

AMENDMENTS TO LB110

Introduced by Wishart, 27.

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

3           Section 1. Sections 1 to 79 of this act shall be known and may be  
4 cited as the Medical Cannabis Act.

5           Sec. 2. For purposes of the Medical Cannabis Act, the definitions  
6 found in sections 3 to 28 of this act apply.

7           Sec. 3. Allowable amount of cannabis means:

8           (1) Three ounces or less of cannabis on one's person;

9           (2) Eight ounces or less of cannabis at one's residence;

10          (3) One ounce or less of concentrated cannabis;

11          (4) Cannabis products containing no more than two thousand four  
12 hundred milligrams of delta-9-tetrahydrocannabinol; and

13          (5) If a cardholder has a registry identification card allowing  
14 cultivation, six or fewer mature cannabis plants and six or fewer  
15 seedling cannabis plants cultivated in an enclosed, locked facility where  
16 the plants are subject to public view, including to view from another  
17 private property.

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

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

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

25          Sec. 5. Cannabis means any species of the cannabis plant, or any  
26 mixture or preparation of any species of the cannabis plant, including  
27 whole plant extracts and resins, except that cannabis does not include

1 any prescription drug approved under section 505 of the Federal Food,  
2 Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January  
3 1, 2019.

4 Sec. 6. Cannabis accessory means any delivery device or related  
5 supplies and educational materials used in the administration of cannabis  
6 for a patient with a qualifying medical condition who is enrolled in the  
7 registry program or who is deemed enrolled pursuant to section 36 of this  
8 act.

9 Sec. 7. Cannabis product means a product that is infused with  
10 cannabis or an extract thereof and intended for use or consumption by  
11 humans. Cannabis product includes, but is not limited to, an edible  
12 cannabis product, a beverage, a topical product, an ointment, oil, and a  
13 tincture.

14 Sec. 8. Cardholder means a patient or a registered designated  
15 caregiver who has enrolled in the registry program or who is deemed  
16 enrolled in the registry program pursuant to section 36 of this act.

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

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

21 Sec. 11. Enclosed, locked facility means a closet, room,  
22 greenhouse, building, or other enclosed area that is equipped with locks  
23 or other security devices that permit access only by the cardholder  
24 allowed to cultivate the plants. Only a single cardholder may cultivate  
25 in one location.

26 Sec. 12. Felony offense means a violation of a state or federal law  
27 that is a felony under Nebraska law or would be a felony if committed in  
28 Nebraska, regardless of the sentence imposed. Felony offense does not  
29 include an offense that consists of conduct for which the Medical  
30 Cannabis Act would likely have prevented a conviction, but the conduct  
31 either occurred prior to the operative date of this section or as

1 prosecuted by an authority other than the state.

2 Sec. 13. Health care practitioner means a person licensed to  
3 practice under the Medicine and Surgery Practice Act, but shall not  
4 include an acupuncturist.

5 Sec. 14. Medical records means a health care practitioner's record  
6 of a patient's health history and treatment rendered.

7 Sec. 15. (1) Medical use includes the acquisition, administration,  
8 cultivation, manufacture, delivery, harvest, possession, preparation,  
9 transfer, transportation, or use of cannabis, cannabis products, or  
10 cannabis accessories relating to the administration of cannabis to treat  
11 or alleviate a patient's qualifying medical condition or symptoms  
12 associated with the patient's qualifying medical condition.

13 (2) Medical use does not include:

14 (a) The cultivation of cannabis by a nonresident cardholder;

15 (b) The cultivation of cannabis for more than one individual;

16 (c) The cultivation of cannabis by a cardholder who is not  
17 designated as being allowed to cultivate on his or her registry  
18 identification card; or

19 (d) The extraction of resin from cannabis by solvent extraction  
20 unless the extraction is done by a cannabis product manufacturing  
21 facility.

22 Sec. 16. Nonresident cardholder means a person who:

23 (1) Has been diagnosed with a qualifying medical condition or is the  
24 parent, guardian, conservator, or other person with authority to consent  
25 to the medical treatment of a person who has been diagnosed with a  
26 qualifying medical condition;

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

29 (3) Was issued a currently valid registry identification card or its  
30 equivalent under the laws of another state, district, territory,  
31 commonwealth, insular possession of the United States, or country

1 recognized by the United States that allows the person to use cannabis  
2 for medical purposes in the jurisdiction of issuance.

3 Sec. 17. Participating health care practitioner means a health care  
4 practitioner who (1) is treating a patient and (2) complies with the  
5 requirements of section 42 of this act.

6 Sec. 18. Patient means a Nebraska resident who has been diagnosed  
7 with a qualifying medical condition by a participating health care  
8 practitioner and who has otherwise met any other requirements for  
9 patients under the Medical Cannabis Act to participate in the registry  
10 program under the act.

11 Sec. 19. Patient registry number means a unique identification  
12 number assigned by the department to a patient enrolled in the registry  
13 program.

14 Sec. 20. Process means to process harvested cannabis materials into  
15 cannabis products or concentrated cannabis.

16 Sec. 21. Processor means a person or entity registered by the  
17 department to process cannabis in this state.

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

20 (2) Produce does not include:

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

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

26 Sec. 23. Producer means a person or entity registered by the  
27 department to produce cannabis in this state.

28 Sec. 24. Qualifying medical condition means a diagnosis of any of  
29 the following conditions:

30 (1) Cancer if the underlying condition or treatment produces one or  
31 more of the following:

- 1           (a) Severe or chronic pain;
- 2           (b) Nausea or severe vomiting; or
- 3           (c) Cachexia or severe wasting;
- 4           (2) Glaucoma;
- 5           (3) Human immunodeficiency virus or acquired immune deficiency
- 6 syndrome;
- 7           (4) Tourette's syndrome;
- 8           (5) Amyotrophic lateral sclerosis;
- 9           (6) Seizures, including those characteristic of epilepsy;
- 10          (7) Severe and persistent muscle spasms, including those
- 11 characteristic of multiple sclerosis;
- 12          (8) Crohn's disease or ulcerative colitis;
- 13          (9) Terminal illness, with a probable life expectancy of under one
- 14 year, if the illness or its treatment produces one or more of the
- 15 following:
- 16          (a) Severe or chronic pain;
- 17          (b) Nausea or severe vomiting; or
- 18          (c) Cachexia or severe wasting;
- 19          (10) Hepatitis C;
- 20          (11) Huntington's disease;
- 21          (12) Lupus;
- 22          (13) Parkinson's disease;
- 23          (14) Lyme disease;
- 24          (15) Spinal cord injury or disease;
- 25          (16) Opioid addiction;
- 26          (17) Epilepsy;
- 27          (18) Post-traumatic stress disorder;
- 28          (19) Anxiety; or
- 29          (20) Any other illness for which cannabis provides relief as
- 30 determined by the participating health care practitioner.

31          Sec. 25. Registered designated caregiver means:

- 1           (1) A natural person who:  
2           (a) Is at least twenty-one years of age;  
3           (b) Does not have a conviction for a felony offense;  
4           (c) Has been designated by a patient to assist the patient with the  
5 medical use of cannabis; and  
6           (d) Is authorized by the department to assist the patient with the  
7 use of medical cannabis; or  
8           (2) A health care facility, a residential care facility, or a home  
9 health agency that provides home health aides to seriously ill patients  
10 and that has agreed to serve as a designated caregiver.

11           Sec. 26. Registry program means the patient registry established  
12 under the Medical Cannabis Act.

13           Sec. 27. Registry verification means the verification provided by  
14 the department that a patient is enrolled in the registry program  
15 pursuant to subsection (5) of section 38 of this act.

16           Sec. 28. Written certification means a document, dated and signed  
17 by a health care practitioner, stating that the patient has been  
18 diagnosed with a qualifying medical condition. A written certification  
19 shall affirm that it is made in the course of a bona fide practitioner-  
20 patient relationship.

21           Sec. 29. (1) Nothing in the Medical Cannabis Act permits any person  
22 to engage in and does not prevent the imposition of any civil, criminal,  
23 or other penalties for:

24           (a) Undertaking any task under the influence of cannabis that would  
25 constitute negligence or professional malpractice;

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

27           (i) On a school bus or van;

28           (ii) On the grounds of any preschool or primary or secondary school  
29 except as provided in section 30 of this act;

30           (iii) In any adult or juvenile correctional facility; or

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

1 except as provided in section 30 of this act;

2 (c) Vaporizing or smoking cannabis:

3 (i) On any form of public transportation;

4 (ii) Where the vapor or smoke would be inhaled by a nonpatient minor  
5 child; or

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

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

13 (2) The Medical Cannabis Act shall not apply to an employer if  
14 federal law or regulations regulate the drug use of any of the employer's  
15 applicants or employees.

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

22 (a) The facility and its agents are not responsible for providing  
23 the cannabis to qualifying patients;

24 (b) Cannabis may not be smoked or vaporized; and

25 (c) Cannabis may be consumed only in a place specified by the  
26 facility.

27 (2) Nothing in this section requires a facility listed in subsection  
28 (1) of this section to adopt restrictions on the medical use of cannabis,  
29 except that cannabis smoking may not be allowed on school grounds.

30 (3) A facility listed in subsection (1) of this section shall not  
31 unreasonably limit a patient's access to or use of cannabis authorized

1 under the Medical Cannabis Act unless failing to do so would cause the  
2 facility to lose a monetary or license-related benefit under federal law  
3 or regulations.

4       Sec. 31. (1) Nothing in the Medical Cannabis Act allows the medical  
5 assistance program established pursuant to the Medical Assistance Act to  
6 reimburse an enrollee or a provider under the medical assistance program  
7 for costs associated with the medical use of cannabis. The medical  
8 assistance program shall continue to provide coverage for all services  
9 related to treatment of an enrollee's qualifying medical condition if the  
10 service is covered under the medical assistance program.

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

16       Sec. 32. The department shall establish and maintain a registry  
17 program for patients. The patient registry shall include the name,  
18 address, and telephone number of patients enrolling in the registry  
19 program and shall identify the participating health care practitioner for  
20 the patient and the registered designated caregiver, if any. The registry  
21 program shall assign a random, unique ten-digit alphanumeric  
22 identification number to each cardholder.

23       Sec. 33. (1) A patient shall apply to the department for enrollment  
24 in the registry program by submitting an application pursuant to section  
25 37 of this act. The department shall ensure that the application and  
26 related information are sealed to protect the privacy of the applicant.

27       (2) A patient who is enrolled in the registry program may:

28       (a) Consume cannabis legally; and

29       (b) Legally possess an allowable amount of cannabis.

30       Sec. 34. (1) A cardholder shall not be subject to arrest,  
31 prosecution, or penalty in any manner, or denial of any right or

1 privilege, including any civil penalty or disciplinary action by a court  
2 or occupational or professional licensing board for:

3 (a) The medical use of cannabis pursuant to the Medical Cannabis Act  
4 if (i) the cardholder does not possess more than the allowable amount of  
5 cannabis and (ii) any cannabis plants belonging to the cardholder are  
6 either cultivated in an enclosed, locked facility or are being  
7 transported;

8 (b) Reimbursement by a patient to the patient's registered  
9 designated caregiver for direct costs incurred by the registered  
10 designated caregiver for assisting with the registered qualifying  
11 patient's medical use of cannabis;

12 (c) Transferring cannabis to a testing facility for testing; or

13 (d) Compensating a dispensary or a testing facility for goods or  
14 services provided.

15 (2) A nonresident cardholder shall not be subject to arrest,  
16 prosecution, or penalty in any manner, or denied any right or privilege,  
17 including, but not limited to, civil penalty or disciplinary action by a  
18 business or occupational or professional licensing board, for  
19 transporting, purchasing, possessing, or using medical cannabis pursuant  
20 to the Medical Cannabis Act if the nonresident cardholder does not  
21 possess more than an allowable amount of cannabis.

22 (3) There is a presumption that a patient or registered designated  
23 caregiver is engaged in the medical use of cannabis pursuant to the  
24 Medical Cannabis Act if the person is enrolled in the registry program  
25 and possesses an amount of cannabis that does not exceed the allowable  
26 amount. The presumption may be rebutted by evidence that conduct related  
27 to cannabis was not for the purpose of treating or alleviating a  
28 patient's qualifying medical condition or symptoms associated with the  
29 patient's qualifying medical condition pursuant to the Medical Cannabis  
30 Act.

31 Sec. 35. No person may be subject to arrest, prosecution, or

1 penalty in any manner, or denied any right or privilege, including any  
2 civil penalty or disciplinary action by a court or occupational or  
3 professional licensing board, for:

4 (1) Providing or selling cannabis accessories to a cardholder,  
5 nonresident cardholder, dispensary, producer, or processor;

6 (2) Being in the presence or vicinity of the medical use of cannabis  
7 that is exempt from criminal penalties by the Medical Cannabis Act;

8 (3) Allowing the person's property to be used for activities that  
9 are exempt from criminal penalties by the Medical Cannabis Act; or

10 (4) Assisting a registered patient with the act of using or  
11 administering cannabis as permitted under the Medical Cannabis Act.

12 Sec. 36. (1) Until sixty days after the department begins allowing  
13 enrollment in the registry program, a person who has been issued a valid,  
14 written certification within the previous year shall be deemed a patient  
15 enrolled in the registry program.

16 (2) After a person has submitted a valid application to enroll in  
17 the registry program, but before he or she has received confirmation of  
18 enrollment, he or she shall be deemed enrolled if the person presents:

19 (a) A copy of the individual's application;

20 (b) A valid written certification issued within ninety days prior to  
21 application; and

22 (c) Proof that the application was submitted.

23 Sec. 37. (1) The department shall develop an application for  
24 patient enrollment in the registry program. The application shall be  
25 available to the patient and given to participating health care  
26 practitioners in Nebraska. The application shall include:

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

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

30 (c) The name, mailing address, and date of birth of the patient's  
31 designated caregiver, if any, or the name and mailing address of the

1 patient's parent or legal guardian if the parent or legal guardian will  
2 be acting as a caregiver;

3 (d) A copy of the written certification;

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

8 (f) If the patient requests that a designated caregiver be allowed  
9 to cultivate cannabis on behalf of the patient, a request for a hardship  
10 waiver with supporting documentation; and

11 (g) All other signed affidavits and enrollment forms required by the  
12 department under the Medical Cannabis Act, including, but not limited to,  
13 the disclosure form required under subsection (3) of this section and  
14 informed consent form as required under subsection (4) of this section.

15 (2) The department shall require a patient to resubmit a copy of the  
16 written certification on an annual basis and shall require that the  
17 recertification be dated within ninety days prior to submission.

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

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

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

29 (4) The department shall require a patient to give written, informed  
30 consent for the use of the cannabis. Written, informed consent shall  
31 consist of a signed disclosure and consent form executed by an eligible

1 patient, or his or her parent or legal guardian if the eligible patient  
2 is a minor, that:

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

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

8 Sec. 38. (1) Within thirty days after receipt of a patient's  
9 application and signed disclosure and consent forms, the department shall  
10 give notice of denial under subsection (2) of this section or enroll the  
11 patient in the registry program and issue the patient and patient's  
12 registered designated caregiver or parent or legal guardian, if  
13 applicable, a registry verification. A patient's enrollment in the  
14 registry program shall only be denied if the patient:

15 (a) Does not have written certification;

16 (b) Has not signed and returned to the department the disclosure and  
17 consent forms required under subsections (3) and (4) of section 37 of  
18 this act;

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

21 (d) Has previously been removed from the registry program for a  
22 violation of section 33, 58, 59, or 60 of this act; or

23 (e) Provides false information under the act.

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

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

28 (4) A patient's enrollment in the registry program shall only be  
29 revoked if a patient violates a requirement under section 33, 58, 59, or  
30 60 of this act or upon the death of the patient.

31 (5) The department shall develop a registry verification to provide

1 to the patient, to the participating health care practitioner identified  
2 in the patient's application, and to the dispensary. The registry  
3 verification shall include:

- 4 (a) The patient's name and date of birth;
- 5 (b) The patient registry number assigned to the patient; and
- 6 (c) The name, mailing address, and date of birth of the patient's  
7 registered designated caregiver, if any, or the name and mailing address  
8 of the patient's parent or legal guardian if the parent or legal guardian  
9 will be acting as a caregiver.

10 Sec. 39. (1) The department shall register a person as a registered  
11 designated caregiver for a patient if the person signs a statement  
12 agreeing to serve as the designated caregiver. For a caregiver which is  
13 not a natural person, the agreement shall be signed by the chief  
14 executive officer or chief operating officer of the entity.

15 (2) As a condition of registration as a registered designated  
16 caregiver, the department shall require the person to:

- 17 (a) For a natural person:
  - 18 (i) Be at least twenty-one years of age;
  - 19 (ii) Agree to only possess cannabis for purposes of assisting the  
20 patient; and
  - 21 (iii) Agree that if the application is approved, the person will not  
22 be a registered designated caregiver for more than one patient unless  
23 each of such patients reside in the same residence; or

- 24 (b) If the caregiver is not a natural person:
  - 25 (i) Agree that any person who is assisting the patient is at least  
26 twenty-one years of age; and
  - 27 (ii) Agree that cannabis at the location of the caregiver is  
28 authorized under the Medical Cannabis Act.

29 (3)(a) The department shall conduct a criminal background check on  
30 the person seeking registration as a registered designated caregiver  
31 prior to registration to ensure that the person does not have a

1 conviction for a felony offense. Any cost of the background check shall  
2 be paid by the person seeking registration as a registered designated  
3 caregiver or his or her employer.

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

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

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

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

23 (4) The department shall adopt and promulgate rules and regulations  
24 governing entities that serve as registered designated caregivers under  
25 subdivision (2) of section 25 of this act, including:

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

29 (b) Requiring the name and date of birth of each individual who may  
30 transport or administer cannabis on behalf of the entity to be registered  
31 with the department.

1           Sec. 40. (1) A parent or legal guardian of a patient may be deemed  
2 a registered designated caregiver for the patient without having to  
3 register as a registered designated caregiver. The parent or legal  
4 guardian shall follow all of the requirements of parents and legal  
5 guardians in the Medical Cannabis Act. Nothing in the act limits any  
6 legal authority a parent or legal guardian may have for the patient under  
7 any other law.

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

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

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

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

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

1           Sec. 41. A patient or registered designated caregiver shall notify  
2 the department of any address or name change within thirty days after the  
3 change occurred. A registered designated caregiver shall notify the  
4 department of the death of a patient for whom the caregiver provides  
5 cannabis within thirty days after the death of the patient. A patient or  
6 registered designated caregiver is subject to a one-hundred-dollar fine  
7 for failure to notify the division as required under this section.

8           Sec. 42. (1) Prior to a patient's enrollment in the registry  
9 program, a participating health care practitioner shall determine, in the  
10 medical judgment of the participating health care practitioner, whether a  
11 patient suffers from a qualifying medical condition and, if so  
12 determined, provide the patient with a written certification.

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

17           (3) A participating health care practitioner shall not be subject to  
18 arrest, prosecution, or penalty in any manner, or denied any right or  
19 privilege, including, but not limited to, civil penalty or disciplinary  
20 action by the Department of Health and Human Services or by any other  
21 occupational or professional licensing board, solely for providing a  
22 written certification or for stating that, in the health care  
23 practitioner's professional opinion, a patient is likely to receive  
24 therapeutic or palliative benefit from the medical use of cannabis to  
25 treat or alleviate the patient's medical condition or symptoms associated  
26 with the serious or debilitating medical condition. Nothing in the  
27 Medical Cannabis Act prevents a practitioner from being sanctioned for:

28           (a) Issuing a written certification to a patient with whom the  
29 practitioner does not have a bona fide practitioner-patient relationship;  
30 or

31           (b) Failing to properly evaluate a patient's medical condition.

1           Sec. 43. The department shall:

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

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

8           (3) Develop hardship waiver requirements for a qualifying patient  
9 applying to have a designated caregiver to cultivate for the qualifying  
10 patient, which shall include consideration of the patient's age, medical  
11 condition, disability, financial need, and difficulty accessing the types  
12 of cannabis the patient would likely benefit from;

13           (4) Provide for at least three tiers of producers, based on the size  
14 of the facility or the number of plants cultivated. Security regulations  
15 and licensing fees should be varied based on the size of the cultivation  
16 facility; and

17           (5) Develop security and recordkeeping requirements for the delivery  
18 of cannabis from dispensaries to cardholders and nonresident cardholders.

19           Sec. 44. (1) Except as otherwise provided in section 50 of this  
20 act, the department shall register up to ten producers and all qualifying  
21 processors in each congressional district in Nebraska for the production  
22 and processing of all cannabis within Nebraska by November 1, 2020,  
23 unless the Medical Cannabis Board extends the deadline under section 48  
24 of this act. The department shall register producers which comply with  
25 subdivisions (2)(a) and (b) of this section and shall register processors  
26 which comply with subdivisions (3)(a) and (b) of this section based on  
27 the factors in subdivision (3)(c) of this section. The department may  
28 register an applicant as both a producer and a processor. The  
29 registration shall be valid until November 1 of the calendar year  
30 following the date of registration and shall be renewed by November 1 of  
31 each year thereafter upon application and payment of the annual fee

1 established pursuant to section 62 of this act to the department and  
2 compliance with the Medical Cannabis Act and the rules and regulations  
3 adopted and promulgated under the act. The department shall renew  
4 registrations of processors based on the factors in subsection (3) of  
5 this section. The department shall continue to accept applications for  
6 registration after November 1, 2020, for any congressional district which  
7 does not have a registered producer or processor by such date.

8 (2)(a) As a condition for registration prior to November 1, 2020, a  
9 producer shall agree to:

10 (i) Begin supplying cannabis to processors and dispensaries on or  
11 before May 1, 2021, unless extended by the Medical Cannabis Board; and

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

14 (b) As a condition for registration on and after November 1, 2020, a  
15 producer shall agree to supply cannabis to processors and dispensaries in  
16 compliance with the Medical Cannabis Act and otherwise be in compliance  
17 with the act and the rules and regulations adopted and promulgated under  
18 the act.

19 (3)(a) As a condition for registration, a processor shall agree to  
20 comply with the Medical Cannabis Act and the rules and regulations  
21 adopted and promulgated under the act.

22 (b) The department shall register a processor that submits a  
23 qualifying application in compliance with the Medical Cannabis Act and  
24 local regulations.

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

30 (5) The department shall require each producer that sells cannabis  
31 to dispensaries to contract with an independent laboratory to test

1 cannabis produced by the producer. A laboratory chosen by a producer is  
2 subject to approval by the department and is required to report testing  
3 results to the producer in a manner determined by the department.

4       Sec. 45. (1) A producer of cannabis shall provide a reliable and  
5 ongoing supply of cannabis needed for the registry program.

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

9       (3) A processor shall contract with an independent laboratory,  
10 subject to the department's approval of the laboratory and any additional  
11 requirements set by the department, for purposes of testing cannabis  
12 processed by the processor as to chemical composition, contamination, and  
13 consistency.

14       (4) A producer that sells cannabis to dispensaries shall contract  
15 with an independent laboratory, subject to the department's approval of  
16 the laboratory and any additional requirements set by the department, for  
17 purposes of testing cannabis processed by the processor as to chemical  
18 composition, contamination, and consistency.

19       Sec. 46. Each processor shall assign a tracking number to any  
20 cannabis distributed by the processor. A processor shall require any  
21 employee of the processor who is transporting cannabis or cannabis  
22 products to carry identification showing that the person is an employee  
23 of the processor. An employee of a processor shall not transport cannabis  
24 or cannabis products outside the State of Nebraska.

25       Sec. 47. (1) Except as otherwise provided in section 50 of this  
26 act, the department shall register up to ten dispensaries in each  
27 congressional district in Nebraska for the dispensing and sale of all  
28 cannabis to patients within Nebraska by November 1, 2020, unless the  
29 Medical Cannabis Board extends the deadline under section 48 of this act.  
30 The department shall register a dispensary which complies with subsection  
31 (2) of this section based on the factors in subsection (3) of this

1 section. The registration shall be valid until November 1 of the calendar  
2 year following the date of registration and shall be renewed by November  
3 1 of each year thereafter upon application and payment of the annual fee  
4 established pursuant to section 62 of this act to the department and  
5 compliance with the Medical Cannabis Act and the rules and regulations  
6 adopted and promulgated under the act. The department shall renew  
7 registrations based on the factors in subsection (3) of this section. The  
8 department shall continue to accept applications for registration after  
9 November 1, 2020, for any congressional district which does not have ten  
10 dispensaries by such date.

11 (2)(a) As a condition for registration prior to November 1, 2020, a  
12 dispensary shall agree to:

13 (i) Begin supplying cannabis to patients on or before May 1, 2021;  
14 and

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

17 (b) As a condition for registration on and after November 1, 2020, a  
18 dispensary shall agree to supply cannabis to patients in compliance with  
19 the Medical Cannabis Act and otherwise be in compliance with the act and  
20 the rules and regulations adopted and promulgated under the act.

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

23 (a) The technical expertise of the dispensary in distributing  
24 cannabis to patients;

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

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

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

29 Sec. 48. (1) The department shall adopt and promulgate rules and  
30 regulations by November 1, 2020, necessary for a dispensary to begin  
31 dispensing cannabis to patients enrolled in the registry program and

1 publish notice of the proposed rules and regulations prior to May 1,  
2 2020.

3 (2) The department shall, by September 1, 2020, advise the public  
4 and the Medical Cannabis Board if the department is unable to register  
5 producers and processors by November 1, 2020. The department shall  
6 provide a written statement as to the reason or reasons the deadline will  
7 not be met. Upon request of the department, the board shall extend the  
8 deadline by six months but may not extend the deadline more than once.

9 (3) If notified by a producer that distribution to processors and  
10 dispensaries may not begin by May 1, 2021, the department shall advise  
11 the public and the board. Upon notification by the department, the board  
12 shall extend the deadline by six months but may not extend the deadline  
13 more than once.

14 Sec. 49. (1) Prior to the dispensing of any cannabis, a dispensary  
15 shall:

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

19 (b) Assign a tracking number to any cannabis dispensed from the  
20 dispensary; and

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

26 (i) The patient's name;

27 (ii) The patient registry number;

28 (iii) The chemical composition of the cannabis;

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

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

31 (vi) The name and address of the dispensary dispensing the cannabis.

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

4           Sec. 50.   (1) Each producer, processor, and dispensary shall  
5 disclose its proposed location to the department during the registration  
6 process. A county, city, or village governing body may adopt a resolution  
7 or ordinance prohibiting the operation of a producer, processor, or  
8 dispensary or all three within its jurisdiction and may adopt zoning  
9 regulations that reasonably limit a producer, processor, or dispensary to  
10 certain areas within its jurisdiction. If all jurisdictions within a  
11 congressional district adopt a prohibition on the operation of producers  
12 or processors, the department may register an additional producer or  
13 processor in another congressional district. If all jurisdictions within  
14 a congressional district adopt a prohibition on the operation of a  
15 dispensary, the department may register up to ten additional dispensaries  
16 in another congressional district or up to two additional dispensaries in  
17 each of the other congressional districts.

18           (2)(a) A dispensary shall not conduct any cultivation, harvesting,  
19 manufacturing, packaging, or processing of cannabis.

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

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

23           (ii) Procedures for the implementation of appropriate security  
24 measures to deter and prevent the theft of cannabis and unauthorized  
25 entrance into areas containing cannabis.

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

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

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

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

9 (6) Each producer, processor, and dispensary shall not permit any  
10 person to consume cannabis on the property of the producer, processor, or  
11 dispensary.

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

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

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

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

31 (d) The Nebraska State Patrol shall undertake a search for Nebraska

1 criminal history record information concerning the employee. The Nebraska  
2 State Patrol shall issue a report to the department which contains the  
3 results of the criminal history record information check conducted by the  
4 Nebraska State Patrol.

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

8 (9) No producer, processor, or dispensary may operate in any  
9 location within one thousand feet of a public or private school existing  
10 before the date of the producer's, processor's, or dispensary's  
11 registration with the department, except that the distance may be reduced  
12 to five hundred feet in instances where it is allowed by local law and  
13 reasonably necessary to provide adequate access to patients.

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

18 Sec. 51. (1) Subject to section 29 of this act, the following are  
19 not violations under the Medical Cannabis Act:

20 (a) Use or possession of an allowable amount of cannabis, cannabis  
21 products, and cannabis accessories by a patient enrolled in the registry  
22 program or possession of an allowable amount of cannabis, cannabis  
23 products, and cannabis accessories by a registered designated caregiver  
24 or the parent or legal guardian of a patient if the parent or legal  
25 guardian is listed on the registry verification;

26 (b) Possession or sale of cannabis or cannabis products by a  
27 producer, a processor, or a dispensary, employees of a producer, a  
28 processor, or a dispensary, a laboratory conducting testing on cannabis,  
29 or employees of the laboratory; and

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

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

4       (3) The department, the department's staff, the department's agents  
5 or contractors, and participating health care practitioners are not  
6 subject to any civil or disciplinary penalties by any business,  
7 occupational, or professional licensing board or entity, solely for  
8 participation in the registry program under the Medical Cannabis Act.  
9 Nothing in this section affects a professional licensing board from  
10 taking action in response to violations of any other provision of law.

11       (4) A holder of a professional or occupational license may not be  
12 subject to professional discipline solely for providing advice or  
13 services related to medical cannabis activities that are allowed pursuant  
14 to the Medical Cannabis Act.

15       (5) Federal law enforcement authorities are prohibited from  
16 accessing the registry program under the Medical Cannabis Act except when  
17 acting pursuant to a search warrant. State and local law enforcement  
18 authorities are prohibited from accessing the registry program under the  
19 Medical Cannabis Act except (a) when acting pursuant to a search warrant  
20 or (b) to verify an individual's assertion that he or she is a patient or  
21 registered designated caregiver in the registry program.

22       (6) The registry program shall only allow direct access by law  
23 enforcement and dispensary staff by verifying an identification number,  
24 not by inputting names.

25       (7) Any person who violates subsection (5) or (6) of this section is  
26 guilty of a Class I misdemeanor.

27       (8) No information contained in a report, document, or registry or  
28 obtained from a patient under the Medical Cannabis Act may be admitted as  
29 evidence for the prosecution in a criminal proceeding unless  
30 independently obtained or in connection with a proceeding involving a  
31 violation of the act.

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

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

13       (11) The governing body of a county, city, or village shall not  
14 prohibit the delivery of medical cannabis, either expressly or through  
15 the enactment of ordinances or regulations that make the delivery  
16 impracticable in the respective jurisdiction.

17       Sec. 52. Activities related to medical cannabis shall be considered  
18 lawful as long as they are in accordance with the Medical Cannabis Act.

19       Sec. 53. (1) It is the public policy of the State of Nebraska that  
20 contracts related to medical cannabis that are entered into by  
21 cardholders, dispensaries, producers, processors, or agents of  
22 dispensaries, producers, or processors, and those who allow property to  
23 be used by those persons, should be enforceable.

24       (2) It is the public policy of the State of Nebraska that no  
25 contract entered into by a cardholder, a dispensary, a producer, a  
26 processor, an agent of a dispensary, producer, or processor, or a person  
27 who allows property to be used for activities that are exempt from  
28 criminal penalties by the Medical Cannabis Act shall be unenforceable on  
29 the basis that activities related to cannabis are prohibited by federal  
30 law.

31       Sec. 54. (1) No school or landlord may refuse to enroll or lease to

1 and may not otherwise penalize a person solely for the person's status as  
2 a patient enrolled in the registry program under the Medical Cannabis Act  
3 unless failing to do so would violate federal law or regulations or cause  
4 the school or landlord to lose a monetary or licensing-related benefit  
5 under federal law or regulations.

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

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

14 Sec. 55. The department may on its own motion or upon receipt of a  
15 complaint, after investigation and opportunity for a public hearing at  
16 which a dispensary, producer, or processor has been afforded an  
17 opportunity to be heard, suspend or revoke the registration of the  
18 dispensary, producer, or processor for multiple negligent or knowing  
19 violations or for a serious and knowing violation, by the registrant or  
20 any of its agents, of the Medical Cannabis Act or any rules and  
21 regulations adopted and promulgated pursuant to the act.

22 Sec. 56. (1) The department shall immediately revoke the registry  
23 identification card of any cardholder who sells cannabis to a person who  
24 is not allowed to possess cannabis for medical purposes under the Medical  
25 Cannabis Act and the cardholder is disqualified from further  
26 participation under the act.

27 (2) The department may revoke the registry identification card of  
28 any cardholder who knowingly commits multiple unintentional violations or  
29 a serious knowing violation of the act.

30 Sec. 57. (1) In addition to any other applicable penalty, a  
31 dispensary or an agent of a dispensary who intentionally transfers or

1 dispenses cannabis to a person other than a registered dispensary, a  
2 patient, a nonresident cardholder, a registered designated caregiver, or,  
3 if listed on the registry verification, a parent or legal guardian of a  
4 patient, may be prosecuted for a violation of section 28-416. A person  
5 convicted under this section shall not continue to be affiliated with the  
6 dispensary and is disqualified from further participation under the  
7 Medical Cannabis Act.

8 (2) In addition to any other applicable penalty, a producer, a  
9 processor, or an agent of a producer or processor who intentionally  
10 dispenses cannabis to a person other than a registered producer, a  
11 registered processor, or a registered dispensary may be prosecuted for a  
12 violation of section 28-416. A person convicted under this section shall  
13 not continue to be affiliated with the producer or processor and is  
14 disqualified from further participation under the Medical Cannabis Act.

15 Sec. 58. In addition to any other applicable penalty provided by  
16 law, a patient, a registered designated caregiver, or, if listed on the  
17 registry verification, a parent or legal guardian of a patient who  
18 intentionally sells cannabis to a person other than a patient, a  
19 nonresident cardholder, a registered designated caregiver, or, if listed  
20 on the registry verification, a parent or legal guardian of a patient,  
21 may be prosecuted for a violation of section 28-416.

22 Sec. 59. A person who intentionally makes a false statement to a  
23 law enforcement official about any fact or circumstance relating to the  
24 use of cannabis to avoid arrest or prosecution is guilty of a Class III  
25 misdemeanor. The penalty is in addition to any other penalties that may  
26 apply for making a false statement or for the possession, cultivation, or  
27 sale of cannabis not protected by the Medical Cannabis Act. If a person  
28 convicted of violating this section is a patient or a registered  
29 designated caregiver, the person is disqualified from further  
30 participation under the act.

31 Sec. 60. A person who knowingly submits false records or

1 documentation required by the department to register as a producer, a  
2 processor, or a dispensary under the Medical Cannabis Act may be  
3 prosecuted for a violation of section 28-910, 28-911, or 28-915.01.

4 Sec. 61. A producer, a processor, or a dispensary may be fined up  
5 to one thousand dollars for any violation of the Medical Cannabis Act or  
6 the rules and regulations adopted and promulgated pursuant to the act if  
7 no penalty has been specified. This penalty is in addition to any other  
8 applicable penalties in law.

9 Sec. 62. (1) The department shall collect an application fee of  
10 twenty-five thousand dollars from each entity submitting an application  
11 for registration as a producer, a processor, or a dispensary. The  
12 department shall remit the fees to the State Treasurer for credit to the  
13 Medical Cannabis Regulation Fund.

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

22 Sec. 63. The Medical Cannabis Regulation Fund is created and shall  
23 consist of funds from contracts, grants, gifts, or fees under the Medical  
24 Cannabis Act. The fund shall be used for purposes of regulation of  
25 cannabis and administration of the Medical Cannabis Act. Any money in the  
26 Medical Cannabis Regulation Fund available for investment shall be  
27 invested by the state investment officer pursuant to the Nebraska Capital  
28 Expansion Act and the Nebraska State Funds Investment Act.

29 Sec. 64. (1) The department may examine and inspect or provide for  
30 the examination and inspection of any producer, processor, or dispensary  
31 in such manner and at such times as provided in rules and regulations

1 adopted and promulgated by the department. The department shall issue an  
2 examination and inspection report and provide a copy of the report to the  
3 producer, processor, or dispensary within ten working days after the  
4 completion of an examination and inspection. The department shall then  
5 post a copy of the report on its web site.

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

8 Sec. 65. The department shall adopt and promulgate rules and  
9 regulations to establish requirements for law enforcement officials and  
10 health care professionals to report incidents involving an adverse event  
11 involving cannabis to the department. Rules and regulations shall include  
12 the method by which the department will collect and tabulate reports of  
13 diversion of medical cannabis.

14 Sec. 66. The Medical Cannabis Board is established. The board shall  
15 consist of nine members. Seven members shall be appointed by the Governor  
16 and approved by a majority of the members of the Legislature. Of the  
17 appointed members, the board shall have at least one person from each  
18 congressional district, at least one person who is employed by a law  
19 enforcement agency, at least one person licensed to practice medicine and  
20 surgery under the Medicine and Surgery Practice Act, and at least three  
21 persons who are advocates for the use of cannabis. The chief medical  
22 officer as designated in section 81-3115 or his or her designee and the  
23 chairperson of the Health and Human Services Committee of the Legislature  
24 or his or her designee shall be nonvoting, ex officio members.

25 Sec. 67. The Governor shall appoint three of the initial appointed  
26 members of the Medical Cannabis Board for terms of five years and the  
27 remainder of the initial appointed members of the board for terms of one  
28 year, two years, three years, and four years. Appointments made for the  
29 succeeding members shall be for terms of five years. The term of office  
30 of each member of the board shall expire on September 1 of the  
31 appropriate year. If a vacancy occurs prior to the expiration of a term,

1 the Governor shall appoint a successor with similar qualifications for  
2 the remainder of the unexpired term. No appointed member of the board  
3 shall serve more than two consecutive, full terms. If the Legislature is  
4 not in session when an appointment is made by the Governor, the member  
5 shall take office and act as a recess appointee until the Legislature  
6 convenes.

7       Sec. 68. The members of the Medical Cannabis Board shall be  
8 reimbursed for the actual and necessary expenses incurred in the  
9 performance of their duties as provided in sections 81-1174 to 81-1177.

10       Sec. 69. Within thirty days after the initial appointment and in  
11 the last calendar quarter of each subsequent year, the members of the  
12 Medical Cannabis Board shall meet and elect a chairperson of the board  
13 from the appointed members and such other officers, including a vice-  
14 chairperson and a secretary, as the board deems necessary. In case of the  
15 death, resignation, or other permanent absence of the chairperson of the  
16 board, the vice-chairperson shall assume the office of chairperson and  
17 the members of the board at the next regular meeting of the board, or at  
18 a special meeting of the board pursuant to a call signed by all remaining  
19 members of which such members shall have at least three days' notice,  
20 shall elect a new chairperson of the board from the appointed members and  
21 such other new officers as the board deems necessary.

22       Sec. 70. The Medical Cannabis Board shall meet at least once each  
23 quarter and at such other times as it deems necessary. Special meetings  
24 may be held upon the call of the chairperson or pursuant to a call signed  
25 by six other members of which the chairperson and the other members of  
26 the board shall have at least three days' notice. All regular meetings  
27 shall be held in suitable offices to be provided in the state office  
28 building described in section 81-1108.37 or elsewhere. A majority of the  
29 members of the board shall constitute a quorum for the transaction of  
30 business. Every act of a majority of the members of the board shall be  
31 deemed to be the act of the board. All meetings shall be open to the

1 public. The minutes of the meetings shall show the action of the board on  
2 matters presented and shall be open to public inspection.

3 Sec. 71. The Medical Cannabis Board shall appoint a director for  
4 the department and shall advise the department regarding:

5 (1) Rules and regulations for the regulation of cannabis;

6 (2) The policies of the department as they relate to cannabis; and

7 (3) Recommendations for legislative changes regarding regulation of  
8 cannabis.

9 Sec. 72. No member of the Medical Cannabis Board shall be  
10 personally liable in damages to any person for slander, libel, defamation  
11 of character, breach of any privileged communication, or otherwise for  
12 any action taken or recommendation made within the scope of the functions  
13 of such board while acting as an agent of the state if such board member  
14 acts without malice and in the reasonable belief that such action or  
15 recommendation is warranted by the facts known to him or her after a  
16 reasonable effort is made to obtain the facts on which such action is  
17 taken or recommendation is made.

18 Sec. 73. The department shall keep a record of all proceedings,  
19 transactions, communications, and official acts of the Medical Cannabis  
20 Board. The director of the department may appoint or employ such clerks  
21 and other employees as may be necessary to carry out the Medical Cannabis  
22 Act or to perform the duties and exercise the powers conferred by law  
23 upon the board.

24 Sec. 74. Before entering upon the duties of his or her office, each  
25 member of the Medical Cannabis Board shall be bonded or insured as  
26 required by section 11-201. Employees of the department who are  
27 accountable for public funds shall be bonded or insured as required by  
28 section 11-201 to secure the safety of such funds. The premium shall be  
29 paid by the State of Nebraska out of the General Fund. Before entering  
30 upon the duties of his or her office, the director of the department  
31 shall be bonded or insured as required by section 11-201.

1           Sec. 75. (1) No person shall be appointed as a member of the  
2 Medical Cannabis Board, the director of the department, or an employee of  
3 the department who is not a citizen of the United States and who has not  
4 resided within the State of Nebraska successively for two years next  
5 preceding the date of his or her appointment.

6           (2) No person (a) convicted of or who has pleaded guilty to a felony  
7 or any violation of any federal or state law concerning the manufacture  
8 or sale of controlled substances prior or subsequent to the passage of  
9 the Medical Cannabis Act, (b) who has paid a fine or penalty in  
10 settlement of any prosecution against him or her for any violation of  
11 such laws, or (c) who has forfeited his or her bond to appear in court to  
12 answer charges for any such violation shall be appointed as a member of  
13 the board.

14           (3)(a) Except as otherwise provided in subdivision (b) of this  
15 subsection, no member of the board or employee of the department may,  
16 directly or indirectly, individually, as a member of a partnership, as a  
17 member of a limited liability company, or as a shareholder of a  
18 corporation, have any interest whatsoever in the manufacture, sale, or  
19 distribution of cannabis, receive any compensation or profit from such  
20 manufacture, sale, or distribution, or have any interest whatsoever in  
21 the purchases or sales made by the persons authorized by the act to  
22 purchase or to sell cannabis.

23           (b) With the written approval of the director, an employee of the  
24 department, other than the director, may accept part-time or seasonal  
25 employment with a person licensed or regulated by the department. No such  
26 employment shall be approved if the licensee receives more than fifty  
27 percent of the licensee's gross revenue from the sale or dispensing of  
28 cannabis.

29           (4) This section shall not prevent any member of the board, the  
30 director, or any employee of the department from purchasing and keeping  
31 in his or her possession for the use of himself, herself, or members of

1 his or her family or guests any cannabis which may be purchased or kept  
2 by any person pursuant to the act.

3 Sec. 76. A member of the Medical Cannabis Board, the director of  
4 the department, or any person appointed or employed by the department  
5 shall not solicit or accept any gift, gratuity, emolument, or employment  
6 from any person subject to the Medical Cannabis Act or from any officer,  
7 agent, or employee thereof or solicit, request from, or recommend,  
8 directly or indirectly, to any such person or to any officer, agent, or  
9 employee thereof the appointment of any person to any place or position.  
10 Any such person and every officer, agent, or employee thereof may not  
11 offer to any member of the board, the director, or any person appointed  
12 or employed by the department any gift, gratuity, emolument, or  
13 employment. If a member of the board, the director, or any person  
14 appointed or employed by the department violates this section, he or she  
15 shall be removed from his or her office or employment. Every person  
16 violating this section shall be guilty of a Class II misdemeanor.

17 Sec. 77. The director of the department, and all employees of the  
18 department shall be reimbursed for all actual and necessary traveling  
19 expenses and disbursements incurred or made by them in the discharge of  
20 their official duties under the Medical Cannabis Act as provided in  
21 sections 81-1174 to 81-1177. The department may also incur necessary  
22 expenses for office furniture and other incidental expenses. The director  
23 or an employee of the department shall not request or be allowed mileage  
24 or other traveling expenses unless such sections are strictly complied  
25 with.

26 Sec. 78. The office of the department shall be in Lincoln, but the  
27 department may establish and maintain branch offices at places other than  
28 the seat of government. The Medical Cannabis Board and the department  
29 may, for authentication of records, process, and proceedings, adopt,  
30 keep, and use a common seal, of which seal judicial notice shall be taken  
31 in all of the courts of the state. Any process, notice, or other paper

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

8       Sec. 79. The Attorney General shall designate an assistant attorney  
9 general or assistant attorneys general, when requested by the Medical  
10 Cannabis Board, and the services of such assistant attorney general or  
11 assistant attorneys general shall be available to the board or department  
12 whenever demanded. The compensation of such assistant attorney general or  
13 assistant attorneys general as are assigned to the board or department  
14 shall be paid by the office of the Attorney General.

15       Sec. 80. Section 28-416, Revised Statutes Cumulative Supplement,  
16 2018, is amended to read:

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

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

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

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

28 (b) For purposes of this subsection:

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

1 recreation of children, including sliding boards, swingsets, and  
2 teeterboards;

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

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

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

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

26 (c) Any person who violates subdivision (a) or (b) of this  
27 subsection shall be punished by the next higher penalty classification  
28 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of  
29 this section, depending upon the controlled substance involved, for the  
30 first violation and for a second or subsequent violation shall be  
31 punished by the next higher penalty classification than that prescribed

1 for a first violation of this subsection, but in no event shall such  
2 person be punished by a penalty greater than a Class IB felony.

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

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

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

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

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

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

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

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

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

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

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

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

31 (c) At least ten grams but less than twenty-eight grams shall be

1 guilty of a Class ID felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 derived from, used, or intended to be used to facilitate a violation of  
2 subsection (1) of this section.

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

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

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

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

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

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

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

30 (ii) For a second offense, the court may, as part of the judgment of  
31 conviction or adjudication, (A) prohibit such person from obtaining any

1 permit or any license pursuant to the act for which such person would  
2 otherwise be eligible until ninety days after the date of such order and  
3 (B) require such person to complete no fewer than twenty hours and no  
4 more than forty hours of community service and to attend a drug education  
5 class; and

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

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

18 Sec. 81. Section 28-439, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

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

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

31 (2) Separation gins and sifters used, intended for use, or designed

1 for use in removing twigs and seeds from, or in otherwise cleaning or  
2 refining, marijuana;

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

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

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

13 (b) Water pipes;

14 (c) Carburetion tubes and devices;

15 (d) Smoking and carburetion masks;

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

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

20 (g) Chamber pipes;

21 (h) Carburetor pipes;

22 (i) Electric pipes;

23 (j) Air-driven pipes;

24 (k) Chillums;

25 (l) Bongs; and

26 (m) Ice pipes or chillers.

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

29 77-2701.48 (1) Bundled transaction means the retail sale of two or  
30 more products, except real property and services to real property, when

31 (a) the products are otherwise distinct and identifiable and (b) the

1 products are sold for one non-itemized price. Bundled transaction does  
2 not include the sale of any products in which the sales price varies, or  
3 is negotiable, based on the selection by the purchaser of the products  
4 included in the transaction.

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

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

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

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

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

24 (4) A transaction that otherwise meets the definition of a bundled  
25 transaction is not a bundled transaction if it is (a) the retail sale of  
26 tangible personal property and a service where the tangible personal  
27 property is essential to the use of the service, and is provided  
28 exclusively in connection with the service, and the true object of the  
29 transaction is the service, (b) the retail sale of services when one  
30 service is provided that is essential to the use or receipt of a second  
31 service and the first service is provided exclusively in connection with

1 the second service and the true object of the transaction is the second  
2 service, or (c) a transaction that includes taxable products and  
3 nontaxable products and the purchase price or sales price of the taxable  
4 products is de minimus. De minimus means the seller's purchase price or  
5 sales price of the taxable products is ten percent or less of the total  
6 purchase price or sales price of the bundled products. Sellers shall use  
7 either the purchase price or the sales price of the products to determine  
8 if the taxable products are de minimus. Sellers may not use a combination  
9 of the purchase price and sales price of the products to determine if the  
10 taxable products are de minimus. Sellers shall use the full term of a  
11 service contract to determine if the taxable products are de minimus.

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

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

25 77-2704.09 (1) Sales and use taxes shall not be imposed on the gross  
26 receipts from the sale, lease, or rental of and the storage, use, or  
27 other consumption in this state of (a) insulin, (b) mobility enhancing  
28 equipment and drugs, not including over-the-counter drugs, when sold for  
29 a patient's use under a prescription, and (c) the following when sold for  
30 a patient's use under a prescription and which are of the type eligible  
31 for coverage under the medical assistance program established pursuant to

1 the Medical Assistance Act: Durable medical equipment; home medical  
2 supplies; prosthetic devices; oxygen; and oxygen equipment.

3 (2) For purposes of this section:

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

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

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

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

14 (ii) Drug does not include cannabis obtained pursuant to the Medical  
15 Cannabis Act;

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

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

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

1 any motor vehicle or equipment on a motor vehicle normally provided by a  
2 motor vehicle manufacturer;

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

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

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

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

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

27 77-27,132 (1) There is hereby created a fund to be designated the  
28 Revenue Distribution Fund which shall be set apart and maintained by the  
29 Tax Commissioner. Revenue not required to be credited to the General Fund  
30 or any other specified fund may be credited to the Revenue Distribution  
31 Fund. Credits and refunds of such revenue shall be paid from the Revenue

1 Distribution Fund. The balance of the amount credited, after credits and  
2 refunds, shall be allocated as provided by the statutes creating such  
3 revenue.

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

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

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

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

30 (d) Of the proceeds of the sales and use taxes derived from  
31 transactions other than those listed in subdivisions (2)(a), ~~and (b),~~ and

1 (e) of this section, credit to the Property Tax Credit Cash Fund the  
2 amount certified under section 77-27,237, if any such certification is  
3 made; and -

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

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

10 Sec. 85. Section 77-27,237, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 77-27,237 If the federal government passes a law that expands the  
13 state's authority to require out-of-state retailers to collect and remit  
14 the tax imposed under section 77-2703 on purchases by Nebraska residents  
15 and the state collects additional revenue under section 77-2703 as a  
16 result of such federal law, then the Department of Revenue shall  
17 determine the amount of such additional revenue collected during the  
18 first twelve months following the date on which the state begins  
19 collecting such additional revenue. The department shall certify such  
20 amount to the Governor, the Legislature, and the State Treasurer, and the  
21 certified amount shall be used for purposes of subdivision (2)(e) ~~(2)(d)~~  
22 of section 77-27,132. This section terminates three years after August  
23 30, 2015.

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

26 77-4303 (1) A tax is hereby imposed on marijuana and controlled  
27 substances at the following rates:

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

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

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

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

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

15 Sec. 87. Sections 82, 83, 84, 85, 86, and 89 of this act become  
16 operative on October 1, 2019. The other sections of this act become  
17 operative on their effective date.

18 Sec. 88. Original section 28-439, Reissue Revised Statutes of  
19 Nebraska, and section 28-416, Revised Statutes Cumulative Supplement,  
20 2018, are repealed.

21 Sec. 89. Original sections 77-2701.48, 77-2704.09, 77-27,132,  
22 77-27,237, and 77-4303, Reissue Revised Statutes of Nebraska, are  
23 repealed.

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