form of a registry identification card. The registry verification
15 shall include:

16 (a) The patient's name and date of birth;

17 (b) The patient registry number assigned to the patient; and

18 (c) The name, mailing address, and date of birth of the patient's
19 designated caregiver, if any.

20 Sec. 36. (1) The department shall register a person as a designated
21 caregiver for a patient if the person signs a statement agreeing to serve
22 as the designated caregiver. For a caregiver which is not a natural
23 person, the agreement shall be signed by the chief executive officer or
24 chief operating officer of the entity.

25 (2) As a condition of registration as a designated caregiver, the
26 department shall require the person to:

27 (a) For a natural person:

28 (i) Be at least twenty-one years of age or the parent or legal
29 guardian of the patient;

30 (ii) Agree to only possess cannabis for purposes of assisting the
31 patient; and

1 (iii) Agree that if the application is approved, the person will not
2 be a designated caregiver for more than one patient unless each of such
3 patients reside in the same residence; or

4 (b) If the caregiver is not a natural person:

5 (i) Agree that any person who is assisting the patient is at least
6 twenty-one years of age; and

7 (ii) Agree that possession and use of cannabis at the location of
8 the caregiver is authorized under the Medicinal Cannabis Act.

9 (3) The department shall adopt and promulgate rules and regulations
10 governing entities that serve as designated caregivers under subdivision
11 (3) of section 10 of this act, including:

12 (a) Limiting the number of individuals who may transport and
13 administer cannabis on behalf of the entity to a reasonably necessary
14 number of individuals who have undergone appropriate training; and

15 (b) Requiring the name and date of birth of each individual who may
16 transport or administer cannabis on behalf of the entity to be filed with
17 the department.

18 Sec. 37. (1) Prior to a patient's enrollment in the registry
19 program, a participating health care practitioner shall determine, in the
20 medical judgment of the participating health care practitioner, whether a
21 patient suffers from a qualifying medical condition and, if so
22 determined, provide the patient with a written certification. A
23 participating health care practitioner shall not issue more than one
24 thousand one hundred written certifications in a calendar year or more
25 than two hundred seventy-five written certifications in any ninety-day
26 period.

27 (2) Nothing in this section requires a health care practitioner to
28 (a) participate under the Medicinal Cannabis Act or (b) provide
29 recommendations, limitations, or restrictions regarding dosage or the
30 form of cannabis on a patient's certification.

31 (3)(a) Except as provided in subdivision (c) of this subsection, a

1 health care practitioner shall complete a minimum of eight hours of
2 continuing medical education courses approved by the Medicinal Cannabis
3 Board prior to issuing a certification. The courses shall include
4 education on the risks and benefits of cannabis used for medicinal
5 purposes, substance abuse disorder, and best practices for pain
6 management.

7 (b) A health care practitioner who recommends cannabis to at least
8 twenty-five patients shall comply with any additional continuing medical
9 education course requirements required by the Medicinal Cannabis Board.

10 (c) Until three months after the Medicinal Cannabis Board approves a
11 continuing medical education course that satisfies the requirements of
12 subdivision (a) of this subsection, a health care practitioner who
13 recommends cannabis to patients may instead complete a medicinal cannabis
14 continuing education course of at least eight hours that has been
15 approved by a medicinal cannabis program in another state, subject to
16 approval by the board.

17 (4) A participating health care practitioner shall not knowingly
18 issue a written certification to a person who is pregnant.

19 (5) Each written certification shall be dated and signed by a
20 participating health care practitioner, shall state that the patient has
21 been diagnosed with a qualifying medical condition, shall affirm that it
22 was made in the course of a bona fide practitioner-patient relationship
23 and in accordance with this section, shall affirm that the health care
24 practitioner checked the prescription drug monitoring system established
25 in section 71-2454 prior to recommending cannabis, and shall include an
26 acknowledgement signed by the health care practitioner that:

27 (a) The participating health care practitioner and patient have a
28 bona fide practitioner-patient relationship;

29 (b) The participating health care practitioner conducted an
30 evaluation of the patient and collected the patient's relevant clinical
31 history. At a minimum, the evaluation of a patient prior to the issuance

1 of a written certification shall include:

2 (i) Except in the case of a terminally ill patient, an assessment
3 for alcohol and substance abuse;

4 (ii) Except in the case of a terminally ill patient, an assessment
5 of whether the patient or the patient's immediate family has a history of
6 schizophrenia or psychotic disorders;

7 (iii) A physical examination; and

8 (iv) In cases in which the patient indicates that the patient may
9 become pregnant within the next twelve months, a discussion of any risks
10 of cannabis related to pregnancy; and

11 (c) That the health care practitioner checked the prescription drug
12 monitoring system established in section 71-2454 prior to recommending
13 cannabis.

14 (6) Any written certification issued twenty days or more after the
15 department notifies health care practitioners that a standardized written
16 certification form is available on its web site in accordance with
17 section 39 of this act shall be issued on the form.

18 (7) A participating health care practitioner shall not:

19 (a) Accept, solicit, or offer any form of pecuniary remuneration
20 from or to a dispensary;

21 (b) Offer a discount or any other thing of value to a certified
22 patient who uses or agrees to use a particular dispensary;

23 (c) Examine a patient at a location where cannabis, cannabis
24 products, or cannabis accessories are sold; or

25 (d) Hold an economic interest in a dispensary, processor, or
26 producer.

27 (8) If the department or Medicinal Cannabis Board has reasonable
28 cause to believe that a health care practitioner has violated this
29 section, the department or Medicinal Cannabis Board may refer the matter
30 to the Department of Health and Human Services for an investigation and
31 determination. If the Medicinal Cannabis Board finds that the health care

1 practitioner violated this section, the board may direct the Cannabis
2 Enforcement Department to restrict the health care practitioner's
3 authority to recommend the use of cannabis or act as a participating
4 health care practitioner. This restriction may be in addition to any
5 sanction imposed by the Department of Health and Human Services.

6 (9) A participating health care practitioner shall not be subject to
7 arrest, prosecution, or penalty in any manner, or denied any right or
8 privilege, including, but not limited to, civil penalty or disciplinary
9 action by the Department of Health and Human Services or by any other
10 occupational or professional licensing board, solely for providing a
11 written certification or for stating that, in the health care
12 practitioner's professional opinion, a patient is likely to receive
13 therapeutic or palliative benefit from the medicinal use of cannabis to
14 treat or alleviate the patient's qualifying medical condition or symptoms
15 associated with the medical condition. Nothing in the Medicinal Cannabis
16 Act prevents a practitioner from being sanctioned for:

17 (a) Issuing a written certification to a patient with whom the
18 practitioner does not have a bona fide practitioner-patient relationship;

19 (b) Failing to properly evaluate a patient's medical condition; or

20 (c) Any other violation of this section.

21 Sec. 38. A pharmacist shall not be subject to arrest, prosecution,
22 or penalty in any manner, or denied any right or privilege, including,
23 but not limited to, civil penalty or disciplinary action by the
24 Department of Health and Human Services or by any other occupational or
25 professional licensing board, solely for providing cannabis or related
26 advice in accordance with the Medicinal Cannabis Act. The Medicinal
27 Cannabis Act does not prevent a pharmacist from being sanctioned for
28 violating the act or negligently providing advice that is counter to
29 information provided by the cannabis continuing education course approved
30 pursuant to section 43 of this act.

31 Sec. 39. The department shall:

1 (1) Create and provide a written certification form to be used by a
2 participating health care practitioner;

3 (2) Give notice of the written certification form created pursuant
4 to subdivision (1) of this section to health care practitioners in
5 Nebraska who are eligible to serve as participating health care
6 practitioners and explain the purposes and requirements of the Medicinal
7 Cannabis Act;

8 (3) Develop requirements for a medical necessity waiver allowing a
9 certified patient to apply to possess a greater quantity of cannabis than
10 allowed under subdivision (1) or (2) of section 3 of this act if the
11 patient demonstrates that a greater quantity is needed due to factors
12 which may include the medical condition of the patient, the mode of
13 administration of cannabis used by the patient, transportation
14 difficulties faced by the patient, and the distance of the patient's
15 residence from dispensaries;

16 (4) Provide for at least three tiers of producers, based on the size
17 of the facility or the number of plants cultivated. Security regulations
18 and licensing fees shall vary by tier;

19 (5) Develop security and record-keeping requirements for the
20 delivery of cannabis from dispensaries to a certified patient, designated
21 caregiver, nonresident patient, or nonresident caregiver; and

22 (6) Develop requirements for a financial hardship waiver allowing a
23 certified patient to apply to purchase cannabis at a discount. The
24 requirements for a financial hardship waiver shall include consideration
25 of household income, wealth, and financial need, including consideration
26 of ongoing medical costs related to the patient's qualifying medical
27 condition. The department may develop restrictions to limit the amount of
28 cannabis that a certified patient may purchase at a discount, directly or
29 through the patient's designated caregiver, to an allowable amount of
30 cannabis every thirty days. The restrictions may require a certified
31 patient to designate a single dispensary each month at which the

1 certified patient may purchase cannabis at a discount.

2 Sec. 40. (1) Except as otherwise provided in section 47 of this
3 act, the department shall register up to ten producers and all qualifying
4 processors which apply for registration in each congressional district in
5 Nebraska for the production and processing of all cannabis within
6 Nebraska by November 1, 2025, unless the Medicinal Cannabis Board extends
7 the deadline under section 45 of this act. The department shall register
8 producers which comply with subsection (2) of this section and shall
9 register processors which comply with subsection (3) of this section. The
10 department may register an applicant as both a producer and a processor.
11 The registration as a producer or processor shall be valid until November
12 1 of the calendar year following the date of registration and shall be
13 renewed by November 1 of each year upon application, payment of the
14 annual fee established pursuant to section 61 of this act, and compliance
15 with the Medicinal Cannabis Act and the rules and regulations adopted and
16 promulgated under the act. The department shall renew a registration of a
17 producer or processor subject to the same conditions as required for
18 initial registration. The department shall continue to accept
19 applications for registration for producers after November 1, 2025, for
20 any congressional district which does not have a registered producer by
21 such date.

22 (2)(a) As a condition for registration prior to November 1, 2025, a
23 producer shall agree to:

24 (i) Begin supplying cannabis to processors and dispensaries on or
25 before May 1, 2026, unless extended by the Medicinal Cannabis Board; and

26 (ii) Otherwise be in compliance with the Medicinal Cannabis Act and
27 the rules and regulations adopted and promulgated under the act.

28 (b) As a condition for registration on and after November 1, 2025, a
29 producer shall agree to supply cannabis to processors and dispensaries in
30 compliance with the Medicinal Cannabis Act and otherwise be in compliance
31 with the act and the rules and regulations adopted and promulgated under

1 the act.

2 (3)(a) As a condition for registration, a processor shall agree to
3 comply with the Medicinal Cannabis Act and the rules and regulations
4 adopted and promulgated under the act.

5 (b) The department shall register a processor that submits a
6 qualifying application in compliance with the Medicinal Cannabis Act and
7 local regulations.

8 Sec. 41. (1) A producer of cannabis shall provide a reliable and
9 ongoing supply of cannabis needed for the registry program.

10 (2) The cultivation, harvesting, manufacturing, packaging, or
11 processing of cannabis shall occur at the physical address of the
12 producer or processor provided to the department on the registration
13 application.

14 (3) A processor shall contract with a laboratory for purposes of
15 testing cannabis processed by the processor as to chemical composition,
16 contamination, and consistency. The choice of laboratory is subject to
17 approval by the department. The laboratory shall report testing results
18 to the processor in a manner determined by the department.

19 (4) Each producer that sells cannabis to dispensaries shall contract
20 with a laboratory to test cannabis produced by the producer as to
21 chemical composition, contamination, and consistency. The choice of
22 laboratory is subject to approval by the department. The laboratory shall
23 report testing results to the producer in a manner determined by the
24 department.

25 Sec. 42. Each processor shall assign a tracking number to any
26 cannabis distributed by the processor. A processor shall require any
27 employee of the processor who is transporting cannabis to carry
28 identification showing that the person is an employee of the processor.
29 An employee of a processor shall not transport cannabis outside the State
30 of Nebraska.

31 Sec. 43. (1) Except as otherwise provided in section 47 of this

1 act, the department shall register up to three dispensaries in each
2 congressional district in Nebraska for the dispensing and sale of all
3 cannabis for medicinal use within Nebraska by November 1, 2025, unless
4 the Medicinal Cannabis Board extends the deadline under section 45 of
5 this act. The department shall register a dispensary which complies with
6 subsection (2) of this section based on the factors in subsection (3) of
7 this section. The registration shall be valid until November 1 of the
8 calendar year following the date of registration and shall be renewed by
9 November 1 of each year upon application, payment of the annual fee
10 established pursuant to section 61 of this act, and compliance with the
11 Medicinal Cannabis Act and the rules and regulations adopted and
12 promulgated under the act. The department shall renew registrations based
13 on the factors in subsection (3) of this section. The department shall
14 continue to accept applications for registration after November 1, 2025,
15 for any congressional district which does not have three dispensaries by
16 such date.

17 (2)(a) As a condition for registration prior to November 1, 2025, a
18 dispensary shall agree to:

19 (i) Begin supplying cannabis for medicinal use on or before May 1,
20 2026;

21 (ii) Provide a discount of at least ten percent to each certified
22 patient who has a financial hardship waiver. The discount may be limited
23 to an allowable amount of cannabis each thirty days; and

24 (iii) Comply with the Medicinal Cannabis Act and rules and
25 regulations adopted and promulgated by the department under the act.

26 (b) As a condition for registration on and after November 1, 2025, a
27 dispensary shall agree to:

28 (i) Supply cannabis for medicinal use in compliance with the
29 Medicinal Cannabis Act;

30 (ii) Provide a discount of at least ten percent to each certified
31 patient who has a financial hardship waiver. The discount may be limited

1 to an allowable amount of cannabis each thirty days; and

2 (iii) Comply with the Medicinal Cannabis Act and the rules and
3 regulations adopted and promulgated under the act.

4 (3) The department shall consider the following factors when
5 determining whether to register a dispensary:

6 (a) The technical expertise of the dispensary in distributing
7 cannabis to patients;

8 (b) The qualifications of the employees of the dispensary;

9 (c) The long-term financial stability of the dispensary; and

10 (d) The ability to provide appropriate security measures on the
11 premises of the dispensary.

12 (4)(a) Each dispensary shall contract with or employ at least one
13 pharmacist who is licensed under the Pharmacy Practice Act and who has
14 completed at least fifteen hours of continuing education on the medicinal
15 use of cannabis, which has been approved by the Medicinal Cannabis Board.
16 The pharmacist shall be available to patients and dispensary staff, in
17 person or by telemedicine, during business hours to advise and educate
18 patients and to consult about appropriate dosing. The pharmacist or his
19 or her designee shall:

20 (i) Prior to dispensing any cannabis, check the prescription drug
21 monitoring system established in section 71-2454; and

22 (ii) Daily submit information regarding each dispensation of
23 cannabis to such prescription drug monitoring system.

24 (b) Dispensary staff shall notify certified patients, designated
25 caregivers, nonresident patients, and nonresident caregivers of the
26 availability of the pharmacist to provide a consultation at no additional
27 charge at each sale of cannabis.

28 (c) The continuing education for pharmacists shall include
29 information on drug interactions, dosages for various cannabis
30 preparations, counter-indications, and the risks and benefits of
31 cannabis. Each dispensary staff member who provides cannabis to a

1 certified patient, a designated caregiver, a nonresident patient, or a
2 nonresident caregiver shall complete a four-hour cannabis education
3 course approved by the Medicinal Cannabis Board prior to providing
4 cannabis to a certified patient, a designated caregiver, a nonresident
5 patient, or a nonresident caregiver.

6 Sec. 44. (1) The department shall register all qualifying
7 independent testing laboratories which apply for registration in Nebraska
8 for the testing of all cannabis within Nebraska by January 1, 2026,
9 unless the Medicinal Cannabis Board extends the deadline under section 45
10 of this act. The department shall register all qualifying independent
11 testing laboratories which comply with subsections (2) through (4) of
12 this section. The registration shall be valid until November 1 of the
13 calendar year following the date of registration and shall be renewed by
14 November 1 of each year upon application, payment of the annual fee
15 established pursuant to section 61 of this act, and compliance with the
16 Medicinal Cannabis Act and the rules and regulations adopted and
17 promulgated under the act. The department shall renew a registration of a
18 laboratory subject to the same conditions as required for initial
19 registration. The department shall continue to accept applications for
20 registration after January 1, 2026.

21 (2)(a) As a condition for registration prior to January 1, 2026, a
22 laboratory shall agree to:

23 (i) Begin testing cannabis on or before May 1, 2026, unless extended
24 by the Medicinal Cannabis Board; and

25 (ii) Otherwise be in compliance with the Medicinal Cannabis Act and
26 the rules and regulations adopted and promulgated under the act.

27 (b) As a condition for registration on and after January 1, 2026, a
28 laboratory shall agree to test cannabis in compliance with the Medicinal
29 Cannabis Act and otherwise be in compliance with the act and the rules
30 and regulations adopted and promulgated under the act.

31 (3) No individual may register as a laboratory if the individual is

1 registered as or holds an ownership interest in a producer, processor, or
2 dispensary. No entity may register as a laboratory if an individual or
3 entity who holds an interest in the entity holds an ownership interest in
4 a producer, processor, or dispensary. No individual or entity which
5 registers as a laboratory or holds an ownership interest in a laboratory
6 may register as or hold an ownership interest in a producer, processor,
7 or dispensary.

8 (4) The following individuals associated with a laboratory shall be
9 residents of Nebraska who have resided in the state for the two years
10 immediately prior to the date of application:

11 (a) The individual signing the application for licensure of the
12 laboratory; and

13 (b) Sixty percent of the individuals owning an interest in the
14 laboratory on the date of application.

15 (5) A laboratory shall report testing results to a producer,
16 processor, or dispensary in a manner determined by the department.

17 (6) The department shall adopt and promulgate rules and regulations
18 for a laboratory to test cannabis, cannabis products, and cannabis
19 accessories. The department shall provide standards for registration and
20 may adopt accreditation standards based on standards of the International
21 Organization for Standardization. The testing requirements shall include:

22 (a) Determining accurately, with respect to cannabis and cannabis
23 products intended for sale in Nebraska:

24 (i) The concentration of tetrahydrocannabinol and cannabidiol;

25 (ii) The presence and identification of mold and fungus;

26 (iii) The composition; and

27 (iv) The presence of chemicals, including, but not limited to,
28 pesticides, herbicides, or growth regulators; and

29 (b) Demonstrating the validity and accuracy of the methods used to
30 test cannabis and cannabis products.

31 Sec. 45. (1) The department shall, by November 1, 2025, adopt and

1 promulgate rules and regulations necessary for a dispensary to begin
2 dispensing cannabis for medicinal use and shall publish notice of the
3 proposed rules and regulations prior to May 1, 2025.

4 (2) The department shall, by September 1, 2025, advise the public
5 and the Medicinal Cannabis Board if the department is unable to register
6 producers and processors by November 1, 2025. The department shall
7 provide a written statement as to the reason or reasons the deadline will
8 not be met. Upon request of the department, the board shall extend the
9 deadline by six months but may not extend the deadline more than once.

10 (3) If notified by a producer that distribution to processors and
11 dispensaries may not begin by May 1, 2026, the department shall advise
12 the public and the board. Upon notification by the department, the board
13 shall extend the deadline by six months but may not extend the deadline
14 more than once.

15 (4) The department shall, by November 1, 2025, advise the public and
16 the Medicinal Cannabis Board if the department is unable to register
17 laboratories by January 1, 2026. The department shall provide a written
18 statement as to the reason or reasons the deadline will not be met. Upon
19 request of the department, the board shall extend the deadline by six
20 months but may not extend the deadline more than once.

21 Sec. 46. (1) Prior to dispensing any cannabis, a dispensary shall:

22 (a) Verify that the person requesting the distribution of cannabis
23 is a certified patient, a designated caregiver, a nonresident patient, or
24 a nonresident caregiver using verification procedures prescribed by the
25 department;

26 (b) Assign a tracking number to any cannabis dispensed from the
27 dispensary;

28 (c) Properly package cannabis in compliance with the federal Poison
29 Prevention Packaging Act of 1970, regarding child resistant packaging and
30 exemptions for packaging for elderly patients, and label dispensed
31 cannabis with a list of all active ingredients and individually

1 identifying information, including:

2 (i) The name of the certified patient or nonresident patient;

3 (ii) For a certified patient, the patient registry number;

4 (iii) The chemical composition of the cannabis;

5 (iv) The recommended dosage or quantity of the cannabis, if any;

6 (v) The date the cannabis is dispensed; and

7 (vi) The name and address of the dispensary; and

8 (d) Provide an informational document containing warnings as
9 prescribed by section 75 of this act.

10 (2) Dispensed cannabis shall be packaged in a manner that makes it
11 apparent if the packaging has been opened.

12 (3) A dispensary shall take back any unused cannabis and dispose of
13 it in accordance with rules and regulations adopted and promulgated by
14 the department.

15 Sec. 47. (1) Each producer, processor, dispensary, and laboratory
16 shall disclose its proposed location to the department during the
17 registration process. A county, city, or village governing body may adopt
18 a resolution or ordinance prohibiting the operation of a producer,
19 processor, dispensary, or laboratory or all four within its jurisdiction
20 and may adopt zoning regulations that reasonably limit a producer,
21 processor, dispensary, or laboratory to certain areas within its
22 jurisdiction. If all jurisdictions within a congressional district adopt
23 a prohibition on the operation of producers, the department may register
24 an additional producer in another congressional district. If all
25 jurisdictions within a congressional district adopt a prohibition on the
26 operation of a dispensary, the department may register up to three
27 additional dispensaries in another congressional district or up to two
28 additional dispensaries in each of the other congressional districts.

29 (2)(a) A dispensary shall not conduct any cultivation, harvesting,
30 manufacturing, or processing of cannabis.

31 (b) The operating documents of a dispensary shall include:

1 (i) Procedures for the oversight of the dispensary and procedures to
2 ensure accurate record keeping; and

3 (ii) Procedures for the implementation of appropriate security
4 measures to deter and prevent the theft of cannabis and unauthorized
5 entrance into areas containing cannabis.

6 (3) The operating documents of a producer, processor, or laboratory
7 shall include:

8 (a) Procedures for the oversight of the producer, processor, or
9 laboratory and procedures to ensure accurate record keeping; and

10 (b) Procedures for the implementation of appropriate security
11 measures to deter and prevent the theft of cannabis and unauthorized
12 entrance into areas containing cannabis.

13 (4) Each producer, processor, dispensary, and laboratory shall
14 implement security requirements, including requirements for protection of
15 its location by a fully operational security alarm system, facility
16 access controls, perimeter intrusion detection systems, and a personnel
17 identification system.

18 (5) A producer, processor, dispensary, or laboratory shall not share
19 office space with or refer patients to a participating health care
20 practitioner.

21 (6) A producer, processor, dispensary, or laboratory shall not
22 permit any person to consume cannabis on the property of the producer,
23 processor, dispensary, or laboratory.

24 (7) A producer, processor, dispensary, or laboratory is subject to
25 reasonable inspection by the department or its designee.

26 (8)(a) No producer, processor, dispensary, or laboratory shall
27 employ any person who is under twenty-one years of age or who has been
28 convicted of a felony offense. Each employee of a producer, processor,
29 dispensary, or laboratory shall complete a criminal history record
30 information check before the employee may begin working with the
31 producer, processor, dispensary, or laboratory.

1 (b) Each employee shall pay the costs of the criminal history record
2 information check and shall file a complete set of the employee's legible
3 fingerprints with the department. The department shall transmit such
4 fingerprints to the Nebraska State Patrol which shall transmit a copy of
5 the applicant's fingerprints to the Identification Division of the
6 Federal Bureau of Investigation for a national criminal history record
7 information check.

8 (c) The national criminal history record information check shall
9 include information concerning the employee from federal repositories of
10 such information and repositories of such information in other states if
11 authorized by federal law for use by the department.

12 (d) The Nebraska State Patrol shall undertake a search for Nebraska
13 criminal history record information concerning the employee. The Nebraska
14 State Patrol shall issue a report to the department which contains the
15 results of the criminal history record information check conducted by the
16 Nebraska State Patrol.

17 (e) Criminal history record information subject to federal
18 confidentiality requirements shall remain confidential and may be
19 released only upon the written authorization of the employee.

20 (9) No producer, processor, dispensary, or laboratory may operate in
21 any location within one thousand feet of a public or private school
22 existing before the date of the initial registration of the producer,
23 processor, dispensary, or laboratory with the department, except that the
24 department may reduce the distance to five hundred feet in instances
25 where it is allowed by local law and reasonably necessary to provide
26 adequate access to certified patients.

27 (10) A producer, processor, dispensary, or laboratory shall comply
28 with reasonable restrictions set by the department relating to signage,
29 marketing, display, and advertising of cannabis and shall comply with
30 local zoning regulations.

31 Sec. 48. (1) Subject to section 28 of this act, the following

1 activities are authorized under the Medicinal Cannabis Act and shall not
2 be grounds for citation, arrest, prosecution, or penalty in any manner,
3 or denial of any right or privilege, including any civil penalty or
4 disciplinary action by a court or occupational or professional licensing
5 board:

6 (a) Use or possession of an allowable amount of cannabis and
7 cannabis accessories by a certified patient or a nonresident patient or
8 possession of an allowable amount of cannabis and cannabis accessories by
9 a designated caregiver or a nonresident caregiver;

10 (b) Possession or sale of cannabis or cannabis accessories by a
11 producer, processor, dispensary, or employees of a producer, processor,
12 or dispensary;

13 (c) Possession of cannabis by a laboratory conducting testing on
14 cannabis or employees of the laboratory; and

15 (d) Possession of cannabis or cannabis accessories by any person
16 while carrying out the duties required under the Medicinal Cannabis Act.

17 (2) Cannabis and cannabis accessories obtained and distributed
18 pursuant to the Medicinal Cannabis Act and associated property are not
19 subject to forfeiture under section 28-431.

20 (3) The department, the department's staff, the department's agents
21 or contractors, and participating health care practitioners are not
22 subject to any civil or disciplinary penalties by any business,
23 occupational, or professional licensing board or entity, solely for
24 participation in the registry program under the Medicinal Cannabis Act.
25 Nothing in this section prevents a professional licensing board from
26 taking action in response to violations of any other provision of law.

27 (4) A holder of a professional or occupational license may not be
28 subject to professional discipline solely for providing advice or
29 services related to cannabis activities that are allowed pursuant to the
30 Medicinal Cannabis Act.

31 (5) State and local law enforcement authorities are prohibited from

1 accessing the registry program under the Medicinal Cannabis Act except
2 (a) when acting pursuant to a search warrant or (b) to verify a person's
3 assertion that such person is a patient or registered designated
4 caregiver in the registry program.

5 (6) No state or local official, including an employee or agent of
6 the department, may disclose to federal authorities, including the Bureau
7 of Alcohol, Tobacco, Firearms and Explosives of the United States
8 Department of Justice, any identifying information regarding
9 participation in the registry program or the Medicinal Cannabis Act.

10 (7) The registry program shall only allow direct access by law
11 enforcement and dispensary staff by verifying a patient registry number,
12 not by inputting names.

13 (8) Any person who violates subsection (5), (6), or (7) of this
14 section is guilty of a Class I misdemeanor.

15 (9) No information contained in a report, document, or registry
16 produced or received under the Medicinal Cannabis Act or obtained from a
17 patient under the act may be admitted as evidence for the prosecution in
18 a criminal proceeding unless independently obtained or in connection with
19 a proceeding involving a violation of the act.

20 (10) An attorney shall not be subject to disciplinary action for
21 providing legal assistance to a certified patient, a designated
22 caregiver, a nonresident patient, a nonresident caregiver, or a
23 prospective or registered producer, processor, dispensary, or laboratory
24 or to others related to activity that is not subject to criminal
25 penalties under state law pursuant to the Medicinal Cannabis Act.

26 (11) Possession of a registry verification, an application for
27 enrollment in the registry program, or a written certification and
28 related documentation by a person entitled to possess or apply for
29 enrollment in the registry program does not constitute probable cause or
30 reasonable suspicion, nor shall it be used to support a search of the
31 person or property of the person possessing or applying for the registry

1 verification or otherwise subject the person or property of the person to
2 inspection by any governmental agency.

3 (12) The governing body of a county, city, or village shall not
4 prohibit the delivery of cannabis or cannabis accessories for use under
5 the Medicinal Cannabis Act either expressly or through the enactment of
6 ordinances or regulations that make the delivery impracticable in the
7 respective jurisdiction.

8 Sec. 49. Activities related to cannabis and cannabis accessories
9 shall be lawful as long as they are conducted in accordance with the
10 Medicinal Cannabis Act.

11 Sec. 50. (1) Contracts related to cannabis or cannabis accessories
12 for use under the Medicinal Cannabis Act, that are entered into by
13 certified patients, designated caregivers, nonresident patients,
14 nonresident caregivers, dispensaries, producers, processors,
15 laboratories, or agents of dispensaries, producers, processors, or
16 laboratories, and those who allow property to be used by those persons,
17 shall be enforceable.

18 (2) No contract described in subsection (1) of this section that is
19 exempt from criminal penalties by the Medicinal Cannabis Act shall be
20 unenforceable on the basis that activities related to cannabis are
21 prohibited by federal law.

22 Sec. 51. (1) No school or landlord may refuse to enroll or lease to
23 and may not otherwise penalize a person solely for the person's status as
24 a certified patient or nonresident patient unless failing to do so would
25 violate federal law or regulations or cause the school or landlord to
26 lose a monetary or licensing-related benefit under federal law or
27 regulations.

28 (2) For purposes of medical care, including organ transplants, the
29 use of cannabis under the Medicinal Cannabis Act by a certified patient
30 or nonresident patient does not constitute the use of an illicit
31 substance or otherwise disqualify a certified patient or nonresident

1 patient from needed medical care.

2 (3) A person shall not be denied custody of a minor child or
3 visitation rights or parenting time with a minor child solely based on
4 the person's status as a certified patient or nonresident patient.

5 Sec. 52. (1) No state or local agency shall restrict, revoke,
6 suspend, or otherwise infringe upon a person's right to own or possess a
7 firearm or ammunition based on the person's status as a certified
8 patient, designated caregiver, nonresident patient, or nonresident
9 caregiver or for conduct allowed under the Medicinal Cannabis Act.

10 (2) No state or local agency shall restrict, revoke, suspend, or
11 otherwise infringe upon a person's right to receive any related firearms
12 certification based on the person's status as a certified patient,
13 designated caregiver, nonresident patient, or nonresident caregiver or
14 for conduct allowed under the Medicinal Cannabis Act.

15 (3) No state or local agency shall provide any assistance, including
16 information, to federal authorities who may use the information to
17 restrict, revoke, suspend, or otherwise infringe upon a person's right to
18 own or possess a firearm or ammunition based on the person's status as a
19 certified patient, designated caregiver, nonresident patient, or
20 nonresident caregiver or for conduct allowed under the Medicinal Cannabis
21 Act.

22 (4) No state or local agency shall provide any assistance, including
23 information, to federal authorities who may use the information to
24 restrict a person's benefits or rights under federal law based on the
25 person's status as a certified patient, designated caregiver, nonresident
26 patient, or nonresident caregiver or for conduct allowed under the
27 Medicinal Cannabis Act.

28 Sec. 53. (1) The department may on its own motion or upon receipt
29 of a complaint, after investigation and opportunity for a public hearing
30 at which a producer, processor, dispensary, or laboratory has been
31 afforded an opportunity to be heard, suspend or revoke the registration

1 of the producer, processor, dispensary, or laboratory for multiple
2 negligent or knowing violations or for a willful and knowing violation,
3 by the registrant or any of its agents, of the Medicinal Cannabis Act or
4 any rules and regulations adopted and promulgated pursuant to the act.

5 (2) The department shall immediately prohibit any further
6 participation under the Medicinal Cannabis Act by an employee, a
7 principal, or a director of a producer, processor, dispensary, or
8 laboratory who sells cannabis to a person who is not allowed to possess
9 cannabis under the Medicinal Cannabis Act.

10 (3) The department shall maintain a list of employees, principals,
11 or directors and former employees, principals, or directors of producers,
12 processors, dispensaries, or laboratories who are prohibited from further
13 participation under the Medicinal Cannabis Act and share it with state
14 and local law enforcement, producers, processors, dispensaries, and
15 laboratories. The list shall include the date of birth, the full name,
16 and the last-known address for each person listed.

17 Sec. 54. (1) The department shall immediately revoke the registry
18 verification, including any identification card, of a certified patient
19 who sells or knowingly provides cannabis to a person who is not allowed
20 to possess cannabis for medicinal use under the Medicinal Cannabis Act.
21 The department shall immediately revoke the designation of a designated
22 caregiver who sells or knowingly provides cannabis to a person who is not
23 allowed to possess cannabis for medicinal use under the act.

24 (2) The department may revoke the registry verification, including
25 any identification card, of a certified patient or the designation of a
26 designated caregiver or prohibit any further participation under the
27 Medicinal Cannabis Act by a certified patient, designated caregiver,
28 nonresident patient, or nonresident caregiver who knowingly commits
29 multiple unintentional violations or who commits a knowing and
30 intentional violation of the act.

31 (3) A certified patient, designated caregiver, nonresident patient,

1 or nonresident caregiver who is disqualified from further participation
2 under the Medicinal Cannabis Act is not allowed to possess cannabis under
3 the act.

4 (4) The department shall maintain a list of former certified
5 patients, designated caregivers, nonresident patients, and nonresident
6 caregivers who are prohibited from further participation under the
7 Medicinal Cannabis Act and share it with state and local law enforcement,
8 producers, processors, dispensaries, and laboratories. The list shall
9 include the date of birth, the full name, and the last-known address for
10 each person listed.

11 (5) The department shall notify the authority which issues the
12 registry verification or similar documentation in the state in which a
13 nonresident patient is authorized to use cannabis for medicinal purposes
14 if a nonresident patient or nonresident caregiver violates the Medicinal
15 Cannabis Act or the rules and regulations adopted and promulgated under
16 the act.

17 Sec. 55. (1) In addition to any other applicable penalty, a
18 dispensary or an agent of a dispensary who intentionally transfers or
19 dispenses cannabis to a person other than a laboratory, a dispensary, a
20 certified patient, a designated caregiver, a nonresident patient, or a
21 nonresident caregiver may be prosecuted for a violation of section
22 28-416. A person convicted under this section shall not continue to be
23 affiliated with the dispensary and is disqualified from further
24 participation under the Medicinal Cannabis Act.

25 (2) In addition to any other applicable penalty, a producer, a
26 processor, or an agent of a producer or processor who intentionally
27 transfers or dispenses cannabis to a person other than a producer, a
28 processor, a laboratory, or a dispensary may be prosecuted for a
29 violation of section 28-416. A person convicted under this section shall
30 not continue to be affiliated with the producer or processor and is
31 disqualified from further participation under the Medicinal Cannabis Act.

1 Sec. 56. In addition to any other applicable penalty provided by
2 law, a certified patient, designated caregiver, nonresident patient, or
3 nonresident caregiver who intentionally transfers cannabis to a person
4 other than a certified patient, designated caregiver, nonresident
5 patient, or nonresident caregiver as authorized by the Medicinal Cannabis
6 Act may be prosecuted for a violation of section 28-416.

7 Sec. 57. (1) It is unlawful for a certified patient to smoke
8 cannabis or use a device to facilitate the smoking of cannabis. A
9 violation of this section is an infraction subject to sections 29-422 to
10 29-438.

11 (2) For purposes of this section:

12 (a) Smoke includes the inhalation of smoke caused by the combustion
13 of cannabis that causes burning and includes the inhalation of cannabis
14 by means of vaporization in which cannabis is heated below the point of
15 combustion; and

16 (b) Smoke does not include the use of an aerosol inhaler.

17 Sec. 58. A person who intentionally makes a false statement to a
18 law enforcement official about any fact or circumstance relating to the
19 use of cannabis to avoid arrest or prosecution is guilty of a Class III
20 misdemeanor. The penalty is in addition to any other penalties that may
21 apply for making a false statement or for the possession, cultivation, or
22 sale of cannabis not protected by the Medicinal Cannabis Act. If a person
23 convicted of violating this section is a certified patient, designated
24 caregiver, nonresident patient, or nonresident caregiver, the person is
25 disqualified from further participation under the act.

26 Sec. 59. A person who knowingly submits false records or
27 documentation required by the department to register as a producer,
28 processor, dispensary, or laboratory under the Medicinal Cannabis Act may
29 be prosecuted for any violations of section 28-910, 28-911, or 28-915.01.

30 Sec. 60. A producer, processor, dispensary, or laboratory may be
31 fined up to one thousand dollars for any violation of the Medicinal

1 Cannabis Act or the rules and regulations adopted and promulgated
2 pursuant to the act if no penalty has been specified. This penalty is in
3 addition to any other applicable penalties in law.

4 Sec. 61. (1) The department shall collect an application fee of
5 twenty-five thousand dollars from each entity submitting an application
6 for registration as a dispensary.

7 (2)(a) Except as provided in subdivision (b) of this subsection, the
8 department shall collect an application fee of not more than five
9 thousand dollars from each entity submitting an application for
10 registration as a producer.

11 (b) The department shall collect an application fee of not more than
12 twenty-five thousand dollars from each entity submitting an application
13 for registration as a producer in the highest tier.

14 (3)(a) The department shall collect an application fee of not more
15 than five thousand dollars from each entity submitting an application for
16 registration as a processor that will perform solvent-based extractions
17 on cannabis using no solvents other than water, glycerin, propylene
18 glycol, vegetable oil, or food-grade ethanol.

19 (b) The department shall collect an application fee of not more than
20 twenty-five thousand dollars from each entity submitting an application
21 for registration as a processor that would be permitted to perform
22 additional solvent-based extractions.

23 (4) The department shall collect an application fee of not more than
24 ten thousand dollars from each entity submitting an application to become
25 a laboratory.

26 (5) The department shall establish and collect an annual fee to
27 cover the costs of regulating and inspecting in an amount not to exceed
28 (a) forty thousand dollars from a producer in the highest tier, (b) five
29 thousand dollars from a producer not in such tier, (c) five thousand
30 dollars from a processor described in subdivision (3)(a) of this section,
31 (d) forty thousand dollars from a processor described in subdivision (3)

1 (b) of this section, (e) twenty-five thousand dollars from a dispensary,
2 and (f) fifteen thousand dollars for a laboratory.

3 (6) The department shall remit fees collected pursuant to this
4 section to the State Treasurer for credit to the Medicinal Cannabis
5 Regulation Fund.

6 Sec. 62. The Medicinal Cannabis Regulation Fund is created and
7 shall consist of funds from contracts, grants, gifts, or fees under the
8 Medicinal Cannabis Act. The fund shall be used for purposes of regulation
9 of cannabis and administration of the Medicinal Cannabis Act. Any money
10 in the Medicinal Cannabis Regulation Fund available for investment shall
11 be invested by the state investment officer pursuant to the Nebraska
12 Capital Expansion Act and the Nebraska State Funds Investment Act.

13 Sec. 63. (1) The department may examine and inspect or provide for
14 the examination and inspection of any producer, processor, dispensary, or
15 laboratory in such manner and at such times as provided in rules and
16 regulations adopted and promulgated by the department. The department
17 shall issue an examination and inspection report and provide a copy of
18 the report to the producer, processor, dispensary, or laboratory within
19 ten working days after the completion of an examination and inspection.
20 The department shall then post a copy of the report on its web site.

21 (2) When making an examination under this section, the department
22 may retain professionals and specialists as designees.

23 Sec. 64. The department shall adopt and promulgate rules and
24 regulations to establish requirements for law enforcement officials and
25 health care professionals to report incidents involving an adverse event
26 involving cannabis to the department. Rules and regulations shall include
27 the method by which the department will collect and tabulate reports of
28 diversion of cannabis.

29 Sec. 65. The Medicinal Cannabis Board is established. The board
30 shall consist of seven members. The Governor shall appoint the members
31 subject to approval by a majority of the members of the Legislature. The

1 board shall have at least one member appointed from each congressional
2 district. Except as otherwise provided in section 66 of this act, the
3 members shall include one person who is employed by a law enforcement
4 agency, two persons licensed to practice medicine and surgery under the
5 Medicine and Surgery Practice Act, two persons who are licensed as
6 pharmacists under the Pharmacy Practice Act, one certified patient or
7 designated caregiver, and one person with experience in substance abuse
8 treatment. A majority of the members of the board shall be advocates for
9 the medicinal use of cannabis. The chief medical officer as designated in
10 section 81-3115 or such officer's designee and the chairperson of the
11 Health and Human Services Committee of the Legislature or the
12 chairperson's designee shall be nonvoting advisors.

13 Sec. 66. For the initial appointments to the Medicinal Cannabis
14 Board, the Governor shall appoint a person with a qualifying medical
15 condition or a caregiver of a person with a qualifying medical condition
16 in lieu of a certified patient or a designated caregiver for a term of
17 one year, and the successor to such appointment shall be a certified
18 patient or a designated caregiver appointed for a term of five years. For
19 the remainder of the initial appointments, the Governor shall appoint
20 three of the members of the board for terms of five years and the
21 remainder of the initial appointed members of the board for terms of two
22 years, three years, and four years. Appointments made for the succeeding
23 members shall be for terms of five years. The term of office of each
24 member of the board shall expire on September 1 of the appropriate year.
25 If a vacancy occurs prior to the expiration of a term, the Governor shall
26 appoint a successor with similar qualifications for the remainder of the
27 unexpired term. No member of the board shall serve more than two
28 consecutive, full terms. If the Legislature is not in session when an
29 appointment is made by the Governor, the member shall take office and act
30 as a recess appointee until the Legislature convenes.

31 Sec. 67. The members of the Medicinal Cannabis Board shall be

1 reimbursed for the expenses incurred in the performance of their duties
2 as provided in sections 81-1174 to 81-1177.

3 Sec. 68. Within thirty days after the initial appointment and in
4 the last calendar quarter of each subsequent year, the members of the
5 Medicinal Cannabis Board shall meet and elect a chairperson of the board
6 from the appointed members and such other officers, including a vice-
7 chairperson and a secretary, as the board deems necessary. In case of the
8 death, resignation, or other permanent absence of the chairperson of the
9 board, the vice-chairperson shall assume the office of chairperson and
10 the members of the board at the next regular meeting of the board, or at
11 a special meeting of the board pursuant to a call signed by at least four
12 of the remaining members of which all remaining members shall have at
13 least three days' notice, shall elect a new chairperson of the board from
14 the appointed members and such other new officers as the board deems
15 necessary.

16 Sec. 69. The Medicinal Cannabis Board shall meet at least once each
17 quarter and at such other times as it deems necessary. Special meetings
18 may be held upon the call of the chairperson or pursuant to a call signed
19 by at least four of the other members of which the chairperson and the
20 other members of the board shall have at least three days' notice. The
21 regular meetings shall be held in suitable offices to be provided in the
22 state office building described in section 81-1108.37 or elsewhere. A
23 majority of the members of the board shall constitute a quorum for the
24 transaction of business. Every act of a majority of the members of the
25 board shall be deemed to be the act of the board. The meetings shall be
26 open to the public. The minutes of the meetings shall show the action of
27 the board on matters presented and shall be open to public inspection.

28 Sec. 70. The Medicinal Cannabis Board shall appoint a director for
29 the department and shall advise the department regarding:

- 30 (1) Rules and regulations for the regulation of cannabis;
31 (2) The policies of the department as they relate to cannabis; and

1 (3) Recommendations for legislative changes regarding regulation of
2 cannabis.

3 Sec. 71. The department shall keep a record of all proceedings,
4 transactions, communications, and official acts of the Medicinal Cannabis
5 Board. The director of the department may appoint or employ such clerks
6 and other employees as may be necessary to carry out the Medicinal
7 Cannabis Act or to perform the duties and exercise the powers conferred
8 by law upon the board.

9 Sec. 72. Before entering upon the duties of office, each member of
10 the Medicinal Cannabis Board shall be bonded or insured as required by
11 section 11-201. Employees of the department who are accountable for
12 public funds shall be bonded or insured as required by section 11-201 to
13 secure the safety of such funds. The premium shall be paid by the State
14 of Nebraska out of the General Fund. Before entering upon the duties of
15 office, the director of the department shall be bonded or insured as
16 required by section 11-201.

17 Sec. 73. (1) No person shall be appointed as a member of the
18 Medicinal Cannabis Board, the director of the department, or an employee
19 of the department who is not a citizen of the United States and who has
20 not resided within the State of Nebraska successively for two years next
21 preceding the date of appointment.

22 (2) No person (a) convicted of or who has pleaded guilty or nolo
23 contendere to a felony or any violation of any federal or state law
24 concerning the manufacture or sale of controlled substances prior or
25 subsequent to the passage of the Medicinal Cannabis Act, (b) who has paid
26 a fine or penalty in settlement of any prosecution against such person
27 for any violation of such laws, or (c) who has forfeited bond to appear
28 in court to answer charges for any such violation shall be appointed as a
29 member of the board.

30 (3) No member of the board or employee of the department may,
31 directly or indirectly, individually, as a member of a partnership, as a

1 member of a limited liability company, or as a shareholder of a
2 corporation, have any interest whatsoever in the manufacture, sale, or
3 distribution of cannabis, receive any compensation or profit from such
4 manufacture, sale, or distribution, or have any interest whatsoever in
5 the purchases or sales made by the persons authorized by the act to
6 purchase or to sell cannabis.

7 (4) This section shall not prevent any member of the board, the
8 director, or any employee of the department from acquiring, possessing,
9 or using cannabis as a certified patient, designated caregiver,
10 nonresident patient, or nonresident caregiver pursuant to the act.

11 Sec. 74. A member of the Medicinal Cannabis Board, the director of
12 the department, or any person appointed or employed by the department
13 shall not solicit or accept any gift, gratuity, emolument, or employment
14 from any person subject to the Medicinal Cannabis Act or from any
15 officer, agent, or employee thereof or solicit, request from, or
16 recommend, directly or indirectly, to any such person or to any officer,
17 agent, or employee thereof the appointment of any person to any place or
18 position. Any such person and every officer, agent, or employee thereof
19 shall not offer to any member of the board, the director, or any person
20 appointed or employed by the department any gift, gratuity, emolument, or
21 employment. If a member of the board, the director, or any person
22 appointed or employed by the department violates this section, such
23 person shall be removed from office or employment. Every person violating
24 this section shall be guilty of a Class II misdemeanor.

25 Sec. 75. (1) No later than May 1, 2025, the department shall
26 develop or recommend, for approval by the Medicinal Cannabis Board, one
27 or more continuing medical education courses for participating health
28 care practitioners that satisfy the requirements of subsection (3) of
29 section 37 of this act. Such courses shall have an evaluative component.
30 The department shall make the approved courses available online for a
31 cost of no more than fifty dollars.

1 (2) The department shall develop or recommend, for approval by the
2 Medicinal Cannabis Board, one or more training and education courses for
3 dispensary staff regarding medicinal use of cannabis, including
4 information on recommended dosages, qualifying medical conditions, and
5 various modes of administration. The department shall make the approved
6 courses available online for a cost of no more than fifty dollars.

7 (3) No later than December 20 of each year, the department shall:

8 (a) Accept petitions to revise the list of qualifying medical
9 conditions;

10 (b) Provide for the Medicinal Cannabis Board to hold a hearing on
11 the petitions;

12 (c) Assist the board to consider scientific evidence and the
13 testimony of patients and health care practitioners; and

14 (d) Submit the recommendations of the board to the Legislature for
15 any revision to the list of qualifying medical conditions.

16 (4) The department shall develop and update, for approval by the
17 Medicinal Cannabis Board, a scientifically accurate informational
18 document for certified patients, designated caregivers, nonresident
19 patients, and nonresident caregivers. The informational document shall be
20 made available at dispensaries and on the website of the department. The
21 informational document shall include:

22 (a) Any known drug interactions with cannabis to be used for a
23 qualifying medical condition;

24 (b) Any guidance regarding dosing for cannabis to be used for a
25 qualifying medical condition;

26 (c) Warnings about the potential risks of the use of cannabis,
27 including:

28 (i) The risk of cannabis use disorder and resources for help;

29 (ii) Any known risks related to psychosis or schizophrenia;

30 (iii) Any known risks regarding cognitive effects for children and
31 young adults;

1 (iv) Risks of using cannabis during pregnancy;

2 (v) The need to safeguard cannabis and cannabis products from
3 children and pets or other domestic animals;

4 (vi) The risk of impairment to operate a motor vehicle; and

5 (vii) The fact that the effects of cannabis or cannabis products may
6 not be felt for several hours after inhaling or consuming the cannabis or
7 cannabis products;

8 (d) Warning patients not to drive or operate heavy machinery while
9 impaired by cannabis; and

10 (e) Instructions to contact a health care practitioner if the
11 certified patient is pregnant or plans to become pregnant.

12 (5)(a) No later than December 20, 2025, the Medicinal Cannabis Board
13 shall make a recommendation to the Legislature regarding whether anxiety,
14 or any type of anxiety disorder, should be approved as a qualifying
15 medical condition.

16 (b) Prior to making any recommendation required under this
17 subsection, the board, with the assistance of the department, shall hold
18 a public hearing and consider scientific evidence and the written and
19 oral testimony of patients and health care practitioners.

20 Sec. 76. The director of the department, and all employees of the
21 department shall be reimbursed for all traveling expenses and
22 disbursements incurred or made by them in the discharge of their official
23 duties under the Medicinal Cannabis Act as provided in sections 81-1174
24 to 81-1177. The department may also incur necessary expenses for office
25 furniture and other incidental expenses. The director or an employee of
26 the department shall not request or be allowed mileage or other traveling
27 expenses unless such sections are strictly complied with.

28 Sec. 77. The office of the department shall be in Lincoln, but the
29 department may establish and maintain branch offices at places other than
30 the seat of government. The Medicinal Cannabis Board and the department
31 may, for authentication of records, process, and proceedings, adopt,

1 keep, and use a common seal, of which seal judicial notice shall be taken
2 in all of the courts of the state. Any process, notice, or other paper
3 which the board or department is authorized by law to issue shall be
4 deemed sufficient if signed by the chairperson and director of the
5 department and authenticated by such seal. All acts, orders, proceedings,
6 rules, regulations, entries, minutes, and other records of the department
7 and all reports and documents filed with the department may be proved in
8 any court of this state by copy thereof certified to by the director
9 attached.

10 Sec. 78. The Attorney General shall designate an assistant attorney
11 general or assistant attorneys general, when requested by the Medicinal
12 Cannabis Board, and the services of such assistant attorney general or
13 assistant attorneys general shall be available to the board or department
14 whenever demanded. The compensation of such assistant attorney general or
15 assistant attorneys general as are assigned to the board or department
16 shall be paid by the office of the Attorney General.

17 Sec. 79. Section 28-416, Revised Statutes Supplement, 2023, is
18 amended to read:

19 28-416 (1) Except as authorized by the Medicinal Cannabis Act or the
20 Uniform Controlled Substances Act, it shall be unlawful for any person
21 knowingly or intentionally: (a) To manufacture, distribute, deliver,
22 dispense, or possess with intent to manufacture, distribute, deliver, or
23 dispense a controlled substance; or (b) to create, distribute, or possess
24 with intent to distribute a counterfeit controlled substance.

25 (2) Except as provided in subsections (4), (5), (7), (8), (9), and
26 (10), and (16) of this section, any person who violates subsection (1) of
27 this section with respect to: (a) A controlled substance classified in
28 Schedule I, II, or III of section 28-405 which is an exceptionally
29 hazardous drug shall be guilty of a Class II felony; (b) any other
30 controlled substance classified in Schedule I, II, or III of section
31 28-405 shall be guilty of a Class IIA felony; or (c) a controlled

1 substance classified in Schedule IV or V of section 28-405 shall be
2 guilty of a Class IIIA felony.

3 (3) A person knowingly or intentionally possessing a controlled
4 substance, except marijuana or any substance containing a quantifiable
5 amount of the substances, chemicals, or compounds described, defined, or
6 delineated in subdivision (c)(27) of Schedule I of section 28-405, unless
7 such substance was obtained directly or pursuant to a medical order
8 issued by a practitioner authorized to prescribe while acting in the
9 course of his or her professional practice, or except as otherwise
10 authorized by the act, shall be guilty of a Class IV felony. A person
11 shall not be in violation of this subsection if section 28-472 or 28-1701
12 applies.

13 (4)(a) Except as authorized by the Uniform Controlled Substances
14 Act, any person eighteen years of age or older who knowingly or
15 intentionally manufactures, distributes, delivers, dispenses, or
16 possesses with intent to manufacture, distribute, deliver, or dispense a
17 controlled substance or a counterfeit controlled substance (i) to a
18 person under the age of eighteen years, (ii) in, on, or within one
19 thousand feet of the real property comprising a public or private
20 elementary, vocational, or secondary school, a community college, a
21 public or private college, junior college, or university, or a
22 playground, or (iii) within one hundred feet of a public or private youth
23 center, public swimming pool, or video arcade facility shall be punished
24 by the next higher penalty classification than the penalty prescribed in
25 subsection (2), (7), (8), (9), or (10) of this section, depending upon
26 the controlled substance involved, for the first violation and for a
27 second or subsequent violation shall be punished by the next higher
28 penalty classification than that prescribed for a first violation of this
29 subsection, but in no event shall such person be punished by a penalty
30 greater than a Class IB felony.

31 (b) For purposes of this subsection:

1 (i) Playground means any outdoor facility, including any parking lot
2 appurtenant to the facility, intended for recreation, open to the public,
3 and with any portion containing three or more apparatus intended for the
4 recreation of children, including sliding boards, swingsets, and
5 teeterboards;

6 (ii) Video arcade facility means any facility legally accessible to
7 persons under eighteen years of age, intended primarily for the use of
8 pinball and video machines for amusement, and containing a minimum of ten
9 pinball or video machines; and

10 (iii) Youth center means any recreational facility or gymnasium,
11 including any parking lot appurtenant to the facility or gymnasium,
12 intended primarily for use by persons under eighteen years of age which
13 regularly provides athletic, civic, or cultural activities.

14 (5)(a) Except as authorized by the Uniform Controlled Substances
15 Act, it shall be unlawful for any person eighteen years of age or older
16 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
17 induce, entice, seduce, or coerce any person under the age of eighteen
18 years to manufacture, transport, distribute, carry, deliver, dispense,
19 prepare for delivery, offer for delivery, or possess with intent to do
20 the same a controlled substance or a counterfeit controlled substance.

21 (b) Except as authorized by the Uniform Controlled Substances Act,
22 it shall be unlawful for any person eighteen years of age or older to
23 knowingly and intentionally employ, hire, use, cause, persuade, coax,
24 induce, entice, seduce, or coerce any person under the age of eighteen
25 years to aid and abet any person in the manufacture, transportation,
26 distribution, carrying, delivery, dispensing, preparation for delivery,
27 offering for delivery, or possession with intent to do the same of a
28 controlled substance or a counterfeit controlled substance.

29 (c) Any person who violates subdivision (a) or (b) of this
30 subsection shall be punished by the next higher penalty classification
31 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of

1 this section, depending upon the controlled substance involved, for the
2 first violation and for a second or subsequent violation shall be
3 punished by the next higher penalty classification than that prescribed
4 for a first violation of this subsection, but in no event shall such
5 person be punished by a penalty greater than a Class IB felony.

6 (6) It shall not be a defense to prosecution for violation of
7 subsection (4) or (5) of this section that the defendant did not know the
8 age of the person through whom the defendant violated such subsection.

9 (7) Any person who violates subsection (1) of this section with
10 respect to cocaine or any mixture or substance containing a detectable
11 amount of cocaine in a quantity of:

12 (a) One hundred forty grams or more shall be guilty of a Class IB
13 felony;

14 (b) At least twenty-eight grams but less than one hundred forty
15 grams shall be guilty of a Class IC felony; or

16 (c) At least ten grams but less than twenty-eight grams shall be
17 guilty of a Class ID felony.

18 (8) Any person who violates subsection (1) of this section with
19 respect to base cocaine (crack) or any mixture or substance containing a
20 detectable amount of base cocaine in a quantity of:

21 (a) One hundred forty grams or more shall be guilty of a Class IB
22 felony;

23 (b) At least twenty-eight grams but less than one hundred forty
24 grams shall be guilty of a Class IC felony; or

25 (c) At least ten grams but less than twenty-eight grams shall be
26 guilty of a Class ID felony.

27 (9) Any person who violates subsection (1) of this section with
28 respect to heroin or any mixture or substance containing a detectable
29 amount of heroin in a quantity of:

30 (a) One hundred forty grams or more shall be guilty of a Class IB
31 felony;

1 (b) At least twenty-eight grams but less than one hundred forty
2 grams shall be guilty of a Class IC felony; or

3 (c) At least ten grams but less than twenty-eight grams shall be
4 guilty of a Class ID felony.

5 (10) Any person who violates subsection (1) of this section with
6 respect to amphetamine, its salts, optical isomers, and salts of its
7 isomers, or with respect to methamphetamine, its salts, optical isomers,
8 and salts of its isomers, in a quantity of:

9 (a) One hundred forty grams or more shall be guilty of a Class IB
10 felony;

11 (b) At least twenty-eight grams but less than one hundred forty
12 grams shall be guilty of a Class IC felony; or

13 (c) At least ten grams but less than twenty-eight grams shall be
14 guilty of a Class ID felony.

15 (11) Except as otherwise provided in the Medicinal Cannabis Act, any
16 ~~Any~~ person knowingly or intentionally possessing marijuana weighing more
17 than one ounce but not more than one pound shall be guilty of a Class III
18 misdemeanor.

19 (12) Except as otherwise provided in the Medicinal Cannabis Act, any
20 ~~Any~~ person knowingly or intentionally possessing marijuana weighing more
21 than one pound shall be guilty of a Class IV felony.

22 (13) Except as provided in the Medicinal Cannabis Act or section
23 28-1701, any person knowingly or intentionally possessing marijuana
24 weighing one ounce or less or any substance containing a quantifiable
25 amount of the substances, chemicals, or compounds described, defined, or
26 delineated in subdivision (c)(27) of Schedule I of section 28-405 shall:

27 (a) For the first offense, be guilty of an infraction, receive a
28 citation, be fined three hundred dollars, and be assigned to attend a
29 course as prescribed in section 29-433 if the judge determines that
30 attending such course is in the best interest of the individual
31 defendant;

1 (b) For the second offense, be guilty of a Class IV misdemeanor,
2 receive a citation, and be fined four hundred dollars and may be
3 imprisoned not to exceed five days; and

4 (c) For the third and all subsequent offenses, be guilty of a Class
5 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
6 be imprisoned not to exceed seven days.

7 (14) Any person convicted of violating this section, if placed on
8 probation, shall, as a condition of probation, satisfactorily attend and
9 complete appropriate treatment and counseling on drug abuse provided by a
10 program authorized under the Nebraska Behavioral Health Services Act or
11 other licensed drug treatment facility.

12 (15) Any person convicted of violating this section, if sentenced to
13 the Department of Correctional Services, shall attend appropriate
14 treatment and counseling on drug abuse.

15 (16)(a) Any person convicted of a violation of subsection (1) of
16 this section shall be punished by the next higher penalty classification
17 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
18 this section if:

19 (i) The ~~(16)~~ Any person knowingly or intentionally possessed
20 possessing a firearm while in violation of subsection (1) of this
21 section; or

22 (ii) Such violation resulted in the use of the controlled substance
23 and directly and proximately caused the death of, or serious bodily
24 injury to, another person.

25 (b) A penalty enhanced under this subsection shall in no event
26 result in shall be punished by the next higher penalty classification
27 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
28 this section, but in no event shall such person be punished by a penalty
29 greater than a Class IC ~~IB~~ felony.

30 (17) A person knowingly or intentionally in possession of money used
31 or intended to be used to facilitate a violation of subsection (1) of

1 this section shall be guilty of a Class IV felony.

2 (18) In addition to the existing penalties available for a violation
3 of subsection (1) of this section, including any criminal attempt or
4 conspiracy to violate subsection (1) of this section, a sentencing court
5 may order that any money, securities, negotiable instruments, firearms,
6 conveyances, or electronic communication devices as defined in section
7 28-833 or any equipment, components, peripherals, software, hardware, or
8 accessories related to electronic communication devices be forfeited as a
9 part of the sentence imposed if it finds by clear and convincing evidence
10 adduced at a separate hearing in the same prosecution, following
11 conviction for a violation of subsection (1) of this section, and
12 conducted pursuant to section 28-1601, that any or all such property was
13 derived from, used, or intended to be used to facilitate a violation of
14 subsection (1) of this section.

15 (19) In addition to the penalties provided in this section:

16 (a) If the person convicted or adjudicated of violating this section
17 is eighteen years of age or younger and has one or more licenses or
18 permits issued under the Motor Vehicle Operator's License Act:

19 (i) For the first offense, the court may, as a part of the judgment
20 of conviction or adjudication, (A) impound any such licenses or permits
21 for thirty days and (B) require such person to attend a drug education
22 class;

23 (ii) For a second offense, the court may, as a part of the judgment
24 of conviction or adjudication, (A) impound any such licenses or permits
25 for ninety days and (B) require such person to complete no fewer than
26 twenty and no more than forty hours of community service and to attend a
27 drug education class; and

28 (iii) For a third or subsequent offense, the court may, as a part of
29 the judgment of conviction or adjudication, (A) impound any such licenses
30 or permits for twelve months and (B) require such person to complete no
31 fewer than sixty hours of community service, to attend a drug education

1 class, and to submit to a drug assessment by a licensed alcohol and drug
2 counselor; and

3 (b) If the person convicted or adjudicated of violating this section
4 is eighteen years of age or younger and does not have a permit or license
5 issued under the Motor Vehicle Operator's License Act:

6 (i) For the first offense, the court may, as part of the judgment of
7 conviction or adjudication, (A) prohibit such person from obtaining any
8 permit or any license pursuant to the act for which such person would
9 otherwise be eligible until thirty days after the date of such order and
10 (B) require such person to attend a drug education class;

11 (ii) For a second offense, the court may, as part of the judgment of
12 conviction or adjudication, (A) prohibit such person from obtaining any
13 permit or any license pursuant to the act for which such person would
14 otherwise be eligible until ninety days after the date of such order and
15 (B) require such person to complete no fewer than twenty hours and no
16 more than forty hours of community service and to attend a drug education
17 class; and

18 (iii) For a third or subsequent offense, the court may, as part of
19 the judgment of conviction or adjudication, (A) prohibit such person from
20 obtaining any permit or any license pursuant to the act for which such
21 person would otherwise be eligible until twelve months after the date of
22 such order and (B) require such person to complete no fewer than sixty
23 hours of community service, to attend a drug education class, and to
24 submit to a drug assessment by a licensed alcohol and drug counselor.

25 A copy of an abstract of the court's conviction or adjudication
26 shall be transmitted to the Director of Motor Vehicles pursuant to
27 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
28 juvenile is prohibited from obtaining a license or permit under this
29 subsection.

30 Sec. 80. Section 28-439, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 28-439 As used in sections 28-101, 28-431, and 28-439 to 28-444,
2 unless the context otherwise requires, drug paraphernalia shall mean all
3 equipment, products, and materials of any kind which are used, intended
4 for use, or designed for use, in manufacturing, injecting, ingesting,
5 inhaling, or otherwise introducing into the human body a controlled
6 substance in violation of sections 28-101, 28-431, and 28-439 to 28-444,
7 the Medicinal Cannabis Act, or the Uniform Controlled Substances Act. It
8 shall include, but not be limited to, the following:

9 (1) Diluents and adulterants, such as quinine hydrochloride,
10 mannitol, mannite, dextrose, and lactose, used, intended for use, or
11 designed for use in cutting controlled substances;

12 (2) Separation gins and sifters used, intended for use, or designed
13 for use in removing twigs and seeds from, or in otherwise cleaning or
14 refining, marijuana;

15 (3) Hypodermic syringes, needles, and other objects used, intended
16 for use, and designed for use in parenterally injecting controlled
17 substances into the human body; and

18 (4) Objects used, intended for use, or designed for use in
19 ingesting, inhaling, or otherwise introducing marijuana, cocaine,
20 hashish, or hashish oil into the human body, which shall include but not
21 be limited to the following:

22 (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
23 with or without screens, permanent screens, hashish heads, or punctured
24 metal bowls;

25 (b) Water pipes;

26 (c) Carburetion tubes and devices;

27 (d) Smoking and carburetion masks;

28 (e) Roach clips, meaning objects used to hold burning material, such
29 as a marijuana cigarette, which has become too small or too short to be
30 held in the hand;

31 (f) Miniature cocaine spoons, and cocaine vials;

- 1 (g) Chamber pipes;
- 2 (h) Carburetor pipes;
- 3 (i) Electric pipes;
- 4 (j) Air-driven pipes;
- 5 (k) Chillums;
- 6 (l) Bongs; and
- 7 (m) Ice pipes or chillers.

8 Sec. 81. Section 60-6,211.08, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 60-6,211.08 (1) For purposes of this section:

11 (a) Alcoholic beverage means (i) beer, ale, porter, stout, and other
12 similar fermented beverages, including sake or similar products, of any
13 name or description containing one-half of one percent or more of alcohol
14 by volume, brewed or produced from malt, wholly or in part, or from any
15 substitute therefor, (ii) wine of not less than one-half of one percent
16 of alcohol by volume, or (iii) distilled spirits which is that substance
17 known as ethyl alcohol, ethanol, or spirits of wine in any form,
18 including all dilutions and mixtures thereof from whatever source or by
19 whatever process produced. Alcoholic beverage does not include trace
20 amounts not readily consumable as a beverage;

21 (b) Cannabis has the same meaning as in section 5 of this act;

22 (c) Cannabis product has the same meaning as in section 7 of this
23 act;

24 (d) ~~(b)~~ Highway means a road or street including the entire area
25 within the right-of-way;

26 (e) ~~(e)~~ Limousine means a luxury vehicle used to provide prearranged
27 passenger transportation on a dedicated basis at a premium fare that has
28 a seating capacity of at least five and no more than fourteen persons
29 behind the driver with a physical partition separating the driver seat
30 from the passenger compartment. Limousine does not include taxicabs,
31 hotel or airport buses or shuttles, or buses;

1 (f) ~~(d)~~ Open ~~alcoholic beverage~~ container, except as provided in
2 subsection (3) of section 53-123.04 and subdivision (1)(c) of section
3 53-123.11, means any bottle, can, or other receptacle:

4 (i) That contains any amount of alcoholic beverage, cannabis, or
5 cannabis products; and

6 (ii)(A) That is open or has a broken seal or (B) the contents of
7 which are partially removed; and

8 (g) ~~(e)~~ Passenger area means the area designed to seat the driver
9 and passengers while the motor vehicle is in operation and any area that
10 is readily accessible to the driver or a passenger while in their seating
11 positions, including any compartments in such area. Passenger area does
12 not include the area behind the last upright seat of such motor vehicle
13 if the area is not normally occupied by the driver or a passenger and the
14 motor vehicle is not equipped with a trunk.

15 (2) Except as otherwise provided in this section, it is unlawful for
16 any person in the passenger area of a motor vehicle to possess an open
17 ~~alcoholic beverage~~ container while the motor vehicle is located in a
18 public parking area or on any highway in this state.

19 (3) Except as provided in section 53-186 or subsection (4) of this
20 section, it is unlawful for any person to consume an alcoholic beverage,
21 cannabis, or cannabis products (a) in a public parking area or on any
22 highway in this state or (b) inside a motor vehicle while in a public
23 parking area or on any highway in this state.

24 (4) This section does not apply to possession or consumption of
25 alcoholic beverages by persons who are passengers of, but not drivers of,
26 a limousine or bus being used in a charter or special party service as
27 defined by rules and regulations adopted and promulgated by the Public
28 Service Commission and subject to Chapter 75, article 3. Such passengers
29 may possess open ~~alcoholic beverage~~ containers of alcoholic beverages and
30 may consume alcoholic beverages while such limousine or bus is in a
31 public parking area or on any highway in this state if (a) the driver of

1 the limousine or bus is prohibited from consuming alcoholic liquor and
2 (b) alcoholic liquor is not present in any area that is readily
3 accessible to the driver while in the driver's seat, including any
4 compartments in such area.

5 Sec. 82. Section 71-2454, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 71-2454 (1) An entity described in section 71-2455 shall establish a
8 system of prescription drug monitoring for the purposes of (a) preventing
9 the misuse of controlled substances that are prescribed, (b) allowing
10 prescribers and dispensers to monitor the care and treatment of patients
11 for whom such a prescription drug is prescribed to ensure that such
12 prescription drugs are used for medically appropriate purposes, (c)
13 providing information to improve the health and safety of patients, and
14 (d) ensuring that the State of Nebraska remains on the cutting edge of
15 medical information technology.

16 (2) Such system of prescription drug monitoring shall be implemented
17 as follows: Except as provided in subsection (4) of this section, all
18 prescription drug information shall be reported to the prescription drug
19 monitoring system. The prescription drug monitoring system shall include,
20 but not be limited to, provisions that:

21 (a) Prohibit any patient from opting out of the prescription drug
22 monitoring system;

23 (b) Require any prescription drug that is dispensed in this state or
24 to an address in this state to be entered into the system by the
25 dispenser or his or her delegate no less frequently than daily after such
26 prescription drug is sold, including prescription drugs for patients
27 paying cash or otherwise not relying on a third-party payor for payment;

28 (c) Allow all prescribers or dispensers of prescription drugs to
29 access the system at no cost to such prescriber or dispenser;

30 (d) Ensure that such system includes information relating to all
31 payors, including, but not limited to, the medical assistance program

1 established pursuant to the Medical Assistance Act; and

2 (e) Make the prescription drug information available to the
3 statewide health information exchange described in section 71-2455 for
4 access by its participants if such access is in compliance with the
5 privacy and security protections set forth in the provisions of the
6 federal Health Insurance Portability and Accountability Act of 1996,
7 Public Law 104-191, and regulations promulgated thereunder, except that
8 if a patient opts out of the statewide health information exchange, the
9 prescription drug information regarding that patient shall not be
10 accessible by the participants in the statewide health information
11 exchange.

12 (3) Except as provided in subsection (4) of this section,
13 prescription drug information that shall be submitted electronically to
14 the prescription drug monitoring system shall be determined by the entity
15 described in section 71-2455 and shall include, but not be limited to:

16 (a) The patient's name, address, telephone number, if a telephone
17 number is available, gender, and date of birth;

18 (b) A patient identifier such as a military identification number,
19 driver's license number, state identification card number, or other valid
20 government-issued identification number, insurance identification number,
21 pharmacy software-generated patient-specific identifier, or other
22 identifier associated specifically with the patient;

23 (c) The name and address of the pharmacy or dispensary as defined in
24 section 11 of this act dispensing the prescription drug;

25 (d) The date the prescription is issued;

26 (e) The date the prescription is filled;

27 (f) The date the prescription is sold to the patient;

28 (g) The number of refills authorized;

29 (h) The prescription number of the prescription drug;

30 (i) The National Drug Code number as published by the federal Food
31 and Drug Administration of the prescription drug;

1 (j) The strength of the prescription drug prescribed;

2 (k) The quantity of the prescription drug prescribed and the number
3 of days' supply;

4 (l) The prescriber's name and National Provider Identifier number or
5 Drug Enforcement Administration number when reporting a controlled
6 substance; and

7 (m) Additional information as determined by the Health Information
8 Technology Board and as published in the submitter guide for the
9 prescription drug monitoring system.

10 (4) Beginning July 1, 2018, a veterinarian licensed under the
11 Veterinary Medicine and Surgery Practice Act shall be required to report
12 the dispensing of prescription drugs which are controlled substances
13 listed on Schedule II, Schedule III, Schedule IV, or Schedule V pursuant
14 to section 28-405. Each such veterinarian shall indicate that the
15 prescription is an animal prescription and shall include the following
16 information in such report:

17 (a) The first and last name and address, including city, state, and
18 zip code, of the individual to whom the prescription drug is dispensed in
19 accordance with a valid veterinarian-client-patient relationship;

20 (b) Reporting status;

21 (c) The first and last name of the prescribing veterinarian and his
22 or her federal Drug Enforcement Administration number;

23 (d) The National Drug Code number as published by the federal Food
24 and Drug Administration of the prescription drug and the prescription
25 number;

26 (e) The date the prescription is written and the date the
27 prescription is filled;

28 (f) The number of refills authorized, if any; and

29 (g) The quantity of the prescription drug and the number of days'
30 supply.

31 (5)(a) All prescription drug information submitted pursuant to this

1 section, all data contained in the prescription drug monitoring system,
2 and any report obtained from data contained in the prescription drug
3 monitoring system are confidential, are privileged, are not public
4 records, and may be withheld pursuant to section 84-712.05 except for
5 information released as provided in subsection (9) or (10) of this
6 section.

7 (b) No patient-identifying data as defined in section 81-664,
8 including the data collected under subsection (3) of this section, shall
9 be disclosed, made public, or released to any public or private person or
10 entity except to the statewide health information exchange described in
11 section 71-2455 and its participants, to prescribers and dispensers as
12 provided in subsection (2) of this section, or as provided in subsection
13 (7), (9), or (10) of this section.

14 (c) All other data is for the confidential use of the department and
15 the statewide health information exchange described in section 71-2455
16 and its participants. The department, or the statewide health information
17 exchange in accordance with policies adopted by the Health Information
18 Technology Board and in collaboration with the department, may release
19 such information in accordance with the privacy and security provisions
20 set forth in the federal Health Insurance Portability and Accountability
21 Act of 1996, Public Law 104-191, and regulations promulgated thereunder,
22 as Class I, Class II, or Class IV data in accordance with section 81-667,
23 except for purposes in accordance with subsection (9) or (10) of this
24 section, to the private or public persons or entities that the department
25 or the statewide health information exchange, in accordance with policies
26 adopted by the Health Information Technology Board, determines may view
27 such records as provided in sections 81-663 to 81-675. In addition, the
28 department, or the statewide health information exchange in accordance
29 with policies adopted by the Health Information Technology Board and in
30 collaboration with the department, may release such information as
31 provided in subsection (9) or (10) of this section.

1 (6) The statewide health information exchange described in section
2 71-2455, in accordance with policies adopted by the Health Information
3 Technology Board and in collaboration with the department, shall
4 establish the minimum administrative, physical, and technical safeguards
5 necessary to protect the confidentiality, integrity, and availability of
6 prescription drug information.

7 (7) If the entity receiving the prescription drug information has
8 privacy protections at least as restrictive as those set forth in this
9 section and has implemented and maintains the minimum safeguards required
10 by subsection (6) of this section, the statewide health information
11 exchange described in section 71-2455, in accordance with policies
12 adopted by the Health Information Technology Board and in collaboration
13 with the department, may release the prescription drug information and
14 any other data collected pursuant to this section to:

15 (a) Other state prescription drug monitoring programs;

16 (b) State and regional health information exchanges;

17 (c) The medical director and pharmacy director of the Division of
18 Medicaid and Long-Term Care of the department, or their designees;

19 (d) The medical directors and pharmacy directors of medicaid-managed
20 care entities, the state's medicaid drug utilization review board, and
21 any other state-administered health insurance program or its designee if
22 any such entities have a current data-sharing agreement with the
23 statewide health information exchange described in section 71-2455, and
24 if such release is in accordance with the privacy and security provisions
25 of the federal Health Insurance Portability and Accountability Act of
26 1996, Public Law 104-191, and all regulations promulgated thereunder;

27 (e) Organizations which facilitate the interoperability and mutual
28 exchange of information among state prescription drug monitoring programs
29 or state or regional health information exchanges; or

30 (f) Electronic health record systems or pharmacy-dispensing software
31 systems for the purpose of integrating prescription drug information into

1 a patient's medical record.

2 (8) The department, or the statewide health information exchange
3 described in section 71-2455, in accordance with policies adopted by the
4 Health Information Technology Board and in collaboration with the
5 department, may release to patients their prescription drug information
6 collected pursuant to this section. Upon request of the patient, such
7 information may be released directly to the patient or a personal health
8 record system designated by the patient which has privacy protections at
9 least as restrictive as those set forth in this section and that has
10 implemented and maintains the minimum safeguards required by subsection
11 (6) of this section.

12 (9) In accordance with the privacy and security provisions set forth
13 in the federal Health Insurance Portability and Accountability Act of
14 1996, Public Law 104-191, and regulations promulgated thereunder, the
15 department, or the statewide health information exchange described in
16 section 71-2455 under policies adopted by the Health Information
17 Technology Board, may release data collected pursuant to this section for
18 statistical, public policy, or educational purposes after removing
19 information which identifies or could reasonably be used to identify the
20 patient, prescriber, dispenser, or other person who is the subject of the
21 information, except as otherwise provided in subsection (10) of this
22 section.

23 (10) In accordance with the privacy and security provisions set
24 forth in the federal Health Insurance Portability and Accountability Act
25 of 1996, Public Law 104-191, and regulations promulgated thereunder, the
26 department, or statewide health information exchange described in section
27 71-2455 under policies adopted by the Health Information Technology
28 Board, may release data collected pursuant to this section for quality
29 measures as approved or regulated by state or federal agencies or for
30 patient quality improvement or research initiatives approved by the
31 Health Information Technology Board.

1 (11) The statewide health information exchange described in section
2 71-2455, entities described in subsection (7) of this section, or the
3 department may request and receive program information from other
4 prescription drug monitoring programs for use in the prescription drug
5 monitoring system in this state in accordance with the privacy and
6 security provisions set forth in the federal Health Insurance Portability
7 and Accountability Act of 1996, Public Law 104-191, and regulations
8 promulgated thereunder.

9 (12) The statewide health information exchange described in section
10 71-2455, in collaboration with the department, shall implement
11 technological improvements to facilitate the secure collection of, and
12 access to, prescription drug information in accordance with this section.

13 (13) Before accessing the prescription drug monitoring system, any
14 user shall undergo training on the purpose of the system, access to and
15 proper usage of the system, and the law relating to the system, including
16 confidentiality and security of the prescription drug monitoring system.
17 Such training shall be administered by the statewide health information
18 exchange described in section 71-2455 or the department. The statewide
19 health information exchange described in section 71-2455 shall have
20 access to the prescription drug monitoring system for training
21 operations, maintenance, and administrative purposes. Users who have been
22 trained prior to May 10, 2017, or who are granted access by an entity
23 receiving prescription drug information pursuant to subsection (7) of
24 this section, are deemed to be in compliance with the training
25 requirement of this subsection.

26 (14) For purposes of this section:

27 (a) Deliver or delivery means to actually, constructively, or
28 attempt to transfer a drug or device from one person to another, whether
29 or not for consideration;

30 (b) Department means the Department of Health and Human Services;

31 (c) Delegate means any licensed or registered health care

1 professional credentialed under the Uniform Credentialing Act designated
2 by a prescriber or dispenser to act as an agent of the prescriber or
3 dispenser for purposes of submitting or accessing data in the
4 prescription drug monitoring system and who is supervised by such
5 prescriber or dispenser;

6 (d) Prescription drug or drugs means a prescription drug or drugs
7 dispensed by delivery to the ultimate user or caregiver by or pursuant to
8 the lawful order of a prescriber, including cannabis and cannabis
9 products under the Medicinal Cannabis Act, but does not include (i) the
10 delivery of such prescription drug for immediate use for purposes of
11 inpatient hospital care or emergency department care, (ii) the
12 administration of a prescription drug by an authorized person upon the
13 lawful order of a prescriber, (iii) a wholesale distributor of a
14 prescription drug monitored by the prescription drug monitoring system,
15 or (iv) the dispensing to a nonhuman patient of a prescription drug which
16 is not a controlled substance listed in Schedule II, Schedule III,
17 Schedule IV, or Schedule V of section 28-405;

18 (e) Dispenser means a person authorized in the jurisdiction in which
19 he or she is practicing to deliver a prescription drug to the ultimate
20 user or caregiver by or pursuant to the lawful order of a prescriber.
21 Dispenser also includes a pharmacist or his or her designee acting for a
22 dispensary registered under the Medicinal Cannabis Act as provided in
23 section 43 of this act;

24 (f) Participant means an individual or entity that has entered into
25 a participation agreement with the statewide health information exchange
26 described in section 71-2455 which requires the individual or entity to
27 comply with the privacy and security protections set forth in the
28 provisions of the federal Health Insurance Portability and Accountability
29 Act of 1996, Public Law 104-191, and regulations promulgated thereunder;
30 and

31 (g) Prescriber means a health care professional authorized to

1 prescribe in the profession which he or she practices, including a
2 participating health care practitioner under the Medicinal Cannabis Act.

3 Sec. 83. Section 77-2701.48, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 77-2701.48 (1) Bundled transaction means the retail sale of two or
6 more products, except real property and services to real property, when
7 (a) the products are otherwise distinct and identifiable and (b) the
8 products are sold for one non-itemized price. Bundled transaction does
9 not include the sale of any products in which the sales price varies, or
10 is negotiable, based on the selection by the purchaser of the products
11 included in the transaction.

12 (2) Distinct and identifiable products do not include:

13 (a) Packaging, such as containers, boxes, sacks, bags, and bottles
14 or other materials such as wrapping, labels, tags, and instruction guides
15 that accompany the retail sale of the products and are incidental or
16 immaterial to the retail sale thereof. Examples of packaging that are
17 incidental or immaterial include grocery sacks, shoeboxes, dry cleaning
18 garment bags, and express delivery envelopes and boxes;

19 (b) A product provided free of charge with the required purchase of
20 another product. A product is provided free of charge if the sales price
21 of the product purchased does not vary depending on the inclusion of the
22 product provided free of charge; and

23 (c) Items included in the definition of sales price pursuant to
24 section 77-2701.35.

25 (3) One non-itemized price does not include a price that is
26 separately identified by product on binding sales or other supporting
27 sales-related documentation made available to the customer in paper or
28 electronic form, including, but not limited to, an invoice, bill of sale,
29 receipt, contract, service agreement, lease agreement, periodic notice of
30 rates and services, rate card, or price list.

31 (4) A transaction that otherwise meets the definition of a bundled

1 transaction is not a bundled transaction if it is (a) the retail sale of
2 tangible personal property and a service where the tangible personal
3 property is essential to the use of the service, and is provided
4 exclusively in connection with the service, and the true object of the
5 transaction is the service, (b) the retail sale of services when one
6 service is provided that is essential to the use or receipt of a second
7 service and the first service is provided exclusively in connection with
8 the second service and the true object of the transaction is the second
9 service, or (c) a transaction that includes taxable products and
10 nontaxable products and the purchase price or sales price of the taxable
11 products is de minimus. De minimus means the seller's purchase price or
12 sales price of the taxable products is ten percent or less of the total
13 purchase price or sales price of the bundled products. Sellers shall use
14 either the purchase price or the sales price of the products to determine
15 if the taxable products are de minimus. Sellers may not use a combination
16 of the purchase price and sales price of the products to determine if the
17 taxable products are de minimus. Sellers shall use the full term of a
18 service contract to determine if the taxable products are de minimus.

19 (5) Bundled transaction does not include the retail sale of exempt
20 tangible personal property and taxable tangible personal property if (a)
21 the transaction includes food and food ingredients, drugs, durable
22 medical equipment, mobility enhancing equipment, over-the-counter drugs,
23 prosthetic devices, or medical supplies as such terms are defined in
24 section 77-2704.09 and (b) the seller's purchase price or sales price of
25 the taxable tangible personal property is fifty percent or less of the
26 total purchase price or sales price of the bundled tangible personal
27 property. Sellers may not use a combination of the purchase price and
28 sales price of the tangible personal property when making the fifty-
29 percent determination for a transaction.

30 Sec. 84. Section 77-2704.09, Reissue Revised Statutes of Nebraska,
31 is amended to read:

1 77-2704.09 (1) Sales and use taxes shall not be imposed on the gross
2 receipts from the sale, lease, or rental of and the storage, use, or
3 other consumption in this state of (a) insulin, (b) mobility enhancing
4 equipment and drugs, not including over-the-counter drugs, when sold for
5 a patient's use under a prescription, and (c) the following when sold for
6 a patient's use under a prescription and which are of the type eligible
7 for coverage under the medical assistance program established pursuant to
8 the Medical Assistance Act: Durable medical equipment; home medical
9 supplies; prosthetic devices; oxygen; and oxygen equipment.

10 (2) For purposes of this section:

11 ~~(a)(i)~~ ~~(a)~~ Drug means a compound, substance, preparation, and
12 component of a compound, substance, or preparation, other than food and
13 food ingredients, dietary supplements, or alcoholic beverages:

14 ~~(A)~~ ~~(i)~~ Recognized in the official United States Pharmacopoeia,
15 official Homeopathic Pharmacopoeia of the United States, or official
16 National Formulary, and any supplement to any of them;

17 ~~(B)~~ ~~(ii)~~ Intended for use in the diagnosis, cure, mitigation,
18 treatment, or prevention of disease; or

19 ~~(C)~~ ~~(iii)~~ Intended to affect the structure or any function of the
20 body; and

21 (ii) Drug does not include cannabis obtained pursuant to the
22 Medicinal Cannabis Act;

23 (b) Durable medical equipment means equipment which can withstand
24 repeated use, is primarily and customarily used to serve a medical
25 purpose, generally is not useful to a person in the absence of illness or
26 injury, is appropriate for use in the home, and is not worn in or on the
27 body. Durable medical equipment includes repair and replacement parts for
28 such equipment;

29 (c) Home medical supplies means supplies primarily and customarily
30 used to serve a medical purpose which are appropriate for use in the home
31 and are generally not useful to a person in the absence of illness or

1 injury;

2 (d) Mobility enhancing equipment means equipment which is primarily
3 and customarily used to provide or increase the ability to move from one
4 place to another, which is not generally used by persons with normal
5 mobility, and which is appropriate for use either in a home or a motor
6 vehicle. Mobility enhancing equipment includes repair and replacement
7 parts for such equipment. Mobility enhancing equipment does not include
8 any motor vehicle or equipment on a motor vehicle normally provided by a
9 motor vehicle manufacturer;

10 (e) Over-the-counter drug means a drug that contains a label that
11 identifies the product as a drug as required by 21 C.F.R. 201.66, as such
12 regulation existed on January 1, 2003. The over-the-counter drug label
13 includes a drug facts panel or a statement of the active ingredients with
14 a list of those ingredients contained in the compound, substance, or
15 preparation;

16 (f) Oxygen equipment means oxygen cylinders, cylinder transport
17 devices including sheaths and carts, cylinder studs and support devices,
18 regulators, flowmeters, tank wrenches, oxygen concentrators, liquid
19 oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing,
20 nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and
21 accessories;

22 (g) Prescription means an order, formula, or recipe issued in any
23 form of oral, written, electronic, or other means of transmission by a
24 duly licensed practitioner authorized under the Uniform Credentialing
25 Act; and

26 (h) Prosthetic devices means a replacement, corrective, or
27 supportive device worn on or in the body to artificially replace a
28 missing portion of the body, prevent or correct physical deformity or
29 malfunction, or support a weak or deformed portion of the body, and
30 includes any supplies used with such device and repair and replacement
31 parts.

1 Sec. 85. Section 77-27,132, Revised Statutes Supplement, 2023, is
2 amended to read:

3 77-27,132 (1) There is hereby created a fund to be designated the
4 Revenue Distribution Fund which shall be set apart and maintained by the
5 Tax Commissioner. Revenue not required to be credited to the General Fund
6 or any other specified fund may be credited to the Revenue Distribution
7 Fund. Credits and refunds of such revenue shall be paid from the Revenue
8 Distribution Fund. The balance of the amount credited, after credits and
9 refunds, shall be allocated as provided by the statutes creating such
10 revenue.

11 (2) The Tax Commissioner shall pay to a depository bank designated
12 by the State Treasurer all amounts collected under the Nebraska Revenue
13 Act of 1967. The Tax Commissioner shall present to the State Treasurer
14 bank receipts showing amounts so deposited in the bank, and of the
15 amounts so deposited the State Treasurer shall:

16 (a) For transactions occurring on or after October 1, 2014, and
17 before October 1, 2027, credit to the Game and Parks Commission Capital
18 Maintenance Fund all of the proceeds of the sales and use taxes imposed
19 pursuant to section 77-2703 on the sale or lease of motorboats as defined
20 in section 37-1204, personal watercraft as defined in section 37-1204.01,
21 all-terrain vehicles as defined in section 60-103, and utility-type
22 vehicles as defined in section 60-135.01;

23 (b) Credit to the Highway Trust Fund all of the proceeds of the
24 sales and use taxes derived from the sale or lease for periods of more
25 than thirty-one days of motor vehicles, trailers, and semitrailers,
26 except that the proceeds equal to any sales tax rate provided for in
27 section 77-2701.02 that is in excess of five percent derived from the
28 sale or lease for periods of more than thirty-one days of motor vehicles,
29 trailers, and semitrailers shall be credited to the Highway Allocation
30 Fund;

31 (c) For transactions occurring on or after July 1, 2013, and before

1 July 1, 2042, of the proceeds of the sales and use taxes derived from
2 transactions other than those listed in subdivisions (2)(a), (b), ~~and~~
3 (e), and (f) of this section from a sales tax rate of one-quarter of one
4 percent, credit monthly eighty-five percent to the Highway Trust Fund and
5 fifteen percent to the Highway Allocation Fund;

6 (d) Of the proceeds of the sales and use taxes derived from
7 transactions other than those listed in subdivisions (2)(a), (b), ~~and~~
8 (e), and (f) of this section, credit to the Property Tax Credit Cash Fund
9 the amount certified under section 77-27,237, if any such certification
10 is made; ~~and~~

11 (e) For transactions occurring on or after July 1, 2023, credit to
12 the Department of Transportation Aeronautics Capital Improvement Fund all
13 of the proceeds of the sales and use taxes imposed pursuant to section
14 77-2703 on the sale or lease of aircraft as defined in section 3-101;
15 and -

16 (f) For transactions occurring on or after the operative date of
17 this section, credit to the Medicinal Cannabis Regulation Fund all of the
18 proceeds of the sales and use taxes imposed pursuant to section 77-2703
19 on the sale of cannabis pursuant to the Medicinal Cannabis Act.

20 The balance of all amounts collected under the Nebraska Revenue Act
21 of 1967 shall be credited to the General Fund.

22 Sec. 86. Section 77-4303, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 77-4303 (1) A tax is hereby imposed on marijuana and controlled
25 substances at the following rates:

26 (a) On each ounce of marijuana or each portion of an ounce, one
27 hundred dollars;

28 (b) On each gram or portion of a gram of a controlled substance that
29 is customarily sold by weight or volume, one hundred fifty dollars; or

30 (c) On each fifty dosage units or portion thereof of a controlled
31 substance that is not customarily sold by weight, five hundred dollars.

1 (2) For purposes of calculating the tax under this section,
2 marijuana or any controlled substance that is customarily sold by weight
3 or volume shall be measured by the weight of the substance in the
4 dealer's possession. The weight shall be the actual weight, if known, or
5 the estimated weight as determined by the Nebraska State Patrol or other
6 law enforcement agency. Such determination shall be presumed to be the
7 weight of such marijuana or controlled substances for purposes of
8 sections 77-4301 to 77-4316.

9 (3) The tax shall not be imposed upon a person registered or
10 otherwise lawfully in possession of marijuana or a controlled substance
11 pursuant to Chapter 28, article 4, or a person lawfully in possession of
12 cannabis under the Medicinal Cannabis Act.

13 Sec. 87. Sections 83, 84, 85, and 89 of this act become operative
14 on October 1, 2024. The other sections of this act become operative on
15 their effective date.

16 Sec. 88. Original sections 28-439, 60-6,211.08, and 77-4303,
17 Reissue Revised Statutes of Nebraska, section 71-2454, Revised Statutes
18 Cumulative Supplement, 2022, and section 28-416, Revised Statutes
19 Supplement, 2023, are repealed.

20 Sec. 89. Original sections 77-2701.48 and 77-2704.09, Reissue
21 Revised Statutes of Nebraska, and section 77-27,132, Revised Statutes
22 Supplement, 2023, are repealed.

23 Sec. 90. Since an emergency exists, this act takes effect when
24 passed and approved according to law.