LEGISLATIVE BILL 1275

Introduced by Groene, 42.

Read first time January 20, 2022

Committee: Judiciary

A BILL FOR AN ACT relating to cannabis; to amend sections 28-439, 60-6,211.08, 77-2701.48, 77-2704.09, and 77-4303, Reissue Revised Statutes of Nebraska, sections 28-416 and 71-2454, Revised Statutes Cumulative Supplement, 2020, and section 77-27,132, Revised Statutes Supplement, 2021; to adopt the Medicinal Cannabis Act; to provide civil and criminal penalties; to create a fund; to change provisions relating to controlled substances, open containers, and taxation; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 67 of this act shall be known and may be cited as the Medicinal Cannabis Act.

Sec. 2. For purposes of the Medicinal Cannabis Act, the definitions found in sections 3 to 22 of this act apply.

Sec. 3. Allowable amount of cannabis means:

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

(2) Cannabis products that: (a) Contain no more than one thousand milligrams of delta-9-tetrahydrocannabinol and (b) have a maximum concentration of delta-9-tetrahydrocannabinol of no more than fifteen percent.

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

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

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

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

(2) Cannabis does not include (a) any prescription drug approved under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2022, or (b) hemp or hemp products as allowed under the Nebraska Hemp Farming Act.

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

(2) Cannabis accessory does not include a bong, pipe, rolling paper, or other paraphernalia that is used to inhale cannabis in violation of section 47 of this act.
Sec. 7. (1) Cannabis product means a product (a) that is infused with cannabis or an extract thereof or that consists of cannabis resin or extract and (b) that is intended for use by humans.

(2) Cannabis product includes only an oil or a pill. Cannabis product does not include an edible cannabis product, except for a pill.

Sec. 8. Department means the Cannabis Enforcement Department.

Sec. 9. Designated caregiver means:

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

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

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

   (c) Is not prohibited from participating in the registry program pursuant to section 44 of this act;

(2) The parent or legal guardian of a patient if not prohibited from participating in the registry program pursuant to section 44 of this act; or

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

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

Sec. 11. Felony offense means a violation of Nebraska or federal law that is a felony or of another state's law which would be a felony if committed in Nebraska, regardless of the sentence imposed. Felony offense does not include an offense that consists of conduct for which the
Medicinal Cannabis Act would likely have prevented a conviction, except that the conduct either occurred prior to the operative date of this section or was prosecuted by an authority other than this state.

Sec. 12. Health care practitioner means a person licensed (1) under the Medicine and Surgery Practice Act to practice medicine and surgery or osteopathic medicine and surgery, (2) under the Medicine and Surgery Practice Act to practice as a physician assistant, or (3) under the Advanced Practice Registered Nurse Practice Act to practice as a nurse practitioner.

Sec. 13. (1) Medicinal use includes the acquisition, administration, delivery, possession, preparation, transfer, transportation, or use of cannabis, cannabis products, or cannabis accessories relating to the administration of cannabis to treat or alleviate a patient's qualifying medical condition or symptoms associated with the patient's qualifying medical condition.

(2) Medicinal use does not include:

(a) The cultivation of cannabis; or

(b) The extraction of resin from cannabis by solvent extraction.

Sec. 14. Nonresident caregiver means a person who:

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

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

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

Sec. 15. Nonresident patient means a person who:

(1) Has been diagnosed with a qualifying medical condition;
(2) Is not a resident of Nebraska or has been a resident of Nebraska for less than forty-five days; and

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

Sec. 16. Participating health care practitioner means a health care practitioner who (1) is treating a registered patient and (2) complies with the requirements of section 32 of this act.

Sec. 17. Patient registry number means a unique identification number assigned by the department to a patient enrolled in the registry program.

Sec. 18. Qualifying medical condition means a current diagnosis of any of the following conditions:

(1) Stage IV cancer;

(2) Uncontrolled seizures;

(3) Severe or persistent muscle spasms caused by multiple sclerosis or muscular dystrophy; or

(4) A terminal illness with a probable life expectancy of under one year.

Sec. 19. Registered patient means a patient enrolled in the registry program.

Sec. 20. Registry program means the mandatory patient registry established under the Medicinal Cannabis Act.

Sec. 21. Registry verification means the verification provided by the department that a patient is enrolled in the registry program pursuant to subsection (5) of section 30 of this act.

Sec. 22. Written certification means a document that is made in accordance with sections 32 and 34 of this act and that states that a patient has been diagnosed with a qualifying medical condition.
Sec. 23. (1) Nothing in the Medicinal Cannabis Act permits any
person to engage in or prevents the imposition of any civil, criminal, or
other penalties for:

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

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

(i) On a school bus or van;

(ii) On the grounds of any preschool or primary or secondary school
except as provided in section 24 of this act;

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

(iv) On the grounds of any child care facility or home daycare
except as provided in section 24 of this act;

(c) Consuming cannabis or cannabis products in a motor vehicle;

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

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

(2) Nothing in the Medicinal Cannabis Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 25. (1) Nothing in the Medicinal Cannabis Act allows the medical assistance program established pursuant to the Medical Assistance Act to reimburse an enrollee or a provider under the medical assistance program for costs associated with the medicinal use of cannabis. The medical assistance program shall continue to provide coverage for all other services related to treatment of an enrollee's qualifying medical condition if the service is covered under the medical assistance program.

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

Sec. 26. (1) The department shall establish and maintain a mandatory registry program for registered patients and designated caregivers. The registry shall include (a) the name, address, and telephone number of each registered patient, (b) the participating health care practitioner for the registered patient, and (c) the designated caregiver for the registered patient, if any.

(2) The registry program shall assign a patient registry number to each registered patient. The patient registry number shall be a random, unique ten-digit alphanumeric identification number.

(3) A person may apply to the department for enrollment in the registry program by submitting an application pursuant to section 29 of this act. The department shall ensure that the application and related information are kept confidential to protect the privacy of the applicant.

Sec. 27. (1) A registered patient or nonresident patient may engage
in the medicinal use of cannabis.

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

(a) The medicinal use of cannabis pursuant to the Medicinal Cannabis
Act if the registered patient or designated caregiver (i) does not
possess more than the allowable amount of cannabis and (ii) is in
possession of the registered patient's valid registry verification;

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

(c) Compensating a dispensary for goods or services provided.

(3) A nonresident patient or nonresident caregiver shall not be
subject to citation, arrest, prosecution, or penalty in any manner, or
denied any right or privilege, including, but not limited to, any civil
penalty or disciplinary action by a business or occupational or
professional licensing board, for transporting, purchasing, possessing,
or using cannabis pursuant to the Medicinal Cannabis Act if the
nonresident patient or nonresident caregiver does not possess more than
an allowable amount of cannabis and the nonresident patient or
nonresident caregiver is in possession of any documentation required by
section 14 or 15 of this act.

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

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

(1) Providing or selling cannabis accessories to a registered
patient, designated caregiver, nonresident patient, nonresident
caregiver, or dispensary;

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

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

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

Sec. 29. (1) To be eligible to enroll in the registry program, an
applicant shall:

(a) Be a Nebraska resident;

(b)(i) For an applicant who is nineteen years of age or older, have
been issued a written certification within ninety days prior to
submission of an application under this section; or

(ii) For an applicant who is under nineteen years of age, have been
issued a written certification by three separate participating health
care practitioners within ninety days prior to submission of an
application under this section;

(c) Not be prohibited from participating pursuant to section 44 of
this act;
(d) Have signed a disclosure form if the department has provided a disclosure form on its website; and

(e) In the case of an applicant younger than nineteen years of age, have an affidavit which is signed by the applicant's parent or legal guardian with responsibility for health care decisions for the applicant, which states that the parent or legal guardian grants permission for the applicant's medicinal use of cannabis, and which states that the parent or legal guardian agrees to control the use of cannabis by the applicant.

(2) The department shall develop an application for enrollment in the registry program. The application shall be available to the person seeking to become a registered patient and given to participating health care practitioners in Nebraska. The application shall include:

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

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

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

(d) A copy of the written certification or certifications as required by subsection (1) of this section;

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

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

(g) An oath, affirmation, or statement to the effect that its representations are true as far as the applicant knows or should know.

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

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

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

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

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

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

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

Sec. 30. (1) Within thirty days after receipt of an application and signed disclosure and consent forms, the department shall give notice of denial under subsection (2) of this section or enroll the applicant in the registry program and issue the applicant and the designated caregiver, if applicable, a registry verification. An applicant's enrollment in the registry program shall only be denied if the applicant:

(a) Does not submit a written certification;

(b) Has not signed and returned to the department the forms required
under section 29 of this act;

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

(d) Has previously been removed from the registry program for a violation of section 44, 45, 46, 47, or 48 of this act; or

(e) Provides false information under the act.

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

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

(4) A registered patient's enrollment in the registry program shall be revoked if a patient violates section 44, 45, 46, 47, or 48 of this act, provides false information under the act, or upon the death of the patient.

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

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

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

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

(d) The dates for which the enrollment is valid.

Sec. 31. (1) The department shall register a person as a designated caregiver for a patient if the person signs a statement agreeing to serve as the designated caregiver. For a caregiver which is not a natural person, the agreement shall be signed by the chief executive officer or chief operating officer of the entity.

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

(a) For a natural person:
(i) Be at least twenty-one years of age or the parent or legal
guardian of the patient;

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

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

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

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

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

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

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

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

Sec. 32. (1) Prior to a patient's enrollment in the registry
program, a participating health care practitioner shall determine, in the
medical judgment of the participating health care practitioner, whether a
patient suffers from a qualifying medical condition and, if so
determined, provide the patient with a written certification. A
participating health care practitioner shall not issue more than one
hundred written certifications in a calendar year or more than twenty-
five written certifications in any ninety-day period.

(2) Nothing in this section requires a health care practitioner to
participate under the Medicinal Cannabis Act.
(3) A health care practitioner who issues one or more written certifications in a calendar year shall complete twenty hours of continuing medical education approved by the Medicinal Cannabis Board. The continuing medical education shall include instruction regarding the risks and benefits of cannabis used for medicinal purposes, substance abuse disorder, and best practices for pain management.

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

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

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

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

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

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

(iii) A physical examination; and

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

(6) The participating health care practitioner shall include on any written certification any appropriate recommendations, limitations, or
restrictions regarding dosage or the form of cannabis as will be
beneficial for the patient.

(7) Any written certification issued twenty days or more after the
department notifies health care practitioners that a standardized written
certification form is available on its website in accordance with section
34 of this act shall be issued on the form.

(8) A participating health care practitioner shall not:

(a) Accept, solicit, or offer any form of pecuniary remuneration
from or to a dispensary or any other business involved in the
manufacture, sale, or distribution of cannabis;

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

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

(d) Hold an economic interest in a dispensary or any other business
involved in the manufacture, sale, or distribution of cannabis, whether
directly or indirectly, individually, as a member of a partnership, as a
member of a limited liability company, or as a shareholder of a
corporation.

(9) If the department or Medicinal Cannabis Board has reasonable
cause to believe that a health care practitioner has violated this
section, the department or Medicinal Cannabis Board shall refer the
matter to the Department of Health and Human Services for an
investigation and determination. If the Medicinal Cannabis Board finds
that the health care practitioner violated this section, the board may
direct the Cannabis Enforcement Department to restrict the health care
practitioner's authority to recommend the use of cannabis or act as a
participating health care practitioner. This restriction may be in
addition to any sanction imposed by the Department of Health and Human
Services.

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

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

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

(c) Any other violation of this section.

Sec. 33. A pharmacist shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by the Department of Health and Human Services or by any other occupational or professional licensing board, solely for providing cannabis or related advice in accordance with the Medicinal Cannabis Act. The Medicinal Cannabis Act does not prevent a pharmacist from being sanctioned for violating the act or negligently providing advice that is counter to information provided by the cannabis continuing education course required by section 35 of this act.

Sec. 34. The department shall:

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

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

(3) Develop security and record-keeping requirements for the delivery of cannabis from dispensaries to a registered patient, designated caregiver, nonresident patient, or nonresident caregiver.

Sec. 35. (1) Except as otherwise provided in section 37 of this act, the department shall register up to five dispensaries in each congressional district in Nebraska for the dispensing and sale of cannabis for medicinal use within Nebraska. The department shall register a dispensary which complies with subsection (2) of this section based on the factors in subsection (3) of this section. The registration shall be valid until November 1 of the calendar year following the date of registration and shall be renewed by November 1 of each year thereafter upon application, payment of an annual fee of twenty-five thousand dollars, and compliance with the Medicinal Cannabis Act and the rules and regulations adopted and promulgated under the act. The department shall renew registrations based on the factors in subsection (3) of this section. The department shall continue to accept applications for registration after November 1, 2023, for any congressional district which does not have five dispensaries by such date.

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

(b) An applicant for registration as a dispensary shall submit an application fee of twenty-five thousand dollars.

(c) The department shall remit application fees and annual fees collected under this section to the State Treasurer for credit to the Medicinal Cannabis Regulation Fund.

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

(a) The technical expertise of the dispensary in distributing cannabis to patients:
(b) The qualifications of the employees of the dispensary; 

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

(d) The ability to provide appropriate security measures on the 

premises of the dispensary. 

(4)(a) Each dispensary shall employ at least one pharmacist who is 

licensed under the Pharmacy Practice Act and who has completed at least 

thirty hours of continuing education course material on the medicinal use 

of cannabis, which has been approved by the Medicinal Cannabis Board. The 

pharmacist shall be available to patients and dispensary staff, in 

person, during business hours to advise and educate patients and to 

consult about appropriate dosing in accordance with any recommendations, 

limitations, or restrictions contained in the patient's written 

certification or otherwise provided by the patient's participating health 

care practitioner. 

(b) Dispensary staff shall notify registered patients, designated 
caregivers, nonresident patients, and nonresident caregivers of the 

availability of the pharmacist to provide a consultation at no additional 

charge at each sale of cannabis. 

(c) The continuing education courses for pharmacists shall include 

information on drug interactions, dosages for various cannabis 

preparations, counter-indications, and the risks and benefits of 
cannabis. Each dispensary staff member who provides cannabis or cannabis 

products to a registered patient, a designated caregiver, a nonresident 

patient, or a nonresident caregiver shall complete a fifteen-hour 

cannabis education course approved by the Medicinal Cannabis Board prior 
to providing cannabis to a registered patient, a designated caregiver, a 

nonresident patient, or a nonresident caregiver. 

(d) A pharmacist employed by a dispensary shall not hold an economic 

interest in a dispensary or any other business involved in the 

manufacture, sale, or distribution of cannabis, whether directly or 

indirectly, individually, as a member of a partnership, as a member of a
limited liability company, or as a shareholder of a corporation.

(5) The department shall, by November 1, 2023, adopt and promulgate rules and regulations necessary for a dispensary to begin dispensing cannabis for medicinal use and shall publish notice of the proposed rules and regulations prior to May 1, 2023.

Sec. 36. (1) Prior to dispensing any cannabis, a dispensary shall:

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

(b) Cause information regarding the dispensed cannabis to be submitted to the prescription drug monitoring system pursuant to section 71-2454;

(c) Assign a tracking number to any cannabis dispensed from the dispensary;

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

(i) The name of the registered patient or nonresident patient;

(ii) For a registered patient, the patient registry number;

(iii) For a nonresident patient, any relevant identification number from the patient's out-state registry verification or equivalent, as required by any rules and regulations of the department;

(iv) The chemical composition of the cannabis;

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

(vi) The date the cannabis is dispensed;

(vii) The name and address of the dispensary dispensing the cannabis;

(viii) For a registered patient, the name and address of the
participating health practitioner who provided the written certification
for the patient. For a nonresident patient, the dispensary shall enter
any similar information as required by the rules and regulations of the
department; and

(ix) The name and address of the supervising pharmacist present when
cannabis was dispensed; and

(e) Provide an informational document containing warnings as
prescribed by section 64 of this act.

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

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

Sec. 37. (1) Each dispensary shall disclose its proposed location
to the department during the registration process. A county, city, or
village governing body may adopt a resolution or ordinance prohibiting
the operation of dispensaries within its jurisdiction and may adopt
zoning regulations that limit dispensaries to certain areas within its
jurisdiction.

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

(b) The operating documents of a dispensary shall include:
(i) Procedures for the oversight of the dispensary and procedures to
ensure accurate record keeping; and

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

(3) Each dispensary shall implement security requirements, including
requirements for protection of its location by a fully operational
security alarm system, facility access controls, perimeter intrusion
detection systems, and a personnel identification system.
(4) A dispensary shall not share office space with or refer patients to a participating health care practitioner.

(5) A dispensary shall not permit any person to consume cannabis on the property of the dispensary.

(6) A dispensary is subject to inspection by the department or its designee.

(7)(a) No dispensary shall employ any person who is under twenty-one years of age or who has been convicted of a felony offense. Each employee of a dispensary shall complete a criminal history record information check before the employee may begin working with the dispensary.

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

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

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

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

(8) No dispensary may operate in any location within one thousand feet of a public or private school.
(9) A dispensary shall comply with reasonable restrictions set by the department relating to signage and to display of cannabis and shall comply with local zoning regulations.

(10) A dispensary shall not engage in public marketing or advertising of cannabis or cannabis products.

Sec. 38. (1) Subject to section 23 of this act, the following activities are authorized under the Medicinal Cannabis Act and shall not be grounds for citation, arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board:

(a) Use or possession of an allowable amount of cannabis, cannabis products, and cannabis accessories by a registered patient or a nonresident patient or possession of an allowable amount of cannabis, cannabis products, and cannabis accessories by a designated caregiver or a nonresident caregiver;

(b) Possession or sale of cannabis, cannabis products, or cannabis accessories by a dispensary or employees of a dispensary; or

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

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

(3) The department, the department's staff, the department's agents or contractors, and participating health care practitioners are not subject to any civil or disciplinary penalties by any business, occupational, or professional licensing board or entity, solely for participation in the registry program under the Medicinal Cannabis Act. Nothing in this section prevents a professional licensing board from taking action in response to violations of any other provision of law.
(4) A holder of a professional or occupational license may not be subject to professional discipline solely for providing services related to cannabis activities that are allowed pursuant to the Medicinal Cannabis Act.

(5) State and local law enforcement authorities are prohibited from accessing the registry program under the Medicinal Cannabis Act except (a) when acting pursuant to a search warrant or (b) to verify a person's assertion that such person is a patient or registered designated caregiver in the registry program.

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

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

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

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

(10) An attorney shall not be subject to disciplinary action for providing legal assistance to a registered patient, a designated caregiver, a nonresident patient, a nonresident caregiver, or a prospective or registered dispensary or to others related to activity that is no longer subject to criminal penalties under state law pursuant to the Medicinal Cannabis Act.
Possession of a registry verification, an application for enrollment in the registry program, or a written certification and related documentation by a person entitled to possess or apply for enrollment in the registry program does not constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the person possessing or applying for the registry verification or otherwise subject the person or property of the person to inspection by any governmental agency.

Sec. 39. Activities related to cannabis, cannabis products, and cannabis accessories shall be lawful as long as they are conducted in accordance with the Medicinal Cannabis Act.

Sec. 40. Contracts related to cannabis, cannabis products, and cannabis accessories for use under the Medicinal Cannabis Act, that are entered into by registered patients, designated caregivers, nonresident patients, nonresident caregivers, dispensaries, or agents of dispensaries, and those who allow property to be used by those persons, shall be enforceable.

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

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

Sec. 42. (1) No state or local agency shall restrict, revoke, suspend, or otherwise infringe upon a person's right to own or possess a firearm or ammunition based on the person's status as a registered
patient, designated caregiver, nonresident patient, or nonresident caregiver or for conduct allowed under the Medicinal Cannabis Act.

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

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

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

Sec. 43. (1) The department may on its own motion or upon receipt of a complaint, after investigation and opportunity for a public hearing at which a dispensary has been afforded an opportunity to be heard, suspend or revoke the registration of the dispensary for a violation by the dispensary or any of its agents, of the Medicinal Cannabis Act or any rules and regulations adopted and promulgated pursuant to the act.

(2) The department shall immediately prohibit any further participation under the Medicinal Cannabis Act by an employee, a principal, or a director of a dispensary, or who sells cannabis to a person who is not allowed to possess cannabis under the Medicinal Cannabis Act.
(3) The department shall maintain a list of employees, principals, or directors and former employees, principals, or directors of dispensaries who are prohibited from further participation under the Medicinal Cannabis Act and share it with state and local law enforcement and dispensaries. The list shall include the date of birth, the full name, and the last-known address for each person listed.

Sec. 44. (1) The department shall immediately revoke the registry verification, including any identification card, of a registered patient who knowingly transfers cannabis to another person. The department shall immediately revoke a person's designation as a designated caregiver if such person knowingly transfers cannabis to a person other than the patient for which such person is a designated caregiver.

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

(3) A registered patient, designated caregiver, nonresident patient, or nonresident caregiver who is disqualified from further participation under the Medicinal Cannabis Act is not allowed to possess cannabis under the act.

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

(5) If a nonresident patient or nonresident caregiver violates the Medicinal Cannabis Act or the rules and regulations adopted and
promulgated under the act, the department shall notify the authority in
the patient's or caregiver's state of residence which issues the
applicable registry verification or similar documentation.

Sec. 45. In addition to any other applicable penalty, a dispensary
or an agent of a dispensary who intentionally transfers or dispenses
cannabis to a person other than a registered patient, a designated
caregiver, a nonresident patient, or a nonresident caregiver may be
prosecuted for a violation of section 28-416. A person convicted under
this section shall not continue to be affiliated with the dispensary and
is disqualified from further participation under the Medicinal Cannabis
Act.

Sec. 46. In addition to any other applicable penalty provided by
law, a registered patient, designated caregiver, nonresident patient, or
nonresident caregiver who intentionally transfers cannabis to a person
other than a registered patient, designated caregiver, nonresident
patient, or nonresident caregiver as authorized by the Medicinal Cannabis
Act may be prosecuted for a violation of section 28-416.

Sec. 47. It shall be unlawful for a registered patient or
nonresident patient to inhale cannabis or use a device to facilitate the
inhalation of cannabis. This includes inhalation by means of combustion
of the cannabis that causes burning and inhalation by means of
vaporization in which cannabis is heated below the point of combustion. A
violation of this section is an infraction subject to sections 29-422 to
29-438.

Sec. 48. A person who intentionally makes a false statement to a
law enforcement official about any fact or circumstance relating to the
use of cannabis to avoid arrest or prosecution is guilty of a Class III
misdemeanor. The penalty is in addition to any other penalties that may
apply for making a false statement or for the possession, cultivation, or
sale of cannabis not protected by the Medicinal Cannabis Act. If a person
convicted of violating this section is a registered patient, designated
caregiver, nonresident patient, or nonresident caregiver, the person is
disqualified from further participation under the act.

Sec. 49. A person who knowingly submits false records or
documentation required by the department to register as a dispensary
under the Medicinal Cannabis Act may be prosecuted for any violations of
section 28-910, 28-911, or 28-915.01.

Sec. 50. A dispensary may be fined up to ten thousand dollars for
any violation of the Medicinal Cannabis Act or the rules and regulations
adopted and promulgated pursuant to the act if no penalty has been
specified. This penalty is in addition to any other applicable penalties
in law.

Sec. 51. The Medicinal Cannabis Regulation Fund is created and
shall consist of funds from contracts, grants, gifts, or fees under the
Medicinal Cannabis Act. The fund shall be used for purposes of regulation
of cannabis and administration of the Medicinal Cannabis Act. Any money
in the Medicinal Cannabis Regulation Fund available for investment shall
be invested by the state investment officer pursuant to the Nebraska
Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 52. (1) The department may examine and inspect or provide for
the examination and inspection of any dispensary in such manner and at
such times as provided in rules and regulations adopted and promulgated
by the department. The department shall issue an examination and
inspection report and provide a copy of the report to the dispensary
within ten working days after the completion of an examination and
inspection. The department shall then post a copy of the report on its
website.

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

Sec. 53. The department shall adopt and promulgate rules and
regulations to establish requirements for law enforcement officials and
health care professionals to report incidents involving an adverse event
involving cannabis to the department. Rules and regulations shall include
the method by which the department will collect and tabulate reports of
diversion of cannabis.

Sec. 54. The Medicinal Cannabis Board is established. The board
shall consist of seven members. The Governor shall appoint the members
subject to approval by a majority of the members of the Legislature. The
board shall have at least one member appointed from each congressional
district. Except as otherwise provided in section 55 of this act, the
members shall include one person who is employed by a law enforcement
agency, two persons licensed to practice medicine and surgery under the
Medicine and Surgery Practice Act, two persons who are licensed as
pharmacists under the Pharmacy Practice Act, one registered patient or
designated caregiver, and one person with experience in substance abuse
treatment. The chief medical officer as designated in section 81-3115 or
such officer's designee and the chairperson of the Health and Human
Services Committee of the Legislature or the chairperson's designee shall
be nonvoting advisors.

Sec. 55. For the initial appointments to the Medicinal Cannabis
Board, the Governor shall appoint a person with a qualifying medical
condition or a caregiver of a person with a qualifying medical condition
in lieu of a registered patient or a designated caregiver for a term of
one year, and the successor to such appointment shall be a registered
patient or a designated caregiver appointed for a term of five years. For
the remainder of the initial appointments, the Governor shall appoint
three of the members of the board for terms of five years and the
remainder of the initial appointed members of the board for terms of two
years, three years, and four years. Appointments made for the succeeding
members shall be for terms of five years. The term of office of each
member of the board shall expire on September 1 of the appropriate year.
If a vacancy occurs prior to the expiration of a term, the Governor shall
appoint a successor with similar qualifications for the remainder of the
unexpired term. No member of the board shall serve more than two consecutive, full terms. If the Legislature is not in session when an appointment is made by the Governor, the member shall take office and act as a recess appointee until the Legislature convenes.

Sec. 56. The members of the Medicinal Cannabis Board shall be reimbursed for the expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

Sec. 57. (1) Within thirty days after the initial appointment and in the last calendar quarter of each subsequent year, the members of the Medicinal Cannabis Board shall meet and elect a chairperson of the board from the appointed members and such other officers, including a vice-chairperson and a secretary, as the board deems necessary. In case of the death, resignation, or other permanent absence of the chairperson of the board, the vice-chairperson shall assume the office of chairperson and the members of the board at the next regular meeting of the board, or at a special meeting of the board pursuant to a call signed by at least four of the remaining members of which all remaining members shall have at least three days' notice, shall elect a new chairperson of the board from the appointed members and such other new officers as the board deems necessary.

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

Sec. 58. The Medicinal Cannabis Board shall advise the department regarding:

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

Sec. 59. (1) The Cannabis Enforcement Department is established. The department shall be a division of the Nebraska State Patrol.

(2) The office of the department shall be in Lincoln, but the department may establish and maintain branch offices at places other than the seat of government.

Sec. 60. The department shall keep a record of all proceedings, transactions, communications, and official acts of the Medicinal Cannabis Board. The department may appoint or employ such clerks and other employees as may be necessary to carry out the Medicinal Cannabis Act or to perform the duties and exercise the powers conferred by law upon the board.

Sec. 61. Before entering upon the duties of office, each member of the Medicinal Cannabis Board shall be bonded or insured as required by section 11-201. Employees of the department who are accountable for public funds shall be bonded or insured as required by section 11-201 to secure the safety of such funds. The premium shall be paid by the State of Nebraska out of the General Fund.

Sec. 62. (1) No person shall be appointed as a member of the Medicinal Cannabis Board or an employee of the department who is not a citizen of the United States and who has not resided within the State of Nebraska successively for two years next preceding the date of appointment.

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

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

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

Sec. 63. A member of the Medicinal Cannabis Board or any person
appointed or employed by the department shall not solicit or accept any
gift, gratuity, emolument, or employment from any person subject to the
Medicinal Cannabis Act or from any officer, agent, or employee thereof or
solicit, request from, or recommend, directly or indirectly, to any such
person or to any officer, agent, or employee thereof the appointment of
any person to any place or position. Any such person and every officer,
agent, or employee thereof shall not offer to any member of the board or
any person appointed or employed by the department any gift, gratuity,
emolument, or employment. If a member of the board or any person
appointed or employed by the department violates this section, such
person shall be removed from office or employment. Every person violating
this section shall be guilty of a Class II misdemeanor.
Sec. 64. (1) No later than May 1, 2023, the department shall develop or recommend, for approval by the Medicinal Cannabis Board, one or more continuing medical education courses for participating health care practitioners that satisfy the requirements of subsection (3) of section 32 of this act. Such courses shall have an evaluative component. The department shall make the approved courses available online for a cost of no more than fifty dollars.

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

(3) No later than December 20 of each year, the department shall:
   (a) Accept petitions to revise the list of qualifying medical conditions;
   (b) Provide for the Medicinal Cannabis Board to hold a hearing on the petitions;
   (c) Assist the board to consider scientific evidence and the testimony of patients and health care practitioners; and
   (d) Submit the recommendations of the board to the Legislature for any revision to the list of qualifying medical conditions.

(4) The department shall develop and update, for approval by the Medicinal Cannabis Board, a scientifically accurate informational document for registered patients, designated caregivers, nonresident patients, and nonresident caregivers. The informational document shall be made available at dispensaries and on the website of the department. The informational document shall include:
   (a) Any known drug interactions with cannabis to be used for a qualifying medical condition;
(b) Any guidance regarding dosing for cannabis to be used for a qualifying medical condition;

(c) Warnings about the potential risks of the use of cannabis, including:
   (i) The risk of cannabis use disorder and resources for help;
   (ii) Any known risks related to psychosis or schizophrenia;
   (iii) Any known risks regarding cognitive effects for children and young adults;
   (iv) Risks of using cannabis during pregnancy;
   (v) The need to safeguard cannabis and cannabis products from children and pets or other domestic animals;
   (vi) The risk of impairment to operate a motor vehicle; and
   (vii) The fact that the effects of cannabis or cannabis products may not be felt for several hours after consuming the cannabis or cannabis products;

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

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

Sec. 65. All employees of the department shall be reimbursed for all traveling expenses and disbursements incurred or made by them in the discharge of their official duties under the Medicinal Cannabis Act as provided in sections 81-1174 to 81-1177. The department may also incur necessary expenses for office furniture and other incidental expenses. An employee of the department shall not request or be allowed mileage or other traveling expenses unless such sections are strictly complied with.

Sec. 66. The Medicinal Cannabis Board and the department may, for authentication of records, process, and proceedings, adopt, keep, and use a common seal, of which seal judicial notice shall be taken in all of the courts of the state. Any process, notice, or other paper which the board or department is authorized by law to issue shall be deemed sufficient if
signed by the chairperson and the Superintendent of Law Enforcement and
Public Safety or the superintendent's designee and authenticated by such
seal. All acts, orders, proceedings, rules, regulations, entries,
minutes, and other records of the department and all reports and
documents filed with the department may be proved in any court of this
state by copy thereof certified to by the superintendent or the
superintendent's designee attached.

Sec. 67. The Attorney General shall designate an assistant attorney
general or assistant attorneys general, when requested by the Medicinal
Cannabis Board, and the services of such assistant attorney general or
assistant attorneys general shall be available to the board or department
whenever demanded. The compensation of such assistant attorney general or
assistant attorneys general as are assigned to the board or department
shall be paid by the office of the Attorney General.

Sec. 68. Section 28-416, Revised Statutes Cumulative Supplement, 2020, is amended to read:

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

(2) Except as provided in subsections (4), (5), (7), (8), (9), and (10) of this section, any person who violates subsection (1) of this
section with respect to: (a) A controlled substance classified in
Schedule I, II, or III of section 28-405 which is an exceptionally
hazardous drug shall be guilty of a Class II felony; (b) any other
controlled substance classified in Schedule I, II, or III of section
28-405 shall be guilty of a Class IIA felony; or (c) a controlled
substance classified in Schedule IV or V of section 28-405 shall be
guilty of a Class IIIA felony.
(3) A person knowingly or intentionally possessing a controlled substance, except marijuana or any substance containing a quantifiable amount of the substances, chemicals, or compounds described, defined, or delineated in subdivision (c)(25) of Schedule I of section 28-405, unless such substance was obtained directly or pursuant to a medical order issued by a practitioner authorized to prescribe while acting in the course of his or her professional practice, or except as otherwise authorized by the act, shall be guilty of a Class IV felony. A person shall not be in violation of this subsection if section 28-472 applies.

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

(b) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 69. Section 28-439, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

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

(f) Miniature cocaine spoons, and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums;

(l) Bongs; and

(m) Ice pipes or chillers.

Sec. 70. Section 60-6,211.08, Reissue Revised Statutes of Nebraska,
is amended to read:

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

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

(b) Cannabis has the same meaning as in section 5 of this act;
(c) Cannabis product has the same meaning as in section 7 of this act;
(d) Highway means a road or street including the entire area within the right-of-way;
(e) Limousine means a luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and no more than fourteen persons behind the driver with a physical partition separating the driver seat from the passenger compartment. Limousine does not include taxicabs, hotel or airport buses or shuttles, or buses;
(f) Open alcoholic beverage container, except as provided in subsection (3) of section 53-123.04 and subdivision (1)(c) of section 53-123.11, means any bottle, can, or other receptacle:
   (i) That contains any amount of alcoholic beverage, cannabis, or cannabis products; and
   (ii)(A) That is open or has a broken seal or (B) the contents of which are partially removed; and
   (g) Passenger area means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. Passenger area does not include the area behind the last upright seat of such motor vehicle.
if the area is not normally occupied by the driver or a passenger and the
motor vehicle is not equipped with a trunk.

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

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

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

Sec. 71. Section 71-2454, Revised Statutes Cumulative Supplement,
2020, is amended to read:

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

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

(a) Prohibit any patient from opting out of the prescription drug monitoring system;
(b) Require any prescription drug that is dispensed in this state or to an address in this state to be entered into the system by the dispenser or his or her delegate no less frequently than daily after such prescription drug is sold, including prescription drugs for patients paying cash or otherwise not relying on a third-party payor for payment;
(c) Allow all prescribers or dispensers of prescription drugs to access the system at no cost to such prescriber or dispenser;
(d) Ensure that such system includes information relating to all payors, including, but not limited to, the medical assistance program established pursuant to the Medical Assistance Act; and
(e) Make the prescription drug information available to the statewide health information exchange described in section 71-2455 for access by its participants if such access is in compliance with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, except that if a patient opts out of the statewide health information exchange, the prescription drug information regarding that patient shall not be accessible by the participants in the statewide health information exchange.

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

- The patient's name, address, telephone number, if a telephone number is available, gender, and date of birth;
- A patient identifier such as a military identification number, driver's license number, state identification card number, or other valid government-issued identification number, insurance identification number, pharmacy software-generated patient-specific identifier, or other identifier associated specifically with the patient;
- The name and address of the pharmacy dispensing the prescription drug;
- The date the prescription is issued;
- The date the prescription is filled;
- The date the prescription is sold to the patient;
- The number of refills authorized;
- The prescription number of the prescription drug;
- The National Drug Code number as published by the federal Food and Drug Administration of the prescription drug;
- The strength of the prescription drug prescribed;
- The quantity of the prescription drug prescribed and the number of days' supply;

- The prescriber's name and National Provider Identifier number or Drug Enforcement Administration number when reporting a controlled substance; and

- Additional information as determined by the Health Information Technology Board and as published in the submitter guide for the prescription drug monitoring system.

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

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

(b) Reporting status;

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

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

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

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

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

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

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

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

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

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

(a) Other state prescription drug monitoring programs;

(b) State and regional health information exchanges;

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

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

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

(f) Electronic health record systems or pharmacy-dispensing software
systems for the purpose of integrating prescription drug information into
a patient's medical record.

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

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

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

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

(12) The statewide health information exchange described in section 71-2455, in collaboration with the department, shall implement technological improvements to facilitate the secure collection of, and access to, prescription drug information in accordance with this section.
(13) Before accessing the prescription drug monitoring system, any user shall undergo training on the purpose of the system, access to and proper usage of the system, and the law relating to the system, including confidentiality and security of the prescription drug monitoring system. Such training shall be administered by the statewide health information exchange described in section 71-2455 or the department. The statewide health information exchange described in section 71-2455 shall have access to the prescription drug monitoring system for training operations, maintenance, and administrative purposes. Users who have been trained prior to May 10, 2017, or who are granted access by an entity receiving prescription drug information pursuant to subsection (7) of this section, are deemed to be in compliance with the training requirement of this subsection.

(14) For purposes of this section:

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

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

(c) Delegate means any licensed or registered health care professional credentialed under the Uniform Credentialing Act designated by a prescriber or dispenser to act as an agent of the prescriber or dispenser for purposes of submitting or accessing data in the prescription drug monitoring system and who is supervised by such prescriber or dispenser;

(d) Prescription drug or drugs means a prescription drug or drugs dispensed by delivery to the ultimate user or caregiver by or pursuant to the lawful order of a prescriber, including cannabis pursuant to the Medicinal Cannabis Act, but does not include (i) the delivery of such prescription drug for immediate use for purposes of inpatient hospital care or emergency department care, (ii) the administration of a prescription drug by an authorized person upon the lawful order of a

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prescriber, (iii) a wholesale distributor of a prescription drug monitored by the prescription drug monitoring system, or (iv) the dispensing to a nonhuman patient of a prescription drug which is not a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of section 28-405;

(e) Dispenser means a person authorized in the jurisdiction in which he or she is practicing to deliver a prescription drug to the ultimate user or caregiver by or pursuant to the lawful order of a prescriber;

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

and

(g) Prescriber means a health care professional authorized to prescribe in the profession which he or she practices.

Sec. 72. Section 77-2701.48, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Distinct and identifiable products do not include:

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

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

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

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

(4) A transaction that otherwise meets the definition of a bundled transaction is not a bundled transaction if it is (a) the retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service, (b) the retail sale of services when one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service, or (c) a transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimus. De minimus means the seller's purchase price or sales price of the taxable products is ten percent or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimus. Sellers may not use a combination of the purchase price and sales price of the products to determine if the
(5) Bundled transaction does not include the retail sale of exempt tangible personal property and taxable tangible personal property if (a) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices, or medical supplies as such terms are defined in section 77-2704.09 and (b) the seller's purchase price or sales price of the taxable tangible personal property is fifty percent or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty-percent determination for a transaction.

Sec. 73. Section 77-2704.09, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) For purposes of this section:

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

(A) (A) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and any supplement to any of them;
(B) (ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

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

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

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

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

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

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

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

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

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

Sec. 74. Section 77-27,132, Revised Statutes Supplement, 2021, is amended to read:

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

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

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

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

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

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

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

The balance of all amounts collected under the Nebraska Revenue Act of 1967 shall be credited to the General Fund.
Sec. 75. Section 77-4303, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

Sec. 76. Sections 72, 73, 74, and 78 of this act become operative on October 1, 2022. The other sections of this act become operative on their effective date.

Sec. 77. Original sections 28-439 and 60-6,211.08, Reissue Revised Statutes of Nebraska, and sections 28-416 and 71-2454, Revised Statutes Cumulative Supplement, 2020, are repealed.

Sec. 78. Original sections 77-2701.48, 77-2704.09, and 77-4303, Reissue Revised Statutes of Nebraska, and section 77-27,132, Revised Statutes Supplement, 2021, are repealed.
Sec. 79. Since an emergency exists, this act takes effect when passed and approved according to law.