

AMENDMENTS TO LB1074

Introduced by Banking, Commerce and Insurance.

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

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

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

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

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

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

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

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

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

24 (i) Fingerprint;

25 (ii) Voice print;

26 (iii) Retina image;

27 (iv) Iris image; or

1 (v) Unique biological pattern or characteristic.

2 (b) Biometric data does not include:

3 (i) Except when generated to identify a specific individual, any
4 physical or digital photograph, video or audio recording, or data
5 generated from a physical or digital photograph; or

6 (ii) Information collected, used, or stored for health care
7 treatment, payment, or operations under the Health Insurance Portability
8 and Accountability Act;

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

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

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

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

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

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

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

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

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

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

31 (9) Covered entity has the same meaning as defined in 45 C.F.R.

1 160.103, as such regulation existed on January 1, 2024;

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

6 (11) Decision that produces a legal or similarly significant effect
7 concerning a consumer means a decision made by the controller that
8 results in the provision or denial by the controller of:

9 (a) Financial and lending services;

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

11 (c) Education enrollment;

12 (d) Employment opportunities;

13 (e) Criminal justice; or

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

15 (12) Deidentified data means data that cannot reasonably be linked
16 to an identified or identifiable individual, or a device linked to that
17 individual;

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

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

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

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

30 (b) Information otherwise acquired by the health care provider about
31 an individual in confidence and in connection with health care services

1 provided to the individual;

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

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

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

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

17 (20)(a) Personal data means any information, including sensitive
18 data, that is linked or reasonably linkable to an identified or
19 identifiable individual, and includes pseudonymous data when the data is
20 used by a controller or processor in conjunction with additional
21 information that reasonably links the data to an identified or
22 identifiable individual.

23 (b) Personal data does not include deidentified data or publicly
24 available information;

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

29 (a) The selection, nomination, election, or appointment of an
30 individual to a federal, state, or local public office or an office in a
31 political organization, regardless of whether the individual is selected,

1 nominated, elected, or appointed; or

2 (b) The election of a presidential or vice-presidential elector,
3 regardless of whether the elector is selected, nominated, elected, or
4 appointed;

5 (22)(a) Precise geolocation data means information derived from
6 technology, including global positioning system level latitude and
7 longitude coordinates or other mechanisms, that directly identifies the
8 specific location of an individual with precision and accuracy within a
9 radius of one thousand seven hundred fifty feet.

10 (b) Precise geolocation data does not include the content of
11 communications or any data generated by or connected to an advanced
12 utility metering infrastructure system or to equipment for use by a
13 utility;

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

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

20 (25) Profiling means any form of solely automated processing
21 performed on personal data to evaluate, analyze, or predict personal
22 aspects related to an identified or identifiable individual's economic
23 situation, health, personal preferences, interests, reliability,
24 behavior, location, or movements;

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

27 (27) Pseudonymous data means any personal information that cannot be
28 attributed to a specific individual without the use of additional
29 information, provided that the additional information is kept separately
30 and is subject to appropriate technical and organizational measures to
31 ensure that the personal data is not attributed to an identified or

1 identifiable individual;

2 (28) Publicly available information means information that is
3 lawfully made available through government records, or information that a
4 business has a reasonable basis to believe is lawfully made available to
5 the general public through widely distributed media, by a consumer, or by
6 a person to whom a consumer has disclosed the information, unless the
7 consumer has restricted the information to a specific audience;

8 (29)(a) Sale of personal data means the exchange of personal data
9 for monetary or other valuable consideration by the controller to a third
10 party.

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

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

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

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

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

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

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

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

25 (A) Merger;

26 (B) Acquisition;

27 (C) Bankruptcy; or

28 (D) Other transaction;

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

30 (a) Personal data revealing racial or ethnic origin, religious
31 beliefs, mental or physical health diagnosis, sexual orientation, or

1 citizenship or immigration status;

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

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

5 (d) Precise geolocation data;

6 (31) State agency means a department, commission, board, office,
7 council, authority, or other agency in any branch of state government
8 that is created by the constitution or a statute of this state, including
9 any university system or any postsecondary institution as defined in
10 section 85-2403;

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

15 (b) Targeted advertising does not include:

16 (i) An advertisement that:

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

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

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

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

25 (33) Third party means a person, other than the consumer, the
26 controller, the processor, or an affiliate of the controller or
27 processor; and

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

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

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

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

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

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

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

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

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

18 (d) Nonprofit organization;

19 (e) Institution of higher education;

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

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

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

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

26 (1) Protected health information under the Health Insurance
27 Portability and Accountability Act;

28 (2) Health records;

29 (3) Patient identifying information for purposes of 42 U.S.C.
30 290dd-2, as such section existed on January 1, 2024;

31 (4) Identifiable private information:

1 (a) For purposes of the federal policy for the protection of human
2 subjects under 45 C.F.R. part 46, as such part existed on January 1,
3 2024;

4 (b) Collected as part of human subjects research under the good
5 clinical practice guidelines issued by the International Council for
6 Harmonisation of Technical Requirements for Pharmaceuticals for Human
7 Use, as such guidelines existed on January 1, 2024, or of the protection
8 of human subjects under 21 C.F.R. parts 50 and 56, as such parts existed
9 on January 1, 2024; or

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

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

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

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

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

30 (9) Information that is included in a limited data set as described
31 by 45 C.F.R. 164.514(e), to the extent that the information is used,

1 disclosed, and maintained in the manner specified by 45 C.F.R.
2 164.514(e), as such regulation existed on January 1, 2024;

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

6 (11) The collection, maintenance, disclosure, sale, communication,
7 or use of any personal information bearing on a consumer's
8 creditworthiness, credit standing, credit capacity, character, general
9 reputation, personal characteristics, or mode of living by a consumer
10 reporting agency or furnisher that provides information for use in a
11 consumer report, and by a user of a consumer report, but only to the
12 extent that the activity is regulated by and authorized under the federal
13 Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as such act existed on
14 January 1, 2024;

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

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

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

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

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

31 (17) Data that is processed or maintained and is necessary to retain

1 to administer benefits for another individual that relates to an
2 individual described by subdivision (15) of this section and used for the
3 purposes of administering such benefits.

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

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

14 Sec. 7. (1) A consumer may at any time submit a request to a
15 controller specifying the consumer rights the consumer wishes to
16 exercise. With respect to the processing of personal data belonging to a
17 known child, a parent or legal guardian of the child may exercise the
18 consumer rights on behalf of the known child.

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

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

23 (b) Correct inaccuracies in the consumer's personal data, taking
24 into account the nature of the personal data and the purposes of the
25 processing of the consumer's personal data;

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

27 (d) If the data is available in a digital format and the processing
28 is completed by automated means, obtain a copy of the consumer's personal
29 data that the consumer previously provided to the controller in a
30 portable and, to the extent technically feasible, readily usable format
31 that allows the consumer to transmit the data to another controller

1 without hindrance; or

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

3 (i) Targeted advertising;

4 (ii) The sale of personal data; or

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

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

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

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

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

30 (5) If a controller is unable to authenticate the request using
31 commercially reasonable efforts, the controller is not required to comply

1 with a consumer request submitted under section 7 of this act and may
2 request that the consumer provide additional information reasonably
3 necessary to authenticate the consumer's identity and the consumer's
4 request.

5 (6) A controller that has obtained personal data about a consumer
6 from a source other than the consumer is in compliance with a consumer's
7 request to delete such personal data pursuant to subdivision (2)(c) of
8 section 7 of this act by:

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

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

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

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

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

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

31 Sec. 10. Any provision of a contract or agreement that waives or

1 limits in any way a consumer right described in sections 7 to 9 of this
2 act is contrary to public policy and is void and unenforceable.

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

7 (a) The ways in which consumers normally interact with the
8 controller;

9 (b) The necessity for secure and reliable communications of those
10 requests; and

11 (c) The ability of the controller to authenticate the identity of
12 the consumer making the request.

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

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

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

24 (5) A consumer may designate another person to serve as the
25 consumer's authorized agent and act on the consumer's behalf to opt out
26 of the processing of the consumer's personal data under subdivisions (2)
27 (e)(i) and (ii) of section 7 of this act. A consumer may designate an
28 authorized agent using a technology, including a link to an Internet
29 website, an Internet browser setting or extension, or a global setting on
30 an electronic device, that allows the consumer to indicate the consumer's
31 intent to opt out of the processing of the consumer's personal data under

1 subdivisions (2)(e)(i) and (ii) of section 7 of this act. A controller
2 shall comply with an opt-out request received from an authorized agent
3 under this subsection if the controller is able to verify, with
4 commercially reasonable effort, the identity of the consumer and the
5 authorized agent's authority to act on the consumer's behalf. A
6 controller is not required to comply with an opt-out request received
7 from an authorized agent under this subsection if:

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

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

12 (c) The controller does not possess the ability to process the
13 request; or

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

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

18 (a) Shall not unfairly disadvantage another controller;

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

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

25 Sec. 12. (1) A controller:

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

29 (b) For purposes of protecting the confidentiality, integrity, and
30 accessibility of personal data, shall establish, implement, and maintain
31 reasonable administrative, technical, and physical data security

1 practices that are appropriate to the volume and nature of the personal
2 data at issue.

3 (2) A controller shall not:

4 (a) Except as otherwise provided in the Data Privacy Act, process
5 personal data for a purpose that is neither reasonably necessary to nor
6 compatible with the disclosed purpose for which the personal data is
7 processed, as disclosed to the consumer, unless the controller obtains
8 the consumer's consent;

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

11 (c) Discriminate against a consumer for exercising any of the
12 consumer rights contained in the Data Privacy Act, including by denying a
13 good or service, charging a different price or rate for a good or
14 service, or providing a different level of quality of a good or service
15 to the consumer; or

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

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

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

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

3 (2) The purpose for processing personal data;

4 (3) How a consumer may exercise a consumer right under sections 7 to
5 11 of this act, including the process by which a consumer may appeal a
6 controller's decision with regard to the consumer's request;

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

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

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

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

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

22 (a) Assisting the controller in responding to consumer rights
23 requests submitted under section 7 of this act by using appropriate
24 technical and organizational measures, as reasonably practicable, taking
25 into account the nature of processing and the information available to
26 the processor;

27 (b) Assisting the controller with regard to complying with the
28 requirement relating to the security of processing personal data and to
29 the notification of a breach of security of the processor's system
30 relating to an operator's or driver's license, taking into account the
31 nature of processing and the information available to the processor; and

1 (c) Providing necessary information to enable the controller to
2 conduct and document data protection assessments under section 16 of this
3 act.

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

7 (a) Clear instructions for processing data;

8 (b) The nature and purpose of processing;

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

10 (d) The duration of processing;

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

12 (f) A requirement that the processor shall:

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

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

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

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

23 (v) Engage any subcontractor pursuant to a written contract that
24 requires the subcontractor to meet the requirements of the processor with
25 respect to the personal data.

26 (3) Notwithstanding the requirement described by subdivision (2)(f)
27 (iv) of this section, a processor, in the alternative, may arrange for a
28 qualified and independent assessor to conduct an assessment of the
29 processor's policies and technical and organizational measures in support
30 of the requirements under the Data Privacy Act using an appropriate and
31 accepted control standard or framework and assessment procedure. The

1 processor shall provide a report of the assessment to the controller on
2 request.

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

7 (5) A determination of whether a person is acting as a controller or
8 processor with respect to a specific processing of data is a fact-based
9 determination that depends on the context in which personal data is to be
10 processed. A processor that continues to adhere to a controller's
11 instructions with respect to a specific processing of personal data
12 remains in the role of a processor.

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

16 (a) The processing of personal data for purposes of targeted
17 advertising;

18 (b) The sale of personal data;

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

21 (i) Unfair or deceptive treatment of or unlawful disparate impact on
22 any consumer;

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

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

27 (iv) Other substantial injury to any consumer;

28 (d) The processing of sensitive data; and

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

31 (2) A data protection assessment conducted under subsection (1) of

1 this section shall:

2 (a) Identify and weigh the direct or indirect benefits that may flow
3 from the processing to the controller, the consumer, other stakeholders,
4 and the public, against the potential risks to the rights of the consumer
5 associated with that processing, as mitigated by safeguards that can be
6 employed by the controller to reduce the risks; and

7 (b) Factor into the assessment:

8 (i) The use of deidentified data;

9 (ii) The reasonable expectations of consumers;

10 (iii) The context of the processing; and

11 (iv) The relationship between the controller and the consumer whose
12 personal data will be processed.

13 (3) A controller shall make a data protection assessment requested
14 under subsection (2) of section 21 of this act available to the Attorney
15 General pursuant to a civil investigative demand under section 21 of this
16 act.

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

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

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

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

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

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

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

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

7 (a) Reidentify deidentified data or pseudonymous data;

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

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

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

16 (ii) Does not use the personal data to recognize or respond to the
17 specific consumer who is the subject of the personal data or associate
18 the personal data with other personal data about the same specific
19 consumer; and

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

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

29 (4) A controller that discloses pseudonymous data or deidentified
30 data shall exercise reasonable oversight to monitor compliance with any
31 contractual commitments to which the pseudonymous data or deidentified

1 data is subject and shall take appropriate steps to address any breach of
2 the contractual commitments.

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

6 (2) A person who violates this section is subject to the penalty
7 under section 24 of this act.

8 Sec. 19. The Attorney General has exclusive authority to enforce
9 the Data Privacy Act.

10 Sec. 20. The Attorney General shall post on the Attorney General's
11 website:

12 (1) Information relating to:

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

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

15 and

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

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

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

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

28 Sec. 22. Before bringing an action under section 24 of this act,
29 the Attorney General shall notify a controller or processor in writing,
30 not later than the thirtieth day before bringing the action, identifying
31 the specific provisions of the Data Privacy Act the Attorney General

1 alleges have been or are being violated. The Attorney General may not
2 bring an action against the controller or processor if:

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

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

6 (a) A written statement that the controller or processor cured the
7 alleged violation and supportive documentation to show how such violation
8 was cured; and

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

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

24 (2) Each such demand shall:

25 (a) State the statute and section or sections thereof the alleged
26 violation of which is under investigation, and the general subject matter
27 of the investigation;

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

31 (c) Prescribe a return date within which the documentary material

1 shall be produced; and

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

5 (3) No such demand shall:

6 (a) Contain any requirement which would be unreasonable or improper
7 if contained in a subpoena duces tecum issued by a court of this state;
8 or

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

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

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

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

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

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

27 (6) No documentary material produced pursuant to a demand, or copies
28 thereof, shall, unless otherwise ordered by a district court for good
29 cause shown, be produced for inspection or copying by, nor shall the
30 contents thereof be disclosed to, other than an authorized employee of
31 the Attorney General, without the consent of the person who produced such

1 material, except that:

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

6 (b) The Attorney General may provide copies of such documentary
7 material to an official of this or any other state, or an official of the
8 federal government, who is charged with the enforcement of federal or
9 state antitrust or consumer protection laws, if such official agrees in
10 writing to not disclose such documentary material to any person other
11 than the official's authorized employees, except as such disclosure is
12 permitted under subdivision (c) of this subsection; and

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

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

1 (8) Whenever any person fails to comply with any civil investigative
2 demand for documentary material duly served upon him or her under this
3 section, or whenever satisfactory copying or reproduction of any such
4 material cannot be done and such person refuses to surrender such
5 material, the Attorney General may file, in the district court of the
6 county in which such person resides, is found, or transacts business, and
7 serve upon such person a petition for an order of such court for the
8 enforcement of this section, except that if such person transacts
9 business in more than one county, such petition shall be filed in the
10 county in which such person maintains his or her principal place of
11 business or in such other county as may be agreed upon by the parties to
12 such petition. Whenever any petition is filed in the district court of
13 any county under this section, such court shall have jurisdiction to hear
14 and determine the matter so presented and to enter such order as may be
15 required to carry this section into effect. Disobedience of any order
16 entered under this section by any court shall be punished as a contempt
17 thereof.

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

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

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

26 (b) Restrain or enjoin the person from violating the Data Privacy
27 Act; or

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

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

1 (4) All money collected under this section shall be remitted to the
2 State Treasurer for distribution in accordance with Article VII, section
3 5, of the Constitution of Nebraska.

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

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

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

9 (a) Comply with federal, state, or local laws, rules, or
10 regulations;

11 (b) Comply with a civil, criminal, or regulatory inquiry,
12 investigation, subpoena, or summons by federal, state, local, or other
13 governmental authorities;

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

18 (d) Investigate, establish, exercise, prepare for, or defend legal
19 claims;

20 (e) Provide a product or service specifically requested by a
21 consumer or the parent or guardian of a child, perform a contract to
22 which the consumer is a party, including fulfilling the terms of a
23 written warranty, or take action at the request of the consumer before
24 entering into a contract;

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

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

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

3 (i) Engage in public or peer-reviewed scientific or statistical
4 research in the public interest that adheres to all other applicable
5 ethics and privacy laws and is approved, monitored, and governed by an
6 institutional review board or similar independent oversight entity that
7 determines:

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

10 (ii) Whether the expected benefits of the research outweigh the
11 privacy risks; and

12 (iii) If the controller has implemented reasonable safeguards to
13 mitigate privacy risks associated with research, including any risks
14 associated with reidentification; or

15 (j) Assist another controller, processor, or third party with any of
16 the requirements under this subdivision;

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

20 (3) Impose a requirement on any controller or processor that
21 adversely affects any right or freedom of any person, including the right
22 of free speech pursuant to the First Amendment to the Constitution of the
23 United States;

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

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

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

31 Sec. 27. (1) The requirements imposed on any controller or

1 processor under the Data Privacy Act shall not restrict a controller's or
2 processor's ability to collect, use, or retain data to:

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

5 (b) Effect a product recall;

6 (c) Identify and repair technical errors that impair existing or
7 intended functionality; or

8 (d) Perform internal operations that:

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

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

12 (iii) Are otherwise compatible with processing data in furtherance
13 of the provision of a product or service specifically requested by a
14 consumer or the performance of a contract to which the consumer is a
15 party.

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

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

28 (2) A third-party controller or processor that receives personal
29 data from a controller or processor in compliance with the requirements
30 of the Data Privacy Act does not violate the Data Privacy Act for the
31 transgressions of the controller or processor from which the third-party

1 controller or processor received the personal data.

2 Sec. 29. (1) Personal data processed by a controller under sections
3 26 to 29 of this act may not be processed for any purpose other than a
4 purpose listed in sections 26 to 29 of this act unless otherwise allowed
5 by the Data Privacy Act. Personal data processed by a controller under
6 sections 26 to 29 of this act may be processed to the extent that the
7 processing of the data is:

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

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

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

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

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

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

31 Sec. 31. Section 8-135, Revised Statutes Supplement, 2023, is

1 amended to read:

2 8-135 (1) All persons, regardless of age, may become depositors in
3 any bank and shall be subject to the same duties and liabilities
4 respecting their deposits. Whenever a deposit is accepted by any bank in
5 the name of any person, regardless of age, the deposit may be withdrawn
6 by the depositor by any of the following methods:

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

11 (b) Electronic means through:

12 (i) Preauthorized direct withdrawal;

13 (ii) An automatic teller machine;

14 (iii) A debit card;

15 (iv) A transfer by telephone;

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

17 (vi) Any electronic terminal, computer, magnetic tape, or other
18 electronic means.

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

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

28 Sec. 32. Section 8-141, Revised Statutes Supplement, 2023, is
29 amended to read:

30 8-141 (1) No bank shall directly or indirectly loan to any single
31 corporation, limited liability company, firm, or individual, including in

1 such loans all loans made to the several members or shareholders of such
2 corporation, limited liability company, or firm, for the use and benefit
3 of such corporation, limited liability company, firm, or individual, more
4 than twenty-five percent of the paid-up capital, surplus, and capital
5 notes and debentures or fifteen percent of the unimpaired capital and
6 unimpaired surplus of such bank, whichever is greater. Such limitations
7 shall be subject to the following exceptions:

8 (a) Obligations of any person, partnership, limited liability
9 company, association, or corporation in the form of notes or drafts
10 secured by shipping documents or instruments transferring or securing
11 title covering livestock or giving a lien on livestock, when the market
12 value of the livestock securing the obligation is not at any time less
13 than one hundred fifteen percent of the face amount of the notes covered
14 by such documents, shall be subject under this section to a limitation of
15 ten percent of such capital, surplus, and capital notes and debentures or
16 ten percent of such unimpaired capital and unimpaired surplus, whichever
17 is greater, in addition to such twenty-five percent of such capital and
18 surplus or such fifteen percent of such unimpaired capital and unimpaired
19 surplus;

20 (b) Obligations of any person, partnership, limited liability
21 company, association, or corporation secured by not less than a like
22 amount of bonds or notes of the United States issued since April 24,
23 1917, or certificates of indebtedness of the United States, treasury
24 bills of the United States, or obligations fully guaranteed both as to
25 principal and interest by the United States shall be subject under this
26 section to a limitation of ten percent of such capital, surplus, and
27 capital notes and debentures or ten percent of such unimpaired capital
28 and unimpaired surplus, whichever is greater, in addition to such twenty-
29 five percent of such capital and surplus or such fifteen percent of such
30 unimpaired capital and unimpaired surplus;

31 (c) Obligations of any person, partnership, limited liability

1 company, association, or corporation which are secured by negotiable
2 warehouse receipts in an amount not less than one hundred fifteen percent
3 of the face amount of the note or notes secured by such documents shall
4 be subject under this section to a limitation of ten percent of such
5 capital, surplus, and capital notes and debentures or ten percent of such
6 unimpaired capital and unimpaired surplus, whichever is greater, in
7 addition to such twenty-five percent of such capital and surplus or such
8 fifteen percent of such unimpaired capital and unimpaired surplus; or

9 (d) Obligations of any person, partnership, limited liability
10 company, association, or corporation which are secured by readily
11 marketable collateral having a market value, as determined by reliable
12 and continuously available price quotations, in an amount at least equal
13 to the face amount of the note or notes secured by such collateral, shall
14 be subject under this section to a limitation of ten percent of such
15 capital, surplus, and capital notes and debentures or ten percent of such
16 unimpaired capital and unimpaired surplus, whichever is greater, in
17 addition to such twenty-five percent of such capital and surplus or such
18 fifteen percent of such unimpaired capital and unimpaired surplus.

19 (2)(a) For purposes of this section, the discounting of bills of
20 exchange, drawn in good faith against actually existing values, and the
21 discounting of commercial paper actually owned by the persons negotiating
22 the bills of exchange or commercial paper shall not be considered as the
23 lending of money.

24 (b) Loans or obligations shall not be subject to any limitation
25 under this section, based upon such capital and surplus or such
26 unimpaired capital and unimpaired surplus, to the extent that such
27 capital and surplus or such unimpaired capital and unimpaired surplus are
28 secured or covered by guaranties, or by commitments or agreements to take
29 over or to purchase such capital and surplus or such unimpaired capital
30 and unimpaired surplus, made by any federal reserve bank or by the United
31 States Government or any authorized agency thereof, including any

1 corporation wholly owned directly or indirectly by the United States, or
2 general obligations of any state of the United States or any political
3 subdivision of the state. The phrase general obligation of any state or
4 any political subdivision of the state means an obligation supported by
5 the full faith and credit of an obligor possessing general powers of
6 taxation, including property taxation, but does not include municipal
7 revenue bonds and sanitary and improvement district warrants which are
8 subject to the limitations set forth in this section.

9 (c) Any bank may subscribe to, invest in, purchase, and own single-
10 family mortgages secured by the Federal Housing Administration or the
11 United States Department of Veterans Affairs and mortgage-backed
12 certificates of the Government National Mortgage Association which are
13 guaranteed as to payment of principal and interest by the Government
14 National Mortgage Association. Such mortgages and certificates shall not
15 be subject under this section to any limitation based upon such capital
16 and surplus or such unimpaired capital and unimpaired surplus.

17 (d) Obligations representing loans to any national banking
18 association or to any banking institution organized under the laws of any
19 state, when such loans are approved by the director by rule and
20 regulation or otherwise, shall not be subject under this section to any
21 limitation based upon such capital and surplus or such unimpaired capital
22 and unimpaired surplus.

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

29 (f) For the purpose of determining lending limits, partnerships
30 shall not be treated as separate entities. Each individual shall be
31 charged with his or her personal debt plus the debt of every partnership

1 in which he or she is a partner, except that for purposes of this section
2 (a) an individual shall only be charged with the debt of any limited
3 partnership in which he or she is a partner to the extent that the terms
4 of the limited partnership agreement provide that such individual is to
5 be held liable for the debts or actions of such limited partnership and
6 (b) no individual shall be charged with the debt of any general
7 partnership in which he or she is a partner beyond the extent to which
8 (i) his or her liability for such partnership debt is limited by the
9 terms of a contract or other written agreement between the bank and such
10 individual and (ii) any personal debt of such individual is incurred for
11 the use and benefit of such general partnership.

12 (3) A loan made within lending limits at the initial time the loan
13 was made may be renewed, extended, or serviced without regard to changes
14 in the lending limit of a bank following the initial extension of the
15 loan if (a) the renewal, extension, or servicing of the loan does not
16 result in the extension of funds beyond the initial amount of the loan or
17 (b) the accrued interest on the loan is not added to the original amount
18 of the loan in the process of renewal, extension, or servicing.

19 (4) Any bank may purchase or take an interest in life insurance
20 contracts for any purpose incidental to the business of banking. A bank's
21 purchase of any life insurance contract, as measured by its cash
22 surrender value, from any one life insurance company shall not at any
23 time exceed twenty-five percent of the paid-up capital, surplus, and
24 capital notes and debentures of such bank or fifteen percent of the
25 unimpaired capital and unimpaired surplus of such bank, whichever is
26 greater. A bank's purchase of life insurance contracts, as measured by
27 their cash surrender values, in the aggregate from all life insurance
28 companies shall not at any time exceed thirty-five percent of the paid-up
29 capital, surplus, undivided profits, and capital notes and debentures of
30 such bank. The limitations under this subsection on a bank's purchase of
31 life insurance contracts, in the aggregate from all life insurance

1 companies, shall not apply to any contract purchased prior to April 5,
2 1994.

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

10 (6) For purposes of this section:

11 (a) Derivative transaction means any transaction that is a contract,
12 agreement, swap, warrant, note, or option that is based, in whole or in
13 part, on the value of, any interest in, or any quantitative measure or
14 the occurrence of any event relating to, one or more commodities,
15 securities, currencies, interest or other rates, indices, or other
16 assets;

17 (b) Loan includes:

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

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

24 (iii) Any credit exposure to a person arising from a derivative
25 transaction, repurchase agreement, reverse repurchase agreement,
26 securities lending transaction, or securities borrowing transaction
27 between the bank and the person; and

28 (c) Unimpaired capital and unimpaired surplus means:

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

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

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

7 (ii) For all other banks:

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

13 (B) The balance of the bank's allowance for loan and lease losses
14 not included in the bank's tier 2 capital for purposes of the calculation
15 of risk-based capital by the appropriate federal banking agency, based on
16 the bank's most recent consolidated report of condition filed under 12
17 U.S.C. 1817(a)(3), as such section existed on January 1, 2024 ~~2023~~.

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

22 Sec. 33. Section 8-143.01, Revised Statutes Supplement, 2023, is
23 amended to read:

24 8-143.01 (1) No bank shall extend credit to any of its executive
25 officers, directors, or principal shareholders or to any related interest
26 of such persons in an amount that, when aggregated with the amount of all
27 other extensions of credit by the bank to that person and to all related
28 interests of that person, exceeds the higher of twenty-five thousand
29 dollars or five percent of the bank's unimpaired capital and unimpaired
30 surplus unless (a) the extension of credit has been approved in advance
31 by a majority vote of the entire board of directors of the bank, a record

1 of which shall be made and kept as a part of the records of such bank,
2 and (b) the interested party has abstained from participating directly or
3 indirectly in such vote.

4 (2) No bank shall extend credit to any of its executive officers,
5 directors, or principal shareholders or to any related interest of such
6 persons in an amount that, when aggregated with the amount of all other
7 extensions of credit by the bank to that person and to all related
8 interests of that person, exceeds five hundred thousand dollars except by
9 complying with the requirements of subdivisions (1)(a) and (b) of this
10 section.

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

15 (4) A bank shall be authorized to extend credit to any of its
16 executive officers:

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

19 (b)(i) In any amount to finance or refinance the purchase,
20 construction, maintenance, or improvement of a residence of such
21 executive officer if the extension of credit is secured by a first lien
22 on the residence and the residence is owned or is expected to be owned
23 after the extension of credit by the executive officer and (ii) in the
24 case of a refinancing, only the amount of the refinancing used to repay
25 the original extension of credit, together with the closing costs of the
26 refinancing, and any additional amount thereof used for any of the
27 purposes enumerated in this subdivision are included within this category
28 of credit;

29 (c) In any amount if the extension of credit is (i) secured by a
30 perfected security interest in bonds, notes, certificates of
31 indebtedness, or treasury bills of the United States or in other such

1 obligations fully guaranteed as to principal and interest by the United
2 States, (ii) secured by unconditional takeout commitments or guarantees
3 of any department, agency, bureau, board, commission, or establishment of
4 the United States or any corporation wholly owned directly or indirectly
5 by the United States, or (iii) secured by a perfected security interest
6 in a segregated deposit account in the lending bank; or

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

15 (5)(a) Except as provided in subdivision (b) or (c) of this
16 subsection, any executive officer shall make, on an annual basis, a
17 written report to the board of directors of the bank of which he or she
18 is an executive officer stating the date and amount of all loans or
19 indebtedness on which he or she is a borrower, cosigner, or guarantor,
20 the security therefor, and the purpose for which the proceeds have been
21 or are to be used.

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

27 (c) Subdivisions (a) and (b) of this subsection do not apply to any
28 executive officer if such officer is excluded by a resolution of the
29 board of directors or by the bylaws of the bank from participating in the
30 major policymaking functions of the bank and does not actually
31 participate in the major policymaking functions of the bank.

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

7 (7)(a) Except as provided in subdivision (b) of this subsection, no
8 bank shall extend credit to any of its executive officers, directors, or
9 principal shareholders or to any related interest of such persons unless
10 the extension of credit (i) is made on substantially the same terms,
11 including interest rates and collateral, as, and following credit-
12 underwriting procedures that are not less stringent than, those
13 prevailing at the time for comparable transactions by the bank with other
14 persons that are not covered by this section and who are not employed by
15 the bank and (ii) does not involve more than the normal risk of repayment
16 or present other unfavorable features.

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

21 (8) For purposes of this section:

22 (a) Executive officer means a person who participates or has
23 authority to participate, other than in the capacity of director, in the
24 major policymaking functions of the bank, whether or not the officer has
25 an official title, the title designates such officer as an assistant, or
26 such officer is serving without salary or other compensation. Executive
27 officer includes the chairperson of the board of directors, the
28 president, all vice presidents, the cashier, the corporate secretary, and
29 the treasurer, unless the executive officer is excluded by a resolution
30 of the board of directors or by the bylaws of the bank from
31 participating, other than in the capacity of director, in the major

1 policymaking functions of the bank, and the executive officer does not
2 actually participate in such functions. A manager or assistant manager of
3 a branch of a bank shall not be considered to be an executive officer
4 unless such individual participates or is authorized to participate in
5 the major policymaking functions of the bank; and

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

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

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

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

15 (9) Any executive officer, director, or principal shareholder of a
16 bank or any other person who intentionally violates this section or who
17 aids, abets, or assists in a violation of this section is guilty of a
18 Class IV felony.

19 (10) The Director of Banking and Finance may adopt and promulgate
20 rules and regulations to carry out this section, including rules and
21 regulations defining or further defining terms used in this section,
22 consistent with the provisions of 12 U.S.C. 84 and implementing
23 Regulation 0 as such section and regulation existed on January 1, 2024
24 ~~2023~~.

25 Sec. 34. Section 8-157.01, Revised Statutes Supplement, 2023, is
26 amended to read:

27 8-157.01 (1) Any establishing financial institution may establish
28 and maintain any number of automatic teller machines at which all banking
29 transactions, defined as receiving deposits of every kind and nature and
30 crediting such to customer accounts, cashing checks and cash withdrawals,
31 transferring funds from checking accounts to savings accounts,

1 transferring funds from savings accounts to checking accounts,
2 transferring funds from either checking accounts and savings accounts to
3 accounts of other customers, transferring payments from customer accounts
4 into accounts maintained by other customers of the financial institution
5 or the financial institution, including preauthorized draft authority,
6 preauthorized loans, and credit transactions, receiving payments payable
7 at the financial institution or otherwise, account balance inquiry, and
8 any other transaction incidental to the business of the financial
9 institution or which will provide a benefit to the financial
10 institution's customers or the general public, may be conducted. Any
11 automatic teller machine owned by a nonfinancial institution third party
12 shall be sponsored by an establishing financial institution. Neither such
13 automatic teller machines nor the transactions conducted thereat shall be
14 construed as the establishment of a branch or as branch banking.

15 (2) Any financial institution may become a user financial
16 institution by agreeing to pay the establishing financial institution the
17 automatic teller machine usage fee. Such agreement shall be implied by
18 the use of such automatic teller machines.

19 (3)(a)(i) All automatic teller machines shall be made available on a
20 nondiscriminating basis for use by Nebraska customers of a user financial
21 institution and (ii) all Nebraska automatic teller machine transactions
22 initiated by Nebraska customers of a user financial institution shall be
23 made on a nondiscriminating basis.

24 (b) It shall not be deemed discrimination if (i) an automatic teller
25 machine does not offer the same transaction services as other automatic
26 teller machines, (ii) there are no automatic teller machine usage fees
27 charged between affiliate financial institutions for the use of automatic
28 teller machines, (iii) the automatic teller machine usage fees of an
29 establishing financial institution that authorizes and directly or
30 indirectly routes Nebraska automatic teller machine transactions to
31 multiple switches, all of which comply with the requirements of

1 subdivision (3)(d) of this section, differ solely based upon the fees
2 established by the switches, (iv) automatic teller machine usage fees
3 differ based upon whether the transaction initiated at an automatic
4 teller machine is subject to a surcharge or provided on a surcharge-free
5 basis, or (v) the automatic teller machines established or sponsored by
6 an establishing financial institution are made available for use by
7 Nebraska customers of any user financial institution which agrees to pay
8 the automatic teller machine usage fee and which conforms to the
9 operating rules and technical standards established by the switch to
10 which a Nebraska automatic teller machine transaction is directly or
11 indirectly routed.

12 (c) The director, upon notice and after a hearing, may terminate or
13 suspend the use of any automatic teller machine if he or she determines
14 that the automatic teller machine is not made available on a
15 nondiscriminating basis or that Nebraska automatic teller machine
16 transactions initiated at such automatic teller machine are not made on a
17 nondiscriminating basis.

18 (d) A switch (i) shall provide to all financial institutions that
19 have a main office or approved branch located in the State of Nebraska
20 and that conform to the operating rules and technical standards
21 established by the switch an equal opportunity to participate in the
22 switch for the use of and access thereto; (ii) shall be capable of
23 operating to accept and route Nebraska automatic teller machine
24 transactions, whether receiving data from an automatic teller machine, an
25 establishing financial institution, or a data processing center; and
26 (iii) shall be capable of being directly or indirectly connected to every
27 data processing center for any automatic teller machine.

28 (e) The director, upon notice and after a hearing, may terminate or
29 suspend the operation of any switch with respect to all Nebraska
30 automatic teller machine transactions if he or she determines that the
31 switch is not being operated in the manner required under subdivision (3)

1 (d) of this section.

2 (f) Subject to the requirement for a financial institution to comply
3 with this subsection, no user financial institution or establishing
4 financial institution shall be required to become a member of any
5 particular switch.

6 (4) Any consumer initiating an electronic funds transfer at an
7 automatic teller machine for which an automatic teller machine surcharge
8 will be imposed shall receive notice in accordance with the provisions of
9 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,
10 2024 ~~2023~~. Such notice shall appear on the screen of the automatic teller
11 machine or appear on a paper notice issued from such machine after the
12 transaction is initiated and before the consumer is irrevocably committed
13 to completing the transaction.

14 (5) A point-of-sale terminal may be established at any point within
15 this state by a financial institution, a group of two or more financial
16 institutions, or a combination of a financial institution or financial
17 institutions and a third party or parties. Such parties may contract with
18 a seller of goods and services or any other third party for the operation
19 of point-of-sale terminals.

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

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

31 (8)(a) Annually by September 1, any entity operating as a switch in

1 Nebraska shall file a notice with the department setting forth its name,
2 address, and contact information for an officer authorized to answer
3 inquiries related to its operations in Nebraska.

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

10 (9) Nothing in this section prohibits ordinary clearinghouse
11 transactions between financial institutions.

12 (10) Nothing in this section shall prevent any financial institution
13 which has a main chartered office or an approved branch located in the
14 State of Nebraska from participating in a national automatic teller
15 machine program to allow its customers to use automatic teller machines
16 located outside of the State of Nebraska which are established by out-of-
17 state financial institutions or foreign financial institutions or to
18 allow customers of out-of-state financial institutions or foreign
19 financial institutions to use its automatic teller machines. Such
20 participation and any automatic teller machine usage fees charged or
21 received pursuant to the national automatic teller machine program or
22 usage fees charged for the use of its automatic teller machines by
23 customers of out-of-state financial institutions or foreign financial
24 institutions shall not be considered for purposes of determining (a) if
25 an automatic teller machine has been made available or Nebraska automatic
26 teller machine transactions have been made on a nondiscriminating basis
27 for use by Nebraska customers of a user financial institution or (b) if a
28 switch complies with subdivision (3)(d) of this section.

29 (11) An agreement to operate or share an automatic teller machine
30 may not prohibit, limit, or restrict the right of the operator or owner
31 of the automatic teller machine to charge a customer conducting a

1 transaction using an account from a foreign financial institution an
2 access fee or surcharge not otherwise prohibited under state or federal
3 law.

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

6 (13) Nothing in this section shall prevent a group of two or more
7 credit unions, each of which has a main chartered office or an approved
8 branch located in the State of Nebraska, from participating in a credit
9 union service organization organized on or before January 1, 2015, for
10 the purpose of owning automatic teller machines, provided that all
11 participating credit unions have an ownership interest in the credit
12 union service organization and that the credit union service organization
13 has an ownership interest in each of the participating credit unions'
14 automatic teller machines. Such participation and any automatic teller
15 machine usage fees associated with Nebraska automatic teller machine
16 transactions initiated by customers of participating credit unions at
17 such automatic teller machines shall not be considered for purposes of
18 determining if such automatic teller machines have been made available on
19 a nondiscriminating basis or if Nebraska automatic teller machine
20 transactions initiated at such automatic teller machines have been made
21 on a nondiscriminating basis, provided that all Nebraska automatic teller
22 machine transactions initiated by customers of participating credit
23 unions result in the same automatic teller machine usage fees for
24 essentially the same service routed over the same switch.

25 (14) Nebraska automatic teller machine usage fees and any agreements
26 relating to Nebraska automatic teller machine usage fees shall comply
27 with subsection (3) of this section.

28 (15) For purposes of this section:

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

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

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

7 (d) Automatic teller machine usage fee means any per transaction fee
8 established by a switch or otherwise established on behalf of an
9 establishing financial institution and collected from the user financial
10 institution and paid to the establishing financial institution for the
11 use of the automatic teller machine. An automatic teller machine usage
12 fee shall not include switch fees;

13 (e) Electronic funds transfer means any transfer of funds, other
14 than a transaction originated by check, draft, or similar paper
15 instrument, that is initiated through a point-of-sale terminal, an
16 automatic teller machine, or a personal terminal for the purpose of
17 ordering, instructing, or authorizing a financial institution to debit or
18 credit an account;

19 (f) Essentially the same service means the same Nebraska automatic
20 teller machine transaction offered by an establishing financial
21 institution irrespective of the user financial institution, the Nebraska
22 customer of which initiates the Nebraska automatic teller machine
23 transaction. A Nebraska automatic teller machine transaction that is
24 subject to a surcharge is not essentially the same service as the same
25 banking transaction for which a surcharge is not imposed;

26 (g) Establishing financial institution means any financial
27 institution which has a main chartered office or approved branch located
28 in the State of Nebraska that establishes or sponsors an automatic teller
29 machine or any out-of-state financial institution that establishes or
30 sponsors an automatic teller machine;

31 (h) Financial institution means a bank, savings bank, building and

1 loan association, savings and loan association, or credit union, whether
2 chartered by the department, the United States, or a foreign state
3 agency; any other similar organization which is covered by federal
4 deposit insurance; or a subsidiary of any such entity;

5 (i) Foreign financial institution means a financial institution
6 located outside the United States;

7 (j) Nebraska automatic teller machine transaction means a banking
8 transaction as defined in subsection (1) of this section which is (i)
9 initiated at an automatic teller machine established in whole or in part
10 or sponsored by an establishing financial institution, (ii) for an
11 account of a Nebraska customer of a user financial institution, and (iii)
12 processed through a switch regardless of whether it is routed directly or
13 indirectly from an automatic teller machine;

14 (k) Personal terminal means a personal computer and telephone,
15 wherever located, operated by a customer of a financial institution for
16 the purpose of initiating a transaction affecting an account of the
17 customer;

18 (l) Sponsoring an automatic teller machine means the acceptance of
19 responsibility by an establishing financial institution for compliance
20 with all provisions of law governing automatic teller machines and
21 Nebraska automatic teller machine transactions in connection with an
22 automatic teller machine owned by a nonfinancial institution third party;

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

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

30 Sec. 35. Section 8-183.04, Revised Statutes Supplement, 2023, is
31 amended to read:

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

6 (2) All references to shareholders or stockholders for state banks
7 shall be deemed to be references to members for such a converted savings
8 association.

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

15 (4) The director may adopt and promulgate rules and regulations
16 governing such converted mutual savings associations. In adopting and
17 promulgating such rules and regulations, the director may consider the
18 provisions of sections 8-301 to 8-384 governing savings associations in
19 mutual form of corporate organization.

20 Sec. 36. Section 8-1,140, Revised Statutes Supplement, 2023, is
21 amended to read:

22 8-1,140 Notwithstanding any of the other provisions of the Nebraska
23 Banking Act or any other Nebraska statute, any bank incorporated under
24 the laws of this state and organized under the provisions of the act, or
25 under the laws of this state as they existed prior to May 9, 1933, shall
26 directly, or indirectly through a department, a subsidiary, or
27 subsidiaries, have all the rights, powers, privileges, benefits, and
28 immunities which may be exercised as of January 1, 2024 ~~2023~~, by a
29 federally chartered bank doing business in Nebraska, including the
30 exercise of all powers and activities that are permitted for a financial
31 subsidiary of a federally chartered bank. Such rights, powers,

1 privileges, benefits, and immunities shall not relieve such bank from
2 payment of state taxes assessed under any applicable laws of this state.

3 Sec. 37. Section 8-318, Revised Statutes Supplement, 2023, is
4 amended to read:

5 8-318 (1)(a) Shares of stock in any association, or in any federal
6 savings and loan association incorporated under the provisions of the
7 federal Home Owners' Loan Act, with its principal office and place of
8 business in this state, may be subscribed for, held, transferred,
9 surrendered, withdrawn, and forfeited and payments thereon received and
10 receipted for by any person, regardless of age, in the same manner and
11 with the same binding effect as though such person were of the age of
12 majority, except that a minor or his or her estate shall not be bound on
13 his or her subscription to stock except to the extent of payments
14 actually made thereon.

15 (b) Whenever a share account is accepted by any building and loan
16 association in the name of any person, regardless of age, the deposit may
17 be withdrawn by the shareholder by any of the following methods:

18 (i) Check or other instrument in writing. The check or other
19 instrument in writing constitutes a receipt or acquittance if the check
20 or other instrument in writing is signed by the shareholder and
21 constitutes a valid release in discharge to the building and loan
22 association for all payments so made; or

23 (ii) Electronic means through:

24 (A) Preauthorized direct withdrawal;

25 (B) An automatic teller machine;

26 (C) A debit card;

27 (D) A transfer by telephone;

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

29 (F) Any electronic terminal, computer, magnetic tape, or other
30 electronic means.

31 (c) This section shall not be construed to affect the rights,

1 liabilities, or responsibilities of participants in an electronic fund
2 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
3 et seq., as it existed on January 1, 2024 ~~2023~~, and shall not affect the
4 legal relationships between a minor and any person other than the
5 building and loan association.

6 (2) All trustees, guardians, personal representatives,
7 administrators, and conservators appointed by the courts of this state
8 may invest and reinvest in, acquire, make withdrawals in whole or in
9 part, hold, transfer, or make new or additional investments in or
10 transfers of shares of stock in any (a) building and loan association
11 organized under the laws of the State of Nebraska or (b) federal savings
12 and loan association incorporated under the provisions of the federal
13 Home Owners' Loan Act, having its principal office and place of business
14 in this state, without an order of approval from any court.

15 (3) Trustees created solely by the terms of a trust instrument may
16 invest in, acquire, hold, and transfer such shares, and make withdrawals,
17 in whole or in part, therefrom, without any order of court, unless
18 expressly limited, restricted, or prohibited therefrom by the terms of
19 such trust instrument.

20 (4) All building and loan associations referred to in this section
21 are qualified to act as trustee or custodian within the provisions of the
22 federal Self-Employed Individuals Tax Retirement Act of 1962, as amended,
23 or under the terms and provisions of section 408(a) of the Internal
24 Revenue Code, if the provisions of such retirement plan require the funds
25 of such trust or custodianship to be invested exclusively in shares or
26 accounts in the association or in other associations. If any such
27 retirement plan, within the judgment of the association, constitutes a
28 qualified plan under the federal Self-Employed Individuals Tax Retirement
29 Act of 1962, or under the terms and provisions of section 408(a) of the
30 Internal Revenue Code, and the regulations promulgated thereunder at the
31 time the trust was established and accepted by the association, is

1 subsequently determined not to be such a qualified plan or subsequently
2 ceases to be such a qualified plan, in whole or in part, the association
3 may continue to act as trustee of any deposits theretofore made under
4 such plan and to dispose of the same in accordance with the directions of
5 the member and beneficiaries thereof. No association, in respect to
6 savings made under this section, shall be required to segregate such
7 savings from other assets of the association. The association shall keep
8 appropriate records showing in proper detail all transactions engaged in
9 under the authority of this section.

10 Sec. 38. Section 8-355, Revised Statutes Supplement, 2023, is
11 amended to read:

12 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,
13 or any other Nebraska statute, except as provided in section 8-345.02,
14 any association incorporated under the laws of the State of Nebraska and
15 organized under the provisions of such article shall have all the rights,
16 powers, privileges, benefits, and immunities which may be exercised as of
17 January 1, 2024 ~~2023~~, by a federal savings and loan association doing
18 business in Nebraska. Such rights, powers, privileges, benefits, and
19 immunities shall not relieve such association from payment of state taxes
20 assessed under any applicable laws of this state.

21 Sec. 39. Section 8-1101, Revised Statutes Supplement, 2023, is
22 amended to read:

23 8-1101 For purposes of the Securities Act of Nebraska, unless the
24 context otherwise requires:

25 (1) Agent means any individual other than a broker-dealer who
26 represents a broker-dealer or issuer in effecting or attempting to effect
27 sales of securities, but agent does not include an individual who
28 represents (a) an issuer in (i) effecting a transaction in a security
29 exempted by subdivision (6), (7), or (8) of section 8-1110, (ii)
30 effecting certain transactions exempted by section 8-1111, (iii)
31 effecting transactions in a federal covered security as described in

1 section 18(b)(3) of the Securities Act of 1933, or (iv) effecting
2 transactions with existing employees, limited liability company members,
3 partners, or directors of the issuer or any of its subsidiaries if no
4 commission or other remuneration is paid or given directly or indirectly
5 for soliciting any person in this state or (b) a broker-dealer in
6 effecting transactions described in section 15(h)(2) of the Securities
7 Exchange Act of 1934. A partner, limited liability company member,
8 officer, or director of a broker-dealer is an agent only if he or she
9 otherwise comes within this definition;

10 (2) Broker-dealer means any person engaged in the business of
11 effecting transactions in securities for the account of others or for his
12 or her own account. Broker-dealer does not include (a) an issuer-dealer,
13 agent, bank, savings institution, or trust company, (b) an issuer
14 effecting a transaction in its own security exempted by subdivision (5)
15 (a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a
16 federal covered security pursuant to section 18(b)(1) of the Securities
17 Act of 1933, (c) a person who has no place of business in this state if
18 he or she effects transactions in this state exclusively with or through
19 the issuers of the securities involved in the transactions, other broker-
20 dealers, or banks, savings institutions, credit unions, trust companies,
21 insurance companies, investment companies as defined in the Investment
22 Company Act of 1940, pension or profit-sharing trusts, or other financial
23 institutions or institutional buyers, whether acting for themselves or as
24 trustees, (d) a person who has no place of business in this state if
25 during any period of twelve consecutive months he or she does not direct
26 more than five offers to sell or to buy into this state in any manner to
27 persons other than those specified in subdivision (2)(c) of this section,
28 or (e) a person who is a resident of Canada and who has no office or
29 other physical presence in Nebraska if the following conditions are
30 satisfied: (i) The person must be registered with, or be a member of, a
31 securities self-regulatory organization in Canada or a stock exchange in

1 Canada; (ii) the person must maintain, in good standing, its provisional
2 or territorial registration or membership in a securities self-regulatory
3 organization in Canada, or stock exchange in Canada; (iii) the person
4 effects, or attempts to effect, (A) a transaction with or for a Canadian
5 client who is temporarily present in this state and with whom the
6 Canadian broker-dealer had a bona fide customer relationship before the
7 client entered this state or (B) a transaction with or for a Canadian
8 client in a self-directed tax advantaged retirement plan in Canada of
9 which that client is the holder or contributor; and (iv) the person
10 complies with all provisions of the Securities Act of Nebraska relating
11 to the disclosure of material information in connection with the
12 transaction;

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

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

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

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

23 (7) Investment adviser means any person who for compensation engages
24 in the business of advising others, either directly or through
25 publications or writings, as to the value of securities or as to the
26 advisability of investing in, purchasing, or selling securities or who
27 for compensation and as a part of a regular business issues or
28 promulgates analyses or reports concerning securities. Investment adviser
29 also includes financial planners and other persons who, as an integral
30 component of other financially related services, provide the foregoing
31 investment advisory services to others for compensation and as part of a

1 business or who hold themselves out as providing the foregoing investment
2 advisory services to others for compensation. Investment adviser does not
3 include (a) an investment adviser representative, (b) a bank, savings
4 institution, or trust company, (c) a lawyer, accountant, engineer, or
5 teacher whose performance of these services is solely incidental to the
6 practice of his or her profession, (d) a broker-dealer or its agent whose
7 performance of these services is solely incidental to its business as a
8 broker-dealer and who receives no special compensation for them, (e) an
9 issuer-dealer, (f) a publisher of any bona fide newspaper, news column,
10 newsletter, news magazine, or business or financial publication or
11 service, whether communicated in hard copy form, by electronic means, or
12 otherwise which does not consist of the rendering of advice on the basis
13 of the specific investment situation of each client, (g) a person who has
14 no place of business in this state if (i) his or her only clients in this
15 state are other investment advisers, federal covered advisers, broker-
16 dealers, banks, savings institutions, credit unions, trust companies,
17 insurance companies, investment companies as defined in the Investment
18 Company Act of 1940, pension or profit-sharing trusts, or other financial
19 institutions or institutional buyers, whether acting for themselves or as
20 trustees, or (ii) during the preceding twelve-month period, he or she has
21 had five or fewer clients who are residents of this state other than
22 those persons specified in subdivision (g)(i) of this subdivision, (h)
23 any person that is a federal covered adviser or is excluded from the
24 definition of investment adviser under section 202 of the Investment
25 Adviser Act of 1940, or (i) such other persons not within the intent of
26 this subdivision as the director may by rule and regulation or order
27 designate;

28 (8) Investment adviser representative means any partner, limited
29 liability company member, officer, or director or any person occupying a
30 similar status or performing similar functions of a partner, limited
31 liability company member, officer, or director or other individual,

1 except clerical or ministerial personnel, who is employed by or
2 associated with an investment adviser that is registered or required to
3 be registered under the Securities Act of Nebraska or who has a place of
4 business located in this state and is employed by or associated with a
5 federal covered adviser, and who (a) makes any recommendations or
6 otherwise renders advice regarding securities, (b) manages accounts or
7 portfolios of clients, (c) determines which recommendation or advice
8 regarding securities should be given, (d) solicits, offers, or negotiates
9 for the sale of or sells investment advisory services, or (e) supervises
10 employees who perform any of the foregoing;

11 (9) Issuer means any person who issues or proposes to issue any
12 security, except that (a) with respect to certificates of deposit,
13 voting-trust certificates, or collateral-trust certificates or with
14 respect to certificates of interest or shares in an unincorporated
15 investment trust not having a board of directors, or persons performing
16 similar functions, or of the fixed, restricted management, or unit type,
17 the term issuer means the person or persons performing the acts and
18 assuming the duties of depositor or manager pursuant to the provisions of
19 the trust or other agreement or instrument under which the security is
20 issued and (b) with respect to a fractional or pooled interest in a
21 viatical settlement contract, issuer means the person who creates, for
22 the purpose of sale, the fractional or pooled interest. In the case of a
23 viatical settlement contract that is not fractionalized or pooled, issuer
24 means the person effecting a transaction with a purchaser of such
25 contract;

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

1 (11) Nonissuer means not directly or indirectly for the benefit of
2 the issuer;

3 (12) Person means an individual, a corporation, a partnership, a
4 limited liability company, an association, a joint-stock company, a trust
5 in which the interests of the beneficiaries are evidenced by a security,
6 an unincorporated organization, a government, or a political subdivision
7 of a government;

8 (13) Sale or sell includes every contract of sale of, contract to
9 sell, or disposition of a security or interest in a security for value.
10 Offer or offer to sell includes every attempt or offer to dispose of, or
11 solicitation of an offer to buy, a security or interest in a security for
12 value. Any security given or delivered with or as a bonus on account of
13 any purchase of securities or any other thing is considered to constitute
14 part of the subject of the purchase and to have been offered and sold for
15 value. A purported gift of assessable stock shall be considered to
16 involve an offer and sale. Every sale or offer of a warrant or right to
17 purchase or subscribe to another security of the same or another issuer,
18 as well as every sale or offer of a security which gives the holder a
19 present or future right or privilege to convert into another security of
20 the same or another issuer, shall be considered to include an offer of
21 the other security;

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

26 (15) Security means any note, stock, treasury stock, bond,
27 debenture, units of beneficial interest in a real estate trust, evidence
28 of indebtedness, certificate of interest or participation in any profit-
29 sharing agreement, collateral-trust certificate, preorganization
30 certificate or subscription, transferable share, investment contract,
31 viatical settlement contract or any fractional or pooled interest in such

1 contract, membership interest in any limited liability company organized
2 under Nebraska law or any other jurisdiction unless otherwise excluded
3 from this definition, voting-trust certificate, certificate of deposit
4 for a security, certificate of interest or participation in an oil, gas,
5 or mining title or lease or in payments out of production under such a
6 title or lease, in general any interest or instrument commonly known as a
7 security, or any certificate of interest or participation in, temporary
8 or interim certificate for, guarantee of, or warrant or right to
9 subscribe to or purchase any of the foregoing. Security does not include
10 any insurance or endowment policy or annuity contract issued by an
11 insurance company. Security also does not include a membership interest
12 in a limited liability company when all of the following exist: (a) The
13 member enters into a written commitment to be engaged actively and
14 directly in the management of the limited liability company; and (b) all
15 members of the limited liability company are actively engaged in the
16 management of the limited liability company. For the limited purposes of
17 determining professional malpractice insurance premiums, a security
18 issued through a transaction that is exempted pursuant to subdivision
19 (23) of section 8-1111 shall not be considered a security;

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

22 (17) Viatical settlement contract means an agreement for the
23 purchase, sale, assignment, transfer, devise, or bequest of all or any
24 portion of the death benefit or ownership of a life insurance policy or
25 contract for consideration which is less than the expected death benefit
26 of the life insurance policy or contract. Viatical settlement contract
27 does not include (a) the assignment, transfer, sale, devise, or bequest
28 of a death benefit of a life insurance policy or contract made by the
29 viator to an insurance company or to a viatical settlement provider or
30 broker licensed pursuant to the Viatical Settlements Act, (b) the
31 assignment of a life insurance policy or contract to a bank, savings

1 bank, savings and loan association, credit union, or other licensed
2 lending institution as collateral for a loan, or (c) the exercise of
3 accelerated benefits pursuant to the terms of a life insurance policy or
4 contract and consistent with applicable law.

5 Sec. 40. Section 8-1101.01, Revised Statutes Supplement, 2023, is
6 amended to read:

7 8-1101.01 For purposes of the Securities Act of Nebraska:

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

11 (2) Fair practice or ethical rules or standards promulgated by the
12 Securities and Exchange Commission, the Financial Industry Regulatory
13 Authority, or a self-regulatory organization approved by the Securities
14 and Exchange Commission means such practice, rules, or standards as they
15 existed on January 1, 2024 ~~2023~~.

16 Sec. 41. Section 8-1116, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 8-1116 Whenever it appears to the director that any person has
19 engaged or is about to engage in any act or practice constituting a
20 violation of any provision of the Securities Act of Nebraska or any rule
21 and regulation or order under the act, the director may in his or her
22 discretion bring an action in any court of competent jurisdiction to
23 enjoin any such acts or practices and to enforce compliance with the
24 Securities Act of Nebraska or any rule and regulation or order under the
25 act. Upon a proper showing, a permanent or temporary injunction,
26 restraining order, or writ of mandamus shall be granted and a receiver or
27 conservator may be appointed for the defendant's assets. Upon a proper
28 showing by the director, the court may invoke its equitable powers under
29 the law and issue an order of rescission, restitution, or disgorgement,
30 an order freezing assets, an order requiring an accounting, or a writ of
31 attachment or writ of general or specific execution, directed to any

1 person who has engaged in or is engaging in any act constituting a
2 violation of any provision of the Securities Act of Nebraska or any rule
3 and regulation or order under the act. Neither the The director nor any
4 receiver appointed pursuant to this section shall not be required to post
5 a bond.

6 Sec. 42. Section 8-1120, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 8-1120 (1) Except as otherwise provided in this section, the
9 Securities Act of Nebraska shall be administered by the Director of
10 Banking and Finance who may employ such deputies, examiners, assistants,
11 or counsel as may be reasonably necessary for the purpose thereof. The
12 employment of any person for the administration of the act is subject to
13 section 49-1499.07. The director may delegate to a deputy director or
14 counsel any powers, authority, and duties imposed upon or granted to the
15 director under the act, such as may be lawfully delegated under the
16 common law or the statutes of this state. The director may also employ
17 special counsel with respect to any investigation conducted by him or her
18 under the act or with respect to any litigation to which the director is
19 a party under the act.

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

27 (3)(a) It shall be unlawful for the director or any of his or her
28 employees to use for personal benefit any information which is filed with
29 or obtained by the director and which is not made public. Neither the
30 director nor any of his or her employees shall disclose any confidential
31 information except among themselves, when necessary or appropriate in a

1 proceeding, examination, or investigation under the act, or as authorized
2 in subdivision (3)(b) of this subsection. No provision of the act shall
3 either create or derogate from any privilege which exists at common law
4 or otherwise when documentary or other evidence is sought under a
5 subpoena directed to the director or any of his or her employees.

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

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

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

16 (ii) For purposes of this subdivision, foreign state means any state
17 of the United States, other than the State of Nebraska, any territory of
18 the United States, including Puerto Rico, Guam, American Samoa, the Trust
19 Territory of the Pacific Islands, or the Virgin Islands, and the District
20 of Columbia.

21 (4) The director may adopt and promulgate rules and regulations and
22 prescribe forms to carry out the act. No rule and regulation may be
23 adopted and promulgated or form may be prescribed unless the director
24 finds that the action is necessary or appropriate in the public interest
25 or for the protection of investors and consistent with the purposes
26 fairly intended by the policy and provisions of the act. In adopting and
27 promulgating rules and regulations and prescribing forms the director may
28 cooperate with the securities administrators of the other states and the
29 Securities and Exchange Commission with a view to effectuating the policy
30 of the Securities Act of Nebraska to achieve maximum uniformity in the
31 form and content of registration statements, applications, and reports

1 wherever practicable. All rules and regulations and forms of the director
2 shall be published and made available to any person upon request.

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

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

11 (7) ~~(7)(a)~~ The Securities Act Cash Fund is created. All filing fees,
12 registration fees, and all other fees and all money collected by or paid
13 to the director under any of the provisions of the act shall be remitted
14 to the State Treasurer for credit to the fund, except that registration
15 fees collected by or paid to the Director of Insurance pursuant to the
16 provisions of the act shall be credited to the Department of Insurance
17 Cash Fund. The Securities Act Cash Fund shall be used for the purpose of
18 administering and enforcing the provisions of the act, except that
19 transfers may be made to the General Fund at the direction of the
20 Legislature. Any money in the Securities Act Cash Fund available for
21 investment shall be invested by the state investment officer pursuant to
22 the Nebraska Capital Expansion Act and the Nebraska State Funds
23 Investment Act.

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

29 ~~(c) The State Treasurer shall transfer three hundred ninety seven~~
30 ~~thousand eighty-nine dollars from the Securities Act Cash Fund to the~~
31 ~~Financial Institution Assessment Cash Fund on or before October 30, 2022,~~

1 ~~on such date as directed by the budget administrator of the budget~~
2 ~~division of the Department of Administrative Services.~~

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

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

14 (10) Upon request and at such reasonable charges as he or she shall
15 prescribe, the director shall furnish to any person photostatic or other
16 copies, certified under his or her seal of office if requested, of any
17 entry in the register or any document which is a matter of public record.
18 In any proceeding or prosecution under the act, any copy so certified
19 shall be prima facie evidence of the contents of the entry or document
20 certified.

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

23 Sec. 43. Section 8-1704, Revised Statutes Supplement, 2023, is
24 amended to read:

25 8-1704 CFTC rule shall mean any rule, regulation, or order of the
26 Commodity Futures Trading Commission in effect on January 1, 2024 ~~2023~~.

27 Sec. 44. Section 8-1707, Revised Statutes Supplement, 2023, is
28 amended to read:

29 8-1707 Commodity Exchange Act shall mean the act of Congress known
30 as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2024
31 ~~2023~~.

1 Sec. 45. Section 8-1726, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-1726 (1) If the director believes, whether or not based upon an
4 investigation conducted under section 8-1725, that any person has engaged
5 or is about to engage in any act or practice constituting a violation of
6 any provision of the Commodity Code or any rule, regulation, or order
7 under the code, the director may:

8 (a) Issue a cease and desist order;

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

14 (c) Initiate any of the actions specified in subsection (2) of this
15 section.

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

20 (a) An action for a declaratory judgment;

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

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

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

27 (3)(a) The fines and costs shall be in addition to all other
28 penalties imposed by the laws of this state. The director shall collect
29 the fines and costs and remit them to the State Treasurer. The State
30 Treasurer shall credit the costs to the Securities Act Cash Fund and
31 distribute the fines in accordance with Article VII, section 5, of the

1 Constitution of Nebraska.

2 (b) If a person fails to pay the administrative fine or
3 investigation costs referred to in this section, a lien in the amount of
4 such fine and costs may be imposed upon all assets and property of such
5 person in this state and may be recovered by suit by the director.
6 Failure of the person to pay such fine and costs shall constitute a
7 separate violation of the code.

8 Sec. 46. Section 8-2504, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 8-2504 (1) The Department of Banking and Finance may order any
11 person to cease and desist whenever the Director of Banking and Finance
12 determines that such person has violated section 8-2501 or 8-2502. Upon
13 entry of a cease and desist order, the director shall promptly notify the
14 affected person that such order has been entered and provide opportunity
15 for hearing in accordance with the Administrative Procedure Act.

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

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

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

29 Sec. 47. Section 8-2724, Revised Statutes Supplement, 2023, is
30 amended to read:

31 8-2724 (1) The requirement for a license under the Nebraska Money

1 Transmitters Act does not apply to:

2 (a) The United States or any department, agency, or instrumentality
3 thereof;

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

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

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

10 (ii) Subsidiaries of the institutions listed in subdivision (d)(i)
11 of this subsection;

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

15 (iv) Authorized delegates of the institutions and entities listed in
16 subdivision (d)(i), (ii), or (iii) of this subsection, except that
17 authorized delegates that are not banks, credit unions, building and loan
18 associations, savings and loan associations, savings banks, mutual banks,
19 subsidiaries of any of the foregoing, or bank holding companies shall
20 comply with all requirements imposed upon authorized delegates under the
21 act;

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

28 (f) An operator of a payment system only to the extent that the
29 payment system provides processing, clearing, or settlement services
30 between or among persons who are all exempt under this section in
31 connection with wire transfers, credit card transactions, debit card

1 transactions, automated clearinghouse transfers, or similar fund
2 transfers; or

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

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

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

8 (iii) To engage in the debt management business pursuant to sections
9 69-1201 to 69-1217.

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

16 Sec. 48. Section 8-2729, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 8-2729 Each application for a license under the Nebraska Money
19 Transmitters Act shall be made in writing and in a form prescribed by the
20 director. Each application shall state or contain:

21 (1) For all applicants:

22 (a) The exact name of the applicant, the applicant's principal
23 address, any fictitious or trade name used by the applicant in the
24 conduct of its business, and the location of the applicant's business
25 records;

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

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

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

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

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

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

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

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

13 (2) If the applicant is a corporation, the applicant shall also
14 provide:

15 (a) The date of the applicant's incorporation and state of
16 incorporation;

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

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

21 (d) A description of the corporate structure of the applicant,
22 including the identity of any parent or subsidiary of the applicant, and
23 a disclosure of whether any parent or subsidiary is publicly traded on
24 any stock exchange;

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

30 (f) The name, business and residence addresses, and employment
31 history for the five-year period immediately before the date of the

1 application and the most recent personal financial statement of any key
2 shareholder of the applicant;

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

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

7 (i) ~~(h)~~ A copy of the applicant's most recent audited financial
8 statement including balance sheet, statement of income or loss, statement
9 of changes in shareholder equity, and statement of changes in financial
10 position and, if available, the applicant's audited financial statements
11 for the immediately preceding two-year period. However, if the applicant
12 is a wholly owned subsidiary of another corporation, the applicant may
13 submit either the parent corporation's consolidated audited financial
14 statements for the current year and for the immediately preceding two-
15 year period or the parent corporation's Form 10-K reports filed with the
16 United States Securities and Exchange Commission for the prior three
17 years in lieu of the applicant's financial statements. If the applicant
18 is a wholly owned subsidiary of a corporation having its principal place
19 of business outside the United States, similar documentation filed with
20 the parent corporation's non-United States regulator may be submitted to
21 satisfy this subdivision; and

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

26 (3) If the applicant is not a corporation, the applicant shall also
27 provide:

28 (a) The name, business and residence addresses, personal financial
29 statement, and employment history, for the five-year period immediately
30 before the date of the application, of each principal of the applicant
31 and the name, business and residence addresses, and employment history

1 for the five-year period immediately before the date of the application
2 of any other person or persons who will be in charge of the applicant's
3 money transmission activities;

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

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

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

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

16 Sec. 49. Section 8-2730, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 8-2730 (1) Effective July 1, 2014, the department shall require
19 licensees under the Nebraska Money Transmitters Act to be licensed and
20 registered through the Nationwide Mortgage Licensing System and Registry.
21 In order to carry out this requirement, the department is authorized to
22 participate in the Nationwide Mortgage Licensing System and Registry. For
23 this purpose, the department may establish, by adopting and promulgating
24 rules and regulations or by order, requirements as necessary. The
25 requirements may include, but are not limited to:

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

28 (i) Fingerprints of every executive officer, director, partner,
29 member, sole proprietor, or shareholder submitted to the Federal Bureau
30 of Investigation and any other governmental agency or entity authorized
31 to receive such information for a state, national, and international

1 ~~criminal history record information check (i) Checks of an applicant's or~~
2 ~~a licensee's criminal history through fingerprint or other databases,~~
3 except that the department shall not require the submission of
4 fingerprints by (A) an executive officer or director of an applicant or
5 licensee which is either a publicly traded company or a wholly owned
6 subsidiary of a publicly traded company or (B) an applicant or licensee
7 who has previously submitted the fingerprints of an executive officer, ~~or~~
8 director, partner, member, sole proprietor, or shareholder directly to
9 the Nationwide Mortgage Licensing System and Registry and the Federal
10 Bureau of Investigation will accept such fingerprints for a criminal
11 background check;

12 (ii) Checks of civil or administrative records;

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

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

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

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

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

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

24 (2) In order to fulfill the purposes of the act, the department is
25 authorized to establish relationships or contracts with the Nationwide
26 Mortgage Licensing System and Registry or other entities designated by
27 the Nationwide Mortgage Licensing System and Registry to collect and
28 maintain records and process transaction fees or other fees related to
29 licensees or other persons subject to the act. The department may allow
30 such system to collect licensing fees on behalf of the department and
31 allow such system to collect a processing fee for the services of the

1 system directly from each licensee or applicant for a license.

2 (3) The director is required to regularly report enforcement actions
3 and other relevant information to the Nationwide Mortgage Licensing
4 System and Registry subject to the provisions contained in section
5 8-2731.

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

9 (5) The department shall ensure that the Nationwide Mortgage
10 Licensing System and Registry adopts a privacy, data security, and breach
11 of security of the system notification policy. The director shall make
12 available upon written request a copy of the contract between the
13 department and the Nationwide Mortgage Licensing System and Registry
14 pertaining to the breach of security of the system provisions.

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

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

24 Sec. 50. Section 8-2735, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 8-2735 (1) A licensee shall file notice with the director within
27 thirty calendar days after any material change in information provided in
28 a licensee's application as prescribed by the director.

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

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

3 (b) The filing of a petition by or against the licensee for
4 receivership, the commencement of any other judicial or administrative
5 proceeding for its dissolution or reorganization, or the making of a
6 general assignment for the benefit of its creditors;

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

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

12 (e) A charge or conviction of the licensee or of an executive
13 officer, manager, or director of, or controlling person of, the licensee,
14 for a felony; or

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

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

24 (b) If a licensee would be required under Nebraska law to provide
25 notification to a Nebraska resident regarding such incident, then the
26 licensee shall provide a copy of such notification to the department
27 prior to or simultaneously with the licensee's notification to the
28 Nebraska resident.

29 (c) Notice required by this subsection may be delayed if a law
30 enforcement agency determines that the notice will impede a criminal
31 investigation. Notice shall be made in good faith, without unreasonable

1 delay, and as soon as possible after the law enforcement agency
2 determines that notification will no longer impede the investigation.

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

6 Sec. 51. Section 8-2903, Revised Statutes Supplement, 2023, is
7 amended to read:

8 8-2903 (1) When a financial institution, or an employee of a
9 financial institution, reasonably believes, or has received information
10 from the department or a law enforcement agency demonstrating that it is
11 reasonable to believe, that financial exploitation of a vulnerable adult
12 or senior adult may have occurred, may have been attempted, is occurring,
13 or is being attempted, the financial institution may, but is not required
14 to:

15 (a) Delay or refuse a transaction with or involving the vulnerable
16 adult or senior adult;

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

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

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

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

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

31 (2) A financial institution is not required to act under subsection

1 (1) of this section when provided with information alleging that
2 financial exploitation may have occurred, may have been attempted, is
3 occurring, or is being attempted, but may use the financial institution's
4 discretion to determine whether or not to act under subsection (1) of
5 this section based on the information available to the financial
6 institution at the time.

7 (3)(a)(i) A financial institution may notify any third party
8 reasonably associated with a vulnerable adult or senior adult if the
9 financial institution reasonably believes that the financial exploitation
10 of a vulnerable adult or senior adult may have occurred, may have been
11 attempted, is occurring, or is being attempted.

12 (ii) A third party reasonably associated with a vulnerable adult or
13 senior adult includes, but is not limited to, the following: (A) A
14 parent, spouse, adult child, sibling, or other known family member or
15 close associate of a vulnerable adult or senior adult; (B) an authorized
16 contact provided by a vulnerable adult or senior adult to the financial
17 institution; (C) a co-owner, additional authorized signatory, or
18 beneficiary on a vulnerable adult's or a senior adult's account; (D) an
19 attorney in fact, trustee, conservator, guardian, or other fiduciary who
20 has been selected by a vulnerable adult or senior adult, a court, or a
21 third party to manage some or all of the financial affairs of the
22 vulnerable adult or senior adult; and (E) an attorney known to represent
23 or have represented the vulnerable adult or senior adult.

24 (b) A financial institution may choose not to notify any third party
25 reasonably associated with a vulnerable adult or senior adult of
26 suspected financial exploitation of the vulnerable adult or senior adult
27 if the financial institution reasonably believes the third party is, may
28 be, or may have been engaged in the financial exploitation of the
29 vulnerable adult or senior adult or if requested to refrain from making a
30 notification by a law enforcement agency, if such notification could
31 interfere with a law enforcement investigation.

1 (c) Nothing in this subsection shall prevent a financial institution
2 from notifying the department or a law enforcement agency, if the
3 financial institution reasonably believes that the financial exploitation
4 of a vulnerable adult or senior adult may have occurred, may have been
5 attempted, is occurring, or is being attempted.

6 (4) The authority granted the financial institution under subsection
7 (1) of this section expires upon the sooner of: (a) Thirty business days
8 after the date on which the financial institution first acted under
9 subsection (1) of this section; (b) when the financial institution is
10 satisfied that the transaction or act will not result in financial
11 exploitation of the vulnerable adult or senior adult; or (c) upon
12 termination by an order of a court of competent jurisdiction.

13 (5) Unless otherwise directed by order of a court of competent
14 jurisdiction, a financial institution may extend the duration under
15 subsection (4) of this section based on a reasonable belief that the
16 financial exploitation of a vulnerable adult or senior adult may continue
17 to occur or continue to be attempted.

18 (6) A financial institution and its bank holding company, if any,
19 and any employees, agents, officers, and directors of the financial
20 institution and its bank holding company, if any, shall be immune from
21 any civil, criminal, or administrative liability that may otherwise exist
22 (a) for delaying or refusing to execute a transaction, withdrawal, or
23 disbursement, or for not delaying or refusing to execute such
24 transaction, withdrawal, or disbursement under this section and (b) for
25 actions taken in furtherance of determinations made under subsections (1)
26 through (5) of this section.

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

31 (b) Notwithstanding any other law to the contrary, a reasonable

1 belief that payment of a check will facilitate the financial exploitation
2 of a vulnerable adult or senior adult shall constitute reasonable grounds
3 to doubt the collectability of the item for purposes of the federal Check
4 Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal
5 Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R.
6 part 229, as such acts and part existed on January 1, 2024 ~~2023~~.

7 Sec. 52. Section 8-3005, Revised Statutes Supplement, 2023, is
8 amended to read:

9 8-3005 (1)(a) A digital asset depository may:

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

11 (ii) Sue and be sued;

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

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

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

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

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

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

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

26 (b) A digital asset depository institution shall not accept demand
27 deposits of United States currency or United States currency that may be
28 accessed or withdrawn by check or similar means for payment to third
29 parties and except as otherwise provided in this subsection, a digital
30 asset depository institution shall not make any loans to consumers for
31 personal, property or household purposes, mortgage loans, or commercial

1 loans of any fiat currency including, but not limited to, United States
2 currency, including the provision of temporary credit relating to
3 overdrafts. Notwithstanding this prohibition against fiat currency
4 lending by a digital asset depository institution, a digital asset
5 depository institution may facilitate the provision of digital asset
6 business services resulting from the interaction of customers with
7 centralized finance or decentralized finance platforms including, but not
8 limited to, controllable electronic record exchange, staking,
9 controllable electronic record lending, and controllable electronic
10 record borrowing. A digital asset depository institution may purchase
11 debt obligations specified by subdivision (2)(c) of section 8-3009.

12 (c) A digital asset depository institution may open a branch in this
13 state or in another state in the manner set forth in section 8-157 or
14 8-2303. A branch in another state is subject to the laws of the host
15 state. A digital asset depository institution, including any branch of
16 the digital asset depository institution, may only accept digital asset
17 deposits or provide other digital asset business services under the
18 Nebraska Financial Innovation Act to individual customers or a customer
19 that is a legal entity other than a natural person engaged in a bona fide
20 business which is lawful under the laws of Nebraska, the laws of the host
21 state if the entity is headquartered in another state, and federal law.

22 (3) The deposit limitations of subdivision (2)(a)(ii) of section
23 8-157 shall not apply to a digital asset depository.

24 (4) Any United States currency coming into an account established by
25 a customer of a digital asset depository institution shall be held in a
26 financial institution, the deposits of which are insured by the Federal
27 Deposit Insurance Corporation, which maintained a main-chartered office
28 in this state, any branch thereof in this state, or any branch of the
29 financial institution which maintained the main-chartered office in this
30 state prior to becoming a branch of such financial institution.

31 (5) A digital asset depository institution shall establish and

1 maintain programs for compliance with the federal Bank Secrecy Act, in
2 accordance with 12 C.F.R. 208.63, as the act and rule existed on January
3 1, 2024 ~~2023~~.

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

10 (a) The collection and reporting of data;

11 (b) Its policies and procedures for accepting and responding to
12 consumer complaints; and

13 (c) Its efforts to assist with financial literacy or personal
14 finance programs to increase knowledge and skills of Nebraska students in
15 areas such as digital assets, budgeting, credit, checking and savings
16 accounts, loans, stocks, and insurance.

17 Sec. 53. Section 8-3007, Revised Statutes Supplement, 2023, is
18 amended to read:

19 8-3007 (1) No customer shall open or maintain an account with a
20 digital asset depository or otherwise receive any services from the
21 digital asset depository unless the customer meets the criteria of this
22 subsection. A customer shall:

23 (a) Make sufficient evidence available to the digital asset
24 depository to enable compliance with anti-money laundering, customer
25 identification, and beneficial ownership requirements, as determined by
26 the federal Bank Secrecy Act guidance and the policies and practices of
27 the institution; and

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

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

31 (ii) Be engaged in a business that is lawful and bona fide in

1 Nebraska, in the host state, if applicable, and under federal law
2 consistent with subsection (3) of this section.

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

8 (3) Consistent with subdivisions (1)(a)(iv) and (v) of section
9 8-3005, and in addition to any requirements specified by federal law, a
10 digital asset depository shall require that any potential customer that
11 is a legal entity other than a natural person provide reasonable evidence
12 that the entity is engaged in a business that is lawful and bona fide in
13 Nebraska, in the host state, if applicable, and under federal law or is
14 likely to open a lawful, bona fide business within a federal Bank Secrecy
15 Act compliant timeframe, as the act existed on January 1, 2024 ~~2023~~. For
16 purposes of this subsection, reasonable evidence includes business entity
17 filings, articles of incorporation or organization, bylaws, operating
18 agreements, business plans, promotional materials, financing agreements,
19 or other evidence.

20 Sec. 54. Section 13-609, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 13-609 (1)(a) ~~(1)~~ Any county treasurer, county official, or
23 political subdivision official may accept credit cards, charge cards, or
24 debit cards, whether presented in person or electronically, or electronic
25 funds transfers as a method of cash payment of any tax, levy, excise,
26 duty, custom, toll, interest, penalty, fine, license, fee, or assessment
27 of whatever kind or nature, whether general or special, as provided by
28 section 77-1702.

29 (b) A county treasurer, county official, or political subdivision
30 official shall not accept a central bank digital currency as a method of
31 cash payment of any tax, levy, excise, duty, custom, toll, interest,

1 penalty, fine, license, fee, or assessment of whatever kind or nature.

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

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

13 (4) The county treasurer, county official, or political subdivision
14 official shall obtain, for each transaction, authorization for use of any
15 credit card, charge card, or debit card used pursuant to this section
16 from the financial institution, vending service company, credit card or
17 charge card company, or third-party merchant bank providing such service.

18 (5) The types of credit cards, charge cards, or debit cards accepted
19 and the payment services provided shall be determined by the State
20 Treasurer and the Director of Administrative Services with the advice of
21 a committee convened by the State Treasurer and the director. The
22 committee shall consist of the State Treasurer, the Tax Commissioner, the
23 director, and representatives from counties, cities, and other political
24 subdivisions as may be appropriate. The committee shall develop
25 recommendations for the contracting of such services. The State Treasurer
26 and the director shall contract with one or more credit card, charge
27 card, or debit card companies or third-party merchant banks for services
28 on behalf of the state and those counties, cities, and political
29 subdivisions that choose to participate in the state contract for such
30 services. The State Treasurer and the director shall consider, for
31 purposes of this section, any negotiated discount, processing, or

1 transaction fee imposed by a credit card, charge card, or debit card
2 company or third-party merchant bank as an administrative expense.
3 Counties, cities, and other political subdivisions that choose not to
4 participate in the state contract may choose types of credit cards,
5 charge cards, and debit cards and may negotiate and contract
6 independently or collectively as a governmental entity with one or more
7 financial institutions, vending service companies, credit card, charge
8 card, or debit card companies, or third-party merchant banks for the
9 provision of such services. All county officials within each county
10 choosing to accept credit cards, charge cards, and debit cards shall
11 contract for services through the same financial institutions, vending
12 service companies, credit card, charge card, or debit card companies, or
13 third-party merchant banks for the provision of such services. County
14 officials who accept credit cards, charge cards, and debit cards shall
15 notify the county board of such decision and the discount or
16 administrative fees charged for such service.

17 (6) A county treasurer, county official, or political subdivision
18 official authorizing acceptance of credit card or charge card payments
19 shall be authorized but not required to impose a surcharge or convenience
20 fee upon the person making a payment by credit card or charge card so as
21 to wholly or partially offset the amount of any discount or
22 administrative fees charged to the political subdivision, but the
23 surcharge or convenience fee shall not exceed the surcharge or
24 convenience fee imposed by the credit card or charge card companies or
25 third-party merchant banks which have contracted under subsection (5) of
26 this section. The surcharge or convenience fee shall be applied only when
27 allowed by the operating rules and regulations of the credit card or
28 charge card involved or when authorized in writing by the credit card or
29 charge card company involved. When a person elects to make a payment to a
30 political subdivision by credit card or charge card and such a surcharge
31 or convenience fee is imposed, the payment of such surcharge or

1 convenience fee shall be deemed voluntary by such person and shall be in
2 no case refundable. If a payment is made electronically by credit card,
3 charge card, debit card, or electronic funds transfer as part of a system
4 for providing or retrieving information electronically, the county
5 treasurer, county official, or political subdivision official shall be
6 authorized but not required to impose an additional surcharge or
7 convenience fee upon the person making a payment.

8 (7) For purposes of this section: τ

9 (a) Central bank digital currency means a digital medium of
10 exchange, token, or monetary unit of account issued by the United States
11 Federal Reserve System or any analogous federal agency that is made
12 directly available to the consumer by such federal entities. Central bank
13 digital currency includes a digital medium of exchange, token, or
14 monetary unit of account so issued that is processed or validated
15 directly by such federal entities; and

16 (b) Electronic electronic funds transfer means the movement of funds
17 by nonpaper means, usually through a payment system, including, but not
18 limited to, an automated clearinghouse or the Federal Reserve's Fedwire
19 system.

20 Sec. 55. Section 21-1701, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 21-1701 Sections 21-1701 to 21-17,115 and sections 57 and 64 of this
23 act shall be known and may be cited as the Credit Union Act.

24 Sec. 56. Section 21-1702, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 21-1702 For purposes of the Credit Union Act, the definitions found
27 in sections 21-1703 to 21-1722 and section 57 of this act shall be used.

28 Sec. 57. Associate director shall mean an individual appointed by a
29 credit union board to the position described in section 64 of this act.

30 Sec. 58. Section 21-1705, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 21-1705 Credit union shall mean a cooperative, not-for-profit
2 ~~nonprofit~~ corporation organized under the Credit Union Act for purposes
3 of educating and encouraging its members in the concept of thrift,
4 creating a source of credit for provident and productive purposes, and
5 carrying on such collateral activities as are set forth in the act.

6 Sec. 59. Section 21-1729, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 21-1729 (1) A credit union may change its principal place of
9 business within this state upon written notice to, and approval by, the
10 director. The written notice may be delivered to the department in person
11 or sent by regular or electronic mail.

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

15 Sec. 60. Section 21-1736, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 21-1736 (1) The director shall examine or cause to be examined each
18 credit union as often as deemed necessary. Each credit union and all of
19 its officials and agents shall give the director or any of the examiners
20 appointed by him or her free and full access to all books, papers,
21 securities, and other sources of information relative to such credit
22 union. For purposes of the examination, the director may subpoena
23 witnesses, administer oaths, compel the giving of testimony, and require
24 the submission of documents.

25 (2) The department shall forward a report of the examination to the
26 chief executive officer, president, or manager of the credit union
27 ~~chairperson of the board of directors~~ within ninety calendar days after
28 completion. The report shall contain comments relative to the management
29 of the affairs of the credit union and the general condition of its
30 assets. Within ninety calendar days after the receipt of such report, the
31 members of the board of directors and the members of the supervisory

1 committee and credit committee, if any, shall meet to consider the
2 matters contained in the report.

3 (3) The director may require special examinations of and special
4 financial reports from a credit union or a credit union service
5 organization in which a credit union loans, invests, or delegates
6 substantially all managerial duties and responsibilities when he or she
7 determines that such examinations and reports are necessary to enable the
8 director to determine the safety of a credit union's operations or its
9 solvency. The cost to the department of such special examinations shall
10 be borne by the credit union being examined.

11 (4) The director may accept, in lieu of any examination of a credit
12 union authorized by the laws of this state, a report of an examination
13 made of a credit union by the National Credit Union Administration or may
14 examine any such credit union jointly with such federal agency. The
15 director may make available to the National Credit Union Administration
16 copies of reports of any examination or any information furnished to or
17 obtained by the director in any examination.

18 Sec. 61. Section 21-1743, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 21-1743 (1) The membership of a credit union shall consist of the
21 subscribers to the articles of association and such persons, societies,
22 associations, partnerships, and corporations as have been duly elected,
23 members who have subscribed for one share ~~or more shares~~, have paid for
24 such share ~~or shares~~ in whole or in part, have paid the entrance fee
25 provided in the bylaws, and have complied with such other requirements as
26 the articles of association and bylaws may specify. For purposes of
27 obtaining a loan and to vote at membership meetings, a member, to be in
28 good standing, must own ~~at least~~ one fully paid share. Credit union
29 organization shall be limited to groups of both large and small
30 membership having a common bond of occupation or association, including
31 religious, social, or educational groups, employees of a common employer,

1 or members of a fraternal, religious, labor, farm, or educational
2 organization and the members of the immediate families of such persons.

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

9 Sec. 62. Section 21-1749, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 21-1749 The annual meeting and any special meeting of the members of
12 the credit union shall be held in accordance with the bylaws. A special
13 meeting of the members of the credit union may be called by the members
14 or by the board of directors as provided in the bylaws. A credit union
15 shall give notice of the time and place or virtual conferencing platform
16 by which members can participate and interact for ~~of~~ any meeting of its
17 members. In the case of a special meeting, the notice of such special
18 meeting shall state the purpose of the meeting and the notice shall be
19 given at least ten calendar days prior to the date of such special
20 meeting.

21 Sec. 63. Section 21-1767, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 21-1767 (1) The board of directors shall have regular meetings as
24 often as necessary but not less frequently than six meetings annually
25 with at least one meeting in each calendar quarter. A new credit union
26 shall have regular meetings as often as necessary but not less frequently
27 than once each month for the first five years of the existence of the
28 credit union. ~~once a month unless otherwise approved by the Director of~~
29 ~~Banking and Finance.~~ Special meetings of the board may be called as
30 provided in the bylaws.

31 (2) Unless the articles of association or bylaws provide otherwise,

1 the board of directors may permit any or all directors to participate in
2 a regular or special meeting by, or conduct the meeting through the use
3 of, any means of communication by which all directors participating may
4 simultaneously hear each other during the meeting. A director
5 participating in a meeting by this means shall be deemed to be present in
6 person at the meeting.

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

13 (4) A full and complete record of the proceedings and business of
14 all meetings of the board of directors shall be recorded in the minutes
15 of the meeting.

16 Sec. 64. (1) The board of directors of a credit union may, in its
17 discretion, appoint one or more associate directors to serve in an
18 advisory capacity. The board shall prescribe the duties of an associate
19 director and the manner in which associate directors are appointed and
20 removed. The board shall not delegate to associate directors any of the
21 duties or responsibilities prescribed by the Credit Union Act or other
22 applicable law to be performed by the directors duly elected by the
23 members. An associate director shall not be deemed or considered to be a
24 director for any purpose under the act.

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

27 (3) An associate director may participate in meetings of the board
28 but may not vote or otherwise act as a director. With respect to any
29 issue that comes before the board for deliberation, the board may request
30 that any associate director in attendance leave the meeting of the board
31 and any associate director in attendance shall immediately comply with

1 the request.

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

5 Sec. 65. Section 21-17,102, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 21-17,102 (1) Funds not used in loans to members may be invested:

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

12 (b) In securities, obligations, or other instruments of any state of
13 the United States, the District of Columbia, the Commonwealth of Puerto
14 Rico, and the several territories organized by Congress or any political
15 subdivision thereof;

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

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

20 (e) In obligations issued by banks for cooperatives, federal land
21 banks, federal intermediate credit banks, federal home loan banks, the
22 Federal Home Loan Bank Board, or any corporation designated in 31 U.S.C.
23 9101 as a wholly owned government corporation; in obligations,
24 participation certificates, or other instruments of or insured by or
25 fully guaranteed as to principal and interest by the Federal National
26 Mortgage Association or the Government National Mortgage Association; in
27 mortgages, obligations, or other securities which are or ever have been
28 sold by the Federal Home Loan Mortgage Corporation pursuant to section
29 305 or section 306 of the Federal Home Loan Mortgage Corporation Act, 12
30 U.S.C. 1454 et seq.; in obligations or other instruments or securities of
31 the Student Loan Marketing Association; or in obligations, participation,

1 securities, or other instruments of or issued by or fully guaranteed as
2 to principal and interest by any other agency of the United States. A
3 state credit union may issue and sell securities which are guaranteed
4 pursuant to section 306(g) of the National Housing Act, 12 U.S.C.
5 1721(g);

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

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

15 (h) In the shares, stock, or other obligations of any other
16 organization, not to exceed ten percent of the credit union's capital and
17 not to exceed five percent of the credit union's capital in any one
18 corporation's stock, bonds, or other obligations, unless otherwise
19 approved by the director. Such authority shall not include the power to
20 acquire control, directly or indirectly, of another financial
21 institution, nor invest in shares, stocks, or obligations of any
22 insurance company or trade association except as otherwise expressly
23 provided for or approved by the director;

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

26 (j) In obligations of or issued by any state or political
27 subdivision thereof, including any agency, corporation, or
28 instrumentality of a state or political subdivision, except that no
29 credit union may invest more than ten percent of its capital in the
30 obligations of any one issuer, exclusive of general obligations of the
31 issuer;

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

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

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

14 (2) In addition to investments expressly permitted by the Credit
15 Union Act, a credit union may make any other type of investment approved
16 by the department by rule, regulation, or order.

17 Sec. 66. Section 21-17,109, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 21-17,109 (1) Any credit union organized under the Credit Union Act
20 may, with the approval of the department, merge or consolidate with one
21 or more other credit unions organized under the act or under the laws of
22 the United States, if the credit unions merging or consolidating possess
23 coinciding common bonds of association.

24 (2) When two or more credit unions merge or consolidate, one shall
25 be designated as the continuing credit union or a totally new credit
26 union shall be organized. If the latter procedure is followed, the new
27 credit union shall be organized under the Credit Union Act or under the
28 laws of the United States. All participating credit unions other than the
29 continuing or new credit union shall be designated as merging credit
30 unions.

31 (3) Any merger or consolidation of credit unions shall be done

1 according to a plan of merger or consolidation. After approval by the
2 boards of directors of all participating credit unions, the plan shall be
3 submitted to the department for preliminary approval. If the plan
4 includes the organization of a new credit union, all documents required
5 pursuant to section 21-1724 shall be submitted as a part of the plan. In
6 addition, each participating credit union shall submit the following
7 information:

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

10 (b) The vote of the directors in favor of the adoption of the plan;
11 and

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

14 The department shall grant preliminary approval if the plan has been
15 approved properly by the boards of directors and if the documentation
16 required to organize a new credit union, if any, complies with section
17 21-1724. The director, in his or her discretion, may order a hearing be
18 held if he or she determines that the condition of the acquiring credit
19 union warrants a hearing or that the plan of merger would be unfair to
20 the merging credit union.

21 (4) After the department grants preliminary approval, each merging
22 credit union, except the continuing credit union, shall, unless waived by
23 the department, conduct a membership vote on its participation in the
24 plan. The vote shall be conducted either at a special meeting called for
25 that purpose or by mail ballot. If a majority of the members voting
26 approve the plan, the credit union shall submit a record of that fact to
27 the department indicating the vote by which the members approved the plan
28 and either the time and place of the membership meeting or the mailing
29 date and closing date of the mail ballot.

30 (5) The department may waive any voting requirements described in
31 the Credit Union Act for any credit union upon the determination that it

1 is in the best interests of the membership or that the credit union is
2 insolvent or in imminent danger of becoming insolvent.

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

11 (7) Upon final approval of the plan by the department, all property,
12 property rights, and members' interests in each merging credit union
13 shall vest in the continuing or new credit union as applicable without
14 deed, obligations, and other instruments of transfer, and all debts,
15 obligations, and liabilities of each merging credit union shall be deemed
16 to have been assumed by the continuing or new credit union. The rights
17 and privileges of the members of each participating credit union shall
18 remain intact. If a person is a member of more than one of the
19 participating credit unions, the person shall be entitled to only a
20 single set of membership rights in the continuing or new credit union.

21 (8) Notwithstanding any other provision of law, the department may
22 authorize a merger or consolidation of a credit union which is insolvent
23 or which is in danger of insolvency with any other credit union or may
24 authorize a credit union to purchase any of the assets of or assume any
25 of the liabilities of any other credit union which is insolvent or which
26 is in danger of insolvency, if the department is satisfied that:

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

29 (b) Other alternatives for such credit union are not reasonably
30 available; and

31 (c) The public interest would best be served by the approval of such

1 merger, consolidation, purchase, or assumption.

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

10 (10) For purposes of the authority contained in subsection (9) of
11 this section, insured share accounts of each credit union may, upon
12 consummation of the purchase or assumption, be converted to insured
13 deposits or other comparable accounts in the acquiring institution, and
14 the department and the National Credit Union Share Insurance Fund shall
15 be absolved of any liability to the credit union's members with respect
16 to those accounts.

17 Sec. 67. Section 21-17,115, Revised Statutes Supplement, 2023, is
18 amended to read:

19 21-17,115 Notwithstanding any of the other provisions of the Credit
20 Union Act or any other Nebraska statute, any credit union incorporated
21 under the laws of the State of Nebraska and organized under the
22 provisions of the act shall have all the rights, powers, privileges,
23 benefits, and immunities which may be exercised as of January 1, 2024
24 ~~2023~~, by a federal credit union doing business in Nebraska on the
25 condition that such rights, powers, privileges, benefits, and immunities
26 shall not relieve such credit union from payment of state taxes assessed
27 under any applicable laws of this state.

28 Sec. 68. 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. 69. 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. 70. 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. 71. 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. 72. 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. 73. 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. 74. 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. 75. 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. 76. 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. 77. 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. 78. 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. 79. 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. 80. 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. 81. 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. 82. 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. 83. 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. 84. Section 81-118.01, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 81-118.01 (1)(a) ~~(1)~~ Any state official or state agency may accept
2 credit cards, charge cards, or debit cards, whether presented in person
3 or electronically, or electronic funds transfers as a method of cash
4 payment of any tax, levy, excise, duty, custom, toll, interest, penalty,
5 fine, license, fee, or assessment of whatever kind or nature, whether
6 general or special, as provided by section 77-1702.

7 (b) A state official or state agency shall not accept a central bank
8 digital currency as a method of cash payment of any tax, levy, excise,
9 duty, custom, toll, interest, penalty, fine, license, fee, or assessment
10 of whatever kind or nature.

11 (2) The total amount of such taxes, levies, excises, duties,
12 customs, tolls, interest, penalties, fines, licenses, fees, or
13 assessments of whatever kind or nature, whether general or special, paid
14 for by credit card, charge card, debit card, or electronic funds transfer
15 shall be collected by the state official or state agency.

16 (3) Any state official or state agency operating a facility in a
17 proprietary capacity may choose to accept credit cards, charge cards, or
18 debit cards, whether presented in person or electronically, or electronic
19 funds transfers as a means of cash payment, and may adjust the price for
20 services to reflect the handling and payment costs.

21 (4) The state official or state agency shall obtain, for each
22 transaction, authorization for use of any credit card, charge card, or
23 debit card used pursuant to this section from the financial institution,
24 vending service company, credit card or charge card company, or third-
25 party merchant bank providing such service.

26 (5) The types of credit cards, charge cards, or debit cards accepted
27 and the payment services provided for any state official or state agency
28 shall be determined by the State Treasurer and the Director of
29 Administrative Services with the advice of the committee convened
30 pursuant to subsection (5) of section 13-609. The State Treasurer and the
31 director shall contract with one or more credit card, charge card, or

1 debit card companies or third-party merchant banks for services on behalf
2 of the state and those counties, cities, and political subdivisions that
3 choose to participate in the state contract for such services. Any
4 negotiated discount, processing, or transaction fee imposed by a credit
5 card, charge card, or debit card company or third-party merchant bank
6 shall be considered, for purposes of this section, as an administrative
7 expense.

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

29 (7) For purposes of this section: τ

30 (a) Central bank digital currency means a digital medium of
31 exchange, token, or monetary unit of account issued by the United States

1 Federal Reserve System or any analogous federal agency that is made
2 directly available to the consumer by such federal entities. Central bank
3 digital currency includes a digital medium of exchange, token, or
4 monetary unit of account so issued that is processed or validated
5 directly by such federal entities; and

6 (b) Electronic ~~electronic~~ funds transfer means the movement of funds
7 by nonpaper means, usually through a payment system, including, but not
8 limited to, an automated clearinghouse or the Federal Reserve's Fedwire
9 system.

10 Sec. 85. Section 84-712.05, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 84-712.05 The following records, unless publicly disclosed in an
13 open court, open administrative proceeding, or open meeting or disclosed
14 by a public entity pursuant to its duties, may be withheld from the
15 public by the lawful custodian of the records:

16 (1) Personal information in records regarding a student, prospective
17 student, or former student of any educational institution or exempt
18 school that has effectuated an election not to meet state approval or
19 accreditation requirements pursuant to section 79-1601 when such records
20 are maintained by and in the possession of a public entity, other than
21 routine directory information specified and made public consistent with
22 20 U.S.C. 1232g, as such section existed on February 1, 2013, and
23 regulations adopted thereunder;

24 (2) Medical records, other than records of births and deaths and
25 except as provided in subdivisions ~~subdivision~~ (5) and (26) of this
26 section, in any form concerning any person; records of elections filed
27 under section 44-2821; and patient safety work product under the Patient
28 Safety Improvement Act;

29 (3) Trade secrets, academic and scientific research work which is in
30 progress and unpublished, and other proprietary or commercial information
31 which if released would give advantage to business competitors and serve

1 no public purpose;

2 (4) Records which represent the work product of an attorney and the
3 public body involved which are related to preparation for litigation,
4 labor negotiations, or claims made by or against the public body or which
5 are confidential communications as defined in section 27-503;

6 (5) Records developed or received by law enforcement agencies and
7 other public bodies charged with duties of investigation or examination
8 of persons, institutions, or businesses, when the records constitute a
9 part of the examination, investigation, intelligence information, citizen
10 complaints or inquiries, informant identification, or strategic or
11 tactical information used in law enforcement training, except that this
12 subdivision shall not apply to records so developed or received:

13 (a) Relating to the presence of and amount or concentration of
14 alcohol or drugs in any body fluid of any person; or

15 (b) Relating to the cause of or circumstances surrounding the death
16 of an employee arising from or related to his or her employment if, after
17 an investigation is concluded, a family member of the deceased employee
18 makes a request for access to or copies of such records. This subdivision
19 does not require access to or copies of informant identification, the
20 names or identifying information of citizens making complaints or
21 inquiries, other information which would compromise an ongoing criminal
22 investigation, or information which may be withheld from the public under
23 another provision of law. For purposes of this subdivision, family member
24 means a spouse, child, parent, sibling, grandchild, or grandparent by
25 blood, marriage, or adoption;

26 (6) The identity and personal identifying information of an alleged
27 victim of sexual assault or sex trafficking as provided in section
28 29-4316;

29 (7) Appraisals or appraisal information and negotiation records
30 concerning the purchase or sale, by a public body, of any interest in
31 real or personal property, prior to completion of the purchase or sale;

1 (8) Personal information in records regarding personnel of public
2 bodies other than salaries and routine directory information;

3 (9) Information solely pertaining to protection of the security of
4 public property and persons on or within public property, such as
5 specific, unique vulnerability assessments or specific, unique response
6 plans, either of which is intended to prevent or mitigate criminal acts
7 the public disclosure of which would create a substantial likelihood of
8 endangering public safety or property; computer or communications network
9 schema, passwords, and user identification names; guard schedules; lock
10 combinations; or public utility infrastructure specifications or design
11 drawings the public disclosure of which would create a substantial
12 likelihood of endangering public safety or property, unless otherwise
13 provided by state or federal law;

14 (10) Information that relates details of physical and cyber assets
15 of critical energy infrastructure or critical electric infrastructure,
16 including (a) specific engineering, vulnerability, or detailed design
17 information about proposed or existing critical energy infrastructure or
18 critical electric infrastructure that (i) relates details about the
19 production, generation, transportation, transmission, or distribution of
20 energy, (ii) could be useful to a person in planning an attack on such
21 critical infrastructure, and (iii) does not simply give the general
22 location of the critical infrastructure and (b) the identity of personnel
23 whose primary job function makes such personnel responsible for (i)
24 providing or granting individuals access to physical or cyber assets or
25 (ii) operating and maintaining physical or cyber assets, if a reasonable
26 person, knowledgeable of the electric utility or energy industry, would
27 conclude that the public disclosure of such identity could create a
28 substantial likelihood of risk to such physical or cyber assets.
29 Subdivision (10)(b) of this section shall not apply to the identity of a
30 chief executive officer, general manager, vice president, or board member
31 of a public entity that manages critical energy infrastructure or

1 critical electric infrastructure. The lawful custodian of the records
2 must provide a detailed job description for any personnel whose identity
3 is withheld pursuant to subdivision (10)(b) of this section. For purposes
4 of subdivision (10) of this section, critical energy infrastructure and
5 critical electric infrastructure mean existing and proposed systems and
6 assets, including a system or asset of the bulk-power system, whether
7 physical or virtual, the incapacity or destruction of which would
8 negatively affect security, economic security, public health or safety,
9 or any combination of such matters;

10 (11) The security standards, procedures, policies, plans,
11 specifications, diagrams, access lists, and other security-related
12 records of the Lottery Division of the Department of Revenue and those
13 persons or entities with which the division has entered into contractual
14 relationships. Nothing in this subdivision shall allow the division to
15 withhold from the public any information relating to amounts paid persons
16 or entities with which the division has entered into contractual
17 relationships, amounts of prizes paid, the name of the prize winner, and
18 the city, village, or county where the prize winner resides;

19 (12) With respect to public utilities and except as provided in
20 sections 43-512.06 and 70-101, personally identified private citizen
21 account payment and customer use information, credit information on
22 others supplied in confidence, and customer lists;

23 (13) Records or portions of records kept by a publicly funded
24 library which, when examined with or without other records, reveal the
25 identity of any library patron using the library's materials or services;

26 (14) Correspondence, memoranda, and records of telephone calls
27 related to the performance of duties by a member of the Legislature in
28 whatever form. The lawful custodian of the correspondence, memoranda, and
29 records of telephone calls, upon approval of the Executive Board of the
30 Legislative Council, shall release the correspondence, memoranda, and
31 records of telephone calls which are not designated as sensitive or

1 confidential in nature to any person performing an audit of the
2 Legislature. A member's correspondence, memoranda, and records of
3 confidential telephone calls related to the performance of his or her
4 legislative duties shall only be released to any other person with the
5 explicit approval of the member;

6 (15) Records or portions of records kept by public bodies which
7 would reveal the location, character, or ownership of any known
8 archaeological, historical, or paleontological site in Nebraska when
9 necessary to protect the site from a reasonably held fear of theft,
10 vandalism, or trespass. This section shall not apply to the release of
11 information for the purpose of scholarly research, examination by other
12 public bodies for the protection of the resource or by recognized tribes,
13 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or
14 the federal Native American Graves Protection and Repatriation Act;

15 (16) Records or portions of records kept by public bodies which
16 maintain collections of archaeological, historical, or paleontological
17 significance which reveal the names and addresses of donors of such
18 articles of archaeological, historical, or paleontological significance
19 unless the donor approves disclosure, except as the records or portions
20 thereof may be needed to carry out the purposes of the Unmarked Human
21 Burial Sites and Skeletal Remains Protection Act or the federal Native
22 American Graves Protection and Repatriation Act;

23 (17) Library, archive, and museum materials acquired from
24 nongovernmental entities and preserved solely for reference, research, or
25 exhibition purposes, for the duration specified in subdivision (17)(b) of
26 this section, if:

27 (a) Such materials are received by the public custodian as a gift,
28 purchase, bequest, or transfer; and

29 (b) The donor, seller, testator, or transferor conditions such gift,
30 purchase, bequest, or transfer on the materials being kept confidential
31 for a specified period of time;

1 (18) Job application materials submitted by applicants, other than
2 finalists or a priority candidate for a position described in section
3 85-106.06 selected using the enhanced public scrutiny process in section
4 85-106.06, who have applied for employment by any public body as defined
5 in section 84-1409. For purposes of this subdivision, (a) job application
6 materials means employment applications, resumes, reference letters, and
7 school transcripts and (b) finalist means any applicant who is not an
8 applicant for a position described in section 85-106.06 and (i) who
9 reaches the final pool of applicants, numbering four or more, from which
10 the successful applicant is to be selected, (ii) who is an original
11 applicant when the final pool of applicants numbers less than four, or
12 (iii) who is an original applicant and there are four or fewer original
13 applicants;

14 (19)(a) Records obtained by the Public Employees Retirement Board
15 pursuant to section 84-1512 and (b) records maintained by the board of
16 education of a Class V school district and obtained by the board of
17 trustees or the Public Employees Retirement Board for the administration
18 of a retirement system provided for under the Class V School Employees
19 Retirement Act pursuant to section 79-989;

20 (20) Social security numbers; credit card, charge card, or debit
21 card numbers and expiration dates; and financial account numbers supplied
22 to state and local governments by citizens;

23 (21) Information exchanged between a jurisdictional utility and city
24 pursuant to section 66-1867;

25 (22) Draft records obtained by the Nebraska Retirement Systems
26 Committee of the Legislature and the Governor from Nebraska Public
27 Employees Retirement Systems pursuant to subsection (4) of section
28 84-1503;

29 (23) All prescription drug information submitted pursuant to section
30 71-2454, all data contained in the prescription drug monitoring system,
31 and any report obtained from data contained in the prescription drug

1 monitoring system;

2 (24) Information obtained by any government entity, whether federal,
3 state, county, or local, regarding firearm registration, possession,
4 sale, or use that is obtained for purposes of an application permitted or
5 required by law or contained in a permit or license issued by such
6 entity. Such information shall be available upon request to any federal,
7 state, county, or local law enforcement agency;~~and~~

8 (25) The security standards, procedures, policies, plans,
9 specifications, diagrams, and access lists and other security-related
10 records of the State Racing and Gaming Commission, those persons or
11 entities with which the commission has entered into contractual
12 relationships, and the names of any individuals placed on the list of
13 self-excluded persons with the commission as provided in section 9-1118.
14 Nothing in this subdivision shall allow the commission to withhold from
15 the public any information relating to the amount paid any person or
16 entity with which the commission has entered into a contractual
17 relationship, the amount of any prize paid, the name of the prize winner,
18 and the city, village, or county where the prize winner resides; -

19 (26) Vital event records, unless all information designated as
20 confidential under the Vital Statistics Act or all personally
21 identifiable information is redacted by the Department of Health and
22 Human Services;

23 (27) Information or records from historical indexes within one
24 hundred years after the event date of the information or record; and

25 (28) The certificate number for any vital event certificate.

26 Sec. 86. Section 4A-108, Uniform Commercial Code, Revised Statutes
27 Supplement, 2023, is amended to read:

28 4A-108 Relationship to federal Electronic Fund Transfer Act.

29 (a) Except as provided in subsection (b), this article does not
30 apply to a funds transfer any part of which is governed by the federal
31 Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed

1 on January 1, 2024 ~~2023~~.

2 (b) This article applies to a funds transfer that is a remittance
3 transfer as defined in the federal Electronic Fund Transfer Act, 15
4 U.S.C. 1693o-1, as such section existed on January 1, 2024 ~~2023~~, unless
5 the remittance transfer is an electronic fund transfer as defined in the
6 federal Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section
7 existed on January 1, 2024 ~~2023~~.

8 (c) In a funds transfer to which this article applies, in the event
9 of an inconsistency between an applicable provision of this article and
10 an applicable provision of the federal Electronic Fund Transfer Act, the
11 provision of the federal Electronic Fund Transfer Act governs to the
12 extent of the inconsistency.

13 Sec. 87. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
14 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 81, 82,
15 83, 85, and 89 of this act become operative on January 1, 2025. Sections
16 46, 48, 49, 50, 54, 55, 56, 57, 58, 59, 61, 62, 63, 64, 65, 66, 68, 69,
17 70, 71, 72, 73, 74, 75, 76, 84, and 90 of this act become operative three
18 calendar months after the adjournment of this legislative session. The
19 other sections of this act become operative on their effective date.

20 Sec. 88. If any section in this act or any part of any section is
21 declared invalid or unconstitutional, the declaration shall not affect
22 the validity or constitutionality of the remaining portions.

23 Sec. 89. Original sections 71-605.02 and 71-616, Reissue Revised
24 Statutes of Nebraska, section 84-712.05, Revised Statutes Cumulative
25 Supplement, 2022, and section 71-612, Revised Statutes Supplement, 2023,
26 are repealed.

27 Sec. 90. Original sections 8-2504, 8-2729, 8-2730, 8-2735, 13-609,
28 21-1701, 21-1702, 21-1705, 21-1729, 21-1743, 21-1749, 21-1767, 21-17,102,
29 21-17,109, 45-346, 45-346.01, 45-354, 45-737, 45-905.01, 45-912, 45-1005,
30 45-1018, 45-1033.01, and 81-118.01, Reissue Revised Statutes of Nebraska,
31 are repealed.

1 Sec. 91. Original sections 8-1116, 8-1120, 8-1726, and 21-1736,
2 Reissue Revised Statutes of Nebraska, sections 8-135, 8-141, 8-143.01,
3 8-157.01, 8-183.04, 8-1,140, 8-318, 8-355, 8-1101, 8-1101.01, 8-1704,
4 8-1707, 8-2724, 8-2903, 8-3005, 8-3007, 21-17,115, 59-1722, 69-2103,
5 69-2104, and 69-2112, Revised Statutes Supplement, 2023, and section
6 4A-108, Uniform Commercial Code, Revised Statutes Supplement, 2023, are
7 repealed.

8 Sec. 92. Since an emergency exists, this act takes effect when
9 passed and approved according to law.