AMENDMENTS TO LB622

Introduced by Judiciary.

1. Strike the original sections and insert the following new sections:

Section 1. Sections 1 to 57 of this act shall be known and may be cited as the Medical Cannabis Act.

Sec. 2. For purposes of the Medical Cannabis Act, the definitions found in sections 3 to 20 of this act apply.

Sec. 3. Compassion center and dispensary means an entity registered by the department to acquire, possess, or dispense medical cannabis or medical cannabis products.

Sec. 4. Department means the Division of Public Health of the Department of Health and Human Services.

Sec. 5. Disqualifying felony offense means a violation of a state or federal law that is a felony under Nebraska law or would be a felony if committed in Nebraska, regardless of the sentence imposed.

Sec. 6. Health care practitioner means a person licensed to practice under the Medicine and Surgery Practice Act, but shall not include an acupuncturist.

Sec. 7. Medical cannabis means any species of the genus cannabis plant, or any mixture or preparation of any species of the genus cannabis plant, including whole plant extracts and resins, which is delivered in the form of:

(1) Liquid, including, but not limited to, oil;

(2) Pill or capsule form;

(3) Vaporized delivery method with use of liquid or oil but which does not require the use of dried leaves or plant form;

(4) Topical creams and lotions; and

(5) Suppositories.
Smoking shall not be an approved method of delivery.

Sec. 8. Medical cannabis product means any delivery device or related supplies and educational materials used in the administration of medical cannabis for a patient with a qualifying medical condition enrolled in the registry program.

Sec. 9. Medical records means a health care practitioner's record of a patient's health history and treatment rendered.

Sec. 10. Participating health care practitioner means a health care practitioner who (1) has the primary responsibility for the care and treatment of the qualifying medical condition of a person diagnosed with a qualifying medical condition and (2) meets the requirements of section 30 of this act.

Sec. 11. Patient means a Nebraska resident who has been diagnosed with a qualifying medical condition by a participating health care practitioner and who has otherwise met any other requirements for patients under the Medical Cannabis Act to participate in the registry program under the act.

Sec. 12. Patient registry number means a unique identification number assigned by the department to a patient enrolled in the registry program.

Sec. 13. (1) Process means to process, compound, or convert medical cannabis into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts.

(2) Process does not include packaging or labeling.

Sec. 14. Processor means a person or entity registered by the department to process medical cannabis in this state.

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

(2) Produce does not include:

(a) The drying of medical cannabis by a processor if the processor is not otherwise producing medical cannabis; or
(b) The cultivation and growing of an immature cannabis plant by a processor if the processor purchased or otherwise received the plant from a producer.

Sec. 16. Producer means a person or entity registered by the department to produce medical cannabis in this state.

Sec. 17. Qualifying medical condition means a diagnosis of any of the following conditions:

(1) Cancer if the underlying condition or treatment produces one or more of the following:
   (a) Severe or chronic pain;
   (b) Nausea or severe vomiting; or
   (c) Cachexia or severe wasting;

(2) Glaucoma;

(3) Human immunodeficiency virus or acquired immune deficiency syndrome;

(4) Tourette's syndrome;

(5) Amyotrophic lateral sclerosis;

(6) Seizures, including those characteristic of epilepsy;

(7) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis;

(8) Crohn's disease;

(9) Terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
   (a) Severe or chronic pain;
   (b) Nausea or severe vomiting; or
   (c) Cachexia or severe wasting;

(10) Hepatitis C;

(11) Huntington's disease;

(12) Lupus;

(13) Parkinson's disease;
(14) Lyme disease;
(15) Spinal cord injury or disease;
(16) Opioid addiction;
(17) Epilepsy;
(18) Post-traumatic stress disorder;
(19) Anxiety; or
(20) Any other illness for which medical cannabis provides relief as determined by the participating health care practitioner.

Sec. 18. Registered designated caregiver means a person who:
(1) Is at least twenty-one years of age;
(2) Does not have a conviction for a disqualifying felony offense;
(3) Has been approved by the department to assist a patient who has been identified by a participating health care practitioner as having a developmental disability or physical disability and unable to self-administer medication or acquire medical cannabis from a compassion center and dispensary due to the disability; and
(4) Is authorized by the department to assist the patient with the use of medical cannabis.

Sec. 19. Registry program means the patient registry established under the Medical Cannabis Act.

Sec. 20. Registry verification means the verification provided by the department that a patient is enrolled in the registry program pursuant to subsection (5) of section 25 of this act.

Sec. 21. (1) Nothing in the Medical Cannabis Act permits any person to engage in and does not prevent the imposition of any civil, criminal, or other penalties for:
(a) Undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice;
(b) Possessing or engaging in the use of medical cannabis:
(i) On a school bus or van;
(ii) On the grounds of any preschool or primary or secondary school;
(iii) In any adult or juvenile correctional facility; or

(iv) On the grounds of any child care facility or home daycare;

(c) Vaporizing medical cannabis:

(i) On any form of public transportation;

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

or

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

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

(2)(a) Nothing in the Medical Cannabis Act allows the medical assistance program established pursuant to the Medical Assistance Act to reimburse an enrollee or a provider under the medical assistance program for costs associated with the medical use of cannabis. The medical assistance program shall continue to provide coverage for all services related to treatment of an enrollee's qualifying medical condition if the service is covered under the medical assistance program.

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

Sec. 22. The department shall establish and maintain a registry program for patients. The patient registry shall include the name, address, and telephone number of patients enrolling in the registry program and shall identify the participating health care practitioner for the patient and the registered designated caregiver, if any.

Sec. 23. (1) A patient shall apply to the department for enrollment
in the registry program by submitting an application pursuant to section 24 of this act.

(2) As a condition of enrollment, a patient shall agree to:

(a) Continue to receive regularly scheduled treatment for his or her qualifying medical condition from his or her participating health care practitioner; and

(b) Report changes in his or her qualifying medical condition to his or her participating health care practitioner.

Sec. 24. (1) The department shall develop an application for patient enrollment in the registry program. The application shall be available to the patient and given to participating health care practitioners in Nebraska. The application shall include:

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

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

(c) The name, mailing address, and date of birth of the patient's designated caregiver, if any, or the name and mailing address of the patient's parent or legal guardian if the parent or legal guardian will be acting as a caregiver;

(d) A copy of the certification from the patient's participating health care practitioner which certifies that the patient has been diagnosed with a qualifying medical condition, and, if applicable, that, in the medical opinion of the participating health care practitioner, the patient has a developmental disability or physical disability and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a compassion center and dispensary; and

(e) All other signed affidavits and enrollment forms required by the department under the Medical Cannabis Act, including, but not limited to, the disclosure form required under subsection (3) of this section and informed consent form as required under subsection (4) of this section.
(2) The department shall require a patient to resubmit a copy of the certification from the patient's participating health care practitioner on an annual basis and shall require that the recertification be dated within ninety days prior to submission.

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

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

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

(4) The department shall require a patient to give written, informed consent for the use of the medical cannabis. Written, informed consent shall consist of a signed disclosure and consent form executed by an eligible patient, or his or her parent or legal guardian if the eligible patient is a minor, and attested to by the eligible patient's treating health care practitioner, that:

(a) Explains the approved products and treatments available at that time for the disease or condition from which the patient suffers;

(b) Attest to the fact that the patient concurs with his or her treating health care practitioner that no treatment then approved by the United States Food and Drug Administration for the qualifying medical condition of the patient would likely treat or improve the patient's qualifying medical condition without significant risk to the patient;

(c) Describes the potential outcomes of using the medical cannabis. The description shall include any possibility of worsening symptoms and death hastened by the treatment;
(d) Contains a statement that the patient's health insurance carrier is not obligated to pay for any care or treatments consequent to the use of the medical cannabis; and

(e) Makes clear that the patient understands that he or she is liable for all expenses consequent to the use of the medical cannabis.

Sec. 25. (1) After receipt of a patient's application and signed disclosure and consent forms, the department shall enroll the patient in the registry program and issue the patient and patient's registered designated caregiver or parent or legal guardian, if applicable, a registry verification. A patient's enrollment in the registry program shall only be denied if the patient:

(a) Does not have certification from a participating health care practitioner that the patient has been diagnosed with a qualifying medical condition;

(b) Has not signed and returned to the department the disclosure and consent forms required under subsections (3) and (4) of section 24 of this act;

(c) Does not provide the information required under the Medical Cannabis Act;

(d) Has previously been removed from the registry program for a violation of section 23, 43, 44, or 45 of this act; or

(e) Provides false information under the act.

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

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

(4) A patient's enrollment in the registry program shall only be revoked if a patient violates a requirement under section 23, 43, 44, or 45 of this act or upon the death of the patient.

(5) The department shall develop a registry verification to provide to the patient, to the participating health care practitioner identified
in the patient's application, and to the compassion center and
dispensary. The registry verification shall include:

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

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

(c) Confirmation that the patient has a qualifying medical condition
as provided by the patient's participating health care practitioner in
the certification; and

(d) The name, mailing address, and date of birth of the patient's
registered designated caregiver, if any, or the name and mailing address
of the patient's parent or legal guardian if the parent or legal guardian
will be acting as a caregiver.

Sec. 26. (1) There is a presumption that a patient enrolled in the
registry program under the Medical Cannabis Act is engaged in the
authorized use of medical cannabis.

(2) The presumption may be rebutted by evidence that conduct related
to use of medical cannabis was not for the purpose of treating or
alleviating the patient's qualifying medical condition or symptoms
associated with the patient's qualifying medical condition.

Sec. 27. (1) The department shall register a designated caregiver
for a patient if the patient's participating health care practitioner has
certified that the patient, in the medical opinion of the participating
health care practitioner, has a developmental disability or a physical
disability and, as a result of that disability, the patient is unable to
self-administer medication or acquire medical cannabis from a compassion
center and dispensary and the caregiver has agreed, in writing, to be the
patient's registered designated caregiver. As a condition of registration
as a registered designated caregiver, the department shall require the
person to:

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

(b) Agree to only possess medical cannabis for purposes of assisting
the patient; and
(c) Agree that if the application is approved, the person will not be a registered designated caregiver for more than one patient unless each of such patients reside in the same residence.

(2)(a) The department shall conduct a criminal background check on the designated caregiver prior to registration to ensure that the person does not have a conviction for a disqualifying felony offense. Any cost of the background check shall be paid by the person seeking registration as a registered designated caregiver or his or her employer.

(b) The person shall file a complete set of his or her legible fingerprints with the department. The department shall transmit such fingerprints to the Nebraska State Patrol which shall transmit a copy of the applicant's fingerprints to the Identification Division of the Federal Bureau of Investigation for a national criminal history record information check.

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

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

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

Sec. 28. (1) A parent or legal guardian of a patient may act as the caregiver to the patient without having to register as a registered designated caregiver. The parent or legal guardian shall follow all of the requirements of parents and legal guardians in the Medical Cannabis
Act. Nothing in the act limits any legal authority a parent or legal guardian may have for the patient under any other law.

(2)(a) The department shall conduct a criminal background check on the parent or legal guardian acting as designated caregiver to ensure that the person does not have a conviction for a disqualifying felony offense. Any cost of the background check shall be paid by the parent or legal guardian seeking to act as a designated caregiver.

(b) The person shall file a complete set of his or her legible fingerprints with the department. The department shall transmit such fingerprints to the Nebraska State Patrol which shall transmit a copy of the applicant's fingerprints to the Identification Division of the Federal Bureau of Investigation for a national criminal history record information check.

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

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

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

Sec. 29. A patient or registered designated caregiver shall notify the department of any address or name change within thirty days after the change occurred. A registered designated caregiver shall notify the department of the death of a patient for whom the caregiver provides medical cannabis within thirty days after the death of the patient. A
patient or registered designated caregiver is subject to a one-hundred-dollar fine for failure to notify the department as required under this section.

Sec. 30. (1) Prior to a patient's enrollment in the registry program, a participating health care practitioner shall:

(a) Determine, in the medical judgment of the participating health care practitioner, whether a patient suffers from a qualifying medical condition and, if so determined, provide the patient with a certification of that diagnosis;

(b) Determine whether a patient has a developmental disability or physical disability and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a compassion center and dispensary and, if so determined, include that determination on the patient's certification of diagnosis;

(c) Provide explanatory information from the department to patients with qualifying medical conditions, including disclosure to all patients about the experimental nature of therapeutic use of medical cannabis; the possible risks, benefits, and side effects of the proposed treatment; and the application and other materials from the department; and

(d) Agree to continue treatment of the patient's qualifying medical condition.

(2) Upon notification from the department of the patient's enrollment in the registry program, the participating health care practitioner shall otherwise comply with all requirements developed by the department.

(3) Nothing in this section requires a health care practitioner (a) to participate under the Medical Cannabis Act or (b) to provide recommendations, limitations, or restrictions regarding dosage or the form of medical cannabis on a patient's certification.

Sec. 31. The department shall:

(1) Create and provide a certification to be used by a participating
health care practitioner to certify whether a patient has been diagnosed with a qualifying medical condition and include in the certification an option for the participating health care practitioner to certify whether the patient, in the medical opinion of the participating health care practitioner, has a developmental disability or a physical disability and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a compassion center and dispensary;

(2) Give notice of the certification program created in subdivision (1) of this section to health care practitioners in Nebraska who are eligible to serve as participating health care practitioners and explain the purposes and requirements of the Medical Cannabis Act;

(3) Provide explanatory information and assistance to each participating health care practitioner in understanding the nature of therapeutic use of medical cannabis within the requirements of the Medical Cannabis Act;

(4) Provide oversight of the participating health care practitioner in conducting patient treatment and medical records reporting in a manner that ensures stringent security and record-keeping requirements and that prevents the unauthorized release of private data; and

(5) Develop safety criteria for patients with a qualifying medical condition as a requirement of the patient's participation in the registry program in order to prevent the patient from undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice on the part of the patient.

Sec. 32. Data collected on patients by a participating health care practitioner are medical records and subject to sections 81-663 to 81-675.

Sec. 33. (1) Except as otherwise provided in section 39 of this act, the department shall register up to ten producers and up to ten processors in each congressional district in Nebraska for the production
and processing of all medical cannabis within Nebraska by November 1, 2018, unless the Medical Cannabis Board extends the deadline under section 37 of this act. The department shall register producers and processors which comply with subdivisions (2)(a) and (b) and (3)(a) and (b) of this section based on the factors in subdivisions (2)(c) and (3)(c) of this section. The department may register an applicant as both a producer and a processor. The registration shall be valid until November 1 of the calendar year following the date of registration and shall be renewed by November 1 of each year thereafter upon application and payment of the annual fee established pursuant to section 47 of this act to the department and compliance with the Medical Cannabis Act and the rules and regulations adopted and promulgated under the act. The department shall renew registrations of processors based on the factors in subsection (3) of this section. The department shall continue to accept applications for registration after November 1, 2018, for any congressional district which does not have a registered producer or processor by such date.

(2)(a) As a condition for registration prior to November 1, 2018, a producer shall agree to:

(i) Begin supplying medical cannabis to processors on or before May 1, 2019, unless extended by the Medical Cannabis Board; and

(ii) Comply with the Medical Cannabis Act and the rules and regulations adopted and promulgated under the act.

(b) As a condition for registration on and after November 1, 2018, a producer shall agree to supply medical cannabis to processors in compliance with the Medical Cannabis Act and otherwise be in compliance with the act and the rules and regulations adopted and promulgated under the act.

(c) The department shall consider the following factors when determining whether to register a producer:

(i) The technical expertise of the producer in cultivating medical
cannabis;

(ii) The qualifications of the producer's employees;

(iii) The long-term financial stability of the producer;

(iv) The ability to provide appropriate security measures on the premises of the producer; and

(v) Whether the producer has demonstrated the ability to meet the medical cannabis production needs required by the Medical Cannabis Act.

(3)(a) As a condition for registration prior to November 1, 2018, a processor shall agree to:

(i) Begin supplying medical cannabis to compassion centers and dispensaries on or before May 1, 2019, unless extended by the Medical Cannabis Board; and

(ii) Comply with the Medical Cannabis Act and the rules and regulations adopted and promulgated under the act.

(b) As a condition for registration on and after November 1, 2018, a processor shall agree to supply medical cannabis to compassion centers and dispensaries in compliance with the Medical Cannabis Act and otherwise be in compliance with the act and the rules and regulations adopted and promulgated under the act.

(c) The department shall consider the following factors when determining whether to register a processor:

(i) The technical expertise of the processor in converting the medical cannabis into an acceptable delivery method under the Medical Cannabis Act;

(ii) The qualifications of the processor's employees;

(iii) The long-term financial stability of the processor;

(iv) The ability to provide appropriate security measures on the premises of the processor; and

(v) Whether the processor has demonstrated the ability to meet the medical cannabis processing needs required by the Medical Cannabis Act.

(4) The department shall require each processor to contract with an
independent laboratory to test medical cannabis processed by the processor. A laboratory chosen by a processor is subject to approval by the department and is required to report testing results to the processor in a manner determined by the department.

Sec. 34. (1) A producer or processor of medical cannabis shall provide a reliable and ongoing supply of medical cannabis needed for the registry program.

(2) The cultivation, harvesting, manufacturing, packaging, or processing of medical cannabis must occur at the physical address of the producer or processor provided to the department on the registration application.

(3) A processor shall process and prepare any medical cannabis plant material into a form allowable under the Medical Cannabis Act prior to distribution of any medical cannabis.

(4) A processor shall contract with an independent laboratory, subject to the department’s approval of the laboratory and any additional requirements set by the department, for purposes of testing medical cannabis processed by the processor as to chemical composition, contamination, and consistency.

(5) The processor shall consult with an independent laboratory under contract with the processor or other experts in reporting the range of recommended treatments for each qualifying medical condition, the range of chemical compositions that will likely be medically beneficial, and any risks of noncannabis drug interactions. The processor shall provide this information to the department on an annual basis. The department shall compile and publish the contents of these reports and of the medical cannabis offered by each processor on the department's web site. Compassion centers and dispensaries shall make these reports available to patients upon request.

Sec. 35. Each processor shall assign a tracking number to any medical cannabis distributed by the processor. A processor shall require
any employee of the processor who is transporting medical cannabis or
medical cannabis products to carry identification showing that the person
is an employee of the processor. An employee of a processor shall not
transport medical cannabis or medical cannabis products outside the State
of Nebraska.

Sec. 36. (1) Except as otherwise provided in section 39 of this
act, the department shall register up to eight compassion center and
dispensaries in each congressional district in Nebraska for the
dispensing and sale of all medical cannabis to patients within Nebraska
by November 1, 2018, unless the Medical Cannabis Board extends the
deadline. The department shall register a compassion center and
dispensary which complies with subsection (2) of this section based on
the factors in subsection (3) of this section. The registration shall be
valid until November 1 of the calendar year following the date of
registration and shall be renewed by November 1 of each year thereafter
upon application and payment of the annual fee established pursuant to
section 47 of this act to the department and compliance with the Medical
Cannabis Act and the rules and regulations adopted and promulgated under
the act. The department shall renew registrations based on the factors in
subsection (3) of this section. The department shall continue to accept
applications for registration after November 1, 2018, for any
congressional district which does not have four compassion center and
dispensaries by such date.

(2)(a) As a condition for registration prior to November 1, 2018, a
compassion center and dispensary shall agree to:

(i) Begin supplying medical cannabis to patients on or before May 1,
2020; and

(ii) Comply with the Medical Cannabis Act and rules and regulations
adopted and promulgated by the department under the act.

(b) As a condition for registration on and after November 1, 2018, a
compassion center and dispensary shall agree to supply medical cannabis
to patients in compliance with the Medical Cannabis Act and otherwise be
in compliance with the act and the rules and regulations adopted and
promulgated under the act.

(3) The department shall consider the following factors when
determining whether to register a compassion center and dispensary:

(a) The technical expertise of the compassion center and dispensary
in distributing medical cannabis to patients;

(b) The qualifications of the pharmacists and other employees of the
compassion center and dispensary;

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

(d) The ability to provide appropriate security measures on the
premises of the compassion center and dispensary.

Sec. 37. (1) The department shall adopt and promulgate rules and
regulations by November 1, 2018, necessary for a compassion center and
dispensary to begin dispensing medical cannabis to patients enrolled in
the registry program and publish notice of the proposed rules and
regulations prior to May 1, 2018.

(2) The department shall, by September 1, 2018, advise the public
and the Medical Cannabis Board if the department is unable to register
producers and processors by November 1, 2018. The department shall
provide a written statement as to the reason or reasons the deadline will
not be met. Upon request of the department, the board shall extend the
deadline by six months but may not extend the deadline more than once.

(3) If notified by a processor that distribution to compassion
center and dispensaries may not begin by May 1, 2020, the department
shall advise the public and the board. Upon notification by the
department, the board shall extend the deadline by six months but may not
extend the deadline more than once.

Sec. 38. (1) A compassion center and dispensary shall require that
medical cannabis be dispensed to a patient by a pharmacist licensed under
(2) Prior to the dispensing of any medical cannabis, a compassion center and dispensary shall:

(a) Verify that the compassion center and dispensary has received the registry verification from the department for that individual patient;

(b) Verify that the person requesting the distribution of medical cannabis is the patient, the patient's registered designated caregiver, or the patient's parent or legal guardian listed in the registry verification;

(c) Assign a tracking number to any medical cannabis dispensed from the compassion center and dispensary;

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

(i) The patient's name, mailing address, and date of birth;

(ii) The name, mailing address, and date of birth of the patient's registered designated caregiver or, if listed on the registry verification, the name and mailing address of the patient's parent or legal guardian, if applicable;

(iii) The patient registry number;

(iv) The chemical composition of the medical cannabis;

(v) The recommended dosage or quantity of the medical cannabis, if any;

(vi) The date the certification is issued;

(vii) The date the medical cannabis is dispensed; and

(viii) The name and address of the compassion center and dispensary dispensing the medical cannabis; and

(e) Ensure that the dispensed medical cannabis contains a maximum of
a thirty-day supply of the recommended quantity, if any, determined for
that patient.

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

Sec. 39. (1) Each producer, processor, and compassion center and
dispensary shall disclose its proposed location to the department during
the registration process. A county, city, or village governing body may
adopt a resolution or ordinance prohibiting the operation of a producer,
processor, or compassion center and dispensary or all three within its
jurisdiction and may adopt zoning regulations that reasonably limit a
producer, processor, or compassion center and dispensary to certain areas
within its jurisdiction. If all jurisdictions within a congressional
district adopt a prohibition on the operation of producers or processors,
the department may register an additional producer or processor in
another congressional district. If all jurisdictions within a
congressional district adopt a prohibition on the operation of a
compassion center and dispensary, the department may register up to four
additional compassion center and dispensaries in another congressional
district or up to two additional compassion center and dispensaries in
each of the other congressional districts.

(2)(a) Any compassion center and dispensary may distribute medical
cannabis and medical cannabis products but shall not distribute any
medical cannabis in a form other than those forms allowed under the
Medical Cannabis Act. A compassion center and dispensary shall not
conduct any cultivation, harvesting, manufacturing, packaging, or
processing of medical cannabis.

(b) The operating documents of a compassion center and dispensary
shall include:

(i) Procedures for the oversight of the compassion center and
dispensary and procedures to ensure accurate record keeping; and
(ii) Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical cannabis.

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

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

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

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

(5) Each producer, processor, and compassion center and dispensary shall not share office space with or refer patients to a participating health care practitioner.

(6) Each producer, processor, and compassion center and dispensary shall not permit any person to consume medical cannabis on the property of the producer, processor, or compassion center and dispensary.

(7) Each producer, processor, and compassion center and dispensary is subject to reasonable inspection by the department or its designee.

(8)(a) No producer, processor, or compassion center and dispensary shall employ any person who is under twenty-one years of age or who has been convicted of a disqualifying felony offense. Each employee of a producer, a processor, or a compassion center and dispensary shall submit to a completed criminal history record information check before an employee may begin working with the producer, processor, or compassion center and dispensary.

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

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

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

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

(9) No producer, processor, or compassion center and dispensary may
operate in any location within one thousand feet of a public or private
school existing before the date of the producer's, processor's, or
compassion center and dispensary's registration with the department.

(10) Each producer, processor, and compassion center and dispensary
shall comply with reasonable restrictions set by the department relating
to signage, marketing, display, and advertising of medical cannabis and
shall comply with local zoning regulations.

Sec. 40. (1) Subject to section 21 of this act, the following are
not violations under the Medical Cannabis Act:

(a) Use or possession of medical cannabis or medical cannabis
products by a patient enrolled in the registry program or possession of
medical cannabis or medical cannabis products by a registered designated
caregiver or the parent or legal guardian of a patient if the parent or legal guardian is listed on the registry verification;

(b) Possession or sale of medical cannabis or medical cannabis products by a producer, a processor, or a compassion center and dispensary, employees of a producer, a processor, or a compassion center and dispensary, a laboratory conducting testing on medical cannabis, or employees of the laboratory; and

(c) Possession of medical cannabis or medical cannabis products by any person while carrying out the duties required under the Medical Cannabis Act.

(2) Medical cannabis obtained and distributed pursuant to the Medical Cannabis Act and associated property is not subject to forfeiture under section 28-431.

(3) The department, the department's staff, the department's agents or contractors, and participating health care practitioners are not subject to any civil or disciplinary penalties by any business, occupational, or professional licensing board or entity, solely for participation in the registry program under the Medical Cannabis Act. A pharmacist licensed under the Pharmacy Practice Act is not subject to any civil or disciplinary penalties when acting in accordance with the Medical Cannabis Act. Nothing in this section affects a professional licensing board from taking action in response to violations of any other provision of law.

(4) Federal, state, and local law enforcement authorities are prohibited from accessing the registry program under the Medical Cannabis Act except (a) when acting pursuant to a search warrant or (b) to determine the eligibility of the patient to possess medical cannabis.

(5) No information contained in a report, document, or registry or obtained from a patient under the Medical Cannabis Act may be admitted as evidence in a criminal proceeding unless independently obtained or in connection with a proceeding involving a violation of the act.
(6) Any person who violates subsection (4) of this section is guilty of a Class I misdemeanor.

(7) An attorney shall not be subject to disciplinary action for providing legal assistance to a prospective or registered producer, processor, or compassion center and dispensary or to others related to activity that is no longer subject to criminal penalties under state law pursuant to the Medical Cannabis Act.

(8) Possession of a registry verification or application for enrollment in the registry program by a person entitled to possess or apply for enrollment in the registry program does not constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the person possessing or applying for the registry verification or otherwise subject the person or property of the person to inspection by any governmental agency.

Sec. 41. (1) No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for the person's status as a patient enrolled in the registry program under the Medical Cannabis Act unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(2) For purposes of medical care, including organ transplants, the use of medical cannabis under the Medical Cannabis Act by a patient enrolled in the registry program does not constitute the use of an illicit substance or otherwise disqualify a patient from needed medical care.

(3) A person shall not be denied custody of a minor child or visitation rights or parenting time with a minor child solely based on the person's status as a patient enrolled in the registry program under the Medical Cannabis Act.

Sec. 42. (1) In addition to any other applicable penalty, a compassion center and dispensary or an agent of a compassion center and
dispensary who intentionally transfers or dispenses medical cannabis to a
person other than a registered compassion center and dispensary, a
patient, a registered designated caregiver, or, if listed on the registry
verification, a parent or legal guardian of a patient, is guilty of a
Class IV felony. A person convicted under this section shall not continue
to be affiliated with the compassion center and dispensary and is
disqualified from further participation under the Medical Cannabis Act.

(2) In addition to any other applicable penalty, a producer, a
processor, or an agent of a producer or processor who intentionally
dispenses medical cannabis to a person other than a registered producer,
a registered processor, or a registered compassion center and dispensary
is guilty of a Class IV felony. A person convicted under this section
shall not continue to be affiliated with the producer or processor and is
disqualified from further participation under the Medical Cannabis Act.

Sec. 43. In addition to any other applicable penalty provided by
law, a patient, a registered designated caregiver, or, if listed on the
registry verification, a parent or legal guardian of a patient who
intentionally sells or otherwise transfers medical cannabis to a person
other than a patient, a registered designated caregiver, or, if listed on
the registry verification, a parent or legal guardian of a patient, is
guilty of a Class IV felony.

Sec. 44. A person who intentionally makes a false statement to a
law enforcement official about any fact or circumstance relating to the
use of medical cannabis to avoid arrest or prosecution is guilty of a
Class III misdemeanor. The penalty is in addition to any other penalties
that may apply for making a false statement or for the possession,
cultivation, or sale of cannabis not protected by the Medical Cannabis
Act. If a person convicted of violating this section is a patient or a
registered designated caregiver, the person is disqualified from further
participation under the act.

Sec. 45. A person who knowingly submits false records or
documentation required by the department to register as a producer, a
processor, or a compassion center and dispensary under the Medical
Cannabis Act is guilty of a Class IV felony.

Sec. 46. A producer, a processor, or a compassion center and
dispensary may be fined up to one thousand dollars for any violation of
the Medical Cannabis Act or the rules and regulations adopted and
promulgated pursuant to the act if no penalty has been specified. This
penalty is in addition to any other applicable penalties in law.

Sec. 47. (1) The department shall collect an application fee of
twenty-five thousand dollars from each entity submitting an application
for registration as a producer, a processor, or a compassion center and
dispensary. The department shall remit the fees to the State Treasurer
for credit to the Medical Cannabis Regulation Fund.

(2) The department shall establish and collect an annual fee not to
exceed (a) forty thousand dollars from a producer for the cost of
regulating and inspecting the producer in that year, (b) forty thousand
dollars from a processor for the cost of regulating and inspecting the
processor in that year, and (c) twenty-five thousand dollars from a
compassion center and dispensary for the cost of regulating and
inspecting the compassion center and dispensary in that year. The
department shall remit the fees to the State Treasurer for credit to the
Medical Cannabis Regulation Fund.

Sec. 48. The Medical Cannabis Regulation Fund is created and shall
consist of funds from contracts, grants, gifts, or fees under the Medical
Cannabis Act. The fund shall be used for purposes of regulation of
medical cannabis and administration of the Medical Cannabis Act.
Transfers may be made from the fund to the General Fund at the direction
of the Legislature. Any money in the Medical Cannabis Regulation Fund
available for investment shall be invested by the state investment
officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
State Funds Investment Act.
Sec. 49. (1) The department may examine and inspect or provide for
the examination and inspection of any producer, processor, or compassion
center and dispensary in such manner and at such times as provided in
rules and regulations adopted and promulgated by the department. The
department shall issue an examination and inspection report and provide a
copy of the report to the producer, processor, or compassion center and
dispensary within ten working days after the completion of an examination
and inspection. The department shall then post a copy of the report on
its web site. The costs incurred by the department in conducting such an
examination and inspection shall be paid for by the producer, processor,
or compassion center and dispensary.

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

Sec. 50. (1) The department shall adopt and promulgate rules and
regulations to establish requirements for reporting incidents when
individuals who are not authorized to possess cannabis under the Medical
Cannabis Act are found in possession of medical cannabis. The rules and
regulations shall identify professionals required to report, the
information they are required to report, and actions the reporter must
take to secure the medical cannabis.

(2) The department shall adopt and promulgate rules and regulations
to establish requirements for law enforcement officials and health care
professionals to report incidents involving an overdose of medical
cannabis to the department.

(3) Rules and regulations shall include the method by which the
department will collect and tabulate reports of unauthorized possession
and overdose.

Sec. 51. The Medical Cannabis Board is established. The board shall
consist of nine members. Seven members shall be appointed by the Governor
and approved by a majority of the members of the Legislature. Of the
appointed members, the board shall have at least one person from each
congressional district, at least one person licensed to practice pharmacy
under the Pharmacy Practice Act, at least one person licensed to practice
medicine and surgery under the Medicine and Surgery Practice Act, and at
least three persons who are advocates for the use of medical cannabis.
The chief medical officer as designated in section 81-3115 or his or her
designee and the chairperson of the Health and Human Services Committee
of the Legislature or his or her designee shall be nonvoting, ex officio
members.

Sec. 52. The Governor shall appoint three of the initial appointed
members of the Medical Cannabis Board for terms of five years and the
remainder of the initial appointed members of the board for terms of one
year, two years, three years, and four years. Appointments made for the
succeeding members shall be for terms of five years. The term of office
of each member of the board shall expire on September 1 of the
appropriate year. If a vacancy occurs prior to the expiration of a term,
the Governor shall appoint a successor with similar qualifications for
the remainder of the unexpired term. No appointed member of the board
shall serve more than two consecutive, full terms. If the Legislature is
not in session when an appointment is made by the Governor, the member
shall take office and act as a recess appointee until the Legislature
convenes.

Sec. 53. The members of the Medical Cannabis Board shall be
reimbursed for the actual and necessary expenses incurred in the
performance of their duties as provided in sections 81-1174 to 81-1177.

Sec. 54. Within thirty days after the initial appointment and in
the last calendar quarter of each subsequent year, the members of the
Medical Cannabis Board shall meet and elect a chairperson of the board
from the appointed members and such other officers, including a vice-
chairperson and a secretary, as the board deems necessary. In case of the
death, resignation, or other permanent absence of the chairperson of the
board, the vice-chairperson shall assume the office of chairperson and
the members of the board at the next regular meeting of the board, or at
a special meeting of the board pursuant to a call signed by all remaining
members of which such members shall have at least three days' notice,
shall elect a new chairperson of the board from the appointed members and
such other new officers as the board deems necessary.

Sec. 55. The Medical Cannabis Board shall meet at least once each
quarter and at such other times as it deems necessary. Special meetings
may be held upon the call of the chairperson or pursuant to a call signed
by six other members of which the chairperson and the other members of
the board shall have at least three days' notice. All regular meetings
shall be held in suitable offices to be provided in the state office
building described in section 81-1108.37 or elsewhere. A majority of the
members of the board shall constitute a quorum for the transaction of
business. Every act of a majority of the members of the board shall be
deemed to be the act of the board. All meetings shall be open to the
public. The minutes of the meetings shall show the action of the board on
matters presented and shall be open to public inspection.

Sec. 56. The Medical Cannabis Board shall advise the department
regarding:

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

Sec. 57. No member of the Medical Cannabis Board shall be
personally liable in damages to any person for slander, libel, defamation
of character, breach of any privileged communication, or otherwise for
any action taken or recommendation made within the scope of the functions
of such board while acting as an agent of the state if such board member
acts without malice and in the reasonable belief that such action or
recommendation is warranted by the facts known to him or her after a
reasonable effort is made to obtain the facts on which such action is taken or recommendation is made.

Sec. 58. Section 28-416, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(3) A person knowingly or intentionally possessing a controlled substance, except marijuana or any substance containing a quantifiable amount of the substances, chemicals, or compounds described, defined, or delineated in subdivision (c)(25) of Schedule I of section 28-405, unless such substance was obtained directly or pursuant to a medical order issued by a practitioner authorized to prescribe while acting in the course of his or her professional practice, or except as otherwise authorized by the act, shall be guilty of a Class IV felony.

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

(b) For purposes of this subsection:

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

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

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

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

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

(c) Any person who violates subdivision (a) or (b) of this
subsection shall be punished by the next higher penalty classification
than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
this section, depending upon the controlled substance involved, for the
first violation and for a second or subsequent violation shall be
punished by the next higher penalty classification than that prescribed
for a first violation of this subsection, but in no event shall such
person be punished by a penalty greater than a Class IB felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 59. Section 28-439, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(b) Water pipes;
Carburetion tubes and devices;
Smoking and carburetion masks;
Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, which has become too small or too short to be held in the hand;
Miniature cocaine spoons, and cocaine vials;
Chamber pipes;
Carburetor pipes;
Electric pipes;
Air-driven pipes;
Chillums;
Bongs; and
Ice pipes or chillers.

Sec. 60. Section 77-2701.48, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Distinct and identifiable products do not include:

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

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

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

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

(4) A transaction that otherwise meets the definition of a bundled
transaction is not a bundled transaction if it is (a) the retail sale of
tangible personal property and a service where the tangible personal
property is essential to the use of the service, and is provided
exclusively in connection with the service, and the true object of the
transaction is the service, (b) the retail sale of services when one
service is provided that is essential to the use or receipt of a second
service and the first service is provided exclusively in connection with
the second service and the true object of the transaction is the second
service, or (c) a transaction that includes taxable products and
nontaxable products and the purchase price or sales price of the taxable
products is de minimus. De minimus means the seller's purchase price or
sales price of the taxable products is ten percent or less of the total
purchase price or sales price of the bundled products. Sellers shall use
either the purchase price or the sales price of the products to determine
if the taxable products are de minimus. Sellers may not use a combination
of the purchase price and sales price of the products to determine if the
taxable products are de minimus. Sellers shall use the full term of a
service contract to determine if the taxable products are de minimus.

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

Sec. 61. Section 77-2704.09, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) For purposes of this section:

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

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

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

(C) Intended to affect the structure or any function of the body; and
(ii) Drug does not include cannabis obtained pursuant to the Medical Cannabis Act; 

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

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

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

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

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

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

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

Sec. 62. Section 77-27,132, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

(a) For transactions occurring on or after October 1, 2014, and before October 1, 2019, credit to the Game and Parks Commission Capital Maintenance Fund all of the proceeds of the sales and use taxes imposed pursuant to section 77-2703 on the sale or lease of motorboats as defined in section 37-1204, personal watercraft as defined in section 37-1204.01,
all-terrain vehicles as defined in section 60-103, and utility-type vehicles as defined in section 60-135.01;

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

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

(d) For transactions occurring on or after the operative date of this section, credit to the Medical Cannabis Regulation Fund all of the proceeds of the sales and use taxes imposed pursuant to section 77-2703 on the sale of medical cannabis pursuant to the Medical Cannabis Act; and

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

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

Sec. 63. Section 77-27,237, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-27,237 If the federal government passes a law that expands the state's authority to require out-of-state retailers to collect and remit
the tax imposed under section 77-2703 on purchases by Nebraska residents
and the state collects additional revenue under section 77-2703 as a result of such federal law, then the Department of Revenue shall determine the amount of such additional revenue collected during the first twelve months following the date on which the state begins collecting such additional revenue. The department shall certify such amount to the Governor, the Legislature, and the State Treasurer, and the certified amount shall be used for purposes of subdivision (2)(e) (2)(d) of section 77-27,132. This section terminates three years after August 30, 2015.

Sec. 64. Section 77-4303, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

Sec. 65. Sections 60, 61, 62, 63, 64, and 67 of this act become operative on October 1, 2017. The other sections of this act become operative on their effective date.

Sec. 66. Original sections 28-416 and 28-439, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 67. Original sections 77-2701.48, 77-2704.09, and 77-4303, Reissue Revised Statutes of Nebraska, and sections 77-27,132 and 77-27,237, Revised Statutes Cumulative Supplement, 2016, are repealed.