

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1074

FINAL READING

Introduced by Slama, 1.

Read first time January 09, 2024

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to banking and finance; to amend sections
2 8-1116, 8-1120, 8-1726, 8-2504, 8-2729, 8-2730, 8-2735, 13-609,
3 21-1701, 21-1702, 21-1705, 21-1729, 21-1736, 21-1743, 21-1749,
4 21-1767, 21-17,102, 21-17,109, 30-3801, 45-346, 45-346.01, 45-354,
5 45-737, 45-905.01, 45-912, 45-1005, 45-1018, 45-1033.01, 71-605.02,
6 71-616, 77-2341, and 81-118.01, Reissue Revised Statutes of
7 Nebraska, section 84-712.05, Revised Statutes Cumulative Supplement,
8 2022, sections 8-135, 8-141, 8-143.01, 8-157.01, 8-183.04, 8-1,140,
9 8-318, 8-355, 8-1101, 8-1101.01, 8-1704, 8-1707, 8-2724, 8-2903,
10 8-3005, 8-3007, 21-17,115, 59-1722, 69-2103, 69-2104, 69-2112, and
11 71-612, Revised Statutes Supplement, 2023, and section 4A-108,
12 Uniform Commercial Code, Revised Statutes Supplement, 2023; to adopt
13 the Data Privacy Act; to adopt the Public Entities Pooled Investment
14 Act; to adopt updates to federal law and change provisions relating
15 to banking and finance; to change provisions of the Securities Act
16 of Nebraska, the Commodity Code, the Credit Union Act, and the
17 Nebraska Uniform Trust Code; to change provisions relating to
18 breaches of security relating to computerized data and criminal
19 history record information checks; to change provisions relating to
20 the preservation and use of certain certificates and information
21 relating to vital records; to provide for certain records to be
22 exempt from public disclosure; to eliminate obsolete provisions; to

1 harmonize provisions; to provide operative dates; to provide for
2 severability; to repeal the original sections; and to declare an
3 emergency.

4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 30 of this act shall be known and may be
2 cited as the Data Privacy Act.

3 Sec. 2. For purposes of the Data Privacy Act:

4 (1) Affiliate means a legal entity that controls, is controlled by,
5 or is under common control with another legal entity or shares common
6 branding with another legal entity. For purposes of this subdivision,
7 control or controlled means:

8 (a) The ownership of, or power to vote, more than fifty percent of
9 the outstanding shares of any class of voting security of a company;

10 (b) The control in any manner over the election of a majority of the
11 directors or of individuals exercising similar functions; or

12 (c) The power to exercise controlling influence over the management
13 of a company;

14 (2) Authenticate means to verify through reasonable means that the
15 consumer who is entitled to exercise the consumer's rights under sections
16 7 to 11 of this act, or a person on behalf of such consumer, is the same
17 consumer exercising those consumer rights with respect to the personal
18 data at issue;

19 (3)(a) Biometric data means data that is generated to identify a
20 specific individual through an automatic measurement of a biological
21 characteristic of such individual and includes any:

22 (i) Fingerprint;

23 (ii) Voice print;

24 (iii) Retina image;

25 (iv) Iris image; or

26 (v) Unique biological pattern or characteristic.

27 (b) Biometric data does not include:

28 (i) Except when generated to identify a specific individual, any
29 physical or digital photograph, video or audio recording, or data
30 generated from a physical or digital photograph; or

31 (ii) Information collected, used, or stored for health care

1 treatment, payment, or operations under the Health Insurance Portability
2 and Accountability Act;

3 (4) Business associate has the meaning assigned to the term by the
4 Health Insurance Portability and Accountability Act;

5 (5) Child means an individual younger than thirteen years of age;

6 (6)(a) Consent means, when referring to a consumer, a clear and
7 affirmative act signifying a consumer's freely given, specific, informed,
8 and unambiguous agreement to process personal data relating to the
9 consumer, including a statement written by electronic means or any other
10 unambiguous affirmative action by the consumer.

11 (b) Consent, when referring to a consumer, does not include:

12 (i) Acceptance of a general or broad term of use or similar document
13 that contains a description of personal data processing along with other,
14 unrelated information;

15 (ii) Hovering over, muting, pausing, or closing a given piece of
16 content; or

17 (iii) Agreement obtained through the use of a dark pattern;

18 (7)(a) Consumer means an individual who is a resident of this state
19 acting only in an individual or household context.

20 (b) Consumer does not include an individual acting in a commercial
21 or employment context;

22 (8) Controller means an individual or other person that, alone or
23 jointly with others, determines the purpose and means of processing
24 personal data;

25 (9) Covered entity has the same meaning as defined in 45 C.F.R.
26 160.103, as such regulation existed on January 1, 2024;

27 (10) Dark pattern means a user interface designed or manipulated
28 with the effect of substantially subverting or impairing user autonomy,
29 decision-making, or choice, and includes any practice determined by the
30 Federal Trade Commission to be a dark pattern as of January 1, 2024;

31 (11) Decision that produces a legal or similarly significant effect

1 concerning a consumer means a decision made by the controller that
2 results in the provision or denial by the controller of:

3 (a) Financial and lending services;

4 (b) Housing, insurance, or health care services;

5 (c) Education enrollment;

6 (d) Employment opportunities;

7 (e) Criminal justice; or

8 (f) Access to basic necessities, such as food and water;

9 (12) Deidentified data means data that cannot reasonably be linked
10 to an identified or identifiable individual, or a device linked to that
11 individual;

12 (13) Health care provider has the same meaning as in the Health
13 Insurance Portability and Accountability Act;

14 (14) Health Insurance Portability and Accountability Act means the
15 federal Health Insurance Portability and Accountability Act of 1996, as
16 such act existed on January 1, 2024;

17 (15) Health record means any written, printed, or electronically
18 recorded material maintained by a health care provider in the course of
19 providing health care services to an individual that concerns the
20 individual and the services provided to such individual, and includes:

21 (a) The substance of any communication made by an individual to a
22 health care provider in confidence during or in connection with the
23 provision of health care services; or

24 (b) Information otherwise acquired by the health care provider about
25 an individual in confidence and in connection with health care services
26 provided to the individual;

27 (16) Identified or identifiable individual means a consumer who can
28 be directly or indirectly readily identified;

29 (17) Institution of higher education means any postsecondary
30 institution or private postsecondary institution as such terms are
31 defined in section 85-2403;

1 (18) Known child means a child under circumstances where a
2 controller has actual knowledge of, or willfully disregards, the child's
3 age;

4 (19) Nonprofit organization means any corporation organized under
5 the Nebraska Nonprofit Corporation Act, any organization exempt from
6 taxation under section 501(c)(3), 501(c)(6), or 501(c)(12) of the
7 Internal Revenue Code, any organization exempt from taxation under
8 section 501(c)(4) of the Internal Revenue Code that is established to
9 detect or prevent insurance-related crime or fraud, and any subsidiary or
10 affiliate of a cooperative corporation organized in this state;

11 (20)(a) Personal data means any information, including sensitive
12 data, that is linked or reasonably linkable to an identified or
13 identifiable individual, and includes pseudonymous data when the data is
14 used by a controller or processor in conjunction with additional
15 information that reasonably links the data to an identified or
16 identifiable individual.

17 (b) Personal data does not include deidentified data or publicly
18 available information;

19 (21) Political organization means a party, committee, association,
20 fund, or other organization, regardless of whether incorporated, that is
21 organized and operated primarily for the purpose of influencing or
22 attempting to influence:

23 (a) The selection, nomination, election, or appointment of an
24 individual to a federal, state, or local public office or an office in a
25 political organization, regardless of whether the individual is selected,
26 nominated, elected, or appointed; or

27 (b) The election of a presidential or vice-presidential elector,
28 regardless of whether the elector is selected, nominated, elected, or
29 appointed;

30 (22)(a) Precise geolocation data means information derived from
31 technology, including global positioning system level latitude and

1 longitude coordinates or other mechanisms, that directly identifies the
2 specific location of an individual with precision and accuracy within a
3 radius of one thousand seven hundred fifty feet.

4 (b) Precise geolocation data does not include the content of
5 communications or any data generated by or connected to an advanced
6 utility metering infrastructure system or to equipment for use by a
7 utility;

8 (23) Process or processing means an operation or set of operations
9 performed, whether by manual or automated means, on personal data or on
10 sets of personal data, such as the collection, use, storage, disclosure,
11 analysis, deletion, or modification of personal data;

12 (24) Processor means a person that processes personal data on behalf
13 of a controller;

14 (25) Profiling means any form of solely automated processing
15 performed on personal data to evaluate, analyze, or predict personal
16 aspects related to an identified or identifiable individual's economic
17 situation, health, personal preferences, interests, reliability,
18 behavior, location, or movements;

19 (26) Protected health information has the same meaning as in the
20 Health Insurance Portability and Accountability Act;

21 (27) Pseudonymous data means any personal information that cannot be
22 attributed to a specific individual without the use of additional
23 information, provided that the additional information is kept separately
24 and is subject to appropriate technical and organizational measures to
25 ensure that the personal data is not attributed to an identified or
26 identifiable individual;

27 (28) Publicly available information means information that is
28 lawfully made available through government records, or information that a
29 business has a reasonable basis to believe is lawfully made available to
30 the general public through widely distributed media, by a consumer, or by
31 a person to whom a consumer has disclosed the information, unless the

1 consumer has restricted the information to a specific audience;

2 (29)(a) Sale of personal data means the exchange of personal data
3 for monetary or other valuable consideration by the controller to a third
4 party.

5 (b) Sale of personal data does not include:

6 (i) The disclosure of personal data to a processor that processes
7 the personal data on the controller's behalf;

8 (ii) The disclosure of personal data to a third party for purposes
9 of providing a product or service requested by the consumer;

10 (iii) The disclosure or transfer of personal data to an affiliate of
11 the controller;

12 (iv) The disclosure of information that the consumer:

13 (A) Intentionally made available to the general public through a
14 mass media channel; and

15 (B) Did not restrict to a specific audience; or

16 (v) The disclosure or transfer of personal data to a third party as
17 an asset in which the third party assumes control of all or part of the
18 controller's assets that is part of a proposed or actual:

19 (A) Merger;

20 (B) Acquisition;

21 (C) Bankruptcy; or

22 (D) Other transaction;

23 (30) Sensitive data means a category of personal data, and includes:

24 (a) Personal data revealing racial or ethnic origin, religious
25 beliefs, mental or physical health diagnosis, sexual orientation, or
26 citizenship or immigration status;

27 (b) Genetic or biometric data that is processed for the purpose of
28 uniquely identifying an individual;

29 (c) Personal data collected from a known child; or

30 (d) Precise geolocation data;

31 (31) State agency means a department, commission, board, office,

1 council, authority, or other agency in any branch of state government
2 that is created by the constitution or a statute of this state, including
3 any university system or any postsecondary institution as defined in
4 section 85-2403;

5 (32)(a) Targeted advertising means displaying to a consumer an
6 advertisement that is selected based on personal data obtained from that
7 consumer's activities over time and across nonaffiliated websites or
8 online applications to predict the consumer's preferences or interests.

9 (b) Targeted advertising does not include:

10 (i) An advertisement that:

11 (A) Is based on activities within a controller's own websites or
12 online applications;

13 (B) Is based on the context of a consumer's current search query,
14 visit to a website, or online application; or

15 (C) Is directed to a consumer in response to the consumer's request
16 for information or feedback; or

17 (ii) The processing of personal data solely for measuring or
18 reporting advertising performance, reach, or frequency;

19 (33) Third party means a person, other than the consumer, the
20 controller, the processor, or an affiliate of the controller or
21 processor; and

22 (34) Trade secret has the same meaning as in section 87-502.

23 Sec. 3. (1) The Data Privacy Act applies only to a person that:

24 (a) Conducts business in this state or produces a product or service
25 consumed by residents of this state;

26 (b) Processes or engages in the sale of personal data; and

27 (c) Is not a small business as determined under the federal Small
28 Business Act, as such act existed on January 1, 2024, except to the
29 extent that section 18 of this act applies to a person described by this
30 subdivision.

31 (2) The Data Privacy Act does not apply to any:

1 (a) State agency or political subdivision of this state;

2 (b) Financial institution, affiliate of a financial institution, or
3 data subject to Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. 6801 et
4 seq., as such title existed on January 1, 2024;

5 (c) Covered entity or business associate governed by the privacy,
6 security, and breach notification rules issued by the United States
7 Department of Health and Human Services, 45 C.F.R. parts 160 and 164, as
8 such parts existed on January 1, 2024, and Division A, Title XIII, and
9 Division B, Title IV, of the federal Health Information Technology for
10 Economic and Clinical Health Act, Public Law No. 111-5, as such act
11 existed on January 1, 2024;

12 (d) Nonprofit organization;

13 (e) Institution of higher education;

14 (f) Electric supplier or supplier of electricity as defined in
15 section 70-1001.01;

16 (g) Natural gas public utility as defined in section 66-1802; or

17 (h) Natural gas utility owned or operated by a city or a
18 metropolitan utilities district.

19 Sec. 4. The Data Privacy Act does not apply to the following:

20 (1) Protected health information under the Health Insurance
21 Portability and Accountability Act;

22 (2) Health records;

23 (3) Patient identifying information for purposes of 42 U.S.C.
24 290dd-2, as such section existed on January 1, 2024;

25 (4) Identifiable private information:

26 (a) For purposes of the federal policy for the protection of human
27 subjects under 45 C.F.R. part 46, as such part existed on January 1,
28 2024;

29 (b) Collected as part of human subjects research under the good
30 clinical practice guidelines issued by the International Council for
31 Harmonisation of Technical Requirements for Pharmaceuticals for Human

1 Use, as such guidelines existed on January 1, 2024, or of the protection
2 of human subjects under 21 C.F.R. parts 50 and 56, as such parts existed
3 on January 1, 2024; or

4 (c) That is personal data used or shared in research conducted
5 pursuant to the Data Privacy Act or other research conducted in
6 accordance with applicable Nebraska law;

7 (5) Information and documents created for purposes of the federal
8 Health Care Quality Improvement Act of 1986, 42 U.S.C. 11101 et seq., as
9 such act existed on January 1, 2024;

10 (6) Patient safety work product for purposes of the federal Patient
11 Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b-21 et seq., as
12 such act existed on January 1, 2024;

13 (7) Information derived from any of the health care-related
14 information listed in this section that is deidentified in accordance
15 with the requirements for deidentification under the Health Insurance
16 Portability and Accountability Act;

17 (8) Information originating from, and intermingled to be
18 indistinguishable with, or information treated in the same manner as,
19 information exempt under this section that is maintained by a covered
20 entity or business associate as defined by the Health Insurance
21 Portability and Accountability Act or by a program or a qualified service
22 organization as defined by 42 U.S.C. 290dd-2, as such section existed on
23 January 1, 2024;

24 (9) Information that is included in a limited data set as described
25 by 45 C.F.R. 164.514(e), to the extent that the information is used,
26 disclosed, and maintained in the manner specified by 45 C.F.R.
27 164.514(e), as such regulation existed on January 1, 2024;

28 (10) Information collected or used only for public health activities
29 and purposes as authorized by the Health Insurance Portability and
30 Accountability Act;

31 (11) The collection, maintenance, disclosure, sale, communication,

1 or use of any personal information bearing on a consumer's
2 creditworthiness, credit standing, credit capacity, character, general
3 reputation, personal characteristics, or mode of living by a consumer
4 reporting agency or furnisher that provides information for use in a
5 consumer report, and by a user of a consumer report, but only to the
6 extent that the activity is regulated by and authorized under the federal
7 Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as such act existed on
8 January 1, 2024;

9 (12) Personal data collected, processed, sold, or disclosed in
10 compliance with the federal Driver's Privacy Protection Act of 1994, 18
11 U.S.C. 2721 et seq., as such act existed on January 1, 2024;

12 (13) Personal data regulated by the federal Family Educational
13 Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as such act existed on
14 January 1, 2024;

15 (14) Personal data collected, processed, sold, or disclosed in
16 compliance with the federal Farm Credit Act of 1971, 12 U.S.C. 2001 et
17 seq., as such act existed on January 1, 2024;

18 (15) Data processed or maintained in the course of an individual
19 applying to, being employed by, or acting as an agent or independent
20 contractor of a controller, processor, or third party, to the extent that
21 the data is collected and used within the context of that role;

22 (16) Data processed or maintained as the emergency contact
23 information of an individual under the Data Privacy Act that is used for
24 emergency contact purposes; or

25 (17) Data that is processed or maintained and is necessary to retain
26 to administer benefits for another individual that relates to an
27 individual described by subdivision (15) of this section and used for the
28 purposes of administering such benefits.

29 Sec. 5. The Data Privacy Act does not apply to the processing of
30 personal data by a person in the course of a purely personal or household
31 activity.

1 Sec. 6. A controller or processor that complies with the verifiable
2 parental consent requirements of the federal Children's Online Privacy
3 Protection Act of 1998, 15 U.S.C. 6501 et seq., and the rules,
4 regulations, and guidance adopted and promulgated under such act as such
5 act, rules, regulations, and guidance existed on January 1, 2024, with
6 respect to data collected online is considered to be in compliance with
7 any requirement to obtain parental consent under the Data Privacy Act.

8 Sec. 7. (1) A consumer may at any time submit a request to a
9 controller specifying the consumer rights the consumer wishes to
10 exercise. With respect to the processing of personal data belonging to a
11 known child, a parent or legal guardian of the child may exercise the
12 consumer rights on behalf of the known child.

13 (2) A controller shall comply with an authenticated consumer request
14 to exercise the right to:

15 (a) Confirm whether a controller is processing the consumer's
16 personal data and to access the personal data;

17 (b) Correct inaccuracies in the consumer's personal data, taking
18 into account the nature of the personal data and the purposes of the
19 processing of the consumer's personal data;

20 (c) Delete personal data provided by or obtained about the consumer;

21 (d) If the data is available in a digital format and the processing
22 is completed by automated means, obtain a copy of the consumer's personal
23 data that the consumer previously provided to the controller in a
24 portable and, to the extent technically feasible, readily usable format
25 that allows the consumer to transmit the data to another controller
26 without hindrance; or

27 (e) Opt out of the processing of the personal data for purposes of:

28 (i) Targeted advertising;

29 (ii) The sale of personal data; or

30 (iii) Profiling in furtherance of a decision that produces a legal
31 or similarly significant effect concerning the consumer.

1 Sec. 8. (1) Except as otherwise provided in the Data Privacy Act, a
2 controller shall comply with a request submitted by a consumer to
3 exercise the consumer's rights pursuant to section 7 of this act.

4 (2) A controller shall respond to the consumer request without undue
5 delay within forty-five days after the date of receipt of the request.
6 The controller may extend the response period once by an additional
7 forty-five days when reasonably necessary, taking into account the
8 complexity and number of the consumer's requests, so long as the
9 controller informs the consumer of the extension within the initial
10 forty-five-day response period, together with the reason for the
11 extension.

12 (3) If a controller declines to comply with a consumer's request,
13 the controller shall inform the consumer within forty-five days after the
14 date of receipt of the request of the justification for declining to
15 comply and provide instructions on how to appeal the decision to the
16 Attorney General in accordance with section 9 of this act.

17 (4) A controller shall provide information in response to a consumer
18 request free of charge, up to twice annually per consumer. If a request
19 from a consumer is manifestly unfounded, excessive, or repetitive, the
20 controller may charge the consumer a reasonable fee to cover the
21 administrative costs of complying with the request or may decline to act
22 on the request. The controller bears the burden of demonstrating that a
23 request is manifestly unfounded, excessive, or repetitive.

24 (5) If a controller is unable to authenticate the request using
25 commercially reasonable efforts, the controller is not required to comply
26 with a consumer request submitted under section 7 of this act and may
27 request that the consumer provide additional information reasonably
28 necessary to authenticate the consumer's identity and the consumer's
29 request.

30 (6) A controller that has obtained personal data about a consumer
31 from a source other than the consumer is in compliance with a consumer's

1 request to delete such personal data pursuant to subdivision (2)(c) of
2 section 7 of this act by:

3 (a) Retaining a record of the deletion request and the minimum data
4 necessary for the purpose of ensuring the consumer's personal data
5 remains deleted from the business's records and not using the retained
6 data for any other purpose under the Data Privacy Act; or

7 (b) Opting the consumer out of the processing of that personal data
8 for any purpose other than a purpose that is exempt under the Data
9 Privacy Act.

10 Sec. 9. (1) A controller shall establish a process for a consumer
11 to appeal the controller's refusal to take action on a request within a
12 reasonable period of time after the consumer's receipt of the decision
13 under subsection (3) of section 8 of this act.

14 (2) The appeal process must be conspicuously available and similar
15 to the process for initiating an action to exercise consumer rights by
16 submitting a request under section 7 of this act.

17 (3) A controller shall inform the consumer in writing of any action
18 taken or not taken in response to an appeal under this section not later
19 than the sixtieth day after the date of receipt of the appeal, including
20 a written explanation of the reason or reasons for the decision.

21 (4) If the controller denies an appeal, the controller shall provide
22 the consumer with the online mechanism described in section 8 of this act
23 through which the consumer may contact the Attorney General to submit a
24 complaint.

25 Sec. 10. Any provision of a contract or agreement that waives or
26 limits in any way a consumer right described in sections 7 to 9 of this
27 act is contrary to public policy and is void and unenforceable.

28 Sec. 11. (1) A controller shall establish two or more secure and
29 reliable methods to enable a consumer to submit a request to exercise
30 consumer rights under the Data Privacy Act. The methods shall take into
31 account:

1 (a) The ways in which consumers normally interact with the
2 controller;

3 (b) The necessity for secure and reliable communications of those
4 requests; and

5 (c) The ability of the controller to authenticate the identity of
6 the consumer making the request.

7 (2) A controller shall not require a consumer to create a new
8 account to exercise a consumer right under the Data Privacy Act, but may
9 require a consumer to use an existing account.

10 (3) Except as provided by subsection (4) of this section, if the
11 controller maintains an Internet website, the controller shall provide a
12 mechanism on the website for a consumer to submit a request for
13 information required to be disclosed under the Data Privacy Act.

14 (4) A controller that operates exclusively online and has a direct
15 relationship with a consumer from whom the controller collects personal
16 information is only required to provide an email address for the
17 submission of a request described by subsection (3) of this section.

18 (5) A consumer may designate another person to serve as the
19 consumer's authorized agent and act on the consumer's behalf to opt out
20 of the processing of the consumer's personal data under subdivisions (2)
21 (e)(i) and (ii) of section 7 of this act. A consumer may designate an
22 authorized agent using a technology, including a link to an Internet
23 website, an Internet browser setting or extension, or a global setting on
24 an electronic device, that allows the consumer to indicate the consumer's
25 intent to opt out of the processing of the consumer's personal data under
26 subdivisions (2)(e)(i) and (ii) of section 7 of this act. A controller
27 shall comply with an opt-out request received from an authorized agent
28 under this subsection if the controller is able to verify, with
29 commercially reasonable effort, the identity of the consumer and the
30 authorized agent's authority to act on the consumer's behalf. A
31 controller is not required to comply with an opt-out request received

1 from an authorized agent under this subsection if:

2 (a) The authorized agent does not communicate the request to the
3 controller in a clear and unambiguous manner;

4 (b) The controller is not able to verify, with commercially
5 reasonable effort, that the consumer is a resident of this state;

6 (c) The controller does not possess the ability to process the
7 request; or

8 (d) The controller does not process similar or identical requests
9 the controller receives from consumers for the purpose of complying with
10 similar or identical laws or regulations of another state.

11 (6) A technology described by subsection (5) of this section:

12 (a) Shall not unfairly disadvantage another controller;

13 (b) Shall not make use of a default setting, but shall require the
14 consumer to make an affirmative, freely given, and unambiguous choice to
15 indicate the consumer's intent to opt out of any processing of a
16 consumer's personal data; and

17 (c) Shall be consumer-friendly and easy to use by the average
18 consumer.

19 Sec. 12. (1) A controller:

20 (a) Shall limit the collection of personal data to what is adequate,
21 relevant, and reasonably necessary in relation to the purposes for which
22 that personal data is processed, as disclosed to the consumer; and

23 (b) For purposes of protecting the confidentiality, integrity, and
24 accessibility of personal data, shall establish, implement, and maintain
25 reasonable administrative, technical, and physical data security
26 practices that are appropriate to the volume and nature of the personal
27 data at issue.

28 (2) A controller shall not:

29 (a) Except as otherwise provided in the Data Privacy Act, process
30 personal data for a purpose that is neither reasonably necessary to nor
31 compatible with the disclosed purpose for which the personal data is

1 processed, as disclosed to the consumer, unless the controller obtains
2 the consumer's consent;

3 (b) Process personal data in violation of state and federal laws
4 that prohibit unlawful discrimination against consumers;

5 (c) Discriminate against a consumer for exercising any of the
6 consumer rights contained in the Data Privacy Act, including by denying a
7 good or service, charging a different price or rate for a good or
8 service, or providing a different level of quality of a good or service
9 to the consumer; or

10 (d) Process the sensitive data of a consumer without obtaining the
11 consumer's consent, or, in the case of processing the sensitive data of a
12 known child, without processing that data in accordance with the federal
13 Children's Online Privacy Protection Act of 1998, 15 U.S.C. 6501 et seq.,
14 as such act existed on January 1, 2024.

15 (3) Subdivision (2)(c) of this section shall not be construed to
16 require a controller to provide a product or service that requires the
17 personal data of a consumer that the controller does not collect or
18 maintain or to prohibit a controller from offering a different price,
19 rate, level, quality, or selection of a good or service to a consumer,
20 including offering a good or service for no fee, if the consumer has
21 exercised the consumer's right to opt out under section 7 of this act or
22 the offer is related to a consumer's voluntary participation in a bona
23 fide loyalty, reward, premium feature, discount, or club card program.

24 Sec. 13. A controller shall provide each consumer with a reasonably
25 accessible and clear privacy notice that includes:

26 (1) The categories of personal data processed by the controller,
27 including, if applicable, any sensitive data processed by the controller;

28 (2) The purpose for processing personal data;

29 (3) How a consumer may exercise a consumer right under sections 7 to
30 11 of this act, including the process by which a consumer may appeal a
31 controller's decision with regard to the consumer's request;

1 (4) If applicable, any category of personal data that the controller
2 shares with any third party;

3 (5) If applicable, any category of third party with whom the
4 controller shares personal data; and

5 (6) A description of each method required under section 11 of this
6 act through which a consumer may submit a request to exercise a consumer
7 right under the Data Privacy Act.

8 Sec. 14. If a controller sells personal data to any third party or
9 processes personal data for targeted advertising, the controller shall
10 clearly and conspicuously disclose that process and the manner in which a
11 consumer may exercise the right to opt out of that process.

12 Sec. 15. (1) A processor shall adhere to the instructions of a
13 controller and shall assist the controller in meeting or complying with
14 the controller's duties or requirements under the Data Privacy Act,
15 including:

16 (a) Assisting the controller in responding to consumer rights
17 requests submitted under section 7 of this act by using appropriate
18 technical and organizational measures, as reasonably practicable, taking
19 into account the nature of processing and the information available to
20 the processor;

21 (b) Assisting the controller with regard to complying with the
22 requirement relating to the security of processing personal data and to
23 the notification of a breach of security of the processor's system
24 relating to an operator's or driver's license, taking into account the
25 nature of processing and the information available to the processor; and

26 (c) Providing necessary information to enable the controller to
27 conduct and document data protection assessments under section 16 of this
28 act.

29 (2) A contract between a controller and a processor shall govern the
30 processor's data processing procedures with respect to processing
31 performed on behalf of the controller. The contract shall include:

1 (a) Clear instructions for processing data;

2 (b) The nature and purpose of processing;

3 (c) The type of data subject to processing;

4 (d) The duration of processing;

5 (e) The rights and obligations of both parties; and

6 (f) A requirement that the processor shall:

7 (i) Ensure that each person processing personal data is subject to a
8 duty of confidentiality with respect to the data;

9 (ii) At the controller's direction, delete or return all personal
10 data to the controller as requested after the provision of the service is
11 completed, unless retention of the personal data is required by law;

12 (iii) Make available to the controller, on reasonable request, all
13 information in the processor's possession necessary to demonstrate the
14 processor's compliance with the requirements of the Data Privacy Act;

15 (iv) Allow, and cooperate with, reasonable assessments by the
16 controller or the controller's designated assessor; and

17 (v) Engage any subcontractor pursuant to a written contract that
18 requires the subcontractor to meet the requirements of the processor with
19 respect to the personal data.

20 (3) Notwithstanding the requirement described by subdivision (2)(f)
21 (iv) of this section, a processor, in the alternative, may arrange for a
22 qualified and independent assessor to conduct an assessment of the
23 processor's policies and technical and organizational measures in support
24 of the requirements under the Data Privacy Act using an appropriate and
25 accepted control standard or framework and assessment procedure. The
26 processor shall provide a report of the assessment to the controller on
27 request.

28 (4) This section shall not be construed to relieve a controller or a
29 processor from the liabilities imposed on the controller or processor by
30 virtue of the role of the controller or processor in the processing
31 relationship as described in the Data Privacy Act.

1 (5) A determination of whether a person is acting as a controller or
2 processor with respect to a specific processing of data is a fact-based
3 determination that depends on the context in which personal data is to be
4 processed. A processor that continues to adhere to a controller's
5 instructions with respect to a specific processing of personal data
6 remains in the role of a processor.

7 Sec. 16. (1) A controller shall conduct and document a data
8 protection assessment of each of the following processing activities
9 involving personal data:

10 (a) The processing of personal data for purposes of targeted
11 advertising;

12 (b) The sale of personal data;

13 (c) The processing of personal data for purposes of profiling, if
14 the profiling presents a reasonably foreseeable risk of:

15 (i) Unfair or deceptive treatment of or unlawful disparate impact on
16 any consumer;

17 (ii) Financial, physical, or reputational injury to any consumer;

18 (iii) A physical or other intrusion on the solitude or seclusion, or
19 the private affairs or concerns, of any consumer, if the intrusion would
20 be offensive to a reasonable person; or

21 (iv) Other substantial injury to any consumer;

22 (d) The processing of sensitive data; and

23 (e) Any processing activity that involves personal data that
24 presents a heightened risk of harm to any consumer.

25 (2) A data protection assessment conducted under subsection (1) of
26 this section shall:

27 (a) Identify and weigh the direct or indirect benefits that may flow
28 from the processing to the controller, the consumer, other stakeholders,
29 and the public, against the potential risks to the rights of the consumer
30 associated with that processing, as mitigated by safeguards that can be
31 employed by the controller to reduce the risks; and

1 (b) Factor into the assessment:
2 (i) The use of deidentified data;
3 (ii) The reasonable expectations of consumers;
4 (iii) The context of the processing; and
5 (iv) The relationship between the controller and the consumer whose
6 personal data will be processed.

7 (3) A controller shall make a data protection assessment requested
8 under subsection (2) of section 21 of this act available to the Attorney
9 General pursuant to a civil investigative demand under section 21 of this
10 act.

11 (4) A data protection assessment is confidential and exempt from
12 disclosure as a public record pursuant to sections 84-712 to 84-712.09.
13 Disclosure of a data protection assessment in compliance with a request
14 from the Attorney General does not constitute a waiver of attorney-client
15 privilege or work-product protection with respect to the assessment and
16 any information contained in the assessment.

17 (5) A single data protection assessment may address a comparable set
18 of processing operations that include similar activities.

19 (6) A data protection assessment conducted by a controller for the
20 purpose of compliance with other laws or regulations may constitute
21 compliance with the requirements of this section if the assessment has a
22 reasonably comparable scope and effect.

23 Sec. 17. (1) A controller in possession of deidentified data shall:

24 (a) Take reasonable measures to ensure that the data cannot be
25 associated with an individual;

26 (b) Publicly commit to maintaining and using deidentified data
27 without attempting to reidentify the data; and

28 (c) Contractually obligate any recipient of the deidentified data to
29 comply with the Data Privacy Act.

30 (2) The Data Privacy Act shall not be construed to require a
31 controller or processor to:

1 (a) Reidentify deidentified data or pseudonymous data;

2 (b) Maintain data in identifiable form or obtain, retain, or access
3 any data or technology for the purpose of allowing the controller or
4 processor to associate a consumer request with personal data; or

5 (c) Comply with an authenticated consumer rights request under
6 section 7 of this act, if the controller:

7 (i) Is not reasonably capable of associating the request with the
8 personal data or it would be unreasonably burdensome for the controller
9 to associate the request with the personal data;

10 (ii) Does not use the personal data to recognize or respond to the
11 specific consumer who is the subject of the personal data or associate
12 the personal data with other personal data about the same specific
13 consumer; and

14 (iii) Does not sell the personal data to any third party or
15 otherwise voluntarily disclose the personal data to any third party other
16 than a processor, except as otherwise permitted by this section.

17 (3) The consumer rights under subdivisions (2)(a) through (d) of
18 section 7 of this act and controller duties under section 12 of this act
19 do not apply to pseudonymous data in any case in which the controller is
20 able to demonstrate any information necessary to identify the consumer is
21 kept separately and is subject to effective technical and organizational
22 controls that prevent the controller from accessing the information.

23 (4) A controller that discloses pseudonymous data or deidentified
24 data shall exercise reasonable oversight to monitor compliance with any
25 contractual commitments to which the pseudonymous data or deidentified
26 data is subject and shall take appropriate steps to address any breach of
27 the contractual commitments.

28 Sec. 18. (1) A person described by subdivision (1)(c) of section 3
29 of this act shall not engage in the sale of personal data that is
30 sensitive data without receiving prior consent from the consumer.

31 (2) A person who violates this section is subject to the penalty

1 under section 24 of this act.

2 Sec. 19. The Attorney General has exclusive authority to enforce
3 the Data Privacy Act.

4 Sec. 20. The Attorney General shall post on the Attorney General's
5 website:

6 (1) Information relating to:

7 (a) The responsibilities of a controller under the Data Privacy Act;

8 (b) The responsibilities of a processor under the Data Privacy Act;

9 and

10 (c) A consumer's rights under the Data Privacy Act; and

11 (2) An online mechanism through which a consumer may submit a
12 complaint under the Data Privacy Act to the Attorney General.

13 Sec. 21. (1) If the Attorney General has reasonable cause to
14 believe that a controller or processor has engaged in or is engaging in a
15 violation of the Data Privacy Act, the Attorney General may issue a civil
16 investigative demand pursuant to section 23 of this act.

17 (2) The Attorney General may request, pursuant to a civil
18 investigative demand, that a controller disclose any data protection
19 assessment that is relevant to an investigation conducted by the Attorney
20 General. The Attorney General may evaluate the data protection assessment
21 for compliance with sections 12 to 14 of this act.

22 Sec. 22. Before bringing an action under section 24 of this act,
23 the Attorney General shall notify a controller or processor in writing,
24 not later than the thirtieth day before bringing the action, identifying
25 the specific provisions of the Data Privacy Act the Attorney General
26 alleges have been or are being violated. The Attorney General may not
27 bring an action against the controller or processor if:

28 (1) Within the thirty-day period, the controller or processor cures
29 the identified violation; and

30 (2) The controller or processor provides the Attorney General:

31 (a) A written statement that the controller or processor cured the

1 alleged violation and supportive documentation to show how such violation
2 was cured; and

3 (b) An express written statement that the controller or processor
4 shall not commit any such violation after the alleged violation has been
5 cured.

6 Sec. 23. (1) Whenever the Attorney General believes that any person
7 may be in possession, custody, or control of any original or copy of any
8 book, record, report, memorandum, paper, communication, tabulation, map,
9 chart, photograph, mechanical transcription, or other tangible document
10 or recording, wherever situated, which he or she believes to be relevant
11 to the subject matter of an investigation of a possible violation of the
12 Data Privacy Act, the Attorney General may, prior to the institution of a
13 civil proceeding under such act, execute in writing and cause to be
14 served upon such a person a civil investigative demand requiring such
15 person to produce such documentary material and permit inspection and
16 copying thereof. This section shall not be applicable to criminal
17 prosecutions.

18 (2) Each such demand shall:

19 (a) State the statute and section or sections thereof the alleged
20 violation of which is under investigation, and the general subject matter
21 of the investigation;

22 (b) Describe the class or classes of documentary material to be
23 produced thereunder with reasonable specificity so as fairly to indicate
24 the material demanded;

25 (c) Prescribe a return date within which the documentary material
26 shall be produced; and

27 (d) Identify the members of the Attorney General's staff to whom
28 such documentary material shall be made available for inspection and
29 copying.

30 (3) No such demand shall:

31 (a) Contain any requirement which would be unreasonable or improper

1 if contained in a subpoena duces tecum issued by a court of this state;
2 or

3 (b) Require the disclosure of any documentary material which would
4 be privileged, or which for any other reason would not be required by a
5 subpoena duces tecum issued by a court of this state.

6 (4) Service of any such demand may be made by:

7 (a) Delivering a duly executed copy thereof to the person to be
8 served, or, if such person is not a natural person, to any officer of the
9 person to be served;

10 (b) Delivering a duly executed copy thereof to the principal place
11 of business in this state of the person to be served; or

12 (c) Mailing by certified mail a duly executed copy thereof addressed
13 to the person to be served at the principal place of business in this
14 state, or, if such person has no place of business in this state, to his
15 or her principal office or place of business.

16 (5) Documentary material demanded pursuant to this section shall be
17 produced for inspection and copying during normal business hours at the
18 principal office or place of business of the person served, or at such
19 other times and places as may be agreed upon by the person served and the
20 Attorney General.

21 (6) No documentary material produced pursuant to a demand, or copies
22 thereof, shall, unless otherwise ordered by a district court for good
23 cause shown, be produced for inspection or copying by, nor shall the
24 contents thereof be disclosed to, other than an authorized employee of
25 the Attorney General, without the consent of the person who produced such
26 material, except that:

27 (a) Under such reasonable terms and conditions as the Attorney
28 General shall prescribe, the copies of such documentary material shall be
29 available for inspection and copying by the person who produced such
30 material or any duly authorized representative of such person;

31 (b) The Attorney General may provide copies of such documentary

1 material to an official of this or any other state, or an official of the
2 federal government, who is charged with the enforcement of federal or
3 state antitrust or consumer protection laws, if such official agrees in
4 writing to not disclose such documentary material to any person other
5 than the official's authorized employees, except as such disclosure is
6 permitted under subdivision (c) of this subsection; and

7 (c) The Attorney General or any assistant attorney general or an
8 official authorized to receive copies of documentary material under
9 subdivision (b) of this subsection may use such copies of documentary
10 material as he or she determines necessary in the enforcement of the Data
11 Privacy Act, including presentation before any court, except that any
12 such material that contains trade secrets shall not be presented except
13 with the approval of the court in which action is pending after adequate
14 notice to the person furnishing such material.

15 (7) At any time before the return date specified in the demand, or
16 within twenty days after the demand has been served, whichever period is
17 shorter, a petition to extend the return date for or to modify or set
18 aside a demand issued pursuant to subsection (1) of this section, stating
19 good cause, may be filed in the district court for Lancaster County, or
20 in such other county where the parties reside. A petition by the person
21 on whom the demand is served, stating good cause, to require the Attorney
22 General or any person to perform any duty imposed by this section, and
23 all other petitions in connection with a demand, may be filed in the
24 district court for Lancaster County or in the county where the parties
25 reside.

26 (8) Whenever any person fails to comply with any civil investigative
27 demand for documentary material duly served upon him or her under this
28 section, or whenever satisfactory copying or reproduction of any such
29 material cannot be done and such person refuses to surrender such
30 material, the Attorney General may file, in the district court of the
31 county in which such person resides, is found, or transacts business, and

1 serve upon such person a petition for an order of such court for the
2 enforcement of this section, except that if such person transacts
3 business in more than one county, such petition shall be filed in the
4 county in which such person maintains his or her principal place of
5 business or in such other county as may be agreed upon by the parties to
6 such petition. Whenever any petition is filed in the district court of
7 any county under this section, such court shall have jurisdiction to hear
8 and determine the matter so presented and to enter such order as may be
9 required to carry this section into effect. Disobedience of any order
10 entered under this section by any court shall be punished as a contempt
11 thereof.

12 Sec. 24. (1) A person who violates the Data Privacy Act following
13 the cure period described by section 22 of this act or who breaches a
14 written statement provided to the Attorney General under such section is
15 liable for a civil penalty in an amount not to exceed seven thousand five
16 hundred dollars for each violation.

17 (2) The Attorney General may bring an action in the name of the
18 State of Nebraska to:

19 (a) Recover a civil penalty under this section;

20 (b) Restrain or enjoin the person from violating the Data Privacy
21 Act; or

22 (c) Recover the civil penalty and seek injunctive relief.

23 (3) The Attorney General may recover reasonable attorney's fees and
24 other reasonable expenses incurred in investigating and bringing an
25 action under this section.

26 (4) All money collected under this section shall be remitted to the
27 State Treasurer for distribution in accordance with Article VII, section
28 5, of the Constitution of Nebraska.

29 Sec. 25. The Data Privacy Act shall not be construed as providing a
30 basis for, or being subject to, a private right of action for a violation
31 of the Data Privacy Act or any other law.

1 Sec. 26. The Data Privacy Act shall not be construed to:

2 (1) Restrict a controller's or processor's ability to:

3 (a) Comply with federal, state, or local laws, rules, or
4 regulations;

5 (b) Comply with a civil, criminal, or regulatory inquiry,
6 investigation, subpoena, or summons by federal, state, local, or other
7 governmental authorities;

8 (c) Cooperate with any law enforcement agency concerning conduct or
9 activity that the controller or processor reasonably and in good faith
10 believes may violate any federal, state, or local law, rule, or
11 regulation;

12 (d) Investigate, establish, exercise, prepare for, or defend legal
13 claims;

14 (e) Provide a product or service specifically requested by a
15 consumer or the parent or guardian of a child, perform a contract to
16 which the consumer is a party, including fulfilling the terms of a
17 written warranty, or take action at the request of the consumer before
18 entering into a contract;

19 (f) Take immediate action to protect an interest that is essential
20 for the life or physical safety of the consumer or of another individual
21 and in which the processing cannot be manifestly based on another legal
22 basis;

23 (g) Prevent, detect, protect against, or respond to security
24 incidents, identity theft, fraud, harassment, malicious or deceptive
25 activities, or any illegal activity;

26 (h) Preserve the integrity or security of systems or investigate,
27 report, or prosecute those responsible for breaches of system security;

28 (i) Engage in public or peer-reviewed scientific or statistical
29 research in the public interest that adheres to all other applicable
30 ethics and privacy laws and is approved, monitored, and governed by an
31 institutional review board or similar independent oversight entity that

1 determines:

2 (i) If the deletion of the information is likely to provide
3 substantial benefits that do not exclusively accrue to the controller;

4 (ii) Whether the expected benefits of the research outweigh the
5 privacy risks; and

6 (iii) If the controller has implemented reasonable safeguards to
7 mitigate privacy risks associated with research, including any risks
8 associated with reidentification; or

9 (j) Assist another controller, processor, or third party with any of
10 the requirements under subdivision (1) of this section;

11 (2) Prevent a controller or processor from providing personal data
12 concerning a consumer to a person covered by an evidentiary privilege
13 under the laws of this state as part of a privileged communication;

14 (3) Impose a requirement on any controller or processor that
15 adversely affects any right or freedom of any person, including the right
16 of free speech pursuant to the First Amendment to the Constitution of the
17 United States;

18 (4) Require a controller, processor, third party, or consumer to
19 disclose a trade secret;

20 (5) Apply to the processing of personal data by any individual in
21 the course of a purely personal or household activity; or

22 (6) Prevent a controller or processor from providing personal data
23 concerning a consumer to a person covered by an evidentiary privilege as
24 part of a privileged communication.

25 Sec. 27. (1) The requirements imposed on any controller or
26 processor under the Data Privacy Act shall not restrict a controller's or
27 processor's ability to collect, use, or retain data to:

28 (a) Conduct internal research to develop, improve, or repair
29 products, services, or technology;

30 (b) Effect a product recall;

31 (c) Identify and repair technical errors that impair existing or

1 intended functionality; or

2 (d) Perform internal operations that:

3 (i) Are reasonably aligned with the expectations of the consumer;

4 (ii) Are reasonably anticipated based on the consumer's existing
5 relationship with the controller; or

6 (iii) Are otherwise compatible with processing data in furtherance
7 of the provision of a product or service specifically requested by a
8 consumer or the performance of a contract to which the consumer is a
9 party.

10 (2) A requirement imposed on a controller or processor under the
11 Data Privacy Act shall not apply if compliance with the requirement by
12 the controller or processor, as applicable, would violate an evidentiary
13 privilege under any law of this state.

14 Sec. 28. (1) A controller or processor that discloses personal data
15 to a third-party controller or processor, in compliance with any
16 requirement of the Data Privacy Act, does not violate the Data Privacy
17 Act if the third-party controller or processor that receives and
18 processes that personal data is in violation of the Data Privacy Act, if
19 at the time of the data's disclosure the disclosing controller or
20 processor did not have actual knowledge that the recipient intended to
21 commit a violation.

22 (2) A third-party controller or processor that receives personal
23 data from a controller or processor in compliance with the requirements
24 of the Data Privacy Act does not violate the Data Privacy Act for the
25 transgressions of the controller or processor from which the third-party
26 controller or processor received the personal data.

27 Sec. 29. (1) Personal data processed by a controller under sections
28 26 to 29 of this act may not be processed for any purpose other than a
29 purpose listed in sections 26 to 29 of this act unless otherwise allowed
30 by the Data Privacy Act. Personal data processed by a controller under
31 sections 26 to 29 of this act may be processed to the extent that the

1 processing of the data is:

2 (a) Reasonably necessary and proportionate to the purposes listed in
3 sections 26 to 29 of this act; and

4 (b) Adequate, relevant, and limited to what is necessary in relation
5 to the specific purposes listed in sections 26 to 29 of this act.

6 (2) Personal data collected, used, or retained under subsection (1)
7 of section 27 of this act shall, where applicable, take into account the
8 nature and purpose of such collection, use, or retention. The personal
9 data described by this subsection is subject to reasonable
10 administrative, technical, and physical measures to protect the
11 confidentiality, integrity, and accessibility of the personal data and to
12 reduce reasonably foreseeable risks of harm to consumers relating to the
13 collection, use, or retention of personal data.

14 (3) A controller that processes personal data under an exemption in
15 sections 26 to 29 of this act bears the burden of demonstrating that the
16 processing of the personal data qualifies for the exemption and complies
17 with the requirements of subsections (1) and (2) of this section.

18 (4) The processing of personal data by an entity for the purposes
19 described by section 26 of this act does not solely make the entity a
20 controller with respect to the processing of the data.

21 Sec. 30. The Data Privacy Act supersedes and preempts any
22 ordinance, resolution, rule, or other regulation adopted by a political
23 subdivision regarding the processing of personal data by a controller or
24 processor.

25 Sec. 31. Sections 31 to 36 of this act shall be known and may be
26 cited as the Public Entities Pooled Investment Act.

27 Sec. 32. For purposes of the Public Entities Pooled Investment Act:

28 (1) Bank means a state-chartered or federally chartered bank which
29 has a main chartered office in this state, any branch thereof in this
30 state, or any branch in this state of a state-chartered or federally
31 chartered bank which maintained a main chartered office in this state

1 prior to becoming a branch of such state-chartered or federally chartered
2 bank;

3 (2) Capital stock financial institution means a capital stock state
4 building and loan association, a capital stock federal savings and loan
5 association, a capital stock federal savings bank, or a capital stock
6 state savings bank, which has a main chartered office in this state, any
7 branch thereof in this state, or any branch in this state of a capital
8 stock financial institution which maintained a main chartered office in
9 this state prior to becoming a branch of such capital stock financial
10 institution;

11 (3) Eligible entity means any governmental, public, or quasi-public
12 entity, joint public agency created pursuant to the Joint Public Agency
13 Act, or joint entity created pursuant to the Interlocal Cooperation Act,
14 located in the state, including, but not limited to, an entity designated
15 as a political subdivision, vested with taxing authority, or whose
16 membership is wholly comprised by such entities and funds created by such
17 entities. Eligible entity does not include the State of Nebraska or any
18 department, division, office, board, commission, or other agency of the
19 state, or any court, constitutional office, or elected or appointed
20 officer of the state;

21 (4) Eligible investment means:

22 (a) Obligations, including letters of credit, of any agency or
23 instrumentality of the United States, including bonds, debentures, or
24 notes issued by the Federal Home Loan Bank System;

25 (b) Direct obligations of or other obligations the principal of and
26 interest on which are guaranteed by the United States or its agencies or
27 instrumentalities, including collateralized mortgage obligations and
28 obligations that are fully guaranteed or insured by the Federal Deposit
29 Insurance Corporation or by the full faith and credit of the United
30 States;

31 (c) Direct obligations of the state, its agencies, and its

1 instrumentalities receiving an investment quality rating by a nationally
2 recognized investment rating firm not less than A or its equivalent at
3 the time of purchase;

4 (d) Obligations of other states, agencies, counties, cities, and
5 political subdivisions of any state receiving an investment quality
6 rating by a nationally recognized investment rating firm not less than A
7 or its equivalent at the time of purchase;

8 (e) Commercial paper, if such commercial paper:

9 (i) Is issued by a United States corporation;

10 (ii) Has a stated maturity of two hundred seventy days or fewer from
11 its date of issuance;

12 (iii) Is rated in the highest short-term rating quality category by
13 at least two nationally recognized statistical rating organizations at
14 the time of purchase;

15 (iv) Is limited to no more than fifty percent of the total funds
16 available for investment by a local government investment pool at the
17 time of purchase; and

18 (v) Is limited to no more than five percent of the total funds
19 available for investment by a local government investment pool being
20 invested in the commercial paper of a single issuer;

21 (f) Money market mutual funds whose shares are sold without
22 commissions or other sales charges unrelated to fund expenses, that have
23 a fixed net asset value of one dollar, and that are comprised of
24 obligations of the United States, its agencies, or its instrumentalities;

25 (g) Fully collateralized repurchase agreements if such agreements:

26 (i) Have a defined termination date;

27 (ii) Are secured by a combination of cash and obligations of the
28 United States, its agencies, or its instrumentalities;

29 (iii) Require securities purchased by the trust or cash held by the
30 trust to be pledged to the trust, held in the trust's name, and deposited
31 at the time the investment is made with the trust or with a third party

1 selected and approved by the trust; and

2 (iv) Are invested through a primary government securities dealer, as
3 defined by the Board of Governors of the Federal Reserve System, or a
4 financial institution; and

5 (h) Certificates of deposit and time deposit open accounts in banks,
6 capital stock financial institutions, or qualifying mutual financial
7 institutions;

8 (5) Local government investment pool means an investment pool or
9 trust created pursuant to the laws of this state, including, but not
10 limited to, the Interlocal Cooperation Act, for the purpose of pooling
11 and investing the funds of two or more eligible entities; and

12 (6) Qualifying mutual financial institution has the same meaning as
13 in section 77-2365.01.

14 Sec. 33. An eligible entity may invest its funds and funds under
15 its control through a local government investment pool if the governing
16 body of the eligible entity by ordinance or resolution authorizes
17 investment in the pool. A local government investment pool may only
18 invest the funds it receives from eligible entities in eligible
19 investments.

20 Sec. 34. A local government investment pool shall display and
21 include in all advertising, in all marketing materials, and on any
22 Internet website or mobile application it maintains the following
23 conspicuous statements:

24 (1) Investments in a local government investment pool are not
25 insured or guaranteed by the Federal Deposit Insurance Corporation or any
26 other government agency; and

27 (2) Investments in a local government investment pool are subject to
28 liquidity risk, which may impact the pool's ability to sell investments
29 in a timely fashion or at near face value in order to fulfill a
30 participant's redemption request. Such investments are also subject to
31 market risk, issuer risk, and default risk. Participants may lose money

1 by investing in a local government investment pool.

2 Sec. 35. The general investment strategy for a local government
3 investment pool shall be to invest all funds of eligible entities to
4 accomplish the following objectives, which are listed in order of
5 priority:

6 (1) Preservation and safety of principal;

7 (2) Liquidity; and

8 (3) Yield.

9 Sec. 36. Any agent, employee, or representative of an investment
10 advisor acting on behalf of a local government investment pool who
11 solicits, purchases, or sells securities or eligible investments on
12 behalf of the local government investment pool shall hold and maintain
13 any license or registration required by federal or state law to solicit,
14 purchase, or sell securities or eligible investments on behalf of a local
15 government investment pool.

16 Sec. 37. Section 8-135, Revised Statutes Supplement, 2023, is
17 amended to read:

18 8-135 (1) All persons, regardless of age, may become depositors in
19 any bank and shall be subject to the same duties and liabilities
20 respecting their deposits. Whenever a deposit is accepted by any bank in
21 the name of any person, regardless of age, the deposit may be withdrawn
22 by the depositor by any of the following methods:

23 (a) Check or other instrument in writing. The check or other
24 instrument in writing constitutes a receipt or acquittance if the check
25 or other instrument in writing is signed by the depositor and constitutes
26 a valid release and discharge to the bank for all payments so made; or

27 (b) Electronic means through:

28 (i) Preauthorized direct withdrawal;

29 (ii) An automatic teller machine;

30 (iii) A debit card;

31 (iv) A transfer by telephone;

1 (v) A network, including the Internet; or

2 (vi) Any electronic terminal, computer, magnetic tape, or other
3 electronic means.

4 (2) All persons, individually or with others and regardless of age,
5 may enter into an agreement with a bank for the lease of a safe deposit
6 box and shall be bound by the terms of the agreement.

7 (3) This section shall not be construed to affect the rights,
8 liabilities, or responsibilities of participants in an electronic fund
9 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
10 et seq., as such act existed on January 1, 2024 ~~2023~~, and shall not
11 affect the legal relationships between a minor and any person other than
12 the bank.

13 Sec. 38. Section 8-141, Revised Statutes Supplement, 2023, is
14 amended to read:

15 8-141 (1) No bank shall directly or indirectly loan to any single
16 corporation, limited liability company, firm, or individual, including in
17 such loans all loans made to the several members or shareholders of such
18 corporation, limited liability company, or firm, for the use and benefit
19 of such corporation, limited liability company, firm, or individual, more
20 than twenty-five percent of the paid-up capital, surplus, and capital
21 notes and debentures or fifteen percent of the unimpaired capital and
22 unimpaired surplus of such bank, whichever is greater. Such limitations
23 shall be subject to the following exceptions:

24 (a) Obligations of any person, partnership, limited liability
25 company, association, or corporation in the form of notes or drafts
26 secured by shipping documents or instruments transferring or securing
27 title covering livestock or giving a lien on livestock, when the market
28 value of the livestock securing the obligation is not at any time less
29 than one hundred fifteen percent of the face amount of the notes covered
30 by such documents, shall be subject under this section to a limitation of
31 ten percent of such capital, surplus, and capital notes and debentures or

1 ten percent of such unimpaired capital and unimpaired surplus, whichever
2 is greater, in addition to such twenty-five percent of such capital and
3 surplus or such fifteen percent of such unimpaired capital and unimpaired
4 surplus;

5 (b) Obligations of any person, partnership, limited liability
6 company, association, or corporation secured by not less than a like
7 amount of bonds or notes of the United States issued since April 24,
8 1917, or certificates of indebtedness of the United States, treasury
9 bills of the United States, or obligations fully guaranteed both as to
10 principal and interest by the United States shall be subject under this
11 section to a limitation of ten percent of such capital, surplus, and
12 capital notes and debentures or ten percent of such unimpaired capital
13 and unimpaired surplus, whichever is greater, in addition to such twenty-
14 five percent of such capital and surplus or such fifteen percent of such
15 unimpaired capital and unimpaired surplus;

16 (c) Obligations of any person, partnership, limited liability
17 company, association, or corporation which are secured by negotiable
18 warehouse receipts in an amount not less than one hundred fifteen percent
19 of the face amount of the note or notes secured by such documents shall
20 be subject under this section to a limitation of ten percent of such
21 capital, surplus, and capital notes and debentures or ten percent of such
22 unimpaired capital and unimpaired surplus, whichever is greater, in
23 addition to such twenty-five percent of such capital and surplus or such
24 fifteen percent of such unimpaired capital and unimpaired surplus; or

25 (d) Obligations of any person, partnership, limited liability
26 company, association, or corporation which are secured by readily
27 marketable collateral having a market value, as determined by reliable
28 and continuously available price quotations, in an amount at least equal
29 to the face amount of the note or notes secured by such collateral, shall
30 be subject under this section to a limitation of ten percent of such
31 capital, surplus, and capital notes and debentures or ten percent of such

1 unimpaired capital and unimpaired surplus, whichever is greater, in
2 addition to such twenty-five percent of such capital and surplus or such
3 fifteen percent of such unimpaired capital and unimpaired surplus.

4 (2)(a) For purposes of this section, the discounting of bills of
5 exchange, drawn in good faith against actually existing values, and the
6 discounting of commercial paper actually owned by the persons negotiating
7 the bills of exchange or commercial paper shall not be considered as the
8 lending of money.

9 (b) Loans or obligations shall not be subject to any limitation
10 under this section, based upon such capital and surplus or such
11 unimpaired capital and unimpaired surplus, to the extent that such
12 capital and surplus or such unimpaired capital and unimpaired surplus are
13 secured or covered by guaranties, or by commitments or agreements to take
14 over or to purchase such capital and surplus or such unimpaired capital
15 and unimpaired surplus, made by any federal reserve bank or by the United
16 States Government or any authorized agency thereof, including any
17 corporation wholly owned directly or indirectly by the United States, or
18 general obligations of any state of the United States or any political
19 subdivision of the state. The phrase general obligation of any state or
20 any political subdivision of the state means an obligation supported by
21 the full faith and credit of an obligor possessing general powers of
22 taxation, including property taxation, but does not include municipal
23 revenue bonds and sanitary and improvement district warrants which are
24 subject to the limitations set forth in this section.

25 (c) Any bank may subscribe to, invest in, purchase, and own single-
26 family mortgages secured by the Federal Housing Administration or the
27 United States Department of Veterans Affairs and mortgage-backed
28 certificates of the Government National Mortgage Association which are
29 guaranteed as to payment of principal and interest by the Government
30 National Mortgage Association. Such mortgages and certificates shall not
31 be subject under this section to any limitation based upon such capital

1 and surplus or such unimpaired capital and unimpaired surplus.

2 (d) Obligations representing loans to any national banking
3 association or to any banking institution organized under the laws of any
4 state, when such loans are approved by the director by rule and
5 regulation or otherwise, shall not be subject under this section to any
6 limitation based upon such capital and surplus or such unimpaired capital
7 and unimpaired surplus.

8 (e) Loans or extensions of credit secured by a segregated deposit
9 account in the lending bank shall not be subject under this section to
10 any limitation based on such capital and surplus or such unimpaired
11 capital and unimpaired surplus. The director may adopt and promulgate
12 rules and regulations governing the terms and conditions of such security
13 interest and segregated deposit account.

14 (f) For the purpose of determining lending limits, partnerships
15 shall not be treated as separate entities. Each individual shall be
16 charged with his or her personal debt plus the debt of every partnership
17 in which he or she is a partner, except that for purposes of this section

18 (a) an individual shall only be charged with the debt of any limited
19 partnership in which he or she is a partner to the extent that the terms
20 of the limited partnership agreement provide that such individual is to
21 be held liable for the debts or actions of such limited partnership and

22 (b) no individual shall be charged with the debt of any general
23 partnership in which he or she is a partner beyond the extent to which

24 (i) his or her liability for such partnership debt is limited by the
25 terms of a contract or other written agreement between the bank and such
26 individual and (ii) any personal debt of such individual is incurred for
27 the use and benefit of such general partnership.

28 (3) A loan made within lending limits at the initial time the loan
29 was made may be renewed, extended, or serviced without regard to changes
30 in the lending limit of a bank following the initial extension of the
31 loan if (a) the renewal, extension, or servicing of the loan does not

1 result in the extension of funds beyond the initial amount of the loan or
2 (b) the accrued interest on the loan is not added to the original amount
3 of the loan in the process of renewal, extension, or servicing.

4 (4) Any bank may purchase or take an interest in life insurance
5 contracts for any purpose incidental to the business of banking. A bank's
6 purchase of any life insurance contract, as measured by its cash
7 surrender value, from any one life insurance company shall not at any
8 time exceed twenty-five percent of the paid-up capital, surplus, and
9 capital notes and debentures of such bank or fifteen percent of the
10 unimpaired capital and unimpaired surplus of such bank, whichever is
11 greater. A bank's purchase of life insurance contracts, as measured by
12 their cash surrender values, in the aggregate from all life insurance
13 companies shall not at any time exceed thirty-five percent of the paid-up
14 capital, surplus, undivided profits, and capital notes and debentures of
15 such bank. The limitations under this subsection on a bank's purchase of
16 life insurance contracts, in the aggregate from all life insurance
17 companies, shall not apply to any contract purchased prior to April 5,
18 1994.

19 (5) On and after January 21, 2013, the director has the authority to
20 determine the manner and extent to which credit exposure resulting from
21 derivative transactions, repurchase agreements, reverse repurchase
22 agreements, securities lending transactions, and securities borrowing
23 transactions shall be taken into account for purposes of determining
24 compliance with this section. In making such determinations, the director
25 may, but is not required to, act by rule and regulation or order.

26 (6) For purposes of this section:

27 (a) Derivative transaction means any transaction that is a contract,
28 agreement, swap, warrant, note, or option that is based, in whole or in
29 part, on the value of, any interest in, or any quantitative measure or
30 the occurrence of any event relating to, one or more commodities,
31 securities, currencies, interest or other rates, indices, or other

1 assets;

2 (b) Loan includes:

3 (i) All direct and indirect advances of funds to a person made on
4 the basis of any obligation of that person to repay the funds or
5 repayable from specific property pledged by or on behalf of that person;

6 (ii) To the extent specified by rule and regulation or order of the
7 director, any liability of a state bank to advance funds to or on behalf
8 of a person pursuant to a contractual commitment; and

9 (iii) Any credit exposure to a person arising from a derivative
10 transaction, repurchase agreement, reverse repurchase agreement,
11 securities lending transaction, or securities borrowing transaction
12 between the bank and the person; and

13 (c) Unimpaired capital and unimpaired surplus means:

14 (i) For qualifying banks that have elected to use the community bank
15 leverage ratio framework, as set forth under the Capital Adequacy
16 Standards of the appropriate federal banking agency:

17 (A) The bank's tier 1 capital as reported according to the capital
18 guidelines of the appropriate federal banking agency; and

19 (B) The bank's allowance for loan and lease losses or allowance for
20 credit losses, as applicable, as reported in the most recent consolidated
21 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
22 existed on January 1, 2024 ~~2023~~; and

23 (ii) For all other banks:

24 (A) The bank's tier 1 and tier 2 capital included in the bank's
25 risk-based capital under the capital guidelines of the appropriate
26 federal banking agency, based on the bank's most recent consolidated
27 report of condition filed under 12 U.S.C. 1817(a)(3), as such section
28 existed on January 1, 2024 ~~2023~~; and

29 (B) The balance of the bank's allowance for loan and lease losses
30 not included in the bank's tier 2 capital for purposes of the calculation
31 of risk-based capital by the appropriate federal banking agency, based on

1 the bank's most recent consolidated report of condition filed under 12
2 U.S.C. 1817(a)(3), as such section existed on January 1, 2024 ~~2023~~.

3 (7) Notwithstanding the provisions of section 8-1,140, the director
4 may, by order, deny or limit the inclusion of goodwill in the calculation
5 of a bank's unimpaired capital and unimpaired surplus or in the
6 calculation of a bank's paid-up capital and surplus.

7 Sec. 39. Section 8-143.01, Revised Statutes Supplement, 2023, is
8 amended to read:

9 8-143.01 (1) No bank shall extend credit to any of its executive
10 officers, directors, or principal shareholders or to any related interest
11 of such persons in an amount that, when aggregated with the amount of all
12 other extensions of credit by the bank to that person and to all related
13 interests of that person, exceeds the higher of twenty-five thousand
14 dollars or five percent of the bank's unimpaired capital and unimpaired
15 surplus unless (a) the extension of credit has been approved in advance
16 by a majority vote of the entire board of directors of the bank, a record
17 of which shall be made and kept as a part of the records of such bank,
18 and (b) the interested party has abstained from participating directly or
19 indirectly in such vote.

20 (2) No bank shall extend credit to any of its executive officers,
21 directors, or principal shareholders or to any related interest of such
22 persons in an amount that, when aggregated with the amount of all other
23 extensions of credit by the bank to that person and to all related
24 interests of that person, exceeds five hundred thousand dollars except by
25 complying with the requirements of subdivisions (1)(a) and (b) of this
26 section.

27 (3) No bank shall extend credit to any of its executive officers,
28 and no such executive officer shall borrow from or otherwise become
29 indebted to his or her bank, except in the amounts and for the purposes
30 set forth in subsection (4) of this section.

31 (4) A bank shall be authorized to extend credit to any of its

1 executive officers:

2 (a) In any amount to finance the education of such executive
3 officer's children;

4 (b)(i) In any amount to finance or refinance the purchase,
5 construction, maintenance, or improvement of a residence of such
6 executive officer if the extension of credit is secured by a first lien
7 on the residence and the residence is owned or is expected to be owned
8 after the extension of credit by the executive officer and (ii) in the
9 case of a refinancing, only the amount of the refinancing used to repay
10 the original extension of credit, together with the closing costs of the
11 refinancing, and any additional amount thereof used for any of the
12 purposes enumerated in this subdivision are included within this category
13 of credit;

14 (c) In any amount if the extension of credit is (i) secured by a
15 perfected security interest in bonds, notes, certificates of
16 indebtedness, or treasury bills of the United States or in other such
17 obligations fully guaranteed as to principal and interest by the United
18 States, (ii) secured by unconditional takeout commitments or guarantees
19 of any department, agency, bureau, board, commission, or establishment of
20 the United States or any corporation wholly owned directly or indirectly
21 by the United States, or (iii) secured by a perfected security interest
22 in a segregated deposit account in the lending bank; or

23 (d) For any other purpose not specified in subdivisions (a), (b),
24 and (c) of this subsection if the aggregate amount of such other
25 extensions of credit to such executive officer does not exceed, at any
26 one time, the greater of two and one-half percent of the bank's
27 unimpaired capital and unimpaired surplus or twenty-five thousand
28 dollars, but in no event greater than one hundred thousand dollars or the
29 amount of the bank's lending limit as prescribed in section 8-141,
30 whichever is less.

31 (5)(a) Except as provided in subdivision (b) or (c) of this

1 subsection, any executive officer shall make, on an annual basis, a
2 written report to the board of directors of the bank of which he or she
3 is an executive officer stating the date and amount of all loans or
4 indebtedness on which he or she is a borrower, cosigner, or guarantor,
5 the security therefor, and the purpose for which the proceeds have been
6 or are to be used.

7 (b) Except as provided in subdivision (c) of this subsection, in
8 lieu of the reports required by subdivision (a) of this subsection, the
9 board of directors of a bank may obtain a credit report from a recognized
10 credit agency, on an annual basis, for any or all of its executive
11 officers.

12 (c) Subdivisions (a) and (b) of this subsection do not apply to any
13 executive officer if such officer is excluded by a resolution of the
14 board of directors or by the bylaws of the bank from participating in the
15 major policymaking functions of the bank and does not actually
16 participate in the major policymaking functions of the bank.

17 (6) No bank shall extend credit to any of its executive officers,
18 directors, or principal shareholders or to any related interest of such
19 persons in an amount that, when aggregated with the amount of all other
20 extensions of credit by the bank to that person and to all related
21 interests of that person, exceeds the lending limit of the bank as
22 prescribed in section 8-141.

23 (7)(a) Except as provided in subdivision (b) of this subsection, no
24 bank shall extend credit to any of its executive officers, directors, or
25 principal shareholders or to any related interest of such persons unless
26 the extension of credit (i) is made on substantially the same terms,
27 including interest rates and collateral, as, and following credit-
28 underwriting procedures that are not less stringent than, those
29 prevailing at the time for comparable transactions by the bank with other
30 persons that are not covered by this section and who are not employed by
31 the bank and (ii) does not involve more than the normal risk of repayment

1 or present other unfavorable features.

2 (b) Nothing in subdivision (a) of this subsection shall prohibit any
3 extension of credit made by a bank pursuant to a benefit or compensation
4 program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation
5 existed on January 1, 2024 ~~2023~~.

6 (8) For purposes of this section:

7 (a) Executive officer means a person who participates or has
8 authority to participate, other than in the capacity of director, in the
9 major policymaking functions of the bank, whether or not the officer has
10 an official title, the title designates such officer as an assistant, or
11 such officer is serving without salary or other compensation. Executive
12 officer includes the chairperson of the board of directors, the
13 president, all vice presidents, the cashier, the corporate secretary, and
14 the treasurer, unless the executive officer is excluded by a resolution
15 of the board of directors or by the bylaws of the bank from
16 participating, other than in the capacity of director, in the major
17 policymaking functions of the bank, and the executive officer does not
18 actually participate in such functions. A manager or assistant manager of
19 a branch of a bank shall not be considered to be an executive officer
20 unless such individual participates or is authorized to participate in
21 the major policymaking functions of the bank; and

22 (b) Unimpaired capital and unimpaired surplus means the sum of:

23 (i) The total equity capital of the bank reported on its most recent
24 consolidated report of condition filed under section 8-166;

25 (ii) Any subordinated notes and debentures approved as an addition
26 to the bank's capital structure by the appropriate federal banking
27 agency; and

28 (iii) Any valuation reserves created by charges to the bank's income
29 reported on its most recent consolidated report of condition filed under
30 section 8-166.

31 (9) Any executive officer, director, or principal shareholder of a

1 bank or any other person who intentionally violates this section or who
2 aids, abets, or assists in a violation of this section is guilty of a
3 Class IV felony.

4 (10) The Director of Banking and Finance may adopt and promulgate
5 rules and regulations to carry out this section, including rules and
6 regulations defining or further defining terms used in this section,
7 consistent with the provisions of 12 U.S.C. 84 and implementing
8 Regulation O as such section and regulation existed on January 1, 2024
9 ~~2023~~.

10 Sec. 40. Section 8-157.01, Revised Statutes Supplement, 2023, is
11 amended to read:

12 8-157.01 (1) Any establishing financial institution may establish
13 and maintain any number of automatic teller machines at which all banking
14 transactions, defined as receiving deposits of every kind and nature and
15 crediting such to customer accounts, cashing checks and cash withdrawals,
16 transferring funds from checking accounts to savings accounts,
17 transferring funds from savings accounts to checking accounts,
18 transferring funds from either checking accounts and savings accounts to
19 accounts of other customers, transferring payments from customer accounts
20 into accounts maintained by other customers of the financial institution
21 or the financial institution, including preauthorized draft authority,
22 preauthorized loans, and credit transactions, receiving payments payable
23 at the financial institution or otherwise, account balance inquiry, and
24 any other transaction incidental to the business of the financial
25 institution or which will provide a benefit to the financial
26 institution's customers or the general public, may be conducted. Any
27 automatic teller machine owned by a nonfinancial institution third party
28 shall be sponsored by an establishing financial institution. Neither such
29 automatic teller machines nor the transactions conducted thereat shall be
30 construed as the establishment of a branch or as branch banking.

31 (2) Any financial institution may become a user financial

1 institution by agreeing to pay the establishing financial institution the
2 automatic teller machine usage fee. Such agreement shall be implied by
3 the use of such automatic teller machines.

4 (3)(a)(i) All automatic teller machines shall be made available on a
5 nondiscriminating basis for use by Nebraska customers of a user financial
6 institution and (ii) all Nebraska automatic teller machine transactions
7 initiated by Nebraska customers of a user financial institution shall be
8 made on a nondiscriminating basis.

9 (b) It shall not be deemed discrimination if (i) an automatic teller
10 machine does not offer the same transaction services as other automatic
11 teller machines, (ii) there are no automatic teller machine usage fees
12 charged between affiliate financial institutions for the use of automatic
13 teller machines, (iii) the automatic teller machine usage fees of an
14 establishing financial institution that authorizes and directly or
15 indirectly routes Nebraska automatic teller machine transactions to
16 multiple switches, all of which comply with the requirements of
17 subdivision (3)(d) of this section, differ solely based upon the fees
18 established by the switches, (iv) automatic teller machine usage fees
19 differ based upon whether the transaction initiated at an automatic
20 teller machine is subject to a surcharge or provided on a surcharge-free
21 basis, or (v) the automatic teller machines established or sponsored by
22 an establishing financial institution are made available for use by
23 Nebraska customers of any user financial institution which agrees to pay
24 the automatic teller machine usage fee and which conforms to the
25 operating rules and technical standards established by the switch to
26 which a Nebraska automatic teller machine transaction is directly or
27 indirectly routed.

28 (c) The director, upon notice and after a hearing, may terminate or
29 suspend the use of any automatic teller machine if he or she determines
30 that the automatic teller machine is not made available on a
31 nondiscriminating basis or that Nebraska automatic teller machine

1 transactions initiated at such automatic teller machine are not made on a
2 nondiscriminating basis.

3 (d) A switch (i) shall provide to all financial institutions that
4 have a main office or approved branch located in the State of Nebraska
5 and that conform to the operating rules and technical standards
6 established by the switch an equal opportunity to participate in the
7 switch for the use of and access thereto; (ii) shall be capable of
8 operating to accept and route Nebraska automatic teller machine
9 transactions, whether receiving data from an automatic teller machine, an
10 establishing financial institution, or a data processing center; and
11 (iii) shall be capable of being directly or indirectly connected to every
12 data processing center for any automatic teller machine.

13 (e) The director, upon notice and after a hearing, may terminate or
14 suspend the operation of any switch with respect to all Nebraska
15 automatic teller machine transactions if he or she determines that the
16 switch is not being operated in the manner required under subdivision (3)
17 (d) of this section.

18 (f) Subject to the requirement for a financial institution to comply
19 with this subsection, no user financial institution or establishing
20 financial institution shall be required to become a member of any
21 particular switch.

22 (4) Any consumer initiating an electronic funds transfer at an
23 automatic teller machine for which an automatic teller machine surcharge
24 will be imposed shall receive notice in accordance with the provisions of
25 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,
26 2024 ~~2023~~. Such notice shall appear on the screen of the automatic teller
27 machine or appear on a paper notice issued from such machine after the
28 transaction is initiated and before the consumer is irrevocably committed
29 to completing the transaction.

30 (5) A point-of-sale terminal may be established at any point within
31 this state by a financial institution, a group of two or more financial

1 institutions, or a combination of a financial institution or financial
2 institutions and a third party or parties. Such parties may contract with
3 a seller of goods and services or any other third party for the operation
4 of point-of-sale terminals.

5 (6) A seller of goods and services or any other third party on whose
6 premises one or more point-of-sale terminals are established shall not
7 be, solely by virtue of such establishment, a financial institution and
8 shall not be subject to the laws governing, or other requirements imposed
9 on, financial institutions, except for the requirement that it faithfully
10 perform its obligations in connection with any transaction originated at
11 any point-of-sale terminal on its premises.

12 (7) Nothing in this section shall be construed to prohibit nonbank
13 employees from assisting in transactions originated at automatic teller
14 machines or point-of-sale terminals, and such assistance shall not be
15 deemed to be engaging in the business of banking.

16 (8)(a) Annually by September 1, any entity operating as a switch in
17 Nebraska shall file a notice with the department setting forth its name,
18 address, and contact information for an officer authorized to answer
19 inquiries related to its operations in Nebraska.

20 (b) Any entity intending to operate in Nebraska as a switch shall
21 file a notice with the department setting forth its name, address, and
22 contact information for an officer authorized to answer inquiries related
23 to its operations in Nebraska. Such notice shall be filed at least thirty
24 days prior to the date on which the switch commences operations, and
25 thereafter annually by September 1.

26 (9) Nothing in this section prohibits ordinary clearinghouse
27 transactions between financial institutions.

28 (10) Nothing in this section shall prevent any financial institution
29 which has a main chartered office or an approved branch located in the
30 State of Nebraska from participating in a national automatic teller
31 machine program to allow its customers to use automatic teller machines

1 located outside of the State of Nebraska which are established by out-of-
2 state financial institutions or foreign financial institutions or to
3 allow customers of out-of-state financial institutions or foreign
4 financial institutions to use its automatic teller machines. Such
5 participation and any automatic teller machine usage fees charged or
6 received pursuant to the national automatic teller machine program or
7 usage fees charged for the use of its automatic teller machines by
8 customers of out-of-state financial institutions or foreign financial
9 institutions shall not be considered for purposes of determining (a) if
10 an automatic teller machine has been made available or Nebraska automatic
11 teller machine transactions have been made on a nondiscriminating basis
12 for use by Nebraska customers of a user financial institution or (b) if a
13 switch complies with subdivision (3)(d) of this section.

14 (11) An agreement to operate or share an automatic teller machine
15 may not prohibit, limit, or restrict the right of the operator or owner
16 of the automatic teller machine to charge a customer conducting a
17 transaction using an account from a foreign financial institution an
18 access fee or surcharge not otherwise prohibited under state or federal
19 law.

20 (12) Switch fees shall not be subject to this section or be
21 regulated by the department.

22 (13) Nothing in this section shall prevent a group of two or more
23 credit unions, each of which has a main chartered office or an approved
24 branch located in the State of Nebraska, from participating in a credit
25 union service organization organized on or before January 1, 2015, for
26 the purpose of owning automatic teller machines, provided that all
27 participating credit unions have an ownership interest in the credit
28 union service organization and that the credit union service organization
29 has an ownership interest in each of the participating credit unions'
30 automatic teller machines. Such participation and any automatic teller
31 machine usage fees associated with Nebraska automatic teller machine

1 transactions initiated by customers of participating credit unions at
2 such automatic teller machines shall not be considered for purposes of
3 determining if such automatic teller machines have been made available on
4 a nondiscriminating basis or if Nebraska automatic teller machine
5 transactions initiated at such automatic teller machines have been made
6 on a nondiscriminating basis, provided that all Nebraska automatic teller
7 machine transactions initiated by customers of participating credit
8 unions result in the same automatic teller machine usage fees for
9 essentially the same service routed over the same switch.

10 (14) Nebraska automatic teller machine usage fees and any agreements
11 relating to Nebraska automatic teller machine usage fees shall comply
12 with subsection (3) of this section.

13 (15) For purposes of this section:

14 (a) Access means the ability to utilize an automatic teller machine
15 or a point-of-sale terminal to conduct permitted banking transactions or
16 purchase goods and services electronically;

17 (b) Account means a checking account, a savings account, a share
18 account, or any other customer asset account held by a financial
19 institution. Such an account may also include a line of credit which a
20 financial institution has agreed to extend to its customer;

21 (c) Affiliate financial institution means any financial institution
22 which is a subsidiary of the same bank holding company;

23 (d) Automatic teller machine usage fee means any per transaction fee
24 established by a switch or otherwise established on behalf of an
25 establishing financial institution and collected from the user financial
26 institution and paid to the establishing financial institution for the
27 use of the automatic teller machine. An automatic teller machine usage
28 fee shall not include switch fees;

29 (e) Electronic funds transfer means any transfer of funds, other
30 than a transaction originated by check, draft, or similar paper
31 instrument, that is initiated through a point-of-sale terminal, an

1 automatic teller machine, or a personal terminal for the purpose of
2 ordering, instructing, or authorizing a financial institution to debit or
3 credit an account;

4 (f) Essentially the same service means the same Nebraska automatic
5 teller machine transaction offered by an establishing financial
6 institution irrespective of the user financial institution, the Nebraska
7 customer of which initiates the Nebraska automatic teller machine
8 transaction. A Nebraska automatic teller machine transaction that is
9 subject to a surcharge is not essentially the same service as the same
10 banking transaction for which a surcharge is not imposed;

11 (g) Establishing financial institution means any financial
12 institution which has a main chartered office or approved branch located
13 in the State of Nebraska that establishes or sponsors an automatic teller
14 machine or any out-of-state financial institution that establishes or
15 sponsors an automatic teller machine;

16 (h) Financial institution means a bank, savings bank, building and
17 loan association, savings and loan association, or credit union, whether
18 chartered by the department, the United States, or a foreign state
19 agency; any other similar organization which is covered by federal
20 deposit insurance; or a subsidiary of any such entity;

21 (i) Foreign financial institution means a financial institution
22 located outside the United States;

23 (j) Nebraska automatic teller machine transaction means a banking
24 transaction as defined in subsection (1) of this section which is (i)
25 initiated at an automatic teller machine established in whole or in part
26 or sponsored by an establishing financial institution, (ii) for an
27 account of a Nebraska customer of a user financial institution, and (iii)
28 processed through a switch regardless of whether it is routed directly or
29 indirectly from an automatic teller machine;

30 (k) Personal terminal means a personal computer and telephone,
31 wherever located, operated by a customer of a financial institution for

1 the purpose of initiating a transaction affecting an account of the
2 customer;

3 (l) Sponsoring an automatic teller machine means the acceptance of
4 responsibility by an establishing financial institution for compliance
5 with all provisions of law governing automatic teller machines and
6 Nebraska automatic teller machine transactions in connection with an
7 automatic teller machine owned by a nonfinancial institution third party;

8 (m) Switch fee means a fee established by a switch and assessed to a
9 user financial institution or to an establishing financial institution
10 other than an automatic teller machine usage fee; and

11 (n) User financial institution means any financial institution which
12 has a main chartered office or approved branch located in the State of
13 Nebraska which avails itself of and provides its customers with automatic
14 teller machine services.

15 Sec. 41. Section 8-183.04, Revised Statutes Supplement, 2023, is
16 amended to read:

17 8-183.04 (1) Notwithstanding any other provision of the Nebraska
18 Banking Act or any other Nebraska law, a state or federal savings
19 association which was formed and in operation as a mutual savings
20 association as of July 15, 1998, may elect to retain its mutual form of
21 corporate organization upon conversion to a state bank.

22 (2) All references to shareholders or stockholders for state banks
23 shall be deemed to be references to members for such a converted savings
24 association.

25 (3) The amount and type of capital required for such a converted
26 savings association shall be as required for federal mutual savings
27 associations in 12 C.F.R. 5.21, as such regulation existed on January 1,
28 2024 ~~2023~~, except that if at any time the department determines that the
29 capital of such a converted savings association is impaired, the director
30 may require the members to make up the capital impairment.

31 (4) The director may adopt and promulgate rules and regulations

1 governing such converted mutual savings associations. In adopting and
2 promulgating such rules and regulations, the director may consider the
3 provisions of sections 8-301 to 8-384 governing savings associations in
4 mutual form of corporate organization.

5 Sec. 42. Section 8-1,140, Revised Statutes Supplement, 2023, is
6 amended to read:

7 8-1,140 Notwithstanding any of the other provisions of the Nebraska
8 Banking Act or any other Nebraska statute, any bank incorporated under
9 the laws of this state and organized under the provisions of the act, or
10 under the laws of this state as they existed prior to May 9, 1933, shall
11 directly, or indirectly through a department, a subsidiary, or
12 subsidiaries, have all the rights, powers, privileges, benefits, and
13 immunities which may be exercised as of January 1, 2024 ~~2023~~, by a
14 federally chartered bank doing business in Nebraska, including the
15 exercise of all powers and activities that are permitted for a financial
16 subsidiary of a federally chartered bank. Such rights, powers,
17 privileges, benefits, and immunities shall not relieve such bank from
18 payment of state taxes assessed under any applicable laws of this state.

19 Sec. 43. Section 8-318, Revised Statutes Supplement, 2023, is
20 amended to read:

21 8-318 (1)(a) Shares of stock in any association, or in any federal
22 savings and loan association incorporated under the provisions of the
23 federal Home Owners' Loan Act, with its principal office and place of
24 business in this state, may be subscribed for, held, transferred,
25 surrendered, withdrawn, and forfeited and payments thereon received and
26 receipted for by any person, regardless of age, in the same manner and
27 with the same binding effect as though such person were of the age of
28 majority, except that a minor or his or her estate shall not be bound on
29 his or her subscription to stock except to the extent of payments
30 actually made thereon.

31 (b) Whenever a share account is accepted by any building and loan

1 association in the name of any person, regardless of age, the deposit may
2 be withdrawn by the shareholder by any of the following methods:

3 (i) Check or other instrument in writing. The check or other
4 instrument in writing constitutes a receipt or acquittance if the check
5 or other instrument in writing is signed by the shareholder and
6 constitutes a valid release in discharge to the building and loan
7 association for all payments so made; or

8 (ii) Electronic means through:

9 (A) Preauthorized direct withdrawal;

10 (B) An automatic teller machine;

11 (C) A debit card;

12 (D) A transfer by telephone;

13 (E) A network, including the Internet; or

14 (F) Any electronic terminal, computer, magnetic tape, or other
15 electronic means.

16 (c) This section shall not be construed to affect the rights,
17 liabilities, or responsibilities of participants in an electronic fund
18 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
19 et seq., as it existed on January 1, 2024 ~~2023~~, and shall not affect the
20 legal relationships between a minor and any person other than the
21 building and loan association.

22 (2) All trustees, guardians, personal representatives,
23 administrators, and conservators appointed by the courts of this state
24 may invest and reinvest in, acquire, make withdrawals in whole or in
25 part, hold, transfer, or make new or additional investments in or
26 transfers of shares of stock in any (a) building and loan association
27 organized under the laws of the State of Nebraska or (b) federal savings
28 and loan association incorporated under the provisions of the federal
29 Home Owners' Loan Act, having its principal office and place of business
30 in this state, without an order of approval from any court.

31 (3) Trustees created solely by the terms of a trust instrument may

1 invest in, acquire, hold, and transfer such shares, and make withdrawals,
2 in whole or in part, therefrom, without any order of court, unless
3 expressly limited, restricted, or prohibited therefrom by the terms of
4 such trust instrument.

5 (4) All building and loan associations referred to in this section
6 are qualified to act as trustee or custodian within the provisions of the
7 federal Self-Employed Individuals Tax Retirement Act of 1962, as amended,
8 or under the terms and provisions of section 408(a) of the Internal
9 Revenue Code, if the provisions of such retirement plan require the funds
10 of such trust or custodianship to be invested exclusively in shares or
11 accounts in the association or in other associations. If any such
12 retirement plan, within the judgment of the association, constitutes a
13 qualified plan under the federal Self-Employed Individuals Tax Retirement
14 Act of 1962, or under the terms and provisions of section 408(a) of the
15 Internal Revenue Code, and the regulations promulgated thereunder at the
16 time the trust was established and accepted by the association, is
17 subsequently determined not to be such a qualified plan or subsequently
18 ceases to be such a qualified plan, in whole or in part, the association
19 may continue to act as trustee of any deposits theretofore made under
20 such plan and to dispose of the same in accordance with the directions of
21 the member and beneficiaries thereof. No association, in respect to
22 savings made under this section, shall be required to segregate such
23 savings from other assets of the association. The association shall keep
24 appropriate records showing in proper detail all transactions engaged in
25 under the authority of this section.

26 Sec. 44. Section 8-355, Revised Statutes Supplement, 2023, is
27 amended to read:

28 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,
29 or any other Nebraska statute, except as provided in section 8-345.02,
30 any association incorporated under the laws of the State of Nebraska and
31 organized under the provisions of such article shall have all the rights,

1 powers, privileges, benefits, and immunities which may be exercised as of
2 January 1, ~~2024~~ 2023, by a federal savings and loan association doing
3 business in Nebraska. Such rights, powers, privileges, benefits, and
4 immunities shall not relieve such association from payment of state taxes
5 assessed under any applicable laws of this state.

6 Sec. 45. Section 8-1101, Revised Statutes Supplement, 2023, is
7 amended to read:

8 8-1101 For purposes of the Securities Act of Nebraska, unless the
9 context otherwise requires:

10 (1) Agent means any individual other than a broker-dealer who
11 represents a broker-dealer or issuer in effecting or attempting to effect
12 sales of securities, but agent does not include an individual who
13 represents (a) an issuer in (i) effecting a transaction in a security
14 exempted by subdivision (6), (7), or (8) of section 8-1110, (ii)
15 effecting certain transactions exempted by section 8-1111, (iii)
16 effecting transactions in a federal covered security as described in
17 section 18(b)(3) of the Securities Act of 1933, or (iv) effecting
18 transactions with existing employees, limited liability company members,
19 partners, or directors of the issuer or any of its subsidiaries if no
20 commission or other remuneration is paid or given directly or indirectly
21 for soliciting any person in this state or (b) a broker-dealer in
22 effecting transactions described in section 15(h)(2) of the Securities
23 Exchange Act of 1934. A partner, limited liability company member,
24 officer, or director of a broker-dealer is an agent only if he or she
25 otherwise comes within this definition;

26 (2) Broker-dealer means any person engaged in the business of
27 effecting transactions in securities for the account of others or for his
28 or her own account. Broker-dealer does not include (a) an issuer-dealer,
29 agent, bank, savings institution, or trust company, (b) an issuer
30 effecting a transaction in its own security exempted by subdivision (5)
31 (a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a

1 federal covered security pursuant to section 18(b)(1) of the Securities
2 Act of 1933, (c) a person who has no place of business in this state if
3 he or she effects transactions in this state exclusively with or through
4 the issuers of the securities involved in the transactions, other broker-
5 dealers, or banks, savings institutions, credit unions, trust companies,
6 insurance companies, investment companies as defined in the Investment
7 Company Act of 1940, pension or profit-sharing trusts, or other financial
8 institutions or institutional buyers, whether acting for themselves or as
9 trustees, (d) a person who has no place of business in this state if
10 during any period of twelve consecutive months he or she does not direct
11 more than five offers to sell or to buy into this state in any manner to
12 persons other than those specified in subdivision (2)(c) of this section,
13 or (e) a person who is a resident of Canada and who has no office or
14 other physical presence in Nebraska if the following conditions are
15 satisfied: (i) The person must be registered with, or be a member of, a
16 securities self-regulatory organization in Canada or a stock exchange in
17 Canada; (ii) the person must maintain, in good standing, its provisional
18 or territorial registration or membership in a securities self-regulatory
19 organization in Canada, or stock exchange in Canada; (iii) the person
20 effects, or attempts to effect, (A) a transaction with or for a Canadian
21 client who is temporarily present in this state and with whom the
22 Canadian broker-dealer had a bona fide customer relationship before the
23 client entered this state or (B) a transaction with or for a Canadian
24 client in a self-directed tax advantaged retirement plan in Canada of
25 which that client is the holder or contributor; and (iv) the person
26 complies with all provisions of the Securities Act of Nebraska relating
27 to the disclosure of material information in connection with the
28 transaction;

29 (3) Department means the Department of Banking and Finance. Director
30 means the Director of Banking and Finance of the State of Nebraska except
31 as further provided in section 8-1120;

1 (4) Federal covered adviser means a person who is registered under
2 section 203 of the Investment Advisers Act of 1940;

3 (5) Federal covered security means any security described as a
4 covered security under section 18(b) of the Securities Act of 1933 or
5 rules and regulations under the act;

6 (6) Guaranteed means guaranteed as to payment of principal,
7 interest, or dividends;

8 (7) Investment adviser means any person who for compensation engages
9 in the business of advising others, either directly or through
10 publications or writings, as to the value of securities or as to the
11 advisability of investing in, purchasing, or selling securities or who
12 for compensation and as a part of a regular business issues or
13 promulgates analyses or reports concerning securities. Investment adviser
14 also includes financial planners and other persons who, as an integral
15 component of other financially related services, provide the foregoing
16 investment advisory services to others for compensation and as part of a
17 business or who hold themselves out as providing the foregoing investment
18 advisory services to others for compensation. Investment adviser does not
19 include (a) an investment adviser representative, (b) a bank, savings
20 institution, or trust company, (c) a lawyer, accountant, engineer, or
21 teacher whose performance of these services is solely incidental to the
22 practice of his or her profession, (d) a broker-dealer or its agent whose
23 performance of these services is solely incidental to its business as a
24 broker-dealer and who receives no special compensation for them, (e) an
25 issuer-dealer, (f) a publisher of any bona fide newspaper, news column,
26 newsletter, news magazine, or business or financial publication or
27 service, whether communicated in hard copy form, by electronic means, or
28 otherwise which does not consist of the rendering of advice on the basis
29 of the specific investment situation of each client, (g) a person who has
30 no place of business in this state if (i) his or her only clients in this
31 state are other investment advisers, federal covered advisers, broker-

1 dealers, banks, savings institutions, credit unions, trust companies,
2 insurance companies, investment companies as defined in the Investment
3 Company Act of 1940, pension or profit-sharing trusts, or other financial
4 institutions or institutional buyers, whether acting for themselves or as
5 trustees, or (ii) during the preceding twelve-month period, he or she has
6 had five or fewer clients who are residents of this state other than
7 those persons specified in subdivision (g)(i) of this subdivision, (h)
8 any person that is a federal covered adviser or is excluded from the
9 definition of investment adviser under section 202 of the Investment
10 Adviser Act of 1940, or (i) such other persons not within the intent of
11 this subdivision as the director may by rule and regulation or order
12 designate;

13 (8) Investment adviser representative means any partner, limited
14 liability company member, officer, or director or any person occupying a
15 similar status or performing similar functions of a partner, limited
16 liability company member, officer, or director or other individual,
17 except clerical or ministerial personnel, who is employed by or
18 associated with an investment adviser that is registered or required to
19 be registered under the Securities Act of Nebraska or who has a place of
20 business located in this state and is employed by or associated with a
21 federal covered adviser, and who (a) makes any recommendations or
22 otherwise renders advice regarding securities, (b) manages accounts or
23 portfolios of clients, (c) determines which recommendation or advice
24 regarding securities should be given, (d) solicits, offers, or negotiates
25 for the sale of or sells investment advisory services, or (e) supervises
26 employees who perform any of the foregoing;

27 (9) Issuer means any person who issues or proposes to issue any
28 security, except that (a) with respect to certificates of deposit,
29 voting-trust certificates, or collateral-trust certificates or with
30 respect to certificates of interest or shares in an unincorporated
31 investment trust not having a board of directors, or persons performing

1 similar functions, or of the fixed, restricted management, or unit type,
2 the term issuer means the person or persons performing the acts and
3 assuming the duties of depositor or manager pursuant to the provisions of
4 the trust or other agreement or instrument under which the security is
5 issued and (b) with respect to a fractional or pooled interest in a
6 viatical settlement contract, issuer means the person who creates, for
7 the purpose of sale, the fractional or pooled interest. In the case of a
8 viatical settlement contract that is not fractionalized or pooled, issuer
9 means the person effecting a transaction with a purchaser of such
10 contract;

11 (10) Issuer-dealer means (a) any issuer located in the State of
12 Nebraska or (b) any issuer which registered its securities by
13 qualification who proposes to sell to the public of the State of Nebraska
14 the securities that it issues without the benefit of another registered
15 broker-dealer. Such securities shall have been approved for sale in the
16 State of Nebraska pursuant to section 8-1104;

17 (11) Nonissuer means not directly or indirectly for the benefit of
18 the issuer;

19 (12) Person means an individual, a corporation, a partnership, a
20 limited liability company, an association, a joint-stock company, a trust
21 in which the interests of the beneficiaries are evidenced by a security,
22 an unincorporated organization, a government, or a political subdivision
23 of a government;

24 (13) Sale or sell includes every contract of sale of, contract to
25 sell, or disposition of a security or interest in a security for value.
26 Offer or offer to sell includes every attempt or offer to dispose of, or
27 solicitation of an offer to buy, a security or interest in a security for
28 value. Any security given or delivered with or as a bonus on account of
29 any purchase of securities or any other thing is considered to constitute
30 part of the subject of the purchase and to have been offered and sold for
31 value. A purported gift of assessable stock shall be considered to

1 involve an offer and sale. Every sale or offer of a warrant or right to
2 purchase or subscribe to another security of the same or another issuer,
3 as well as every sale or offer of a security which gives the holder a
4 present or future right or privilege to convert into another security of
5 the same or another issuer, shall be considered to include an offer of
6 the other security;

7 (14) Securities Act of 1933, Securities Exchange Act of 1934,
8 Investment Advisers Act of 1940, Investment Company Act of 1940,
9 Commodity Exchange Act, and the federal Interstate Land Sales Full
10 Disclosure Act means the acts as they existed on January 1, ~~2024~~ 2023;

11 (15) Security means any note, stock, treasury stock, bond,
12 debenture, units of beneficial interest in a real estate trust, evidence
13 of indebtedness, certificate of interest or participation in any profit-
14 sharing agreement, collateral-trust certificate, preorganization
15 certificate or subscription, transferable share, investment contract,
16 viatical settlement contract or any fractional or pooled interest in such
17 contract, membership interest in any limited liability company organized
18 under Nebraska law or any other jurisdiction unless otherwise excluded
19 from this definition, voting-trust certificate, certificate of deposit
20 for a security, certificate of interest or participation in an oil, gas,
21 or mining title or lease or in payments out of production under such a
22 title or lease, in general any interest or instrument commonly known as a
23 security, or any certificate of interest or participation in, temporary
24 or interim certificate for, guarantee of, or warrant or right to
25 subscribe to or purchase any of the foregoing. Security does not include
26 any insurance or endowment policy or annuity contract issued by an
27 insurance company. Security also does not include a membership interest
28 in a limited liability company when all of the following exist: (a) The
29 member enters into a written commitment to be engaged actively and
30 directly in the management of the limited liability company; and (b) all
31 members of the limited liability company are actively engaged in the

1 management of the limited liability company. For the limited purposes of
2 determining professional malpractice insurance premiums, a security
3 issued through a transaction that is exempted pursuant to subdivision
4 (23) of section 8-1111 shall not be considered a security;

5 (16) State means any state, territory, or possession of the United
6 States as well as the District of Columbia and Puerto Rico; and

7 (17) Viatical settlement contract means an agreement for the
8 purchase, sale, assignment, transfer, devise, or bequest of all or any
9 portion of the death benefit or ownership of a life insurance policy or
10 contract for consideration which is less than the expected death benefit
11 of the life insurance policy or contract. Viatical settlement contract
12 does not include (a) the assignment, transfer, sale, devise, or bequest
13 of a death benefit of a life insurance policy or contract made by the
14 viator to an insurance company or to a viatical settlement provider or
15 broker licensed pursuant to the Viatical Settlements Act, (b) the
16 assignment of a life insurance policy or contract to a bank, savings
17 bank, savings and loan association, credit union, or other licensed
18 lending institution as collateral for a loan, or (c) the exercise of
19 accelerated benefits pursuant to the terms of a life insurance policy or
20 contract and consistent with applicable law.

21 Sec. 46. Section 8-1101.01, Revised Statutes Supplement, 2023, is
22 amended to read:

23 8-1101.01 For purposes of the Securities Act of Nebraska:

24 (1) Federal rules and regulations adopted under the Investment
25 Advisers Act of 1940 or the Securities Act of 1933 means such rules and
26 regulations as they existed on January 1, 2024 ~~2023~~; and

27 (2) Fair practice or ethical rules or standards promulgated by the
28 Securities and Exchange Commission, the Financial Industry Regulatory
29 Authority, or a self-regulatory organization approved by the Securities
30 and Exchange Commission means such practice, rules, or standards as they
31 existed on January 1, 2024 ~~2023~~.

1 Sec. 47. Section 8-1116, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-1116 Whenever it appears to the director that any person has
4 engaged or is about to engage in any act or practice constituting a
5 violation of any provision of the Securities Act of Nebraska or any rule
6 and regulation or order under the act, the director may in his or her
7 discretion bring an action in any court of competent jurisdiction to
8 enjoin any such acts or practices and to enforce compliance with the
9 Securities Act of Nebraska or any rule and regulation or order under the
10 act. Upon a proper showing, a permanent or temporary injunction,
11 restraining order, or writ of mandamus shall be granted and a receiver or
12 conservator may be appointed for the defendant's assets. Upon a proper
13 showing by the director, the court may invoke its equitable powers under
14 the law and issue an order of rescission, restitution, or disgorgement,
15 an order freezing assets, an order requiring an accounting, or a writ of
16 attachment or writ of general or specific execution, directed to any
17 person who has engaged in or is engaging in any act constituting a
18 violation of any provision of the Securities Act of Nebraska or any rule
19 and regulation or order under the act. Neither the ~~The~~ director nor any
20 receiver appointed pursuant to this section shall not be required to post
21 a bond.

22 Sec. 48. Section 8-1120, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 8-1120 (1) Except as otherwise provided in this section, the
25 Securities Act of Nebraska shall be administered by the Director of
26 Banking and Finance who may employ such deputies, examiners, assistants,
27 or counsel as may be reasonably necessary for the purpose thereof. The
28 employment of any person for the administration of the act is subject to
29 section 49-1499.07. The director may delegate to a deputy director or
30 counsel any powers, authority, and duties imposed upon or granted to the
31 director under the act, such as may be lawfully delegated under the

1 common law or the statutes of this state. The director may also employ
2 special counsel with respect to any investigation conducted by him or her
3 under the act or with respect to any litigation to which the director is
4 a party under the act.

5 (2) A security issued by and representing an interest in or a debt
6 of, or guaranteed by, any insurance company shall be registered, pursuant
7 to the provisions of sections 8-1104 to 8-1109, with the Director of
8 Insurance who shall as to such registrations administer and enforce the
9 act, and as pertains to the administration and enforcement of such
10 registration of such securities all references in the act to director
11 shall mean the Director of Insurance.

12 (3)(a) It shall be unlawful for the director or any of his or her
13 employees to use for personal benefit any information which is filed with
14 or obtained by the director and which is not made public. Neither the
15 director nor any of his or her employees shall disclose any confidential
16 information except among themselves, when necessary or appropriate in a
17 proceeding, examination, or investigation under the act, or as authorized
18 in subdivision (3)(b) of this subsection. No provision of the act shall
19 either create or derogate from any privilege which exists at common law
20 or otherwise when documentary or other evidence is sought under a
21 subpoena directed to the director or any of his or her employees.

22 (b)(i) In administering the act, the director may also:

23 (A) Enter into agreements or relationships with other government
24 officials, including, but not limited to, the securities administrator of
25 a foreign state and the Securities and Exchange Commission, or self-
26 regulatory organizations, to share resources, standardized or uniform
27 methods or procedures, and documents, records, and information; or

28 (B) Accept and rely on examination or investigation reports made by
29 other government officials, including, but not limited to, the securities
30 administrator of a foreign state and the Securities and Exchange
31 Commission, or self-regulatory organizations.

1 (ii) For purposes of this subdivision, foreign state means any state
2 of the United States, other than the State of Nebraska, any territory of
3 the United States, including Puerto Rico, Guam, American Samoa, the Trust
4 Territory of the Pacific Islands, or the Virgin Islands, and the District
5 of Columbia.

6 (4) The director may adopt and promulgate rules and regulations and
7 prescribe forms to carry out the act. No rule and regulation may be
8 adopted and promulgated or form may be prescribed unless the director
9 finds that the action is necessary or appropriate in the public interest
10 or for the protection of investors and consistent with the purposes
11 fairly intended by the policy and provisions of the act. In adopting and
12 promulgating rules and regulations and prescribing forms the director may
13 cooperate with the securities administrators of the other states and the
14 Securities and Exchange Commission with a view to effectuating the policy
15 of the Securities Act of Nebraska to achieve maximum uniformity in the
16 form and content of registration statements, applications, and reports
17 wherever practicable. All rules and regulations and forms of the director
18 shall be published and made available to any person upon request.

19 (5) No provision of the act imposing any liability shall apply to
20 any act done or omitted in good faith in conformity with any rule and
21 regulation, form, or order of the director, notwithstanding that the rule
22 and regulation or form may later be amended or rescinded or be determined
23 by judicial or other authority to be invalid for any reason.

24 (6) Every hearing in an administrative proceeding shall be public
25 unless the director in his or her discretion grants a request joined in
26 by all the respondents that the hearing be conducted privately.

27 (7) ~~(7)(a)~~ The Securities Act Cash Fund is created. All filing fees,
28 registration fees, and all other fees and all money collected by or paid
29 to the director under any of the provisions of the act shall be remitted
30 to the State Treasurer for credit to the fund, except that registration
31 fees collected by or paid to the Director of Insurance pursuant to the

1 provisions of the act shall be credited to the Department of Insurance
2 Cash Fund. The Securities Act Cash Fund shall be used for the purpose of
3 administering and enforcing the provisions of the act, except that
4 transfers may be made to the General Fund at the direction of the
5 Legislature. Any money in the Securities Act Cash Fund available for
6 investment shall be invested by the state investment officer pursuant to
7 the Nebraska Capital Expansion Act and the Nebraska State Funds
8 Investment Act.

9 ~~(b) The State Treasurer shall transfer seven hundred twelve thousand~~
10 ~~four hundred eighty-nine dollars from the Securities Act Cash Fund to the~~
11 ~~Financial Institution Assessment Cash Fund on or before October 30, 2021,~~
12 ~~on such date as directed by the budget administrator of the budget~~
13 ~~division of the Department of Administrative Services.~~

14 ~~(c) The State Treasurer shall transfer three hundred ninety seven~~
15 ~~thousand eighty-nine dollars from the Securities Act Cash Fund to the~~
16 ~~Financial Institution Assessment Cash Fund on or before October 30, 2022,~~
17 ~~on such date as directed by the budget administrator of the budget~~
18 ~~division of the Department of Administrative Services.~~

19 (8) A document is filed when it is received by the director. The
20 director shall keep a register of all applications for registration and
21 registration statements which are or have ever been effective under the
22 Securities Act of Nebraska and all denial, suspension, or revocation
23 orders which have ever been entered under the act. The register shall be
24 open for public inspection. The information contained in or filed with
25 any registration statement, application, or report may be made available
26 to the public under such conditions as the director may prescribe.

27 (9) The director may, by rule and regulation or order, authorize or
28 require the filing of any document required to be filed under the act by
29 electronic or other means, processes, or systems.

30 (10) Upon request and at such reasonable charges as he or she shall
31 prescribe, the director shall furnish to any person photostatic or other

1 copies, certified under his or her seal of office if requested, of any
2 entry in the register or any document which is a matter of public record.
3 In any proceeding or prosecution under the act, any copy so certified
4 shall be prima facie evidence of the contents of the entry or document
5 certified.

6 (11) The director in his or her discretion may honor requests from
7 interested persons for interpretative opinions.

8 Sec. 49. Section 8-1704, Revised Statutes Supplement, 2023, is
9 amended to read:

10 8-1704 CFTC rule shall mean any rule, regulation, or order of the
11 Commodity Futures Trading Commission in effect on January 1, 2024 ~~2023~~.

12 Sec. 50. Section 8-1707, Revised Statutes Supplement, 2023, is
13 amended to read:

14 8-1707 Commodity Exchange Act shall mean the act of Congress known
15 as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2024
16 ~~2023~~.

17 Sec. 51. Section 8-1726, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 8-1726 (1) If the director believes, whether or not based upon an
20 investigation conducted under section 8-1725, that any person has engaged
21 or is about to engage in any act or practice constituting a violation of
22 any provision of the Commodity Code or any rule, regulation, or order
23 under the code, the director may:

24 (a) Issue a cease and desist order;

25 (b) Issue an order imposing (i) a fine civil penalty in an amount
26 that which may not exceed twenty-five thousand dollars for any single
27 violation or one hundred thousand dollars for multiple violations in a
28 single proceeding or a series of related proceedings and (ii) the costs
29 of investigation; or

30 (c) Initiate any of the actions specified in subsection (2) of this
31 section.

1 (2) The director may institute any of the following actions in the
2 appropriate district court of this state or in the appropriate courts of
3 another state in addition to any legal or equitable remedies otherwise
4 available:

5 (a) An action for a declaratory judgment;

6 (b) An action for a prohibitory or mandatory injunction to enjoin
7 the violation and to ensure compliance with the Commodity Code or any
8 rule, regulation, or order of the director;

9 (c) An action for disgorgement or restitution; or

10 (d) An action for appointment of a receiver or conservator for the
11 defendant or the defendant's assets.

12 (3)(a) The fines and costs shall be in addition to all other
13 penalties imposed by the laws of this state. The director shall collect
14 the fines and costs and remit them to the State Treasurer. The State
15 Treasurer shall credit the costs to the Securities Act Cash Fund and
16 distribute the fines in accordance with Article VII, section 5, of the
17 Constitution of Nebraska.

18 (b) If a person fails to pay the administrative fine or
19 investigation costs referred to in this section, a lien in the amount of
20 such fine and costs may be imposed upon all assets and property of such
21 person in this state and may be recovered by suit by the director.
22 Failure of the person to pay such fine and costs shall constitute a
23 separate violation of the code.

24 Sec. 52. Section 8-2504, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 8-2504 (1) The Department of Banking and Finance may order any
27 person to cease and desist whenever the Director of Banking and Finance
28 determines that such person has violated section 8-2501 or 8-2502. Upon
29 entry of a cease and desist order, the director shall promptly notify the
30 affected person that such order has been entered and provide opportunity
31 for hearing in accordance with the Administrative Procedure Act.

1 (2) If a person violates section 8-2501 or 8-2502 after receiving
2 such cease and desist order, the director may, following notice and
3 opportunity for hearing in accordance with the Administrative Procedure
4 Act, impose a fine of up to five ~~one~~ thousand dollars for each violation,
5 plus the costs of investigation. Each instance in which a violation of
6 section 8-2501 or 8-2502 takes place after receiving a cease and desist
7 order constitutes a separate violation.

8 (3) The director shall remit all fines collected under this section
9 to the State Treasurer for distribution in accordance with Article VII,
10 section 5, of the Constitution of Nebraska. All costs collected shall be
11 remitted to the Financial Institution Assessment Cash Fund.

12 (4) This section does not affect the availability of any remedies
13 otherwise available to a financial institution.

14 Sec. 53. Section 8-2724, Revised Statutes Supplement, 2023, is
15 amended to read:

16 8-2724 (1) The requirement for a license under the Nebraska Money
17 Transmitters Act does not apply to:

18 (a) The United States or any department, agency, or instrumentality
19 thereof;

20 (b) Any post office of the United States Postal Service;

21 (c) A state or any political subdivision thereof;

22 (d)(i) Banks, credit unions, digital asset depository institutions
23 as defined in section 8-3003, building and loan associations, savings and
24 loan associations, savings banks, or mutual banks organized under the
25 laws of any state or the United States;

26 (ii) Subsidiaries of the institutions listed in subdivision (d)(i)
27 of this subsection;

28 (iii) Bank holding companies which have a banking subsidiary located
29 in Nebraska and whose debt securities have an investment grade rating by
30 a national rating agency; or

31 (iv) Authorized delegates of the institutions and entities listed in

1 subdivision (d)(i), (ii), or (iii) of this subsection, except that
2 authorized delegates that are not banks, credit unions, building and loan
3 associations, savings and loan associations, savings banks, mutual banks,
4 subsidiaries of any of the foregoing, or bank holding companies shall
5 comply with all requirements imposed upon authorized delegates under the
6 act;

7 (e) The provision of electronic transfer of government benefits for
8 any federal, state, or county governmental agency, as defined in Consumer
9 Financial Protection Bureau Regulation E, 12 C.F.R. part 1005, as such
10 regulation existed on January 1, ~~2023~~ 2024, by a contractor for and on
11 behalf of the United States or any department, agency, or instrumentality
12 thereof or any state or any political subdivision thereof;

13 (f) An operator of a payment system only to the extent that the
14 payment system provides processing, clearing, or settlement services
15 between or among persons who are all exempt under this section in
16 connection with wire transfers, credit card transactions, debit card
17 transactions, automated clearinghouse transfers, or similar fund
18 transfers; or

19 (g) A person, firm, corporation, or association licensed in this
20 state and acting within this state within the scope of a license:

21 (i) As a collection agency pursuant to the Collection Agency Act;

22 (ii) As a credit services organization pursuant to the Credit
23 Services Organization Act; or

24 (iii) To engage in the debt management business pursuant to sections
25 69-1201 to 69-1217.

26 (2) An authorized delegate of a licensee or of an exempt entity,
27 acting within the scope of its authority conferred by a written contract
28 as described in section 8-2739, is not required to obtain a license under
29 the Nebraska Money Transmitters Act, except that such an authorized
30 delegate shall comply with the other provisions of the act which apply to
31 money transmission transactions.

1 Sec. 54. Section 8-2729, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-2729 Each application for a license under the Nebraska Money
4 Transmitters Act shall be made in writing and in a form prescribed by the
5 director. Each application shall state or contain:

6 (1) For all applicants:

7 (a) The exact name of the applicant, the applicant's principal
8 address, any fictitious or trade name used by the applicant in the
9 conduct of its business, and the location of the applicant's business
10 records;

11 (b) The history of the applicant's criminal convictions and material
12 litigation for the five-year period before the date of the application;

13 (c) A description of the activities conducted by the applicant and a
14 history of operations;

15 (d) A description of the business activities in which the applicant
16 seeks to be engaged in this state;

17 (e) A list identifying the applicant's proposed authorized delegates
18 in this state, if any, at the time of the filing of the application;

19 (f) A sample authorized delegate contract, if applicable;

20 (g) A sample form of payment instrument, if applicable;

21 (h) The locations at which the applicant and its authorized
22 delegates, if any, propose to conduct money transmission in this state;
23 and

24 (i) The name, address, and account information of each clearing bank
25 or banks, which shall be covered by federal deposit insurance, on which
26 the applicant's payment instruments and funds received for transmission
27 or otherwise will be drawn or through which the payment instruments or
28 other funds will be payable;

29 (2) If the applicant is a corporation, the applicant shall also
30 provide:

31 (a) The date of the applicant's incorporation and state of

1 incorporation;

2 (b) A certificate of good standing from the state in which the
3 applicant was incorporated;

4 (c) A certificate of authority from the Secretary of State to
5 conduct business in this state;

6 (d) A description of the corporate structure of the applicant,
7 including the identity of any parent or subsidiary of the applicant, and
8 a disclosure of whether any parent or subsidiary is publicly traded on
9 any stock exchange;

10 (e) The name, business and residence addresses, and employment
11 history for the five-year period immediately before the date of the
12 application of the applicant's executive officers and the officers or
13 managers who will be in charge of the applicant's activities to be
14 licensed under the act;

15 (f) The name, business and residence addresses, and employment
16 history for the five-year period immediately before the date of the
17 application and the most recent personal financial statement of any key
18 shareholder of the applicant;

19 (g) The history of ~~criminal convictions~~ and material litigation for
20 the five-year period immediately before the date of the application of
21 every executive officer or key shareholder of the applicant;

22 (h) Background checks as provided in section 8-2730;

23 (i) ~~(h)~~ A copy of the applicant's most recent audited financial
24 statement including balance sheet, statement of income or loss, statement
25 of changes in shareholder equity, and statement of changes in financial
26 position and, if available, the applicant's audited financial statements
27 for the immediately preceding two-year period. However, if the applicant
28 is a wholly owned subsidiary of another corporation, the applicant may
29 submit either the parent corporation's consolidated audited financial
30 statements for the current year and for the immediately preceding two-
31 year period or the parent corporation's Form 10-K reports filed with the

1 United States Securities and Exchange Commission for the prior three
2 years in lieu of the applicant's financial statements. If the applicant
3 is a wholly owned subsidiary of a corporation having its principal place
4 of business outside the United States, similar documentation filed with
5 the parent corporation's non-United States regulator may be submitted to
6 satisfy this subdivision; and

7 (j) ~~(i)~~ Copies of all filings, if any, made by the applicant with
8 the United States Securities and Exchange Commission or with a similar
9 regulator in a country other than the United States, within the year
10 preceding the date of filing of the application; and

11 (3) If the applicant is not a corporation, the applicant shall also
12 provide:

13 (a) The name, business and residence addresses, personal financial
14 statement, and employment history, for the five-year period immediately
15 before the date of the application, of each principal of the applicant
16 and the name, business and residence addresses, and employment history
17 for the five-year period immediately before the date of the application
18 of any other person or persons who will be in charge of the applicant's
19 money transmission activities;

20 (b) A copy of the applicant's registration or qualification to do
21 business in this state;

22 (c) The history of ~~criminal convictions and~~ material litigation for
23 the five-year period immediately before the date of the application for
24 each individual having any ownership interest in the applicant and each
25 individual who exercises supervisory responsibility with respect to the
26 applicant's activities; ~~and~~

27 (d) Background checks as provided in section 8-2730; and

28 (e) ~~(d)~~ Copies of the applicant's audited financial statements
29 including balance sheet, statement of income or loss, and statement of
30 changes in financial position for the current year and, if available, for
31 the immediately preceding two-year period.

1 Sec. 55. Section 8-2730, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-2730 (1) Effective July 1, 2014, the department shall require
4 licensees under the Nebraska Money Transmitters Act to be licensed and
5 registered through the Nationwide Mortgage Licensing System and Registry.
6 In order to carry out this requirement, the department is authorized to
7 participate in the Nationwide Mortgage Licensing System and Registry. For
8 this purpose, the department may establish, by adopting and promulgating
9 rules and regulations or by order, requirements as necessary. The
10 requirements may include, but are not limited to:

11 (a) Background checks of applicants and licensees, including, but
12 not limited to:

13 (i) Fingerprints of every executive officer, director, partner,
14 member, sole proprietor, or shareholder submitted to the Federal Bureau
15 of Investigation and any other governmental agency or entity authorized
16 to receive such information for a state, national, and international
17 criminal history record information check ~~(i) Checks of an applicant's or~~
18 ~~a licensee's criminal history through fingerprint or other databases,~~
19 except that the department shall not require the submission of
20 fingerprints by (A) an executive officer or director of an applicant or
21 licensee which is either a publicly traded company or a wholly owned
22 subsidiary of a publicly traded company or (B) an applicant or licensee
23 who has previously submitted the fingerprints of an executive officer, ~~or~~
24 director, partner, member, sole proprietor, or shareholder directly to
25 the Nationwide Mortgage Licensing System and Registry and the Federal
26 Bureau of Investigation will accept such fingerprints for a criminal
27 background check;

28 (ii) Checks of civil or administrative records;

29 (iii) Checks of an applicant's or a licensee's credit history; or

30 (iv) Any other information as deemed necessary by the Nationwide
31 Mortgage Licensing System and Registry;

1 (b) The payment of fees to apply for or renew a license through the
2 Nationwide Mortgage Licensing System and Registry;

3 (c) The setting or resetting, as necessary, of renewal processing or
4 reporting dates;

5 (d) Information and reports pertaining to authorized delegates; and

6 (e) Amending or surrendering a license or any other such activities
7 as the director deems necessary for participation in the Nationwide
8 Mortgage Licensing System and Registry.

9 (2) In order to fulfill the purposes of the act, the department is
10 authorized to establish relationships or contracts with the Nationwide
11 Mortgage Licensing System and Registry or other entities designated by
12 the Nationwide Mortgage Licensing System and Registry to collect and
13 maintain records and process transaction fees or other fees related to
14 licensees or other persons subject to the act. The department may allow
15 such system to collect licensing fees on behalf of the department and
16 allow such system to collect a processing fee for the services of the
17 system directly from each licensee or applicant for a license.

18 (3) The director is required to regularly report enforcement actions
19 and other relevant information to the Nationwide Mortgage Licensing
20 System and Registry subject to the provisions contained in section
21 8-2731.

22 (4) The director shall establish a process whereby applicants and
23 licensees may challenge information entered into the Nationwide Mortgage
24 Licensing System and Registry by the director.

25 (5) The department shall ensure that the Nationwide Mortgage
26 Licensing System and Registry adopts a privacy, data security, and breach
27 of security of the system notification policy. The director shall make
28 available upon written request a copy of the contract between the
29 department and the Nationwide Mortgage Licensing System and Registry
30 pertaining to the breach of security of the system provisions.

31 (6) The department shall upon written request provide the most

1 recently available audited financial report of the Nationwide Mortgage
2 Licensing System and Registry.

3 (7) The director may use the Nationwide Mortgage Licensing System
4 and Registry as a channeling agent for requesting information from and
5 distributing information to the United States Department of Justice or
6 any other governmental agency in order to reduce the points of contact
7 which the Federal Bureau of Investigation may have to maintain for
8 purposes of subsection (1) of this section.

9 Sec. 56. Section 8-2735, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 8-2735 (1) A licensee shall file notice with the director within
12 thirty calendar days after any material change in information provided in
13 a licensee's application as prescribed by the director.

14 (2) A licensee shall file a report with the director within five
15 business days after the licensee has reason to know of the occurrence of
16 any of the following events:

17 (a) The filing of a petition by or against the licensee under any
18 bankruptcy law of the United States for liquidation or reorganization;

19 (b) The filing of a petition by or against the licensee for
20 receivership, the commencement of any other judicial or administrative
21 proceeding for its dissolution or reorganization, or the making of a
22 general assignment for the benefit of its creditors;

23 (c) The filing of an action to revoke or suspend the licensee's
24 license in a state or country in which the licensee engages in business
25 or is licensed;

26 (d) The cancellation or other impairment of the licensee's bond or
27 other security;

28 (e) A charge or conviction of the licensee or of an executive
29 officer, manager, or director of, or controlling person of, the licensee,
30 for a felony; or

31 (f) A charge or conviction of an authorized delegate for a felony.

1 (3)(a) Except as provided in subdivisions (b) and (c) of this
2 subsection, a licensee shall notify the director in writing or through
3 the Nationwide Mortgage Licensing System and Registry within three
4 business days from the time that the licensee becomes aware of any breach
5 of security of the system of computerized data owned or licensed by the
6 licensee, which contains personal information about a Nebraska resident,
7 or the unauthorized access to or use of such information about a Nebraska
8 resident as a result of the breach.

9 (b) If a licensee would be required under Nebraska law to provide
10 notification to a Nebraska resident regarding such incident, then the
11 licensee shall provide a copy of such notification to the department
12 prior to or simultaneously with the licensee's notification to the
13 Nebraska resident.

14 (c) Notice required by this subsection may be delayed if a law
15 enforcement agency determines that the notice will impede a criminal
16 investigation. Notice shall be made in good faith, without unreasonable
17 delay, and as soon as possible after the law enforcement agency
18 determines that notification will no longer impede the investigation.

19 (d) For purposes of this subsection, the terms breach of the
20 security of the system and personal information have the same meaning as
21 in section 87-802.

22 Sec. 57. Section 8-2903, Revised Statutes Supplement, 2023, is
23 amended to read:

24 8-2903 (1) When a financial institution, or an employee of a
25 financial institution, reasonably believes, or has received information
26 from the department or a law enforcement agency demonstrating that it is
27 reasonable to believe, that financial exploitation of a vulnerable adult
28 or senior adult may have occurred, may have been attempted, is occurring,
29 or is being attempted, the financial institution may, but is not required
30 to:

31 (a) Delay or refuse a transaction with or involving the vulnerable

1 adult or senior adult;

2 (b) Delay or refuse to permit the withdrawal or disbursement of
3 funds contained in the vulnerable adult's or senior adult's account;

4 (c) Prevent a change in ownership of the vulnerable adult's or
5 senior adult's account;

6 (d) Prevent a transfer of funds from the vulnerable adult's or
7 senior adult's account to an account owned wholly or partially by another
8 person;

9 (e) Refuse to comply with instructions given to the financial
10 institution by an agent or a person acting for or with an agent under a
11 power of attorney signed or purported to have been signed by the
12 vulnerable adult or senior adult; or

13 (f) Prevent the designation or change the designation of
14 beneficiaries to receive any property, benefit, or contract rights for a
15 vulnerable adult or senior adult at death.

16 (2) A financial institution is not required to act under subsection
17 (1) of this section when provided with information alleging that
18 financial exploitation may have occurred, may have been attempted, is
19 occurring, or is being attempted, but may use the financial institution's
20 discretion to determine whether or not to act under subsection (1) of
21 this section based on the information available to the financial
22 institution at the time.

23 (3)(a)(i) A financial institution may notify any third party
24 reasonably associated with a vulnerable adult or senior adult if the
25 financial institution reasonably believes that the financial exploitation
26 of a vulnerable adult or senior adult may have occurred, may have been
27 attempted, is occurring, or is being attempted.

28 (ii) A third party reasonably associated with a vulnerable adult or
29 senior adult includes, but is not limited to, the following: (A) A
30 parent, spouse, adult child, sibling, or other known family member or
31 close associate of a vulnerable adult or senior adult; (B) an authorized

1 contact provided by a vulnerable adult or senior adult to the financial
2 institution; (C) a co-owner, additional authorized signatory, or
3 beneficiary on a vulnerable adult's or a senior adult's account; (D) an
4 attorney in fact, trustee, conservator, guardian, or other fiduciary who
5 has been selected by a vulnerable adult or senior adult, a court, or a
6 third party to manage some or all of the financial affairs of the
7 vulnerable adult or senior adult; and (E) an attorney known to represent
8 or have represented the vulnerable adult or senior adult.

9 (b) A financial institution may choose not to notify any third party
10 reasonably associated with a vulnerable adult or senior adult of
11 suspected financial exploitation of the vulnerable adult or senior adult
12 if the financial institution reasonably believes the third party is, may
13 be, or may have been engaged in the financial exploitation of the
14 vulnerable adult or senior adult or if requested to refrain from making a
15 notification by a law enforcement agency, if such notification could
16 interfere with a law enforcement investigation.

17 (c) Nothing in this subsection shall prevent a financial institution
18 from notifying the department or a law enforcement agency, if the
19 financial institution reasonably believes that the financial exploitation
20 of a vulnerable adult or senior adult may have occurred, may have been
21 attempted, is occurring, or is being attempted.

22 (4) The authority granted the financial institution under subsection
23 (1) of this section expires upon the sooner of: (a) Thirty business days
24 after the date on which the financial institution first acted under
25 subsection (1) of this section; (b) when the financial institution is
26 satisfied that the transaction or act will not result in financial
27 exploitation of the vulnerable adult or senior adult; or (c) upon
28 termination by an order of a court of competent jurisdiction.

29 (5) Unless otherwise directed by order of a court of competent
30 jurisdiction, a financial institution may extend the duration under
31 subsection (4) of this section based on a reasonable belief that the

1 financial exploitation of a vulnerable adult or senior adult may continue
2 to occur or continue to be attempted.

3 (6) A financial institution and its bank holding company, if any,
4 and any employees, agents, officers, and directors of the financial
5 institution and its bank holding company, if any, shall be immune from
6 any civil, criminal, or administrative liability that may otherwise exist
7 (a) for delaying or refusing to execute a transaction, withdrawal, or
8 disbursement, or for not delaying or refusing to execute such
9 transaction, withdrawal, or disbursement under this section and (b) for
10 actions taken in furtherance of determinations made under subsections (1)
11 through (5) of this section.

12 (7)(a) Notwithstanding any other law to the contrary, the refusal by
13 a financial institution to engage in a transaction as authorized under
14 subsection (1) of this section shall not constitute the wrongful dishonor
15 of an item under section 4-402, Uniform Commercial Code.

16 (b) Notwithstanding any other law to the contrary, a reasonable
17 belief that payment of a check will facilitate the financial exploitation
18 of a vulnerable adult or senior adult shall constitute reasonable grounds
19 to doubt the collectability of the item for purposes of the federal Check
20 Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal
21 Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R.
22 part 229, as such acts and part existed on January 1, 2024 ~~2023~~.

23 Sec. 58. Section 8-3005, Revised Statutes Supplement, 2023, is
24 amended to read:

25 8-3005 (1)(a) A digital asset depository may:

26 (i) Make contracts as a corporation under Nebraska law;

27 (ii) Sue and be sued;

28 (iii) Receive notes as permitted by federal law;

29 (iv) Carry on a nonlending digital asset banking business for
30 customers, consistent with subdivision (2)(b) of this section;

31 (v) Provide payment services upon the request of a customer; and

1 (vi) Make an application to become a member bank of the federal
2 reserve system.

3 (b) A digital asset depository shall maintain its main office and
4 the primary office of its chief executive officer in Nebraska.

5 (c) As otherwise authorized by this section, a digital asset
6 depository may conduct business with customers outside this state.

7 (2)(a) A digital asset depository institution, consistent with the
8 Nebraska Financial Innovation Act, shall be organized as a corporation
9 under the Nebraska Model Business Corporation Act to exercise the powers
10 set forth in subsection (1) of this section.

11 (b) A digital asset depository institution shall not accept demand
12 deposits of United States currency or United States currency that may be
13 accessed or withdrawn by check or similar means for payment to third
14 parties and except as otherwise provided in this subsection, a digital
15 asset depository institution shall not make any loans to consumers for
16 personal, property or household purposes, mortgage loans, or commercial
17 loans of any fiat currency including, but not limited to, United States
18 currency, including the provision of temporary credit relating to
19 overdrafts. Notwithstanding this prohibition against fiat currency
20 lending by a digital asset depository institution, a digital asset
21 depository institution may facilitate the provision of digital asset
22 business services resulting from the interaction of customers with
23 centralized finance or decentralized finance platforms including, but not
24 limited to, controllable electronic record exchange, staking,
25 controllable electronic record lending, and controllable electronic
26 record borrowing. A digital asset depository institution may purchase
27 debt obligations specified by subdivision (2)(c) of section 8-3009.

28 (c) A digital asset depository institution may open a branch in this
29 state or in another state in the manner set forth in section 8-157 or
30 8-2303. A branch in another state is subject to the laws of the host
31 state. A digital asset depository institution, including any branch of

1 the digital asset depository institution, may only accept digital asset
2 deposits or provide other digital asset business services under the
3 Nebraska Financial Innovation Act to individual customers or a customer
4 that is a legal entity other than a natural person engaged in a bona fide
5 business which is lawful under the laws of Nebraska, the laws of the host
6 state if the entity is headquartered in another state, and federal law.

7 (3) The deposit limitations of subdivision (2)(a)(ii) of section
8 8-157 shall not apply to a digital asset depository.

9 (4) Any United States currency coming into an account established by
10 a customer of a digital asset depository institution shall be held in a
11 financial institution, the deposits of which are insured by the Federal
12 Deposit Insurance Corporation, which maintained a main-chartered office
13 in this state, any branch thereof in this state, or any branch of the
14 financial institution which maintained the main-chartered office in this
15 state prior to becoming a branch of such financial institution.

16 (5) A digital asset depository institution shall establish and
17 maintain programs for compliance with the federal Bank Secrecy Act, in
18 accordance with 12 C.F.R. 208.63, as the act and rule existed on January
19 1, 2024 ~~2023~~.

20 (6) A digital asset depository shall help meet the digital financial
21 needs of the communities in which it operates, consistent with safe and
22 sound operations, and shall maintain and update a public file available
23 to any person on request and on any Internet website or mobile
24 application it maintains containing specific information about its
25 efforts to meet community needs, including:

26 (a) The collection and reporting of data;

27 (b) Its policies and procedures for accepting and responding to
28 consumer complaints; and

29 (c) Its efforts to assist with financial literacy or personal
30 finance programs to increase knowledge and skills of Nebraska students in
31 areas such as digital assets, budgeting, credit, checking and savings

1 accounts, loans, stocks, and insurance.

2 Sec. 59. Section 8-3007, Revised Statutes Supplement, 2023, is
3 amended to read:

4 8-3007 (1) No customer shall open or maintain an account with a
5 digital asset depository or otherwise receive any services from the
6 digital asset depository unless the customer meets the criteria of this
7 subsection. A customer shall:

8 (a) Make sufficient evidence available to the digital asset
9 depository to enable compliance with anti-money laundering, customer
10 identification, and beneficial ownership requirements, as determined by
11 the federal Bank Secrecy Act guidance and the policies and practices of
12 the institution; and

13 (b) If the customer is a legal entity other than a natural person:

14 (i) Be in good standing with the jurisdiction in the United States
15 in which it is incorporated or organized; and

16 (ii) Be engaged in a business that is lawful and bona fide in
17 Nebraska, in the host state, if applicable, and under federal law
18 consistent with subsection (3) of this section.

19 (2) A customer which meets the criteria of subsection (1) of this
20 section may be issued a digital asset depository account and otherwise
21 receive services from the digital asset depository, contingent on the
22 digital asset depository maintaining sufficient insurance under
23 subsection (5) of section 8-3023.

24 (3) Consistent with subdivisions (1)(a)(iv) and (v) of section
25 8-3005, and in addition to any requirements specified by federal law, a
26 digital asset depository shall require that any potential customer that
27 is a legal entity other than a natural person provide reasonable evidence
28 that the entity is engaged in a business that is lawful and bona fide in
29 Nebraska, in the host state, if applicable, and under federal law or is
30 likely to open a lawful, bona fide business within a federal Bank Secrecy
31 Act compliant timeframe, as the act existed on January 1, 2024 ~~2023~~. For

1 purposes of this subsection, reasonable evidence includes business entity
2 filings, articles of incorporation or organization, bylaws, operating
3 agreements, business plans, promotional materials, financing agreements,
4 or other evidence.

5 Sec. 60. Section 13-609, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 13-609 (1)(a) ~~(1)~~ Any county treasurer, county official, or
8 political subdivision official may accept credit cards, charge cards, or
9 debit cards, whether presented in person or electronically, or electronic
10 funds transfers as a method of cash payment of any tax, levy, excise,
11 duty, custom, toll, interest, penalty, fine, license, fee, or assessment
12 of whatever kind or nature, whether general or special, as provided by
13 section 77-1702.

14 (b) A county treasurer, county official, or political subdivision
15 official shall not accept a central bank digital currency as a method of
16 cash payment of any tax, levy, excise, duty, custom, toll, interest,
17 penalty, fine, license, fee, or assessment of whatever kind or nature.

18 (2) The total amount of such taxes, levies, excises, duties,
19 customs, tolls, interest, penalties, fines, licenses, fees, or
20 assessments of whatever kind or nature, whether general or special, paid
21 for by credit card, charge card, debit card, or electronic funds transfer
22 shall be collected by the county treasurer, county official, or political
23 subdivision official.

24 (3) Any political subdivision operating a facility in a proprietary
25 capacity may choose to accept credit cards, charge cards, or debit cards,
26 whether presented in person or electronically, or electronic funds
27 transfers as a means of cash payment and may adjust the price for
28 services to reflect the handling and payment costs.

29 (4) The county treasurer, county official, or political subdivision
30 official shall obtain, for each transaction, authorization for use of any
31 credit card, charge card, or debit card used pursuant to this section

1 from the financial institution, vending service company, credit card or
2 charge card company, or third-party merchant bank providing such service.

3 (5) The types of credit cards, charge cards, or debit cards accepted
4 and the payment services provided shall be determined by the State
5 Treasurer and the Director of Administrative Services with the advice of
6 a committee convened by the State Treasurer and the director. The
7 committee shall consist of the State Treasurer, the Tax Commissioner, the
8 director, and representatives from counties, cities, and other political
9 subdivisions as may be appropriate. The committee shall develop
10 recommendations for the contracting of such services. The State Treasurer
11 and the director shall contract with one or more credit card, charge
12 card, or debit card companies or third-party merchant banks for services
13 on behalf of the state and those counties, cities, and political
14 subdivisions that choose to participate in the state contract for such
15 services. The State Treasurer and the director shall consider, for
16 purposes of this section, any negotiated discount, processing, or
17 transaction fee imposed by a credit card, charge card, or debit card
18 company or third-party merchant bank as an administrative expense.
19 Counties, cities, and other political subdivisions that choose not to
20 participate in the state contract may choose types of credit cards,
21 charge cards, and debit cards and may negotiate and contract
22 independently or collectively as a governmental entity with one or more
23 financial institutions, vending service companies, credit card, charge
24 card, or debit card companies, or third-party merchant banks for the
25 provision of such services. All county officials within each county
26 choosing to accept credit cards, charge cards, and debit cards shall
27 contract for services through the same financial institutions, vending
28 service companies, credit card, charge card, or debit card companies, or
29 third-party merchant banks for the provision of such services. County
30 officials who accept credit cards, charge cards, and debit cards shall
31 notify the county board of such decision and the discount or

1 administrative fees charged for such service.

2 (6) A county treasurer, county official, or political subdivision
3 official authorizing acceptance of credit card or charge card payments
4 shall be authorized but not required to impose a surcharge or convenience
5 fee upon the person making a payment by credit card or charge card so as
6 to wholly or partially offset the amount of any discount or
7 administrative fees charged to the political subdivision, but the
8 surcharge or convenience fee shall not exceed the surcharge or
9 convenience fee imposed by the credit card or charge card companies or
10 third-party merchant banks which have contracted under subsection (5) of
11 this section. The surcharge or convenience fee shall be applied only when
12 allowed by the operating rules and regulations of the credit card or
13 charge card involved or when authorized in writing by the credit card or
14 charge card company involved. When a person elects to make a payment to a
15 political subdivision by credit card or charge card and such a surcharge
16 or convenience fee is imposed, the payment of such surcharge or
17 convenience fee shall be deemed voluntary by such person and shall be in
18 no case refundable. If a payment is made electronically by credit card,
19 charge card, debit card, or electronic funds transfer as part of a system
20 for providing or retrieving information electronically, the county
21 treasurer, county official, or political subdivision official shall be
22 authorized but not required to impose an additional surcharge or
23 convenience fee upon the person making a payment.

24 (7) For purposes of this section: τ

25 (a) Central bank digital currency means a digital medium of
26 exchange, token, or monetary unit of account issued by the United States
27 Federal Reserve System or any analogous federal agency that is made
28 directly available to the consumer by such federal entities. Central bank
29 digital currency includes a digital medium of exchange, token, or
30 monetary unit of account so issued that is processed or validated
31 directly by such federal entities; and

1 **(b) Electronic** ~~electronic~~ funds transfer means the movement of funds
2 by nonpaper means, usually through a payment system, including, but not
3 limited to, an automated clearinghouse or the Federal Reserve's Fedwire
4 system.

5 Sec. 61. Section 21-1701, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 21-1701 Sections 21-1701 to 21-17,115 and sections 63 and 70 of this
8 act shall be known and may be cited as the Credit Union Act.

9 Sec. 62. Section 21-1702, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 21-1702 For purposes of the Credit Union Act, the definitions found
12 in sections 21-1703 to 21-1722 and section 63 of this act shall be used.

13 Sec. 63. Associate director shall mean an individual appointed by a
14 credit union board to the position described in section 70 of this act.

15 Sec. 64. Section 21-1705, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 21-1705 Credit union shall mean a cooperative, not-for-profit
18 ~~nonprofit~~ corporation organized under the Credit Union Act for purposes
19 of educating and encouraging its members in the concept of thrift,
20 creating a source of credit for provident and productive purposes, and
21 carrying on such collateral activities as are set forth in the act.

22 Sec. 65. Section 21-1729, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 21-1729 (1) A credit union may change its principal place of
25 business within this state upon written notice to, and approval by, the
26 director. The written notice may be delivered to the department in person
27 or sent by regular or electronic mail.

28 (2) A credit union may maintain automatic teller machines and point-
29 of-sale terminals at locations other than its principal office pursuant
30 to section 8-157.01.

31 Sec. 66. Section 21-1736, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 21-1736 (1) The director shall examine or cause to be examined each
3 credit union as often as deemed necessary. Each credit union and all of
4 its officials and agents shall give the director or any of the examiners
5 appointed by him or her free and full access to all books, papers,
6 securities, and other sources of information relative to such credit
7 union. For purposes of the examination, the director may subpoena
8 witnesses, administer oaths, compel the giving of testimony, and require
9 the submission of documents.

10 (2) The department shall forward a report of the examination to the
11 chief executive officer, president, or manager of the credit union
12 ~~chairperson of the board of directors~~ within ninety calendar days after
13 completion. The report shall contain comments relative to the management
14 of the affairs of the credit union and the general condition of its
15 assets. Within ninety calendar days after the receipt of such report, the
16 members of the board of directors and the members of the supervisory
17 committee and credit committee, if any, shall meet to consider the
18 matters contained in the report.

19 (3) The director may require special examinations of and special
20 financial reports from a credit union or a credit union service
21 organization in which a credit union loans, invests, or delegates
22 substantially all managerial duties and responsibilities when he or she
23 determines that such examinations and reports are necessary to enable the
24 director to determine the safety of a credit union's operations or its
25 solvency. The cost to the department of such special examinations shall
26 be borne by the credit union being examined.

27 (4) The director may accept, in lieu of any examination of a credit
28 union authorized by the laws of this state, a report of an examination
29 made of a credit union by the National Credit Union Administration or may
30 examine any such credit union jointly with such federal agency. The
31 director may make available to the National Credit Union Administration

1 copies of reports of any examination or any information furnished to or
2 obtained by the director in any examination.

3 Sec. 67. Section 21-1743, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 21-1743 (1) The membership of a credit union shall consist of the
6 subscribers to the articles of association and such persons, societies,
7 associations, partnerships, and corporations as have been duly elected,
8 members who have subscribed for one share ~~or more shares~~, have paid for
9 such share ~~or shares~~ in whole or in part, have paid the entrance fee
10 provided in the bylaws, and have complied with such other requirements as
11 the articles of association and bylaws may specify. For purposes of
12 obtaining a loan and to vote at membership meetings, a member, to be in
13 good standing, must own ~~at least~~ one fully paid share. Credit union
14 organization shall be limited to groups of both large and small
15 membership having a common bond of occupation or association, including
16 religious, social, or educational groups, employees of a common employer,
17 or members of a fraternal, religious, labor, farm, or educational
18 organization and the members of the immediate families of such persons.

19 (2) A person having been duly admitted to membership, having
20 complied with the Credit Union Act, the articles of association, and the
21 bylaws, having paid the entrance fee, and having paid for ~~at least~~ one
22 share, shall retain full rights and privileges of membership for life
23 unless that membership is terminated by withdrawal or expulsion in the
24 manner provided by the act.

25 Sec. 68. Section 21-1749, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 21-1749 The annual meeting and any special meeting of the members of
28 the credit union shall be held in accordance with the bylaws. A special
29 meeting of the members of the credit union may be called by the members
30 or by the board of directors as provided in the bylaws. A credit union
31 shall give notice of the time and place or virtual conferencing platform

1 by which members can participate and interact for of any meeting of its
2 members. In the case of a special meeting, the notice of such special
3 meeting shall state the purpose of the meeting and the notice shall be
4 given at least ten calendar days prior to the date of such special
5 meeting.

6 Sec. 69. Section 21-1767, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 21-1767 (1) The board of directors shall have regular meetings as
9 often as necessary but not less frequently than six meetings annually
10 with at least one meeting in each calendar quarter. A new credit union
11 shall have regular meetings as often as necessary but not less frequently
12 than once each month for the first five years of the existence of the
13 credit union. ~~once a month unless otherwise approved by the Director of~~
14 ~~Banking and Finance.~~ Special meetings of the board may be called as
15 provided in the bylaws.

16 (2) Unless the articles of association or bylaws provide otherwise,
17 the board of directors may permit any or all directors to participate in
18 a regular or special meeting by, or conduct the meeting through the use
19 of, any means of communication by which all directors participating may
20 simultaneously hear each other during the meeting. A director
21 participating in a meeting by this means shall be deemed to be present in
22 person at the meeting.

23 (3) If the Director of Banking and Finance deems it expedient, he or
24 she may call a meeting of the board of directors of any credit union, for
25 any purpose, by giving notice to the directors of the time, place, and
26 purpose thereof at least three business days prior to the meeting, either
27 by personal service or by registered or certified mail sent to their
28 last-known addresses as shown on the credit union books.

29 (4) A full and complete record of the proceedings and business of
30 all meetings of the board of directors shall be recorded in the minutes
31 of the meeting.

1 Sec. 70. (1) The board of directors of a credit union may, in its
2 discretion, appoint one or more associate directors to serve in an
3 advisory capacity. The board shall prescribe the duties of an associate
4 director and the manner in which associate directors are appointed and
5 removed. The board shall not delegate to associate directors any of the
6 duties or responsibilities prescribed by the Credit Union Act or other
7 applicable law to be performed by the directors duly elected by the
8 members. An associate director shall not be deemed or considered to be a
9 director for any purpose under the act.

10 (2) Before appointing an associate director, the board shall confirm
11 that the person meets all of the requirements to serve as a director.

12 (3) An associate director may participate in meetings of the board
13 but may not vote or otherwise act as a director. With respect to any
14 issue that comes before the board for deliberation, the board may request
15 that any associate director in attendance leave the meeting of the board
16 and any associate director in attendance shall immediately comply with
17 the request.

18 (4) The board shall require each associate director to sign a
19 confidentiality or nondisclosure agreement to ensure that information
20 concerning the credit union remains confidential.

21 Sec. 71. Section 21-17,102, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 21-17,102 (1) Funds not used in loans to members may be invested:

24 (a) In securities, obligations, or other instruments of or issued by
25 or fully guaranteed as to principal and interest by the United States of
26 America or any agency or instrumentality thereof or in any trust or
27 trusts established for investing directly or collectively in the same;

28 (b) In securities, obligations, or other instruments of any state of
29 the United States, the District of Columbia, the Commonwealth of Puerto
30 Rico, and the several territories organized by Congress or any political
31 subdivision thereof;

1 (c) In deposits, obligations, or other accounts of financial
2 institutions organized under state or federal law;

3 (d) In loans to or in share accounts of other credit unions or
4 corporate central credit unions;

5 (e) In obligations issued by banks for cooperatives, federal land
6 banks, federal intermediate credit banks, federal home loan banks, the
7 Federal Home Loan Bank Board, or any corporation designated in 31 U.S.C.
8 9101 as a wholly owned government corporation; in obligations,
9 participation certificates, or other instruments of or insured by or
10 fully guaranteed as to principal and interest by the Federal National
11 Mortgage Association or the Government National Mortgage Association; in
12 mortgages, obligations, or other securities which are or ever have been
13 sold by the Federal Home Loan Mortgage Corporation pursuant to section
14 305 or section 306 of the Federal Home Loan Mortgage Corporation Act, 12
15 U.S.C. 1454 et seq.; in obligations or other instruments or securities of
16 the Student Loan Marketing Association; or in obligations, participation,
17 securities, or other instruments of or issued by or fully guaranteed as
18 to principal and interest by any other agency of the United States. A
19 state credit union may issue and sell securities which are guaranteed
20 pursuant to section 306(g) of the National Housing Act, 12 U.S.C.
21 1721(g);

22 (f) In participation certificates evidencing a beneficial interest
23 in obligations or in a right to receive interest and principal
24 collections therefrom, which obligations have been subjected by one or
25 more government agencies to a trust or trusts for which any executive
26 department, agency, or instrumentality of the United States or
27 administrator thereof has been named to act as trustee;

28 (g) In share accounts or deposit accounts of any corporate central
29 credit union in which such investments are specifically authorized by the
30 board of directors of the credit union making the investment;

31 (h) In the shares, stock, or other obligations of any other

1 organization, not to exceed ten percent of the credit union's capital and
2 not to exceed five percent of the credit union's capital in any one
3 corporation's stock, bonds, or other obligations, unless otherwise
4 approved by the director. Such authority shall not include the power to
5 acquire control, directly or indirectly, of another financial
6 institution, nor invest in shares, stocks, or obligations of any
7 insurance company or trade association except as otherwise expressly
8 provided for or approved by the director;

9 (i) In the capital stock of the National Credit Union Administration
10 Central Liquidity Facility;

11 (j) In obligations of or issued by any state or political
12 subdivision thereof, including any agency, corporation, or
13 instrumentality of a state or political subdivision, except that no
14 credit union may invest more than ten percent of its capital in the
15 obligations of any one issuer, exclusive of general obligations of the
16 issuer;

17 (k) In securities issued pursuant to the Nebraska Business
18 Development Corporation Act;~~and~~

19 (l) In participation loans with other credit unions, credit union
20 organizations, or other organizations;~~and -~~

21 (m) In insurance policies and other investment products to fund
22 employee benefit plans for its employees, not to exceed fifteen percent
23 of the net worth of a credit union from a single issuer or twenty-five
24 percent of the net worth of a credit union in aggregate. Employee benefit
25 plan has the same meaning as in 29 U.S.C. 1002(3), as such section
26 existed on January 1, 2024. If the employee benefits arrangement does not
27 present a risk to the safety and soundness of the domestic credit union
28 as determined by the director, the purchase of those investment products
29 is not subject to the limitations of the Credit Union Act.

30 (2) In addition to investments expressly permitted by the Credit
31 Union Act, a credit union may make any other type of investment approved

1 by the department by rule, regulation, or order.

2 Sec. 72. Section 21-17,109, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 21-17,109 (1) Any credit union organized under the Credit Union Act
5 may, with the approval of the department, merge or consolidate with one
6 or more other credit unions organized under the act or under the laws of
7 the United States, if the credit unions merging or consolidating possess
8 coinciding common bonds of association.

9 (2) When two or more credit unions merge or consolidate, one shall
10 be designated as the continuing credit union or a totally new credit
11 union shall be organized. If the latter procedure is followed, the new
12 credit union shall be organized under the Credit Union Act or under the
13 laws of the United States. All participating credit unions other than the
14 continuing or new credit union shall be designated as merging credit
15 unions.

16 (3) Any merger or consolidation of credit unions shall be done
17 according to a plan of merger or consolidation. After approval by the
18 boards of directors of all participating credit unions, the plan shall be
19 submitted to the department for preliminary approval. If the plan
20 includes the organization of a new credit union, all documents required
21 pursuant to section 21-1724 shall be submitted as a part of the plan. In
22 addition, each participating credit union shall submit the following
23 information:

24 (a) The time and place of the meeting of the boards of directors at
25 which the plan of merger or consolidation was agreed upon;

26 (b) The vote of the directors in favor of the adoption of the plan;
27 and

28 (c) A copy of a resolution or other action by which the plan was
29 agreed upon.

30 The department shall grant preliminary approval if the plan has been
31 approved properly by the boards of directors and if the documentation

1 required to organize a new credit union, if any, complies with section
2 21-1724. The director, in his or her discretion, may order a hearing be
3 held if he or she determines that the condition of the acquiring credit
4 union warrants a hearing or that the plan of merger would be unfair to
5 the merging credit union.

6 (4) After the department grants preliminary approval, each merging
7 credit union, except the continuing credit union, shall, unless waived by
8 the department, conduct a membership vote on its participation in the
9 plan. The vote shall be conducted either at a special meeting called for
10 that purpose or by mail ballot. If a majority of the members voting
11 approve the plan, the credit union shall submit a record of that fact to
12 the department indicating the vote by which the members approved the plan
13 and either the time and place of the membership meeting or the mailing
14 date and closing date of the mail ballot.

15 (5) The department may waive any voting requirements described in
16 the Credit Union Act for any credit union upon the determination that it
17 is in the best interests of the membership or that the credit union is
18 insolvent or in imminent danger of becoming insolvent.

19 (6) The director shall grant final approval of the plan of merger or
20 consolidation after determining that the requirements of subsections (1)
21 through (4) of this section have been met in the case of each merging
22 credit union. If the plan of merger or consolidation includes the
23 organization of a new credit union, the department must approve the
24 organization of the new credit union under section 21-1724 as part of the
25 approval of the plan of merger or consolidation. The department shall
26 notify all participating credit unions of the plan.

27 (7) Upon final approval of the plan by the department, all property,
28 property rights, and members' interests in each merging credit union
29 shall vest in the continuing or new credit union as applicable without
30 deed, obligations, and other instruments of transfer, and all debts,
31 obligations, and liabilities of each merging credit union shall be deemed

1 to have been assumed by the continuing or new credit union. The rights
2 and privileges of the members of each participating credit union shall
3 remain intact. If a person is a member of more than one of the
4 participating credit unions, the person shall be entitled to only a
5 single set of membership rights in the continuing or new credit union.

6 (8) Notwithstanding any other provision of law, the department may
7 authorize a merger or consolidation of a credit union which is insolvent
8 or which is in danger of insolvency with any other credit union or may
9 authorize a credit union to purchase any of the assets of or assume any
10 of the liabilities of any other credit union which is insolvent or which
11 is in danger of insolvency, if the department is satisfied that:

12 (a) An emergency requiring expeditious action exists with respect to
13 such credit union;

14 (b) Other alternatives for such credit union are not reasonably
15 available; and

16 (c) The public interest would best be served by the approval of such
17 merger, consolidation, purchase, or assumption.

18 (9) Notwithstanding any other provision of law, the director may
19 authorize an institution, the deposits or accounts of which are insured
20 by the Federal Deposit Insurance Corporation or any derivative thereof,
21 to purchase any assets of or assume any liabilities of a credit union
22 which is insolvent or in danger of insolvency, except that prior to
23 exercising this authority the director shall attempt to effect a merger
24 or consolidation with, or purchase or assumption by, another credit union
25 as provided in subsection (8) of this section.

26 (10) For purposes of the authority contained in subsection (9) of
27 this section, insured share accounts of each credit union may, upon
28 consummation of the purchase or assumption, be converted to insured
29 deposits or other comparable accounts in the acquiring institution, and
30 the department and the National Credit Union Share Insurance Fund shall
31 be absolved of any liability to the credit union's members with respect

1 to those accounts.

2 Sec. 73. Section 21-17,115, Revised Statutes Supplement, 2023, is
3 amended to read:

4 21-17,115 Notwithstanding any of the other provisions of the Credit
5 Union Act or any other Nebraska statute, any credit union incorporated
6 under the laws of the State of Nebraska and organized under the
7 provisions of the act shall have all the rights, powers, privileges,
8 benefits, and immunities which may be exercised as of January 1, 2024
9 ~~2023~~, by a federal credit union doing business in Nebraska on the
10 condition that such rights, powers, privileges, benefits, and immunities
11 shall not relieve such credit union from payment of state taxes assessed
12 under any applicable laws of this state.

13 Sec. 74. Section 30-3801, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 30-3801 (UTC 101) Sections 30-3801 to 30-38,110 and sections 75 to
16 79 of this act shall be known and may be cited as the Nebraska Uniform
17 Trust Code.

18 Sec. 75. It is the policy of the State of Nebraska to encourage the
19 use of an achieving a better life experience account established as
20 provided in sections 77-1401 to 77-1409 under a qualified ABLE program as
21 defined under section 529A of the Internal Revenue Code of 1986, as
22 amended, and any regulations promulgated thereunder or a special needs
23 trust by an individual with disabilities to preserve funds to provide for
24 the needs of the individual that are not met by governmental benefits and
25 that enhance such individual's quality of life.

26 Sec. 76. For purposes of sections 75 to 79 of this act:

27 (1) Beneficiary with a disability means a beneficiary of a trust,
28 who a special needs fiduciary believes may qualify for governmental
29 benefits based on disability whether or not the beneficiary currently
30 receives those benefits, or who is an individual who has been adjudicated
31 to be disabled;

1 (2) Governmental benefits means financial aid or services from a
2 state, federal, or other public agency;

3 (3) Pooled special needs trust means a trust which combines assets
4 and is managed by a nonprofit association providing a separate account
5 maintained for each beneficiary with a disability;

6 (4) Self-settled special needs trust means a trust which has been
7 funded with the assets of a beneficiary with a disability and includes a
8 first party special needs trust;

9 (5) Special needs fiduciary means a trustee or other fiduciary,
10 other than a settlor, that has discretion to distribute, or is required
11 to distribute, part or all of the principal of a trust to a current
12 beneficiary with a disability;

13 (6) Special needs trust means a trust the trustee believes would not
14 be considered a resource for purposes of determining whether a
15 beneficiary with a disability is eligible for governmental benefits and
16 includes a supplemental needs trust; and

17 (7) Third-party special needs trust means a trust which has been
18 funded with the assets of an individual other than the beneficiary with a
19 disability.

20 Sec. 77. (1) Each state agency that provides governmental benefits
21 to individuals of any age with disabilities through means-tested
22 programs, including the medical assistance program, shall adopt and
23 promulgate rules and regulations that:

24 (a) Are not more restrictive than existing federal law, regulations,
25 or policies with regard to the treatment of a special needs trust,
26 including a trust defined in 42 U.S.C. 1396p(c)(2) and 42 U.S.C. 1396p(d)
27 (4);

28 (b) Are not more restrictive than any state law regarding trusts,
29 including any state law relating to the reasonable exercise of discretion
30 by a trustee, guardian, or conservator in the best interests of the
31 beneficiary;

1 (c) Do not require disclosure of a beneficiary's personal or
2 confidential information without the consent of the beneficiary;

3 (d) Allow an individual account in a pooled special needs trust to
4 be funded without financial limit;

5 (e) Allow an individual to establish or fund an individual account
6 in a pooled special needs trust without an age limit or a transfer
7 penalty;

8 (f) Allow an individual to fund a special needs trust for the
9 individual's child with disabilities without a transfer penalty and
10 regardless of the child's age; and

11 (g) Allow all legally assignable income or resources to be assigned
12 to any special needs trust without limit.

13 (2) Nothing in this section may be interpreted to require a court
14 order to authorize the funding of, or a disbursement from, a special
15 needs trust.

16 Sec. 78. (1) A determination by the Internal Revenue Service
17 regarding the nonprofit status of a nonprofit organization operating a
18 pooled special needs trust shall be sufficient to satisfy the nonprofit
19 requirement of 42 U.S.C. 1396p(d)(4)(C).

20 (2) A state agency may not impose additional requirements on an
21 organization described in subsection (1) of this section for the purpose
22 of qualifying or disqualifying the organization from offering a pooled
23 special needs trust.

24 Sec. 79. Any rule or regulation adopted and promulgated by a state
25 agency regarding pooled special needs trusts shall apply only to those
26 trust beneficiaries who are residents of the state or who receive
27 governmental benefits funded by the state.

28 Sec. 80. Section 45-346, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 45-346 (1) A license issued under the Nebraska Installment Sales Act
31 is nontransferable and nonassignable. The same person may obtain

1 additional licenses for each place of business operating as a sales
2 finance company in this state upon compliance with the act as to each
3 license, except that on or after January 1, 2020, a person is no longer
4 required to obtain a new license for each place of business and may
5 maintain a branch office or offices upon compliance with the act.

6 (2) Application for a license shall be on a form prescribed and
7 furnished by the director and shall include, but not be limited to, (a)
8 the applicant's name and any trade name or doing business as designation
9 which the applicant intends to use in this state, (b) the applicant's
10 main office address, (c) all branch office addresses at which business is
11 to be conducted, (d) the names and titles of each director and principal
12 officer of the applicant, (e) the names of all shareholders, partners, or
13 members of the applicant, (f) a description of the activities of the
14 applicant in such detail as the department may require, (g) if the
15 applicant is an individual, his or her social security number, ~~and~~ (h)
16 audited financial statements showing a minimum net worth of one hundred
17 thousand dollars, and (i) background checks as provided in section
18 45-354.

19 (3) An applicant for a license shall file with the department a
20 surety bond in the amount of fifty thousand dollars, furnished by a
21 surety company authorized to do business in this state. Such bond shall
22 be increased by an additional fifty thousand dollars for each branch
23 location of the applicant that is licensed under the Nebraska Installment
24 Sales Act. The bond shall be for the use of the State of Nebraska and any
25 Nebraska resident who may have claims or causes of action against the
26 applicant. The surety may cancel the bond only upon thirty days' written
27 notice to the director.

28 (4) A license fee of one hundred fifty dollars, and, if applicable,
29 a one-hundred-dollar fee for each branch office listed in the
30 application, and any processing fee allowed under subsection (2) of
31 section 45-354 shall be submitted along with each application.

1 (5) An initial license shall remain in full force and effect until
2 the next succeeding December 31. Each license shall remain in force until
3 revoked, suspended, canceled, expired, or surrendered.

4 (6) The director shall, after an application has been filed for a
5 license under the act, investigate the facts, and if he or she finds that
6 the experience, character, and general fitness of the applicant, of the
7 members thereof if the applicant is a corporation or association, and of
8 the officers and directors thereof if the applicant is a corporation, are
9 such as to warrant belief that the business will be operated honestly,
10 fairly, and efficiently within the purpose of the act, the director shall
11 issue and deliver a license to the applicant to do business as a sales
12 finance company in accordance with the license and the act. The director
13 shall have the power to reject for cause any application for a license.

14 (7) The director shall, within his or her discretion, make an
15 examination and inspection concerning the propriety of the issuance of a
16 license to any applicant. The cost of such examination and inspection
17 shall be borne by the applicant.

18 (8) If an applicant for a license under the act does not complete
19 the license application and fails to respond to a notice or notices from
20 the department to correct the deficiency or deficiencies for a period of
21 one hundred twenty days or more after the date the department sends the
22 initial notice to correct the deficiency or deficiencies, the department
23 may deem the application as abandoned and may issue a notice of
24 abandonment of the application to the applicant in lieu of proceedings to
25 deny the application.

26 Sec. 81. Section 45-346.01, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 45-346.01 (1) A licensee may move its main office from one place to
29 another without obtaining a new license if the licensee gives notice
30 thereof to the director through the Nationwide Mortgage Licensing System
31 and Registry at least thirty days prior to such move.

1 (2) A licensee shall notify the director through the Nationwide
2 Mortgage Licensing System and Registry at least thirty days prior to the
3 occurrence of any of the following:

4 (a) The establishment of a new branch office. Notice of each such
5 establishment shall be accompanied by a fee of one hundred dollars and
6 any processing fee allowed under subsection (2) of section 45-354;

7 (b) The relocation or closing of an existing branch office; or

8 (c) A change of name, trade name, or doing business as designation.

9 (3)(a) Except as provided in subdivisions (b) and (c) of this
10 subsection, a licensee shall notify the director in writing or through
11 the Nationwide Mortgage Licensing System and Registry within three
12 business days from the time that the licensee becomes aware of any breach
13 of security of the system of computerized data owned or licensed by the
14 licensee, which contains personal information about a Nebraska resident,
15 or the unauthorized access to or use of such information about a Nebraska
16 resident as a result of the breach.

17 (b) If a licensee would be required under Nebraska law to provide
18 notification to a Nebraska resident regarding such incident, then the
19 licensee shall provide a copy of such notification to the department
20 prior to or simultaneously with the licensee's notification to the
21 Nebraska resident.

22 (c) Notice required by this subsection may be delayed if a law
23 enforcement agency determines that the notice will impede a criminal
24 investigation. Notice shall be made in good faith, without unreasonable
25 delay, and as soon as possible after the law enforcement agency
26 determines that notification will no longer impede the investigation.

27 (d) For purposes of this subsection, the terms breach of the
28 security of the system and personal information have the same meaning as
29 in section 87-802.

30 (4) ~~(3)~~ A licensee shall maintain the minimum net worth as required
31 by section 45-346 while a license issued under the Nebraska Installment

1 Sales Act is in effect. The minimum net worth shall be proven by an
2 annual audit conducted by a certified public accountant. A licensee shall
3 submit a copy of the annual audit to the director as required by section
4 45-348 or upon written request of the director. If a licensee fails to
5 maintain the required minimum net worth, the department may issue a
6 notice of cancellation of the license in lieu of revocation proceedings.

7 (5) ~~(4)~~ The surety bond or a substitute bond as required by section
8 45-346 shall remain in effect while a license issued under the Nebraska
9 Installment Sales Act is in effect. If a licensee fails to maintain a
10 surety bond or substitute bond, the licensee shall immediately cease
11 doing business and surrender the license to the department. If the
12 licensee does not surrender the license, the department may issue a
13 notice of cancellation of the license in lieu of revocation proceedings.

14 Sec. 82. Section 45-354, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 45-354 (1) Effective January 1, 2013, or within one hundred eighty
17 days after the Nationwide Mortgage Licensing System and Registry is
18 capable of accepting licenses issued under the Nebraska Installment Sales
19 Act, whichever is later, the department shall require such licensees
20 under the act to be licensed and registered through the Nationwide
21 Mortgage Licensing System and Registry. In order to carry out this
22 requirement, the department is authorized to participate in the
23 Nationwide Mortgage Licensing System and Registry. For this purpose, the
24 department may establish, by adopting and promulgating rules and
25 regulations or by order, requirements as necessary. The requirements may
26 include, but not be limited to:

27 (a) Background checks of applicants and licensees, including, but
28 not limited to:

29 (i) Fingerprints of every executive officer, director, partner,
30 member, sole proprietor, or shareholder submitted to the Federal Bureau
31 of Investigation and any other governmental agency or entity authorized

1 to receive such information for a state, national, and international
2 criminal history record information check ~~Criminal history through~~
3 ~~fingerprint or other databases;~~

4 (ii) Civil or administrative records;

5 (iii) Credit history; or

6 (iv) Any other information as deemed necessary by the Nationwide
7 Mortgage Licensing System and Registry;

8 (b) The payment of fees to apply for or renew a license through the
9 Nationwide Mortgage Licensing System and Registry;

10 (c) Compliance with prelicensure education and testing and
11 continuing education;

12 (d) The setting or resetting, as necessary, of renewal processing or
13 reporting dates; and

14 (e) Amending or surrendering a license or any other such activities
15 as the director deems necessary for participation in the Nationwide
16 Mortgage Licensing System and Registry.

17 (2) In order to fulfill the purposes of the Nebraska Installment
18 Sales Act, the department is authorized to establish relationships or
19 contracts with the Nationwide Mortgage Licensing System and Registry or
20 other entities designated by the Nationwide Mortgage Licensing System and
21 Registry to collect and maintain records and process transaction fees or
22 other fees related to licensees or other persons subject to the act. The
23 department may allow such system to collect licensing fees on behalf of
24 the department and allow such system to collect a processing fee for the
25 services of the system directly from each licensee or applicant for a
26 license.

27 (3) The director is required to regularly report enforcement actions
28 and other relevant information to the Nationwide Mortgage Licensing
29 System and Registry subject to the provisions contained in section
30 45-355.

31 (4) The director shall establish a process whereby applicants and

1 licensees may challenge information entered into the Nationwide Mortgage
2 Licensing System and Registry by the director.

3 (5) The department shall ensure that the Nationwide Mortgage
4 Licensing System and Registry adopts a privacy, data security, and breach
5 of security of the system notification policy. The director shall make
6 available upon written request a copy of the contract between the
7 department and the Nationwide Mortgage Licensing System and Registry
8 pertaining to the breach of security of the system provisions.

9 (6) The department shall upon written request provide the most
10 recently available audited financial report of the Nationwide Mortgage
11 Licensing System and Registry.

12 (7) The director may use the Nationwide Mortgage Licensing System
13 and Registry as a channeling agent for requesting information from and
14 distributing information to the United States Department of Justice or
15 any other governmental agency in order to reduce the points of contact
16 which the Federal Bureau of Investigation may have to maintain for
17 purposes of subsection (1) of this section.

18 Sec. 83. Section 45-737, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 45-737 A licensee licensed as a mortgage banker shall:

21 (1) Disburse required funds paid by the borrower and held in escrow
22 for the payment of insurance payments no later than the date upon which
23 the premium is due under the insurance policy;

24 (2) Disburse funds paid by the borrower and held in escrow for the
25 payment of real estate taxes prior to the time such real estate taxes
26 become delinquent;

27 (3) Pay any penalty incurred by the borrower because of the failure
28 of the licensee to make the payments required in subdivisions (1) and (2)
29 of this section unless the licensee establishes that the failure to
30 timely make the payments was due solely to the fact that the borrower was
31 sent a written notice of the amount due more than fifteen calendar days

1 before the due date to the borrower's last-known address and failed to
2 timely remit the amount due to the licensee;

3 (4) At least annually perform a complete escrow analysis. If there
4 is a change in the amount of the periodic payments, the licensee shall
5 mail written notice of such change to the borrower at least twenty
6 calendar days before the effective date of the change in payment. The
7 following information shall be provided to the borrower, without charge,
8 in one or more reports, at least annually:

9 (a) The name and address of the licensee;

10 (b) The name and address of the borrower;

11 (c) A summary of the escrow account activity during the year which
12 includes all of the following:

13 (i) The balance of the escrow account at the beginning of the year;

14 (ii) The aggregate amount of deposits to the escrow account during
15 the year; and

16 (iii) The aggregate amount of withdrawals from the escrow account
17 for each of the following categories:

18 (A) Payments applied to loan principal;

19 (B) Payments applied to interest;

20 (C) Payments applied to real estate taxes;

21 (D) Payments for real property insurance premiums; and

22 (E) All other withdrawals; and

23 (d) A summary of loan principal for the year as follows:

24 (i) The amount of principal outstanding at the beginning of the
25 year;

26 (ii) The aggregate amount of payments applied to principal during
27 the year; and

28 (iii) The amount of principal outstanding at the end of the year;

29 (5) Establish and maintain a toll-free telephone number or accept
30 collect telephone calls to respond to inquiries from borrowers, if the
31 licensee services residential mortgage loans. If a licensee ceases to

1 service residential mortgage loans, it shall continue to maintain a toll-
2 free telephone number or accept collect telephone calls to respond to
3 inquiries from borrowers for a period of twelve months after the date the
4 licensee ceased to service residential mortgage loans. A telephonic
5 messaging service which does not permit the borrower an option of
6 personal contact with an employee, agent, or contractor of the licensee
7 shall not satisfy the conditions of this section. Each day such licensee
8 fails to comply with this subdivision shall constitute a separate
9 violation of the Residential Mortgage Licensing Act;

10 (6) Answer in writing, within seven business days after receipt, any
11 written request for payoff information received from a borrower or a
12 borrower's designated representative. This service shall be provided
13 without charge to the borrower, except that when such information is
14 provided upon request within sixty days after the fulfillment of a
15 previous request, a processing fee of up to ten dollars may be charged;

16 (7) Record or cause to be recorded a release of mortgage pursuant to
17 the provisions of section 76-2803 or, in the case of a trust deed, record
18 or cause to be recorded a reconveyance pursuant to the provisions of
19 section 76-2803;

20 (8) Maintain a copy of all documents and records relating to each
21 residential mortgage loan and application for a residential mortgage
22 loan, including, but not limited to, loan applications, federal Truth in
23 Lending Act statements, good faith estimates, appraisals, notes, rights
24 of rescission, and mortgages or trust deeds for a period of five years
25 after the date the residential mortgage loan is funded or the loan
26 application is denied or withdrawn;

27 (9) Notify the director in writing or through the Nationwide
28 Mortgage Licensing System and Registry within three business days after
29 the occurrence of any of the following:

30 (a) The filing of a voluntary petition in bankruptcy by the licensee
31 or notice of a filing of an involuntary petition in bankruptcy against

1 the licensee;

2 (b) The licensee has lost the ability to fund a loan or loans after
3 it had made a loan commitment or commitments and approved a loan
4 application or applications;

5 (c) Any other state or jurisdiction institutes license denial, cease
6 and desist, suspension, or revocation procedures against the licensee;

7 (d) The attorney general of any state, the Consumer Financial
8 Protection Bureau, or the Federal Trade Commission initiates an action to
9 enforce consumer protection laws against the licensee or any of the
10 licensee's officers, directors, shareholders, partners, members,
11 employees, or agents;

12 (e) The Federal National Mortgage Association, Federal Home Loan
13 Mortgage Corporation, Federal Housing Administration, or Government
14 National Mortgage Association suspends or terminates the licensee's
15 status as an approved seller or seller and servicer;

16 (f) The filing of a criminal indictment or information against the
17 licensee or any of its officers, directors, shareholders, partners,
18 members, employees, or agents; ~~or~~

19 (g) The licensee or any of the licensee's officers, directors,
20 shareholders, partners, members, employees, or agents was convicted of,
21 pleaded guilty to, or was found guilty after a plea of nolo contendere to

22 (i) a misdemeanor under state or federal law which involves dishonesty or
23 fraud or which involves any aspect of the mortgage banking business,
24 depository institution business, or installment loan company business or

25 (ii) any felony under state or federal law; or and

26 (h)(i) Except as provided in subdivisions (9)(h)(ii) and (iii) of
27 this section, a licensee shall notify the director in writing or through
28 the Nationwide Mortgage Licensing System and Registry within three
29 business days from the time that the licensee becomes aware of any breach
30 of security of the system of computerized data owned or licensed by the
31 licensee, which contains personal information about a Nebraska resident,

1 or the unauthorized access to or use of such information about a Nebraska
2 resident as a result of the breach.

3 (ii) If a licensee would be required under Nebraska law to provide
4 notification to a Nebraska resident regarding such incident, then the
5 licensee shall provide a copy of such notification to the department
6 prior to or simultaneously with the licensee's notification to the
7 Nebraska resident.

8 (iii) Notice required by subdivision (9)(h) of this section may be
9 delayed if a law enforcement agency determines that the notice will
10 impede a criminal investigation. Notice shall be made in good faith,
11 without unreasonable delay, and as soon as possible after the law
12 enforcement agency determines that notification will no longer impede the
13 investigation.

14 (iv) For purposes of subdivision (9)(h) of this section, the terms
15 breach of the security of the system and personal information have the
16 same meaning as in section 87-802; and

17 (10) Notify the director in writing or through the Nationwide
18 Mortgage Licensing System and Registry within thirty days after the
19 occurrence of a material development other than as described in
20 subdivision (9) of this section, including, but not limited to, any of
21 the following:

22 (a) Business reorganization;

23 (b) A change of name, trade name, doing business as designation, or
24 main office address;

25 (c) The establishment of a branch office. Notice of such
26 establishment shall be on a form prescribed by the department and
27 accompanied by a fee of seventy-five dollars for each branch office;

28 (d) The relocation or closing of a branch office; or

29 (e) The entry of an order against the licensee or any of the
30 licensee's officers, directors, shareholders, partners, members,
31 employees, or agents, including orders to which the licensee or other

1 parties consented, by any other state or federal regulator.

2 Sec. 84. Section 45-905.01, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 45-905.01 (1) On and after January 1, 2021, licensees under the
5 Delayed Deposit Services Licensing Act are required to be licensed and
6 registered through the Nationwide Mortgage Licensing System and Registry.
7 In order to carry out this requirement, the department is authorized to
8 participate in the Nationwide Mortgage Licensing System and Registry. For
9 this purpose, the director may establish requirements as necessary by
10 adopting and promulgating rules and regulations or by order. The
11 requirements may include, but are not limited to:

12 (a) Background checks of applicants and licensees, including, but
13 not limited to:

14 (i) Fingerprints of any principal officer, director, partner,
15 member, or sole proprietor submitted to the Federal Bureau of
16 Investigation and any other governmental agency or entity authorized to
17 receive such information for a state, national, and international
18 criminal history record information check;

19 (ii) Checks of civil or administrative records;

20 (iii) Checks of an applicant's or a licensee's credit history; or

21 (iv) Any other information as deemed necessary by the director;

22 (b) The payment of fees to apply for or renew a license through the
23 Nationwide Mortgage Licensing System and Registry;

24 (c) The setting or resetting, as necessary, of renewal processing or
25 reporting dates; and

26 (d) Amending or surrendering a license or any other such activities
27 as the director deems necessary for participation in the Nationwide
28 Mortgage Licensing System and Registry.

29 (2) In order to fulfill the purposes of the Delayed Deposit Services
30 Licensing Act, the department may contract with the Nationwide Mortgage
31 Licensing System and Registry or other entities designated by the

1 Nationwide Mortgage Licensing System and Registry to collect and maintain
2 records and process transaction fees or other fees related to applicants,
3 licensees, or other persons subject to the act. The department may allow
4 such system to collect licensing fees on behalf of the department and may
5 allow such system to collect a processing fee for the services of the
6 system directly from each applicant or licensee.

7 (3) The director shall regularly report enforcement actions and
8 other relevant information to the Nationwide Mortgage Licensing System
9 and Registry.

10 (4) The director shall establish a process whereby applicants and
11 licensees may challenge information entered by the director into the
12 Nationwide Mortgage Licensing System and Registry.

13 (5) The department shall ensure that the Nationwide Mortgage
14 Licensing System and Registry adopts a privacy, data security, and breach
15 of security of the system notification policy. The director shall make
16 available upon written request a copy of such policy and the contract
17 between the department and the system.

18 (6) Upon written request the department shall provide the most
19 recently available audited financial report of the Nationwide Mortgage
20 Licensing System and Registry.

21 (7) The director may use the Nationwide Mortgage Licensing System
22 and Registry as a channeling agent for requesting information from and
23 distributing information to the United States Department of Justice or
24 any other governmental agency in order to reduce the points of contact
25 which the Federal Bureau of Investigation may have to maintain for
26 purposes of subsection (1) ~~(5)~~ of this section.

27 Sec. 85. Section 45-912, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 45-912 (1) A licensee shall be required to notify the director in
30 writing through the Nationwide Mortgage Licensing System and Registry
31 within thirty days after the occurrence of any material development,

1 including, but not limited to:

2 ~~(a) (1)~~ Bankruptcy or corporate reorganization;

3 ~~(b) (2)~~ Business reorganization;

4 ~~(c) (3)~~ Institution of license revocation procedures by any other
5 state or jurisdiction;

6 ~~(d) (4)~~ The filing of a criminal indictment or complaint against the
7 licensee or any of its officers, directors, shareholders, partners,
8 members, employees, or agents;

9 ~~(e) (5)~~ A felony conviction against the licensee or any of the
10 licensee's officers, directors, shareholders, partners, members,
11 employees, or agents; or

12 ~~(f) (6)~~ The termination of employment or association with the
13 licensee of any of the licensee's officers, directors, shareholders,
14 partners, members, employees, or agents for violations or suspected
15 violations of the Delayed Deposit Services Licensing Act, any rule,
16 regulation, or order thereunder, or any state or federal law applicable
17 to the licensee.

18 (2)(a) Except as provided in subdivisions (b) and (c) of this
19 subsection, a licensee shall notify the director in writing or through
20 the Nationwide Mortgage Licensing System and Registry within three
21 business days from the time that the licensee becomes aware of any breach
22 of security of the system of computerized data owned or licensed by the
23 licensee, which contains personal information about a Nebraska resident,
24 or the unauthorized access to or use of such information about a Nebraska
25 resident as a result of the breach.

26 (b) If a licensee would be required under Nebraska law to provide
27 notification to a Nebraska resident regarding such incident, then the
28 licensee shall provide a copy of such notification to the department
29 prior to or simultaneously with the licensee's notification to the
30 Nebraska resident.

31 (c) Notice required by this subsection may be delayed if a law

1 enforcement agency determines that the notice will impede a criminal
2 investigation. Notice shall be made in good faith, without unreasonable
3 delay, and as soon as possible after the law enforcement agency
4 determines that notification will no longer impede the investigation.

5 (d) For purposes of this subsection, the terms breach of the
6 security of the system and personal information have the same meaning as
7 in section 87-802.

8 Sec. 86. Section 45-1005, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 45-1005 Any person who desires to obtain an original license to
11 engage in the business of lending money under the terms and conditions of
12 the Nebraska Installment Loan Act or an original license to hold or
13 acquire any rights of ownership, servicing, or other forms of
14 participation in a loan under the act or to engage with, or conduct loan
15 activity with, an installment loan borrower in connection with a loan
16 under the act, shall apply to the department for the license under oath,
17 on a form prescribed by the department, and pay an original license fee
18 of five hundred dollars, and submit background checks as provided in
19 section 45-1033.01. If the applicant is an individual, the application
20 shall include the applicant's social security number.

21 Sec. 87. Section 45-1018, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 45-1018 (1) A licensee shall on or before March 1 of each year file
24 with the department a report of the licensee's earnings and operations
25 for the preceding calendar year, and its assets at the end of the year,
26 and giving such other relevant information as the department may
27 reasonably require. The report shall be made under oath and shall be in
28 the form and manner prescribed by the department.

29 (2) A licensee shall submit a mortgage report of condition as
30 required by section 45-726, on or before a date or dates established by
31 rule, regulation, or order of the director.

1 (3)(a) Except as provided in subdivisions (b) and (c) of this
2 subsection, a licensee shall notify the director in writing or through
3 the Nationwide Mortgage Licensing System and Registry within three
4 business days from the time that the licensee becomes aware of any breach
5 of security of the system of computerized data owned or licensed by the
6 licensee, which contains personal information about a Nebraska resident,
7 or the unauthorized access to or use of such information about a Nebraska
8 resident as a result of the breach.

9 (b) If a licensee would be required under Nebraska law to provide
10 notification to a Nebraska resident regarding such incident, then the
11 licensee shall provide a copy of such notification to the department
12 prior to or simultaneously with the licensee's notification to the
13 Nebraska resident.

14 (c) Notice required by this subsection may be delayed if a law
15 enforcement agency determines that the notice will impede a criminal
16 investigation. Notice shall be made in good faith, without unreasonable
17 delay, and as soon as possible after the law enforcement agency
18 determines that notification will no longer impede the investigation.

19 (d) For purposes of this subsection, the terms breach of the
20 security of the system and personal information have the same meaning as
21 in section 87-802.

22 Sec. 88. Section 45-1033.01, Reissue Revised Statutes of Nebraska,
23 is amended to read:

24 45-1033.01 (1) The department shall require licensees to be licensed
25 and registered through the Nationwide Mortgage Licensing System and
26 Registry. In order to carry out this requirement, the department is
27 authorized to participate in the Nationwide Mortgage Licensing System and
28 Registry. For this purpose, the department may establish, by adopting and
29 promulgating rules and regulations or by order, requirements as
30 necessary. The requirements may include, but not be limited to:

31 (a) Background checks of applicants and licensees, including, but

1 not limited to:

2 (i) Fingerprints of every executive officer, director, partner,
3 member, sole proprietor, or shareholder submitted to the Federal Bureau
4 of Investigation and any other governmental agency or entity authorized
5 to receive such information for a state, national, and international
6 criminal history record information check ~~Criminal history through~~
7 ~~fingerprint or other databases;~~

8 (ii) Civil or administrative records;

9 (iii) Credit history; or

10 (iv) Any other information as deemed necessary by the Nationwide
11 Mortgage Licensing System and Registry;

12 (b) The payment of fees to apply for or renew a license through the
13 Nationwide Mortgage Licensing System and Registry;

14 (c) Compliance with prelicensure education and testing and
15 continuing education;

16 (d) The setting or resetting, as necessary, of renewal processing or
17 reporting dates; and

18 (e) Amending or surrendering a license or any other such activities
19 as the director deems necessary for participation in the Nationwide
20 Mortgage Licensing System and Registry.

21 (2) In order to fulfill the purposes of the Nebraska Installment
22 Loan Act, the department is authorized to establish relationships or
23 contracts with the Nationwide Mortgage Licensing System and Registry or
24 other entities designated by the Nationwide Mortgage Licensing System and
25 Registry to collect and maintain records and process transaction fees or
26 other fees related to licensees or other persons subject to the act. The
27 department may allow such system to collect licensing fees on behalf of
28 the department and allow such system to collect a processing fee for the
29 services of the system directly from each licensee or applicant for a
30 license.

31 (3) The director is required to regularly report violations of the

1 act pertaining to residential mortgage loans, as defined in section
2 45-702, as well as enforcement actions and other relevant information, to
3 the Nationwide Mortgage Licensing System and Registry subject to the
4 provisions contained in section 45-1033.02.

5 (4) The director shall establish a process whereby applicants and
6 licensees may challenge information entered into the Nationwide Mortgage
7 Licensing System and Registry by the director.

8 (5) The department shall ensure that the Nationwide Mortgage
9 Licensing System and Registry adopts a privacy, data security, and
10 security breach notification policy. The director shall make available
11 upon written request a copy of the contract between the department and
12 the Nationwide Mortgage Licensing System and Registry pertaining to the
13 breach of security of the system provisions.

14 (6) The department shall upon written request provide the most
15 recently available audited financial report of the Nationwide Mortgage
16 Licensing System and Registry.

17 (7) The director may use the Nationwide Mortgage Licensing System
18 and Registry as a channeling agent for requesting information from and
19 distributing information to the United States Department of Justice or
20 any other governmental agency in order to reduce the points of contact
21 which the Federal Bureau of Investigation may have to maintain for
22 purposes of subsection (1) of this section.

23 Sec. 89. Section 59-1722, Revised Statutes Supplement, 2023, is
24 amended to read:

25 59-1722 (1) Any transaction involving the sale of a franchise as
26 defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1,
27 2024 ~~2023~~, shall be exempt from the Seller-Assisted Marketing Plan Act,
28 except that such transactions shall be subject to subdivision (1)(d) of
29 section 59-1757, those provisions regulating or prescribing the use of
30 the phrase buy-back or secured investment or similar phrases as set forth
31 in sections 59-1726 to 59-1728 and 59-1751, and all sections which

1 provide for their enforcement. The exemption shall only apply if:

2 (a) The franchise is offered and sold in compliance with the
3 requirements of 16 C.F.R. part 436, Disclosure Requirements and
4 Prohibitions Concerning Franchising, as such part existed on January 1,
5 2024 ~~2023~~;

6 (b) Before placing any advertisement in a Nebraska-based
7 publication, offering for sale to any prospective purchaser in Nebraska,
8 or making any representations in connection with such offer or sale to
9 any prospective purchaser in Nebraska, the seller files a notice with the
10 Department of Banking and Finance which contains (i) the name, address,
11 and telephone number of the seller and the name under which the seller
12 intends to do business and (ii) a brief description of the plan offered
13 by the seller; and

14 (c) The seller pays a filing fee of one hundred dollars.

15 (2) The department may request a copy of the disclosure document
16 upon receipt of a written complaint or inquiry regarding the seller or
17 upon a reasonable belief that a violation of the Seller-Assisted
18 Marketing Plan Act has occurred or may occur. The seller shall provide
19 such copy within ten business days of receipt of the request.

20 (3) All funds collected by the department under this section shall
21 be remitted to the State Treasurer for credit to the Securities Act Cash
22 Fund.

23 (4) The Director of Banking and Finance may by order deny or revoke
24 an exemption specified in this section with respect to a particular
25 offering of one or more business opportunities if the director finds that
26 such an order is in the public interest or is necessary for the
27 protection of purchasers. An order shall not be entered without
28 appropriate prior notice to all interested parties, an opportunity for
29 hearing, and written findings of fact and conclusions of law. If the
30 public interest or the protection of purchasers so requires, the director
31 may by order summarily deny or revoke an exemption specified in this

1 section pending final determination of any proceedings under this
2 section. An order under this section shall not operate retroactively.

3 Sec. 90. Section 69-2103, Revised Statutes Supplement, 2023, is
4 amended to read:

5 69-2103 For purposes of the Consumer Rental Purchase Agreement Act:

6 (1) Advertisement means a commercial message in any medium that
7 aids, promotes, or assists directly or indirectly a consumer rental
8 purchase agreement but does not include in-store merchandising aids such
9 as window signs and ceiling banners;

10 (2) Cash price means the price at which the lessor would have sold
11 the property to the consumer for cash on the date of the consumer rental
12 purchase agreement for the property;

13 (3) Consumer means a natural person who rents property under a
14 consumer rental purchase agreement;

15 (4) Consumer rental purchase agreement means an agreement which is
16 for the use of property by a consumer primarily for personal, family, or
17 household purposes, which is for an initial period of four months or
18 less, whether or not there is any obligation beyond the initial period,
19 which is automatically renewable with each payment, and which permits the
20 consumer to become the owner of the property. A consumer rental purchase
21 agreement in compliance with the act shall not be construed to be a lease
22 or agreement which constitutes a credit sale as defined in 12 C.F.R.
23 1026.2(a)(16), as such regulation existed on January 1, 2024 ~~2023~~, and 15
24 U.S.C. 1602(h), as such section existed on January 1, 2024 ~~2023~~, or a
25 lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2,
26 as such regulation existed on January 1, 2024 ~~2023~~. Consumer rental
27 purchase agreement does not include:

28 (a) Any lease for agricultural, business, or commercial purposes;

29 (b) Any lease made to an organization;

30 (c) A lease or agreement which constitutes an installment sale or
31 installment contract as defined in section 45-335;

1 (d) A security interest as defined in subdivision (35) of section
2 1-201, Uniform Commercial Code; and

3 (e) A home solicitation sale as defined in section 69-1601;

4 (5) Consummation means the occurrence of an event which causes a
5 consumer to become contractually obligated on a consumer rental purchase
6 agreement;

7 (6) Department means the Department of Banking and Finance;

8 (7) Lease payment means a payment to be made by the consumer for the
9 right of possession and use of the property for a specific lease period
10 but does not include taxes imposed on such payment;

11 (8) Lease period means a week, month, or other specific period of
12 time, during which the consumer has the right to possess and use the
13 property after paying the lease payment and applicable taxes for such
14 period;

15 (9) Lessor means a person who in the ordinary course of business
16 operates a commercial outlet which regularly leases, offers to lease, or
17 arranges for the leasing of property under a consumer rental purchase
18 agreement;

19 (10) Property means any property that is not real property under the
20 laws of this state when made available for a consumer rental purchase
21 agreement; and

22 (11) Total of payments to acquire ownership means the total of all
23 charges imposed by the lessor and payable by the consumer as a condition
24 of acquiring ownership of the property. Total of payments to acquire
25 ownership includes lease payments and any initial nonrefundable
26 administrative fee or required delivery charge but does not include
27 taxes, late charges, reinstatement fees, or charges for optional products
28 or services.

29 Sec. 91. Section 69-2104, Revised Statutes Supplement, 2023, is
30 amended to read:

31 69-2104 (1) Before entering into any consumer rental purchase

1 agreement, the lessor shall disclose to the consumer the following items
2 as applicable:

3 (a) A brief description of the leased property sufficient to
4 identify the property to the consumer and lessor;

5 (b) The number, amount, and timing of all payments included in the
6 total of payments to acquire ownership;

7 (c) The total of payments to acquire ownership;

8 (d) A statement that the consumer will not own the property until
9 the consumer has paid the total of payments to acquire ownership plus
10 applicable taxes;

11 (e) A statement that the total of payments to acquire ownership does
12 not include other charges such as taxes, late charges, reinstatement
13 fees, or charges for optional products or services the consumer may have
14 elected to purchase and that the consumer should see the rental purchase
15 agreement for an explanation of these charges;

16 (f) A statement that the consumer is responsible for the fair market
17 value, remaining rent, early purchase option amount, or cost of repair of
18 the property, whichever is less, if it is lost, stolen, damaged, or
19 destroyed;

20 (g) A statement indicating whether the property is new or used. A
21 statement that indicates that new property is used shall not be a
22 violation of the Consumer Rental Purchase Agreement Act;

23 (h) A statement of the cash price of the property. When the
24 agreement involves a lease for two or more items, a statement of the
25 aggregate cash price of all items shall satisfy the requirement of this
26 subdivision;

27 (i) The total amount of the initial payments required to be paid
28 before consummation of the agreement or delivery of the property,
29 whichever occurs later, and an itemization of the components of the
30 initial payment, including any initial nonrefundable administrative fee
31 or delivery charge, lease payment, taxes, or fee or charge for optional

1 products or services;

2 (j) A statement clearly summarizing the terms of the consumer's
3 options to purchase, including a statement that at any time after the
4 first periodic payment is made the consumer may acquire ownership of the
5 property by tendering an amount which may not exceed fifty-five percent
6 of the difference between the total of payments to acquire ownership and
7 the total of lease payments the consumer has paid on the property at that
8 time;

9 (k) A statement identifying the party responsible for maintaining or
10 servicing the property while it is being leased, together with a
11 description of that responsibility and a statement that if any part of a
12 manufacturer's warranty covers the leased property at the time the
13 consumer acquires ownership of the property, such warranty shall be
14 transferred to the consumer if allowed by the terms of the warranty; and

15 (1) The date of the transaction and the names of the lessor and the
16 consumer.

17 (2) With respect to matters specifically governed by the federal
18 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
19 existed on January 1, 2024 ~~2023~~, compliance with such act shall satisfy
20 the requirements of this section.

21 (3) Subsection (1) of this section shall not apply to a lessor who
22 complies with the disclosure requirements of the federal Consumer Credit
23 Protection Act, 15 U.S.C. 1667a, as such section existed on January 1,
24 2024 ~~2023~~, with respect to a consumer rental purchase agreement entered
25 into with a consumer.

26 Sec. 92. Section 69-2112, Revised Statutes Supplement, 2023, is
27 amended to read:

28 69-2112 (1) Any advertisement for a consumer rental purchase
29 agreement which refers to or states the amount of any payment or the
30 right to acquire ownership for any specific item shall also state clearly
31 and conspicuously the following if applicable:

1 (a) That the transaction advertised is a consumer rental purchase
2 agreement;

3 (b) The total of payments to acquire ownership; and

4 (c) That the consumer acquires no ownership rights until the total
5 of payments to acquire ownership is paid.

6 (2) Any owner or employee of any medium in which an advertisement
7 appears or through which it is disseminated shall not be liable under
8 this section.

9 (3) Subsection (1) of this section shall not apply to an
10 advertisement which does not refer to a specific item of property, which
11 does not refer to or state the amount of any payment, or which is
12 published in the yellow pages of a telephone directory or any similar
13 directory of business.

14 (4) With respect to matters specifically governed by the federal
15 Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act
16 existed on January 1, 2024 ~~2023~~, compliance with such act shall satisfy
17 the requirements of this section.

18 Sec. 93. Section 71-605.02, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 71-605.02 The department shall preserve permanently ~~and index~~ all
21 such certificates and shall charge and collect in advance the fee
22 prescribed in section 71-612, to be paid by the applicant for each
23 certified copy supplied to the applicant or for any search made at the
24 applicant's request for access to or a certified copy of any record,
25 whether or not the record is found on file with the department. All fees
26 so collected shall be remitted to the State Treasurer for credit to the
27 Health and Human Services Cash Fund as provided in section 71-612.

28 Sec. 94. Section 71-612, Revised Statutes Supplement, 2023, is
29 amended to read:

30 71-612 (1) The department, as the State Registrar, shall preserve
31 permanently ~~and index~~ all certificates received. The department shall

1 supply to any applicant for any proper purpose, as defined by rules and
2 regulations of the department, a certified copy of the record of any
3 birth, death, marriage, annulment, or dissolution of marriage or an
4 abstract of marriage. The department shall supply a copy of a public
5 vital record for viewing purposes at its office upon an application
6 signed by the applicant and upon proof of the identity of the applicant.
7 The application may include the name, address, and telephone number of
8 the applicant, purpose for viewing each record, and other information as
9 may be prescribed by the department by rules and regulations to protect
10 the integrity of vital records and prevent their fraudulent use. Except
11 as provided in subsections (2), (3), (5), (6), (7), and (9) of this
12 section, the department shall be entitled to charge and collect in
13 advance a fee of sixteen dollars to be paid by the applicant for each
14 certified copy or abstract of marriage supplied to the applicant or for
15 any search made at the applicant's request for access to or a certified
16 copy of any record or abstract of marriage, whether or not the record or
17 abstract is found on file with the department.

18 (2) The department shall, free of charge, search for and furnish a
19 certified copy of any record or abstract of marriage on file with the
20 department upon the request of (a) the United States Department of
21 Veterans Affairs or any lawful service organization empowered to
22 represent veterans if the copy of the record or abstract of marriage is
23 to be issued, for the welfare of any member or veteran of the armed
24 forces of the United States or in the interests of any member of his or
25 her family, in connection with a claim growing out of service in the
26 armed forces of the nation or (b) the Military Department.

27 (3) The department may, free of charge, search for and furnish a
28 certified copy of any record or abstract of marriage on file with the
29 department when in the opinion of the department it would be a hardship
30 for the claimant of old age, survivors, or disability benefits under the
31 federal Social Security Act to pay the fee provided in this section.

1 (4) A strict account shall be kept of all funds received by the
2 department. Funds received pursuant to subsections (1), (5), (6), and (8)
3 of this section shall be remitted to the State Treasurer for credit to
4 the Health and Human Services Cash Fund. Money credited to the fund
5 pursuant to this section shall be used for the purpose of administering
6 the laws relating to vital statistics and may be used to create a petty
7 cash fund administered by the department to facilitate the payment of
8 refunds to individuals who apply for copies or abstracts of records. The
9 petty cash fund shall be subject to section 81-104.01, except that the
10 amount in the petty cash fund shall not be less than twenty-five dollars
11 nor more than one thousand dollars.

12 (5) The department shall, upon request, conduct a search of death
13 certificates for stated individuals for the Nebraska Medical Association
14 or any of its allied medical societies or any inhospital staff committee
15 pursuant to sections 71-3401 to 71-3403. If such death certificate is
16 found, the department shall provide a noncertified copy. The department
17 shall charge a fee for each search or copy sufficient to cover its actual
18 direct costs, except that the fee shall not exceed three dollars per
19 individual search or copy requested.

20 (6) The department may permit use of data from vital records for
21 statistical or research purposes under section 71-602 or disclose data
22 from certificates or records to federal, state, county, or municipal
23 agencies of government for use in administration of their official duties
24 for the limited purposes of preventing, identifying, or halting
25 fraudulent activity or waste of government funding. The department shall
26 ~~and~~ charge and collect a fee that will recover the department's cost of
27 production of the data. The department may provide access to public vital
28 records for viewing purposes by electronic means, if available, under
29 security provisions which shall assure the integrity and security of the
30 records and database and shall charge and collect a fee that shall
31 recover the department's costs.

1 (7) In addition to the fees charged under subsection (1) of this
2 section, the department shall charge and collect an additional fee of one
3 dollar for any certified copy of the record of any birth or for any
4 search made at the applicant's request for access to or a certified copy
5 of any such record, whether or not the record is found on file with the
6 department. Any county containing a city of the metropolitan class which
7 has an established city-county or county health department pursuant to
8 sections 71-1626 to 71-1636 which has an established system of
9 registering births and deaths shall charge and collect in advance a fee
10 of one dollar for any certified copy of the record of any birth or for
11 any search made at the applicant's request for such record, whether or
12 not the record is found on file with the county. All fees collected under
13 this subsection shall be remitted to the State Treasurer for credit to
14 the Nebraska Child Abuse Prevention Fund.

15 (8) The department shall not charge other state agencies the fees
16 authorized under subsections (1) and (7) of this section for automated
17 review of any certificates or abstracts of marriage. The department shall
18 charge and collect a fee from other state agencies for such automated
19 review that will recover the department's cost.

20 (9) The department shall not charge any fee for a certified copy of
21 a birth record if the applicant does not have a current Nebraska driver's
22 license or state identification card and indicates in the application
23 that the applicant needs a certified copy of the birth record to apply
24 for a state identification card for voting purposes.

25 Sec. 95. Section 71-616, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 71-616 The department shall preserve permanently ~~and index~~ all
28 births, deaths, marriages, and divorces received, and shall tabulate
29 statistics therefrom.

30 Sec. 96. Section 77-2341, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 77-2341 (1) Whenever any county, city, village, or other
2 governmental subdivision, other than a school district, of the State of
3 Nebraska has accumulated a surplus of any fund in excess of its current
4 needs or has accumulated a sinking fund for the payment of its bonds and
5 the money in such sinking fund exceeds the amount necessary to pay the
6 principal and interest of any such bonds which become due during the
7 current year, the governing body of such county, city, village, or other
8 governmental subdivision may invest any such surplus in excess of current
9 needs or such excess in its sinking fund in certificates of deposit, in
10 time deposits, and in any securities in which the state investment
11 officer is authorized to invest pursuant to the Nebraska Capital
12 Expansion Act and the Nebraska State Funds Investment Act and as provided
13 in the authorized investment guidelines of the Nebraska Investment
14 Council in effect on the date the investment is made. The state
15 investment officer shall upon request furnish a copy of current
16 authorized investment guidelines of the Nebraska Investment Council.

17 (2) Whenever any school district of the State of Nebraska has
18 accumulated a surplus of any fund in excess of its current needs or has
19 accumulated a fund for the payment of bonds and the money in such fund
20 exceeds the amount necessary to pay the principal and interest of any
21 such bonds which become due during the current year, the board of
22 education of such school district may invest any such surplus in excess
23 of current needs or such excess in the bond fund in securities in which
24 such board of education is authorized to invest pursuant to section
25 79-1043.

26 (3) Nothing in subsection (1) of this section shall be construed to
27 restrict investments authorized pursuant to section 14-563.

28 (4) Nothing in subsections (1), (2), and (3) of this section shall
29 be construed to authorize investments in venture capital or to expand the
30 investment authority of a local government investment pool under the
31 Public Entities Pooled Investment Act.

1 Sec. 97. Section 81-118.01, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-118.01 (1)(a) ~~(1)~~ Any state official or state agency may accept
4 credit cards, charge cards, or debit cards, whether presented in person
5 or electronically, or electronic funds transfers as a method of cash
6 payment of any tax, levy, excise, duty, custom, toll, interest, penalty,
7 fine, license, fee, or assessment of whatever kind or nature, whether
8 general or special, as provided by section 77-1702.

9 (b) A state official or state agency shall not accept a central bank
10 digital currency as a method of cash payment of any tax, levy, excise,
11 duty, custom, toll, interest, penalty, fine, license, fee, or assessment
12 of whatever kind or nature.

13 (2) The total amount of such taxes, levies, excises, duties,
14 customs, tolls, interest, penalties, fines, licenses, fees, or
15 assessments of whatever kind or nature, whether general or special, paid
16 for by credit card, charge card, debit card, or electronic funds transfer
17 shall be collected by the state official or state agency.

18 (3) Any state official or state agency operating a facility in a
19 proprietary capacity may choose to accept credit cards, charge cards, or
20 debit cards, whether presented in person or electronically, or electronic
21 funds transfers as a means of cash payment, and may adjust the price for
22 services to reflect the handling and payment costs.

23 (4) The state official or state agency shall obtain, for each
24 transaction, authorization for use of any credit card, charge card, or
25 debit card used pursuant to this section from the financial institution,
26 vending service company, credit card or charge card company, or third-
27 party merchant bank providing such service.

28 (5) The types of credit cards, charge cards, or debit cards accepted
29 and the payment services provided for any state official or state agency
30 shall be determined by the State Treasurer and the Director of
31 Administrative Services with the advice of the committee convened

1 pursuant to subsection (5) of section 13-609. The State Treasurer and the
2 director shall contract with one or more credit card, charge card, or
3 debit card companies or third-party merchant banks for services on behalf
4 of the state and those counties, cities, and political subdivisions that
5 choose to participate in the state contract for such services. Any
6 negotiated discount, processing, or transaction fee imposed by a credit
7 card, charge card, or debit card company or third-party merchant bank
8 shall be considered, for purposes of this section, as an administrative
9 expense.

10 (6) A state official or state agency obtaining, for each
11 transaction, authorization for use of any credit card or charge card used
12 pursuant to this section may, but is not required to, impose a surcharge
13 or convenience fee upon the person making a payment by credit card or
14 charge card so as to wholly or partially offset the amount of any
15 discount or administrative fees charged to the state agency, but the
16 surcharge or convenience fee shall not exceed the surcharge or
17 convenience fee imposed by the credit card or charge card companies or
18 third-party merchant banks which have contracted under subsection (5) of
19 this section. The surcharge or convenience fee shall be applied only when
20 allowed by the operating rules and regulations of the credit card or
21 charge card involved or when authorized in writing by the credit card or
22 charge card company involved. When a person elects to make a payment to a
23 state agency by credit card or charge card and such a surcharge or
24 convenience fee is imposed, the payment of such surcharge or convenience
25 fee shall be deemed voluntary by such person and shall be in no case
26 refundable. If a payment is made electronically by credit card, charge
27 card, debit card, or electronic funds transfer as part of a system for
28 providing or retrieving information electronically, the state official or
29 state agency shall be authorized but not required to impose an additional
30 surcharge or convenience fee upon the person making a payment.

31 (7) For purposes of this section: 7

1 (a) Central bank digital currency means a digital medium of
2 exchange, token, or monetary unit of account issued by the United States
3 Federal Reserve System or any analogous federal agency that is made
4 directly available to the consumer by such federal entities. Central bank
5 digital currency includes a digital medium of exchange, token, or
6 monetary unit of account so issued that is processed or validated
7 directly by such federal entities; and

8 (b) Electronic electronic funds transfer means the movement of funds
9 by nonpaper means, usually through a payment system, including, but not
10 limited to, an automated clearinghouse or the Federal Reserve's Fedwire
11 system.

12 Sec. 98. Section 84-712.05, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 84-712.05 The following records, unless publicly disclosed in an
15 open court, open administrative proceeding, or open meeting or disclosed
16 by a public entity pursuant to its duties, may be withheld from the
17 public by the lawful custodian of the records:

18 (1) Personal information in records regarding a student, prospective
19 student, or former student of any educational institution or exempt
20 school that has effectuated an election not to meet state approval or
21 accreditation requirements pursuant to section 79-1601 when such records
22 are maintained by and in the possession of a public entity, other than
23 routine directory information specified and made public consistent with
24 20 U.S.C. 1232g, as such section existed on February 1, 2013, and
25 regulations adopted thereunder;

26 (2) Medical records, other than records of births and deaths and
27 except as provided in subdivisions ~~subdivision~~ (5) and (26) of this
28 section, in any form concerning any person; records of elections filed
29 under section 44-2821; and patient safety work product under the Patient
30 Safety Improvement Act;

31 (3) Trade secrets, academic and scientific research work which is in

1 progress and unpublished, and other proprietary or commercial information
2 which if released would give advantage to business competitors and serve
3 no public purpose;

4 (4) Records which represent the work product of an attorney and the
5 public body involved which are related to preparation for litigation,
6 labor negotiations, or claims made by or against the public body or which
7 are confidential communications as defined in section 27-503;

8 (5) Records developed or received by law enforcement agencies and
9 other public bodies charged with duties of investigation or examination
10 of persons, institutions, or businesses, when the records constitute a
11 part of the examination, investigation, intelligence information, citizen
12 complaints or inquiries, informant identification, or strategic or
13 tactical information used in law enforcement training, except that this
14 subdivision shall not apply to records so developed or received:

15 (a) Relating to the presence of and amount or concentration of
16 alcohol or drugs in any body fluid of any person; or

17 (b) Relating to the cause of or circumstances surrounding the death
18 of an employee arising from or related to his or her employment if, after
19 an investigation is concluded, a family member of the deceased employee
20 makes a request for access to or copies of such records. This subdivision
21 does not require access to or copies of informant identification, the
22 names or identifying information of citizens making complaints or
23 inquiries, other information which would compromise an ongoing criminal
24 investigation, or information which may be withheld from the public under
25 another provision of law. For purposes of this subdivision, family member
26 means a spouse, child, parent, sibling, grandchild, or grandparent by
27 blood, marriage, or adoption;

28 (6) The identity and personal identifying information of an alleged
29 victim of sexual assault or sex trafficking as provided in section
30 29-4316;

31 (7) Appraisals or appraisal information and negotiation records

1 concerning the purchase or sale, by a public body, of any interest in
2 real or personal property, prior to completion of the purchase or sale;

3 (8) Personal information in records regarding personnel of public
4 bodies other than salaries and routine directory information;

5 (9) Information solely pertaining to protection of the security of
6 public property and persons on or within public property, such as
7 specific, unique vulnerability assessments or specific, unique response
8 plans, either of which is intended to prevent or mitigate criminal acts
9 the public disclosure of which would create a substantial likelihood of
10 endangering public safety or property; computer or communications network
11 schema, passwords, and user identification names; guard schedules; lock
12 combinations; or public utility infrastructure specifications or design
13 drawings the public disclosure of which would create a substantial
14 likelihood of endangering public safety or property, unless otherwise
15 provided by state or federal law;

16 (10) Information that relates details of physical and cyber assets
17 of critical energy infrastructure or critical electric infrastructure,
18 including (a) specific engineering, vulnerability, or detailed design
19 information about proposed or existing critical energy infrastructure or
20 critical electric infrastructure that (i) relates details about the
21 production, generation, transportation, transmission, or distribution of
22 energy, (ii) could be useful to a person in planning an attack on such
23 critical infrastructure, and (iii) does not simply give the general
24 location of the critical infrastructure and (b) the identity of personnel
25 whose primary job function makes such personnel responsible for (i)
26 providing or granting individuals access to physical or cyber assets or
27 (ii) operating and maintaining physical or cyber assets, if a reasonable
28 person, knowledgeable of the electric utility or energy industry, would
29 conclude that the public disclosure of such identity could create a
30 substantial likelihood of risk to such physical or cyber assets.
31 Subdivision (10)(b) of this section shall not apply to the identity of a

1 chief executive officer, general manager, vice president, or board member
2 of a public entity that manages critical energy infrastructure or
3 critical electric infrastructure. The lawful custodian of the records
4 must provide a detailed job description for any personnel whose identity
5 is withheld pursuant to subdivision (10)(b) of this section. For purposes
6 of subdivision (10) of this section, critical energy infrastructure and
7 critical electric infrastructure mean existing and proposed systems and
8 assets, including a system or asset of the bulk-power system, whether
9 physical or virtual, the incapacity or destruction of which would
10 negatively affect security, economic security, public health or safety,
11 or any combination of such matters;

12 (11) The security standards, procedures, policies, plans,
13 specifications, diagrams, access lists, and other security-related
14 records of the Lottery Division of the Department of Revenue and those
15 persons or entities with which the division has entered into contractual
16 relationships. Nothing in this subdivision shall allow the division to
17 withhold from the public any information relating to amounts paid persons
18 or entities with which the division has entered into contractual
19 relationships, amounts of prizes paid, the name of the prize winner, and
20 the city, village, or county where the prize winner resides;

21 (12) With respect to public utilities and except as provided in
22 sections 43-512.06 and 70-101, personally identified private citizen
23 account payment and customer use information, credit information on
24 others supplied in confidence, and customer lists;

25 (13) Records or portions of records kept by a publicly funded
26 library which, when examined with or without other records, reveal the
27 identity of any library patron using the library's materials or services;

28 (14) Correspondence, memoranda, and records of telephone calls
29 related to the performance of duties by a member of the Legislature in
30 whatever form. The lawful custodian of the correspondence, memoranda, and
31 records of telephone calls, upon approval of the Executive Board of the

1 Legislative Council, shall release the correspondence, memoranda, and
2 records of telephone calls which are not designated as sensitive or
3 confidential in nature to any person performing an audit of the
4 Legislature. A member's correspondence, memoranda, and records of
5 confidential telephone calls related to the performance of his or her
6 legislative duties shall only be released to any other person with the
7 explicit approval of the member;

8 (15) Records or portions of records kept by public bodies which
9 would reveal the location, character, or ownership of any known
10 archaeological, historical, or paleontological site in Nebraska when
11 necessary to protect the site from a reasonably held fear of theft,
12 vandalism, or trespass. This section shall not apply to the release of
13 information for the purpose of scholarly research, examination by other
14 public bodies for the protection of the resource or by recognized tribes,
15 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or
16 the federal Native American Graves Protection and Repatriation Act;

17 (16) Records or portions of records kept by public bodies which
18 maintain collections of archaeological, historical, or paleontological
19 significance which reveal the names and addresses of donors of such
20 articles of archaeological, historical, or paleontological significance
21 unless the donor approves disclosure, except as the records or portions
22 thereof may be needed to carry out the purposes of the Unmarked Human
23 Burial Sites and Skeletal Remains Protection Act or the federal Native
24 American Graves Protection and Repatriation Act;

25 (17) Library, archive, and museum materials acquired from
26 nongovernmental entities and preserved solely for reference, research, or
27 exhibition purposes, for the duration specified in subdivision (17)(b) of
28 this section, if:

29 (a) Such materials are received by the public custodian as a gift,
30 purchase, bequest, or transfer; and

31 (b) The donor, seller, testator, or transferor conditions such gift,

1 purchase, bequest, or transfer on the materials being kept confidential
2 for a specified period of time;

3 (18) Job application materials submitted by applicants, other than
4 finalists or a priority candidate for a position described in section
5 85-106.06 selected using the enhanced public scrutiny process in section
6 85-106.06, who have applied for employment by any public body as defined
7 in section 84-1409. For purposes of this subdivision, (a) job application
8 materials means employment applications, resumes, reference letters, and
9 school transcripts and (b) finalist means any applicant who is not an
10 applicant for a position described in section 85-106.06 and (i) who
11 reaches the final pool of applicants, numbering four or more, from which
12 the successful applicant is to be selected, (ii) who is an original
13 applicant when the final pool of applicants numbers less than four, or
14 (iii) who is an original applicant and there are four or fewer original
15 applicants;

16 (19)(a) Records obtained by the Public Employees Retirement Board
17 pursuant to section 84-1512 and (b) records maintained by the board of
18 education of a Class V school district and obtained by the board of
19 trustees or the Public Employees Retirement Board for the administration
20 of a retirement system provided for under the Class V School Employees
21 Retirement Act pursuant to section 79-989;

22 (20) Social security numbers; credit card, charge card, or debit
23 card numbers and expiration dates; and financial account numbers supplied
24 to state and local governments by citizens;

25 (21) Information exchanged between a jurisdictional utility and city
26 pursuant to section 66-1867;

27 (22) Draft records obtained by the Nebraska Retirement Systems
28 Committee of the Legislature and the Governor from Nebraska Public
29 Employees Retirement Systems pursuant to subsection (4) of section
30 84-1503;

31 (23) All prescription drug information submitted pursuant to section

1 71-2454, all data contained in the prescription drug monitoring system,
2 and any report obtained from data contained in the prescription drug
3 monitoring system;

4 (24) Information obtained by any government entity, whether federal,
5 state, county, or local, regarding firearm registration, possession,
6 sale, or use that is obtained for purposes of an application permitted or
7 required by law or contained in a permit or license issued by such
8 entity. Such information shall be available upon request to any federal,
9 state, county, or local law enforcement agency;~~and~~

10 (25) The security standards, procedures, policies, plans,
11 specifications, diagrams, and access lists and other security-related
12 records of the State Racing and Gaming Commission, those persons or
13 entities with which the commission has entered into contractual
14 relationships, and the names of any individuals placed on the list of
15 self-excluded persons with the commission as provided in section 9-1118.
16 Nothing in this subdivision shall allow the commission to withhold from
17 the public any information relating to the amount paid any person or
18 entity with which the commission has entered into a contractual
19 relationship, the amount of any prize paid, the name of the prize winner,
20 and the city, village, or county where the prize winner resides; -

21 (26) Vital event records, unless all information designated as
22 confidential under the Vital Statistics Act or all personally
23 identifiable information is redacted by the Department of Health and
24 Human Services;

25 (27) Information or records from historical indexes within one
26 hundred years after the event date of the information or record; and

27 (28) The certificate number for any vital event certificate.

28 Sec. 99. Section 4A-108, Uniform Commercial Code, Revised Statutes
29 Supplement, 2023, is amended to read:

30 4A-108 Relationship to federal Electronic Fund Transfer Act.

31 (a) Except as provided in subsection (b), this article does not

1 apply to a funds transfer any part of which is governed by the federal
2 Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed
3 on January 1, 2024 ~~2023~~.

4 (b) This article applies to a funds transfer that is a remittance
5 transfer as defined in the federal Electronic Fund Transfer Act, 15
6 U.S.C. 1693o-1, as such section existed on January 1, 2024 ~~2023~~, unless
7 the remittance transfer is an electronic fund transfer as defined in the
8 federal Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section
9 existed on January 1, 2024 ~~2023~~.

10 (c) In a funds transfer to which this article applies, in the event
11 of an inconsistency between an applicable provision of this article and
12 an applicable provision of the federal Electronic Fund Transfer Act, the
13 provision of the federal Electronic Fund Transfer Act governs to the
14 extent of the inconsistency.

15 Sec. 100. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
16 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 93, 94,
17 95, 98, and 102 of this act become operative on January 1, 2025. Sections
18 31, 32, 33, 34, 35, 36, 52, 54, 55, 56, 60, 61, 62, 63, 64, 65, 67, 68,
19 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87,
20 88, 96, 97, and 103 of this act become operative three calendar months
21 after the adjournment of this legislative session. The other sections of
22 this act become operative on their effective date.

23 Sec. 101. If any section in this act or any part of any section is
24 declared invalid or unconstitutional, the declaration shall not affect
25 the validity or constitutionality of the remaining portions.

26 Sec. 102. Original sections 71-605.02 and 71-616, Reissue Revised
27 Statutes of Nebraska, section 84-712.05, Revised Statutes Cumulative
28 Supplement, 2022, and section 71-612, Revised Statutes Supplement, 2023,
29 are repealed.

30 Sec. 103. Original sections 8-2504, 8-2729, 8-2730, 8-2735, 13-609,
31 21-1701, 21-1702, 21-1705, 21-1729, 21-1743, 21-1749, 21-1767, 21-17,102,

1 21-17,109, 30-3801, 45-346, 45-346.01, 45-354, 45-737, 45-905.01, 45-912,
2 45-1005, 45-1018, 45-1033.01, 77-2341, and 81-118.01, Reissue Revised
3 Statutes of Nebraska, are repealed.

4 Sec. 104. Original sections 8-1116, 8-1120, 8-1726, and 21-1736,
5 Reissue Revised Statutes of Nebraska, sections 8-135, 8-141, 8-143.01,
6 8-157.01, 8-183.04, 8-1,140, 8-318, 8-355, 8-1101, 8-1101.01, 8-1704,
7 8-1707, 8-2724, 8-2903, 8-3005, 8-3007, 21-17,115, 59-1722, 69-2103,
8 69-2104, and 69-2112, Revised Statutes Supplement, 2023, and section
9 4A-108, Uniform Commercial Code, Revised Statutes Supplement, 2023, are
10 repealed.

11 Sec. 105. Since an emergency exists, this act takes effect when
12 passed and approved according to law.