

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 474

Introduced by Wishart, 27; Bostar, 29; Cavanaugh, M., 6; Day, 49; DeBoer, 10; Hansen, M., 26; Hunt, 8; McKinney, 11; Morfeld, 46; Pansing Brooks, 28; Walz, 15.

Read first time January 15, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to cannabis; to amend sections 28-439,
2 77-2701.48, 77-2704.09, 77-27,132, and 77-4303, Reissue Revised
3 Statutes of Nebraska, and sections 28-416 and 60-6,211.08, Revised
4 Statutes Cumulative Supplement, 2020; to adopt the Medicinal
5 Cannabis Act; to provide civil and criminal penalties; to create a
6 fund; to change provisions relating to controlled substances, open
7 containers, and taxation; to harmonize provisions; to provide
8 operative dates; to repeal the original sections; and to declare an
9 emergency.
10 Be it enacted by the people of the State of Nebraska,

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

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

5 Sec. 3. Allowable amount of cannabis means:

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

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

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

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

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

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

19 Sec. 5. (1) Cannabis means any species of the cannabis plant, or
20 any mixture or preparation of any species of the cannabis plant,
21 including whole plant extracts and resins.

22 (2) Cannabis does not include (a) any prescription drug approved
23 under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
24 355, as such section existed on January 1, 2020, or (b) hemp or hemp
25 products as allowed under the Nebraska Hemp Farming Act.

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

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

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

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

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

8 (1)(a) Has been issued a written certification within the past
9 ninety days;

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

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

14 (d) In the case of a patient younger than eighteen years of age, has
15 an affidavit which is signed by the patient's parent or legal guardian
16 with responsibility for health care decisions for the patient, which
17 states that the parent or legal guardian grants permission for the
18 patient's medicinal use of cannabis, and which states that the parent or
19 legal guardian agrees to control the use of cannabis by the patient; or

20 (2) Is enrolled in the registry program.

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

22 Sec. 10. Designated caregiver means:

23 (1) In the case of a person who is not the parent or legal guardian
24 of a patient, a natural person who:

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

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

31 (c) Is not prohibited from participating in the registry program

1 pursuant to section 54 of this act;

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

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

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

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

19 Sec. 13. Health care practitioner means a person licensed (1) under
20 the Medicine and Surgery Practice Act to practice medicine and surgery or
21 osteopathic medicine and surgery, (2) under the Medicine and Surgery
22 Practice Act to practice as a physician assistant, or (3) under the
23 Advanced Practice Registered Nurse Practice Act to practice as a nurse
24 practitioner.

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

27 Sec. 15. (1) Medicinal use includes the acquisition,
28 administration, delivery, possession, preparation, transfer,
29 transportation, or use of cannabis, cannabis products, or cannabis
30 accessories relating to the administration of cannabis to treat or
31 alleviate a patient's qualifying medical condition or symptoms associated

1 with the patient's qualifying medical condition.

2 (2) Medicinal use does not include:

3 (a) The cultivation of cannabis unless the cultivation is done by a
4 producer; or

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

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

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

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

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

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

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

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

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

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

30 Sec. 19. Patient registry number means a unique identification
31 number assigned by the department to a patient enrolled in the registry

1 program.

2 Sec. 20. Process means to process harvested cannabis materials into
3 cannabis products or concentrated cannabis.

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

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

8 (2) Produce does not include:

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

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

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

16 Sec. 24. Qualifying medical condition means any illness for which
17 cannabis provides relief as determined by the participating health care
18 practitioner.

19 Sec. 25. Registry program means the voluntary patient registry
20 established under the Medicinal Cannabis Act.

21 Sec. 26. Registry verification means the verification provided by
22 the department that a patient is enrolled in the registry program
23 pursuant to subsection (5) of section 35 of this act.

24 Sec. 27. Written certification means a document that is made in
25 accordance with sections 37 and 39 of this act and that states that a
26 patient has been diagnosed with a qualifying medical condition.

27 Sec. 28. (1) Nothing in the Medicinal Cannabis Act permits any
28 person to engage in or prevents the imposition of any civil, criminal, or
29 other penalties for:

30 (a) Undertaking any task that would constitute negligence or
31 professional malpractice due to the use of cannabis;

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

2 (i) On a school bus or van;

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

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

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

9 (c) Inhaling cannabis by means of vaporization:

10 (i) On any form of public transportation;

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

13 (iii) In any public place, including any indoor or outdoor area used
14 by or open to the general public or a place of employment as defined in
15 section 71-5724;

16 (d) Inhaling or consuming cannabis or cannabis products in a motor
17 vehicle;

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

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

24 (2) Nothing in the Medicinal Cannabis Act:

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

28 (b) Affects the ability of an employer to restrict the use of
29 marijuana, cannabis, or cannabis products by employees;

30 (c) Requires any employer to accommodate the medicinal use of
31 marijuana, cannabis, or cannabis products; or

1 (d) Requires the medical assistance program or any employer or
2 insurance carrier pursuant to the Nebraska Workers' Compensation Act to
3 reimburse a person for costs associated with the medicinal use of
4 marijuana, cannabis, or cannabis products.

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

6 (a) Prohibit an employer from including in any contract a provision
7 prohibiting the use of marijuana, cannabis, or cannabis products;

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

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

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

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

24 (5) For purposes of this section, marijuana has the same meaning as
25 in section 28-401.

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

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

3 (b) Cannabis may not be inhaled using vaporization; and

4 (c) Cannabis may be consumed only in a place specified by the
5 school, facility, or service.

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

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

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

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

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

1 (2) The registry program shall assign a patient registry number to
2 each certified patient who voluntarily registers. The patient registry
3 number shall be a random, unique ten-digit alphanumeric identification
4 number.

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

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

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

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

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

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

28 (d) Compensating a dispensary or a laboratory for goods or services
29 provided.

30 (3) A nonresident patient or nonresident caregiver shall not be
31 subject to citation, arrest, prosecution, or penalty in any manner, or

1 denied any right or privilege, including, but not limited to, any civil
2 penalty or disciplinary action by a business or occupational or
3 professional licensing board, for transporting, purchasing, possessing,
4 or using cannabis pursuant to the Medicinal Cannabis Act if the
5 nonresident patient or nonresident caregiver does not possess more than
6 an allowable amount of cannabis and the nonresident patient or
7 nonresident caregiver is in possession of any documentation required by
8 section 16 or 17 of this act.

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

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

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

30 (1) Providing or selling cannabis accessories to a certified
31 patient, designated caregiver, nonresident patient, nonresident

1 caregiver, dispensary, producer, processor, or laboratory;

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

4 (3) Allowing the person's property to be used for activities that
5 are permitted under the Medicinal Cannabis Act; or

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

9 Sec. 34. (1) The department shall develop an application for
10 patient enrollment in the registry program. The application shall be
11 available to the patient and given to participating health care
12 practitioners in Nebraska. The application shall include:

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

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

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

18 (d) A copy of the written certification;

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

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

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

31 (2) In order to renew a certified patient's registry verification,

1 the certified patient shall submit a written certification on an annual
2 basis which is dated within ninety days prior to submission.

3 (3) The department shall develop a disclosure form and require, as a
4 condition of enrollment, that the patient sign a copy of the disclosure
5 form. The disclosure form shall include:

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

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

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

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

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

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

30 (a) Does not submit a written certification;

31 (b) Has not signed and returned to the department the disclosure and

1 consent forms required under subsections (3) and (4) of section 34 of
2 this act;

3 (c) Does not provide the information required under the Medicinal
4 Cannabis Act;

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

7 (e) Provides false information under the act.

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

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

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

16 (5) The department shall develop a registry verification to provide
17 to the patient and to the dispensary. The registry verification may be in
18 the form of a registry identification card. The registry verification
19 shall include:

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

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

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

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

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

31 (a) For a natural person:

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

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

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

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

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

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

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

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

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

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

31 (2) Nothing in this section requires a health care practitioner to

1 (a) participate under the Medicinal Cannabis Act or (b) provide
2 recommendations, limitations, or restrictions regarding dosage or the
3 form of cannabis on a patient's certification.

4 (3)(a) Except as provided in subdivision (c) of this subsection, a
5 health care practitioner who issues more than a total of ten written
6 certifications in a calendar year shall complete a continuing medical
7 education course approved by the Medicinal Cannabis Board prior to
8 issuing the eleventh certification. The course shall include education on
9 the risks and benefits of cannabis used for medicinal purposes, substance
10 abuse disorder, and best practices for pain management.

11 (b) A health care practitioner who recommends cannabis to a
12 significantly larger number of patients, as determined by the department,
13 shall comply with any additional continuing medical education course
14 requirements required by the Medicinal Cannabis Board.

15 (c) Until three months after the Medicinal Cannabis Board approves a
16 continuing medical education course that satisfies the requirements of
17 subdivision (a) of this subsection, a health care practitioner who
18 recommends cannabis to eleven or more patients may instead complete a
19 medicinal cannabis continuing education course of at least three hours
20 that has been approved by a medicinal cannabis program in another state
21 subject to approval by the board.

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

24 (5) Each written certification shall be dated and signed by a
25 participating health care practitioner, shall state that the patient has
26 been diagnosed with a qualifying medical condition, shall affirm that it
27 was made in the course of a bona fide practitioner-patient relationship
28 and in accordance with this section, and shall include an acknowledgement
29 signed by the health care practitioner that:

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

1 (b) The participating health care practitioner conducted an
2 evaluation of the patient and collected the patient's relevant clinical
3 history. At a minimum, the evaluation of a patient prior to the issuance
4 of a written certification shall include:

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

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

10 (iii) A physical examination; and

11 (iv) In cases in which the patient indicates that the patient may
12 become pregnant within the next twelve months, a discussion of any risks
13 of cannabis related to pregnancy.

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 medical condition or symptoms associated
15 with the serious or debilitating medical condition. Nothing in the
16 Medicinal Cannabis 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, 2022, unless the Medicinal Cannabis Board extends
7 the deadline under section 45 of this act. The department shall register
8 producers which comply with subsections (2) and (4) of this section and
9 shall register processors which comply with subsections (3) and (4) of
10 this section. The department may register an applicant as both a producer
11 and a processor. The registration as a producer or processor shall be
12 valid until November 1 of the calendar year following the date of
13 registration and shall be renewed by November 1 of each year thereafter
14 upon application, payment of the annual fee established pursuant to
15 section 61 of this act, and compliance with the Medicinal Cannabis Act
16 and the rules and regulations adopted and promulgated under the act. The
17 department shall renew a registration of a producer or processor subject
18 to the same conditions as required for initial registration. The
19 department shall continue to accept applications for registration for
20 producers after November 1, 2022, for any congressional district which
21 does not have a registered producer by such date.

22 (2)(a) As a condition for registration prior to November 1, 2022, a
23 producer shall agree to:

24 (i) Begin supplying cannabis to processors and dispensaries on or
25 before May 1, 2023, 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, 2022, 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 or cannabis products distributed by the processor. A processor
27 shall require any employee of the processor who is transporting cannabis
28 or cannabis products to carry identification showing that the person is
29 an employee of the processor. An employee of a processor shall not
30 transport cannabis or cannabis products outside the State of Nebraska.

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

1 act, the department shall register up to ten 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, 2022, 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 thereafter upon application, payment of the
10 annual fee established pursuant to section 61 of this act, and compliance
11 with the 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, 2022,
15 for any congressional district which does not have ten dispensaries by
16 such date.

17 (2)(a) As a condition for registration prior to November 1, 2022, a
18 dispensary shall agree to:

19 (i) Begin supplying cannabis for medicinal use on or before May 1,
20 2023;

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, 2022, 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 Marijuana Control 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 course material
15 on the medicinal use of cannabis, which has been approved by the
16 Medicinal Cannabis Board. The pharmacist shall be available to patients
17 and dispensary staff, in person or by telemedicine, during business hours
18 to advise and educate patients and to consult about appropriate dosing.

19 (b) Dispensary staff shall notify certified patients, designated
20 caregivers, nonresident patients, and nonresident caregivers of the
21 availability of the pharmacist to provide a consultation at no additional
22 charge at each sale of cannabis.

23 (c) The continuing education courses for pharmacists shall include
24 information on drug interactions, dosages for various cannabis
25 preparations, counter-indications, and the risks and benefits of
26 cannabis. Each dispensary staff member who provides cannabis or cannabis
27 products to a certified patient, a designated caregiver, a nonresident
28 patient, or a nonresident caregiver shall complete a four-hour cannabis
29 education course approved by the Medicinal Cannabis Board prior to
30 providing cannabis to a certified patient, a designated caregiver, a
31 nonresident patient, or a nonresident caregiver.

1 Sec. 44. (1) The department shall register all qualifying
2 independent testing laboratories which apply for registration in Nebraska
3 for the testing of all cannabis within Nebraska by January 1, 2023,
4 unless the Medicinal Cannabis Board extends the deadline under section 45
5 of this act. The department shall register all qualifying independent
6 testing laboratories which comply with subsections (2) through (4) 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 thereafter upon application, payment of the
10 annual fee established pursuant to section 61 of this act, and compliance
11 with the Medicinal Cannabis Act and the rules and regulations adopted and
12 promulgated under the act. The department shall renew a registration of a
13 laboratory subject to the same conditions as required for initial
14 registration. The department shall continue to accept applications for
15 registration after January 1, 2023.

16 (2)(a) As a condition for registration prior to January 1, 2023, a
17 laboratory shall agree to:

18 (i) Begin testing cannabis on or before May 1, 2023, unless extended
19 by the Medicinal Cannabis Board; and

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

22 (b) As a condition for registration on and after January 1, 2023, a
23 laboratory shall agree to test cannabis in compliance with the Medicinal
24 Cannabis Act and otherwise be in compliance with the act and the rules
25 and regulations adopted and promulgated under the act.

26 (3) No individual may register as a laboratory if the individual is
27 registered as or holds an interest in a producer, processor, or
28 dispensary. No entity may register as a laboratory if an individual or
29 entity who holds an interest in the entity holds an ownership interest in
30 a producer, processor, or dispensary. No individual or entity which
31 registers as a laboratory or holds an ownership interest in a laboratory

1 may register as or hold an ownership interest in a producer, processor,
2 or dispensary.

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

6 (a) The individual signing the application for licensure of the
7 laboratory; and

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

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

12 (6) The department shall adopt and promulgate rules and regulations
13 for a laboratory to test cannabis, cannabis products, and cannabis
14 accessories. The department shall provide standards for registration and
15 may adopt accreditation standards based on standards of the International
16 Organization for Standardization. The testing requirements shall include:

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

19 (i) The concentration of tetrahydrocannabinol and cannabidiol;

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

21 (iii) The composition; and

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

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

26 Sec. 45. (1) The department shall, by November 1, 2022, adopt and
27 promulgate rules and regulations necessary for a dispensary to begin
28 dispensing cannabis for medicinal use and shall publish notice of the
29 proposed rules and regulations prior to May 1, 2022.

30 (2) The department shall, by September 1, 2022, advise the public
31 and the Medicinal Cannabis Board if the department is unable to register

1 producers and processors by November 1, 2022. The department shall
2 provide a written statement as to the reason or reasons the deadline will
3 not be met. Upon request of the department, the board shall extend the
4 deadline by six months but may not extend the deadline more than once.

5 (3) If notified by a producer that distribution to processors and
6 dispensaries may not begin by May 1, 2023, the department shall advise
7 the public and the board. Upon notification by the department, the board
8 shall extend the deadline by six months but may not extend the deadline
9 more than once.

10 (4) The department shall, by November 1, 2022, advise the public and
11 the Medicinal Cannabis Board if the department is unable to register
12 laboratories by January 1, 2023. The department shall provide a written
13 statement as to the reason or reasons the deadline will not be met. Upon
14 request of the department, the board shall extend the deadline by six
15 months but may not extend the deadline more than once.

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

17 (a) Verify that the person requesting the distribution of cannabis
18 is a certified patient, a designated caregiver, a nonresident patient, or
19 a nonresident caregiver using verification procedures prescribed by the
20 department;

21 (b) Assign a tracking number to any cannabis dispensed from the
22 dispensary;

23 (c) Properly package cannabis in compliance with the federal Poison
24 Prevention Packaging Act of 1970, regarding child resistant packaging and
25 exemptions for packaging for elderly patients, and label dispensed
26 cannabis with a list of all active ingredients and individually
27 identifying information, including:

28 (i) The certified patient's name;

29 (ii) The patient registry number of the certified patient;

30 (iii) The chemical composition of the cannabis;

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

1 (v) The date the cannabis is dispensed; and
2 (vi) The name and address of the dispensary dispensing the cannabis;
3 and

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

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

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

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

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

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

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

30 (ii) Procedures for the implementation of appropriate security
31 measures to deter and prevent the theft of cannabis and unauthorized

1 entrance into areas containing cannabis.

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

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

6 (b) Procedures for the implementation of appropriate security
7 measures to deter and prevent the theft of cannabis and unauthorized
8 entrance into areas containing cannabis.

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

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

17 (6) A producer, processor, dispensary, or laboratory shall not
18 permit any person to consume cannabis on the property of the producer,
19 processor, dispensary, or laboratory.

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

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

28 (b) Each employee shall pay the costs of the criminal history record
29 information check and shall file a complete set of the employee's legible
30 fingerprints with the department. The department shall transmit such
31 fingerprints to the Nebraska State Patrol which shall transmit a copy of

1 the applicant's fingerprints to the Identification Division of the
2 Federal Bureau of Investigation for a national criminal history record
3 information check.

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

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

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

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

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

27 Sec. 48. (1) Subject to section 28 of this act, the following
28 activities are authorized under the Medicinal Cannabis Act and shall not
29 be grounds for citation, arrest, prosecution, or penalty in any manner,
30 or denial of any right or privilege, including any civil penalty or
31 disciplinary action by a court or occupational or professional licensing

1 board:

2 (a) Use or possession of an allowable amount of cannabis, cannabis
3 products, and cannabis accessories by a certified patient or a
4 nonresident patient or possession of an allowable amount of cannabis,
5 cannabis products, and cannabis accessories by a designated caregiver or
6 a nonresident caregiver;

7 (b) Possession or sale of cannabis, cannabis products, or cannabis
8 accessories by a producer, processor, dispensary, or employees of a
9 producer, processor, or dispensary;

10 (c) Possession of cannabis or cannabis products by a laboratory
11 conducting testing on cannabis or employees of the laboratory; and

12 (d) Possession of cannabis, cannabis products, or cannabis
13 accessories by any person while carrying out the duties required under
14 the Medicinal Cannabis Act.

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

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

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

29 (5) State and local law enforcement authorities are prohibited from
30 accessing the registry program under the Medicinal Cannabis Act except
31 (a) when acting pursuant to a search warrant or (b) to verify a person's

1 assertion that such person is a patient or registered designated
2 caregiver in the registry program.

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

8 (7) The registry program shall only allow direct access by law
9 enforcement and dispensary staff by verifying an identification number,
10 not by inputting names.

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

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

18 (10) An attorney shall not be subject to disciplinary action for
19 providing legal assistance to a certified patient, a designated
20 caregiver, a nonresident patient, a nonresident caregiver, or a
21 prospective or registered producer, processor, dispensary, or laboratory
22 or to others related to activity that is no longer subject to criminal
23 penalties under state law pursuant to the Medicinal Cannabis Act.

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

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

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

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

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

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

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

31 (3) A person shall not be denied custody of a minor child or

1 visitation rights or parenting time with a minor child solely based on
2 the person's status as a certified patient or nonresident patient.

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

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

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

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

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

1 by the registrant or any of its agents, of the Medicinal Cannabis Act or
2 any rules and regulations adopted and promulgated pursuant to the act.

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

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

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

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

29 (3) A certified patient, designated caregiver, nonresident patient,
30 or nonresident caregiver who is disqualified from further participation
31 under the Medicinal Cannabis Act is not allowed to possess cannabis under

1 the act.

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

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

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

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

30 Sec. 56. In addition to any other applicable penalty provided by
31 law, a certified patient, designated caregiver, nonresident patient, or

1 nonresident caregiver who intentionally transfers cannabis to a person
2 other than a certified patient, designated caregiver, nonresident
3 patient, or nonresident caregiver as authorized by the Medicinal Cannabis
4 Act may be prosecuted for a violation of section 28-416.

5 Sec. 57. It is unlawful for a certified patient to smoke cannabis
6 or use a device to facilitate the smoking of cannabis. A violation of
7 this section is an infraction subject to sections 29-422 to 29-438. For
8 purposes of this section, smoke means the inhalation of smoke caused by
9 the combustion of cannabis that causes burning but does not include the
10 inhalation of cannabis by means of vaporization in which cannabis is
11 heated below the point of combustion.

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

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

25 Sec. 60. A producer, processor, dispensary, or laboratory may be
26 fined up to one thousand dollars for any violation of the Medicinal
27 Cannabis Act or the rules and regulations adopted and promulgated
28 pursuant to the act if no penalty has been specified. This penalty is in
29 addition to any other applicable penalties in law.

30 Sec. 61. (1) The department shall collect an application fee of
31 twenty-five thousand dollars from each entity submitting an application

1 for registration as a dispensary.

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

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

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

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

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

21 (5) The department shall establish and collect an annual fee to
22 cover the costs of regulating and inspecting in an amount not to exceed
23 (a) forty thousand dollars from a producer in the highest tier, (b) five
24 thousand dollars from a producer not in such tier, (c) five thousand
25 dollars from a processor described in subdivision (3)(a) of this section,
26 (d) forty thousand dollars from a processor described in subdivision (3)
27 (b) of this section, (e) twenty-five thousand dollars from a dispensary,
28 and (f) fifteen thousand dollars for a laboratory.

29 (6) The department shall remit fees collected pursuant to this
30 section to the State Treasurer for credit to the Medicinal Cannabis
31 Regulation Fund.

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

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

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

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

24 Sec. 65. The Medicinal Cannabis Board is established. The board
25 shall consist of seven members. The Governor shall appoint the members
26 subject to approval by a majority of the members of the Legislature. The
27 board shall have at least one member appointed from each congressional
28 district. Except as otherwise provided in section 66 of this act, the
29 members shall include one person who is employed by a law enforcement
30 agency, two persons licensed to practice medicine and surgery under the
31 Medicine and Surgery Practice Act, two persons who are licensed as

1 pharmacists under the Pharmacy Practice Act, one certified patient or
2 designated caregiver, and one person with experience in substance abuse
3 treatment. A majority of the members of the board shall be advocates for
4 the medicinal use of cannabis. The chief medical officer as designated in
5 section 81-3115 or such officer's designee and the chairperson of the
6 Health and Human Services Committee of the Legislature or the
7 chairperson's designee shall be nonvoting advisors.

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

26 Sec. 67. The members of the Medicinal Cannabis Board shall be
27 reimbursed for the expenses incurred in the performance of their duties
28 as provided in sections 81-1174 to 81-1177.

29 Sec. 68. Within thirty days after the initial appointment and in
30 the last calendar quarter of each subsequent year, the members of the
31 Medicinal Cannabis Board shall meet and elect a chairperson of the board

1 from the appointed members and such other officers, including a vice-
2 chairperson and a secretary, as the board deems necessary. In case of the
3 death, resignation, or other permanent absence of the chairperson of the
4 board, the vice-chairperson shall assume the office of chairperson and
5 the members of the board at the next regular meeting of the board, or at
6 a special meeting of the board pursuant to a call signed by at least four
7 of the remaining members of which all remaining members shall have at
8 least three days' notice, shall elect a new chairperson of the board from
9 the appointed members and such other new officers as the board deems
10 necessary.

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

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

- 25 (1) Rules and regulations for the regulation of cannabis;
26 (2) The policies of the department as they relate to cannabis; and
27 (3) Recommendations for legislative changes regarding regulation of
28 cannabis.

29 Sec. 71. The department shall keep a record of all proceedings,
30 transactions, communications, and official acts of the Medicinal Cannabis
31 Board. The director of the department may appoint or employ such clerks

1 and other employees as may be necessary to carry out the Medicinal
2 Cannabis Act or to perform the duties and exercise the powers conferred
3 by law upon the board.

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

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

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

25 (3) No member of the board or employee of the department may,
26 directly or indirectly, individually, as a member of a partnership, as a
27 member of a limited liability company, or as a shareholder of a
28 corporation, have any interest whatsoever in the manufacture, sale, or
29 distribution of cannabis, receive any compensation or profit from such
30 manufacture, sale, or distribution, or have any interest whatsoever in
31 the purchases or sales made by the persons authorized by the act to

1 purchase or to sell cannabis.

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

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

20 Sec. 75. (1) No later than May 1, 2022, the department shall
21 develop or recommend, for approval by the Medicinal Cannabis Board, one
22 or more continuing medical education courses for participating health
23 care practitioners that satisfy the requirements of subsection (3) of
24 section 37 of this act. Such courses shall have an evaluative component.
25 The department shall make the approved courses available online for a
26 cost of no more than fifty dollars.

27 (2) The department shall develop or recommend, for approval by the
28 Medicinal Cannabis Board, one or more training and education courses for
29 dispensary staff regarding medicinal use of cannabis, including
30 information on recommended dosages, qualifying medical conditions, and
31 various modes of administration. The department shall make the approved

1 courses available online for a cost of no more than fifty dollars.

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

3 (a) Accept petitions to revise the list of qualifying medical
4 conditions;

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

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

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

11 (4) The department shall develop and update, for approval by the
12 Medicinal Cannabis Board, a scientifically accurate informational
13 document for certified patients, designated caregivers, nonresident
14 patients, and nonresident caregivers. The informational document shall be
15 made available at dispensaries and on the web site of the department. The
16 informational document shall include:

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

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

21 (c) Warnings about the potential risks of the use of cannabis,
22 including:

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

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

25 (iii) Any known risks regarding cognitive effects for children and
26 young adults;

27 (iv) Risks of using cannabis during pregnancy;

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

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

31 (vii) The fact that the effects of cannabis or cannabis products may

1 not be felt for several hours after inhaling or consuming the cannabis or
2 cannabis products;

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

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

7 (5)(a) No later than December 20, 2022, the Medicinal Cannabis Board
8 shall make a recommendation to the Legislature regarding:

9 (i) Whether anxiety, or any type of anxiety disorder, should be
10 approved as a qualifying medical condition; and

11 (ii) Whether post-traumatic stress disorder should continue to be an
12 approved medical condition.

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

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

25 Sec. 77. The office of the department shall be in Lincoln, but the
26 department may establish and maintain branch offices at places other than
27 the seat of government. The Medicinal Cannabis Board and the department
28 may, for authentication of records, process, and proceedings, adopt,
29 keep, and use a common seal, of which seal judicial notice shall be taken
30 in all of the courts of the state. Any process, notice, or other paper
31 which the board or department is authorized by law to issue shall be

1 deemed sufficient if signed by the chairperson and director of the
2 department and authenticated by such seal. All acts, orders, proceedings,
3 rules, regulations, entries, minutes, and other records of the department
4 and all reports and documents filed with the department may be proved in
5 any court of this state by copy thereof certified to by the director
6 attached.

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

14 Sec. 79. Section 28-416, Revised Statutes Cumulative Supplement,
15 2020, is amended to read:

16 28-416 (1) Except as authorized by the Medicinal Cannabis Act or the
17 Uniform Controlled Substances Act, it shall be unlawful for any person
18 knowingly or intentionally: (a) To manufacture, distribute, deliver,
19 dispense, or possess with intent to manufacture, distribute, deliver, or
20 dispense a controlled substance; or (b) to create, distribute, or possess
21 with intent to distribute a counterfeit controlled substance.

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

31 (3) A person knowingly or intentionally possessing a controlled

1 substance, except marijuana or any substance containing a quantifiable
2 amount of the substances, chemicals, or compounds described, defined, or
3 delineated in subdivision (c)(25) of Schedule I of section 28-405, unless
4 such substance was obtained directly or pursuant to a medical order
5 issued by a practitioner authorized to prescribe while acting in the
6 course of his or her professional practice, or except as otherwise
7 authorized by the act, shall be guilty of a Class IV felony. A person
8 shall not be in violation of this subsection if section 28-472 applies.

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

27 (b) For purposes of this subsection:

28 (i) Playground means any outdoor facility, including any parking lot
29 appurtenant to the facility, intended for recreation, open to the public,
30 and with any portion containing three or more apparatus intended for the
31 recreation of children, including sliding boards, swingsets, and

1 teeterboards;

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

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

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

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

25 (c) Any person who violates subdivision (a) or (b) of this
26 subsection 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, depending upon the controlled substance involved, for the
29 first violation and for a second or subsequent violation shall be
30 punished by the next higher penalty classification than that prescribed
31 for a first violation of this subsection, but in no event shall such

1 person be punished by a penalty greater than a Class IB felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (13) Except as otherwise provided in the Medicinal Cannabis Act, any
19 ~~Any~~ person knowingly or intentionally possessing marijuana weighing one
20 ounce or less or any substance containing a quantifiable amount of the
21 substances, chemicals, or compounds described, defined, or delineated in
22 subdivision (c)(25) of Schedule I of section 28-405 shall:

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

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

31 (c) For the third and all subsequent offenses, be guilty of a Class

1 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
2 be imprisoned not to exceed seven days.

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

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

11 (16) Any person knowingly or intentionally possessing a firearm
12 while in violation of subsection (1) of this section shall be punished by
13 the next higher penalty classification than the penalty prescribed in
14 subsection (2), (7), (8), (9), or (10) of this section, but in no event
15 shall such person be punished by a penalty greater than a Class IB
16 felony.

17 (17) A person knowingly or intentionally in possession of money used
18 or intended to be used to facilitate a violation of subsection (1) of
19 this section shall be guilty of a Class IV felony.

20 (18) In addition to the existing penalties available for a violation
21 of subsection (1) of this section, including any criminal attempt or
22 conspiracy to violate subsection (1) of this section, a sentencing court
23 may order that any money, securities, negotiable instruments, firearms,
24 conveyances, or electronic communication devices as defined in section
25 28-833 or any equipment, components, peripherals, software, hardware, or
26 accessories related to electronic communication devices be forfeited as a
27 part of the sentence imposed if it finds by clear and convincing evidence
28 adduced at a separate hearing in the same prosecution, following
29 conviction for a violation of subsection (1) of this section, and
30 conducted pursuant to section 28-1601, that any or all such property was
31 derived from, used, or intended to be used to facilitate a violation of

1 subsection (1) of this section.

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

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

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

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

15 (iii) For a third or subsequent offense, the court may, as a part of
16 the judgment of conviction or adjudication, (A) impound any such licenses
17 or permits for twelve months and (B) require such person to complete no
18 fewer than sixty hours of community service, to attend a drug education
19 class, and to submit to a drug assessment by a licensed alcohol and drug
20 counselor; and

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

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

29 (ii) For a second offense, the court may, as part of the judgment of
30 conviction or adjudication, (A) prohibit such person from obtaining any
31 permit or any license pursuant to the act for which such person would

1 otherwise be eligible until ninety days after the date of such order and
2 (B) require such person to complete no fewer than twenty hours and no
3 more than forty hours of community service and to attend a drug education
4 class; and

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

12 A copy of an abstract of the court's conviction or adjudication
13 shall be transmitted to the Director of Motor Vehicles pursuant to
14 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
15 juvenile is prohibited from obtaining a license or permit under this
16 subsection.

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

19 28-439 As used in sections 28-101, 28-431, and 28-439 to 28-444,
20 unless the context otherwise requires, drug paraphernalia shall mean all
21 equipment, products, and materials of any kind which are used, intended
22 for use, or designed for use, in manufacturing, injecting, ingesting,
23 inhaling, or otherwise introducing into the human body a controlled
24 substance in violation of sections 28-101, 28-431, and 28-439 to 28-444,
25 the Medicinal Cannabis Act, or the Uniform Controlled Substances Act. It
26 shall include, but not be limited to, the following:

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

30 (2) Separation gins and sifters used, intended for use, or designed
31 for use in removing twigs and seeds from, or in otherwise cleaning or

1 refining, marijuana;

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

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

9 (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
10 with or without screens, permanent screens, hashish heads, or punctured
11 metal bowls;

12 (b) Water pipes;

13 (c) Carburetion tubes and devices;

14 (d) Smoking and carburetion masks;

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

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

19 (g) Chamber pipes;

20 (h) Carburetor pipes;

21 (i) Electric pipes;

22 (j) Air-driven pipes;

23 (k) Chillums;

24 (l) Bongs; and

25 (m) Ice pipes or chillers.

26 Sec. 81. Section 60-6,211.08, Revised Statutes Cumulative
27 Supplement, 2020, is amended to read:

28 60-6,211.08 (1) For purposes of this section:

29 (a) Alcoholic beverage means (i) beer, ale porter, stout, and other
30 similar fermented beverages, including sake or similar products, of any
31 name or description containing one-half of one percent or more of alcohol

1 by volume, brewed or produced from malt, wholly or in part, or from any
2 substitute therefor, (ii) wine of not less than one-half of one percent
3 of alcohol by volume, or (iii) distilled spirits which is that substance
4 known as ethyl alcohol, ethanol, or spirits of wine in any form,
5 including all dilutions and mixtures thereof from whatever source or by
6 whatever process produced. Alcoholic beverage does not include trace
7 amounts not readily consumable as a beverage;

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

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

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

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

19 (f) ~~(d)~~ Open alcoholic beverage container, except as provided in
20 subsection (3) of section 53-123.04 and subdivision (1)(c) of section
21 53-123.11, means any bottle, can, or other receptacle:

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

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

26 (g) ~~(e)~~ Passenger area means the area designed to seat the driver
27 and passengers while the motor vehicle is in operation and any area that
28 is readily accessible to the driver or a passenger while in their seating
29 positions, including any compartments in such area. Passenger area does
30 not include the area behind the last upright seat of such motor vehicle
31 if the area is not normally occupied by the driver or a passenger and the

1 motor vehicle is not equipped with a trunk.

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

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

11 (4) This section does not apply to possession or consumption of
12 alcoholic beverages by persons who are passengers of, but not drivers of,
13 a limousine or bus being used in a charter or special party service as
14 defined by rules and regulations adopted and promulgated by the Public
15 Service Commission and subject to Chapter 75, article 3. Such passengers
16 may possess open containers of alcoholic beverages ~~beverage containers~~
17 and may consume alcoholic beverages while such limousine or bus is in a
18 public parking area or on any highway in this state if (a) the driver of
19 the limousine or bus is prohibited from consuming alcoholic liquor and
20 (b) alcoholic liquor is not present in any area that is readily
21 accessible to the driver while in the driver's seat, including any
22 compartments in such area.

23 Sec. 82. Section 77-2701.48, Reissue Revised Statutes of Nebraska,
24 is amended to read:

25 77-2701.48 (1) Bundled transaction means the retail sale of two or
26 more products, except real property and services to real property, when
27 (a) the products are otherwise distinct and identifiable and (b) the
28 products are sold for one non-itemized price. Bundled transaction does
29 not include the sale of any products in which the sales price varies, or
30 is negotiable, based on the selection by the purchaser of the products
31 included in the transaction.

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

2 (a) Packaging, such as containers, boxes, sacks, bags, and bottles
3 or other materials such as wrapping, labels, tags, and instruction guides
4 that accompany the retail sale of the products and are incidental or
5 immaterial to the retail sale thereof. Examples of packaging that are
6 incidental or immaterial include grocery sacks, shoeboxes, dry cleaning
7 garment bags, and express delivery envelopes and boxes;

8 (b) A product provided free of charge with the required purchase of
9 another product. A product is provided free of charge if the sales price
10 of the product purchased does not vary depending on the inclusion of the
11 product provided free of charge; and

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

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

20 (4) A transaction that otherwise meets the definition of a bundled
21 transaction is not a bundled transaction if it is (a) the retail sale of
22 tangible personal property and a service where the tangible personal
23 property is essential to the use of the service, and is provided
24 exclusively in connection with the service, and the true object of the
25 transaction is the service, (b) the retail sale of services when one
26 service is provided that is essential to the use or receipt of a second
27 service and the first service is provided exclusively in connection with
28 the second service and the true object of the transaction is the second
29 service, or (c) a transaction that includes taxable products and
30 nontaxable products and the purchase price or sales price of the taxable
31 products is de minimus. De minimus means the seller's purchase price or

1 sales price of the taxable products is ten percent or less of the total
2 purchase price or sales price of the bundled products. Sellers shall use
3 either the purchase price or the sales price of the products to determine
4 if the taxable products are de minimus. Sellers may not use a combination
5 of the purchase price and sales price of the products to determine if the
6 taxable products are de minimus. Sellers shall use the full term of a
7 service contract to determine if the taxable products are de minimus.

8 (5) Bundled transaction does not include the retail sale of exempt
9 tangible personal property and taxable tangible personal property if (a)
10 the transaction includes food and food ingredients, drugs, durable
11 medical equipment, mobility enhancing equipment, over-the-counter drugs,
12 prosthetic devices, or medical supplies as such terms are defined in
13 section 77-2704.09 and (b) the seller's purchase price or sales price of
14 the taxable tangible personal property is fifty percent or less of the
15 total purchase price or sales price of the bundled tangible personal
16 property. Sellers may not use a combination of the purchase price and
17 sales price of the tangible personal property when making the fifty-
18 percent determination for a transaction.

19 Sec. 83. Section 77-2704.09, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 77-2704.09 (1) Sales and use taxes shall not be imposed on the gross
22 receipts from the sale, lease, or rental of and the storage, use, or
23 other consumption in this state of (a) insulin, (b) mobility enhancing
24 equipment and drugs, not including over-the-counter drugs, when sold for
25 a patient's use under a prescription, and (c) the following when sold for
26 a patient's use under a prescription and which are of the type eligible
27 for coverage under the medical assistance program established pursuant to
28 the Medical Assistance Act: Durable medical equipment; home medical
29 supplies; prosthetic devices; oxygen; and oxygen equipment.

30 (2) For purposes of this section:

31 (a)(i) ~~(a)~~ Drug means a compound, substance, preparation, and

1 component of a compound, substance, or preparation, other than food and
2 food ingredients, dietary supplements, or alcoholic beverages:

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

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

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

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

12 (b) Durable medical equipment means equipment which can withstand
13 repeated use, is primarily and customarily used to serve a medical
14 purpose, generally is not useful to a person in the absence of illness or
15 injury, is appropriate for use in the home, and is not worn in or on the
16 body. Durable medical equipment includes repair and replacement parts for
17 such equipment;

18 (c) Home medical supplies means supplies primarily and customarily
19 used to serve a medical purpose which are appropriate for use in the home
20 and are generally not useful to a person in the absence of illness or
21 injury;

22 (d) Mobility enhancing equipment means equipment which is primarily
23 and customarily used to provide or increase the ability to move from one
24 place to another, which is not generally used by persons with normal
25 mobility, and which is appropriate for use either in a home or a motor
26 vehicle. Mobility enhancing equipment includes repair and replacement
27 parts for such equipment. Mobility enhancing equipment does not include
28 any motor vehicle or equipment on a motor vehicle normally provided by a
29 motor vehicle manufacturer;

30 (e) Over-the-counter drug means a drug that contains a label that
31 identifies the product as a drug as required by 21 C.F.R. 201.66, as such

1 regulation existed on January 1, 2003. The over-the-counter drug label
2 includes a drug facts panel or a statement of the active ingredients with
3 a list of those ingredients contained in the compound, substance, or
4 preparation;

5 (f) Oxygen equipment means oxygen cylinders, cylinder transport
6 devices including sheaths and carts, cylinder studs and support devices,
7 regulators, flowmeters, tank wrenches, oxygen concentrators, liquid
8 oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing,
9 nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and
10 accessories;

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

15 (h) Prosthetic devices means a replacement, corrective, or
16 supportive device worn on or in the body to artificially replace a
17 missing portion of the body, prevent or correct physical deformity or
18 malfunction, or support a weak or deformed portion of the body, and
19 includes any supplies used with such device and repair and replacement
20 parts.

21 Sec. 84. Section 77-27,132, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 77-27,132 (1) There is hereby created a fund to be designated the
24 Revenue Distribution Fund which shall be set apart and maintained by the
25 Tax Commissioner. Revenue not required to be credited to the General Fund
26 or any other specified fund may be credited to the Revenue Distribution
27 Fund. Credits and refunds of such revenue shall be paid from the Revenue
28 Distribution Fund. The balance of the amount credited, after credits and
29 refunds, shall be allocated as provided by the statutes creating such
30 revenue.

31 (2) The Tax Commissioner shall pay to a depository bank designated

1 by the State Treasurer all amounts collected under the Nebraska Revenue
2 Act of 1967. The Tax Commissioner shall present to the State Treasurer
3 bank receipts showing amounts so deposited in the bank, and of the
4 amounts so deposited the State Treasurer shall:

5 (a) For transactions occurring on or after October 1, 2014, and
6 before October 1, 2022, credit to the Game and Parks Commission Capital
7 Maintenance Fund all of the proceeds of the sales and use taxes imposed
8 pursuant to section 77-2703 on the sale or lease of motorboats as defined
9 in section 37-1204, personal watercraft as defined in section 37-1204.01,
10 all-terrain vehicles as defined in section 60-103, and utility-type
11 vehicles as defined in section 60-135.01;

12 (b) Credit to the Highway Trust Fund all of the proceeds of the
13 sales and use taxes derived from the sale or lease for periods of more
14 than thirty-one days of motor vehicles, trailers, and semitrailers,
15 except that the proceeds equal to any sales tax rate provided for in
16 section 77-2701.02 that is in excess of five percent derived from the
17 sale or lease for periods of more than thirty-one days of motor vehicles,
18 trailers, and semitrailers shall be credited to the Highway Allocation
19 Fund;

20 (c) For transactions occurring on or after July 1, 2013, and before
21 July 1, 2033, of the proceeds of the sales and use taxes derived from
22 transactions other than those listed in subdivisions (2)(a), ~~and (b)~~, and
23 (e) of this section from a sales tax rate of one-quarter of one percent,
24 credit monthly eighty-five percent to the State Highway Capital
25 Improvement Fund and fifteen percent to the Highway Allocation Fund; ~~and~~

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

31 (e) For transactions occurring on or after the operative date of

1 this section, credit to the Medicinal Cannabis Regulation Fund all of the
2 proceeds of the sales and use taxes imposed pursuant to section 77-2703
3 on the sale of cannabis pursuant to the Medicinal Cannabis Act.

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

6 Sec. 85. Section 77-4303, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-4303 (1) A tax is hereby imposed on marijuana and controlled
9 substances at the following rates:

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

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

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

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

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

28 Sec. 86. Sections 82, 83, 84, 85, and 88 of this act become
29 operative on October 1, 2021. The other sections of this act become
30 operative on their effective date.

31 Sec. 87. Original section 28-439, Reissue Revised Statutes of

1 Nebraska, and sections 28-416 and 60-6,211.08, Revised Statutes
2 Cumulative Supplement, 2020, are repealed.

3 Sec. 88. Original sections 77-2701.48, 77-2704.09, 77-27,132, and
4 77-4303, Reissue Revised Statutes of Nebraska, are repealed.

5 Sec. 89. Since an emergency exists, this act takes effect when
6 passed and approved according to law.