

# LEGISLATIVE BILL 1074

Approved by the Governor April 17, 2024

Introduced by Slama, 1.

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

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

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

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

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

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

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

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

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

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

(i) Fingerprint;

(ii) Voice print;

(iii) Retina image;

(iv) Iris image; or

(v) Unique biological pattern or characteristic.

(b) Biometric data does not include:

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

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

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

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

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

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

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

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

or

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

(7)(a) Consumer means an individual who is a resident of this state acting

only in an individual or household context.

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

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

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

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

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

(a) Financial and lending services;

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

(c) Education enrollment;

(d) Employment opportunities;

(e) Criminal justice; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Sale of personal data does not include:

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

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

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

(iv) The disclosure of information that the consumer:

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

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

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

(A) Merger;

(B) Acquisition;

(C) Bankruptcy; or

(D) Other transaction;

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

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

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

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

(d) Precise geolocation data;

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

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

(b) Targeted advertising does not include:

(i) An advertisement that:

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Covered entity or business associate governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, 45 C.F.R. parts 160 and 164, as such parts existed on January 1, 2024, and Division A, Title XIII, and Division B, Title IV, of the federal Health Information Technology for Economic and Clinical

Health Act, Public Law No. 111-5, as such act existed on January 1, 2024;

- (d) Nonprofit organization;
- (e) Institution of higher education;
- (f) Electric supplier or supplier of electricity as defined in section 70-1001.01;
- (g) Natural gas public utility as defined in section 66-1802; or
- (h) Natural gas utility owned or operated by a city or a metropolitan utilities district.

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

- (1) Protected health information under the Health Insurance Portability and Accountability Act;
- (2) Health records;
- (3) Patient identifying information for purposes of 42 U.S.C. 290dd-2, as such section existed on January 1, 2024;
- (4) Identifiable private information:
  - (a) For purposes of the federal policy for the protection of human subjects under 45 C.F.R. part 46, as such part existed on January 1, 2024;
  - (b) Collected as part of human subjects research under the good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use, as such guidelines existed on January 1, 2024, or of the protection of human subjects under 21 C.F.R. parts 50 and 56, as such parts existed on January 1, 2024; or
  - (c) That is personal data used or shared in research conducted pursuant to the Data Privacy Act or other research conducted in accordance with applicable Nebraska law;
- (5) Information and documents created for purposes of the federal Health Care Quality Improvement Act of 1986, 42 U.S.C. 11101 et seq., as such act existed on January 1, 2024;
- (6) Patient safety work product for purposes of the federal Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b-21 et seq., as such act existed on January 1, 2024;
- (7) Information derived from any of the health care-related information listed in this section that is deidentified in accordance with the requirements for deidentification under the Health Insurance Portability and Accountability Act;
- (8) Information originating from, and intermingled to be indistinguishable with, or information treated in the same manner as, information exempt under this section that is maintained by a covered entity or business associate as defined by the Health Insurance Portability and Accountability Act or by a program or a qualified service organization as defined by 42 U.S.C. 290dd-2, as such section existed on January 1, 2024;
- (9) Information that is included in a limited data set as described by 45 C.F.R. 164.514(e), to the extent that the information is used, disclosed, and maintained in the manner specified by 45 C.F.R. 164.514(e), as such regulation existed on January 1, 2024;
- (10) Information collected or used only for public health activities and purposes as authorized by the Health Insurance Portability and Accountability Act;
- (11) The collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency or furnisher that provides information for use in a consumer report, and by a user of a consumer report, but only to the extent that the activity is regulated by and authorized under the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as such act existed on January 1, 2024;
- (12) Personal data collected, processed, sold, or disclosed in compliance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. 2721 et seq., as such act existed on January 1, 2024;
- (13) Personal data regulated by the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as such act existed on January 1, 2024;
- (14) Personal data collected, processed, sold, or disclosed in compliance with the federal Farm Credit Act of 1971, 12 U.S.C. 2001 et seq., as such act existed on January 1, 2024;
- (15) Data processed or maintained in the course of an individual applying to, being employed by, or acting as an agent or independent contractor of a controller, processor, or third party, to the extent that the data is collected and used within the context of that role;
- (16) Data processed or maintained as the emergency contact information of an individual under the Data Privacy Act that is used for emergency contact purposes; or
- (17) Data that is processed or maintained and is necessary to retain to administer benefits for another individual that relates to an individual described by subdivision (15) of this section and used for the purposes of administering such benefits.

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

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

obtain parental consent under the Data Privacy Act.

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

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

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

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

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

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

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

(i) Targeted advertising;

(ii) The sale of personal data; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The necessity for secure and reliable communications of those

requests; and

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

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

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

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

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

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

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

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

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

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

(a) Shall not unfairly disadvantage another controller;

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

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

Sec. 12. (1) A controller:

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

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

(2) A controller shall not:

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

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

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

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

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

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

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

(2) The purpose for processing personal data;

(3) How a consumer may exercise a consumer right under sections 7 to 11 of this act, including the process by which a consumer may appeal a controller's

decision with regard to the consumer's request;

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

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

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

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

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

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

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

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

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

(a) Clear instructions for processing data;

(b) The nature and purpose of processing;

(c) The type of data subject to processing;

(d) The duration of processing;

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

(f) A requirement that the processor shall:

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

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

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

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

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

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

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

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

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

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

(b) The sale of personal data;

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

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

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

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

(iv) Other substantial injury to any consumer;

(d) The processing of sensitive data; and

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

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

section shall:

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

(b) Factor into the assessment:

(i) The use of deidentified data;

(ii) The reasonable expectations of consumers;

(iii) The context of the processing; and

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

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

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

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

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

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

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

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

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

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

(a) Reidentify deidentified data or pseudonymous data;

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

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

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

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

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

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

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

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

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

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

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

(1) Information relating to:

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

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

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

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

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

(2) The Attorney General may request, pursuant to a civil investigative demand, that a controller disclose any data protection assessment that is

relevant to an investigation conducted by the Attorney General. The Attorney General may evaluate the data protection assessment for compliance with sections 12 to 14 of this act.

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

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

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

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

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

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

(2) Each such demand shall:

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

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

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

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

(3) No such demand shall:

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

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

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

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

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

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

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

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

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

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

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

material.

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

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

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

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

- (a) Recover a civil penalty under this section;
- (b) Restrain or enjoin the person from violating the Data Privacy Act; or
- (c) Recover the civil penalty and seek injunctive relief.

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

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

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

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

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

(a) Comply with federal, state, or local laws, rules, or regulations;  
(b) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Effect a product recall;

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

(d) Perform internal operations that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Bank means a state-chartered or federally chartered bank which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a state-chartered or federally chartered bank which maintained a main chartered office in this state prior to becoming a branch of such state-chartered or federally chartered bank;

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

(3) Eligible entity means any governmental, public, or quasi-public

entity, joint public agency created pursuant to the Joint Public Agency Act, or joint entity created pursuant to the Interlocal Cooperation Act, located in the state, including, but not limited to, an entity designated as a political subdivision, vested with taxing authority, or whose membership is wholly comprised by such entities and funds created by such entities. Eligible entity does not include the State of Nebraska or any department, division, office, board, commission, or other agency of the state, or any court, constitutional office, or elected or appointed officer of the state;

(4) Eligible investment means:

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

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

(c) Direct obligations of the state, its agencies, and its instrumentalities receiving an investment quality rating by a nationally recognized investment rating firm not less than A or its equivalent at the time of purchase;

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

(e) Commercial paper, if such commercial paper:

(i) Is issued by a United States corporation;

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

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

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

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

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

(g) Fully collateralized repurchase agreements if such agreements:

(i) Have a defined termination date;

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

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

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

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

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

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

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

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

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

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

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

(1) Preservation and safety of principal;

- (2) Liquidity; and
- (3) Yield.

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

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

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

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

(b) Electronic means through:

(i) Preauthorized direct withdrawal;

(ii) An automatic teller machine;

(iii) A debit card;

(iv) A transfer by telephone;

(v) A network, including the Internet; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) For the purpose of determining lending limits, partnerships shall not be treated as separate entities. Each individual shall be charged with his or her personal debt plus the debt of every partnership in which he or she is a partner, except that for purposes of this section (a) an individual shall only be charged with the debt of any limited partnership in which he or she is a partner to the extent that the terms of the limited partnership agreement provide that such individual is to be held liable for the debts or actions of such limited partnership and (b) no individual shall be charged with the debt of any general partnership in which he or she is a partner beyond the extent to which (i) his or her liability for such partnership debt is limited by the terms of a contract or other written agreement between the bank and such individual and (ii) any personal debt of such individual is incurred for the use and benefit of such general partnership.

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

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

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

(6) For purposes of this section:

(a) Derivative transaction means any transaction that is a contract,

agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets;

(b) Loan includes:

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

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

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

(c) Unimpaired capital and unimpaired surplus means:

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

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

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

(ii) For all other banks:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) For purposes of this section:

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

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

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

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

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

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

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

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

8-157.01 (1) Any establishing financial institution may establish and maintain any number of automatic teller machines at which all banking transactions, defined as receiving deposits of every kind and nature and crediting such to customer accounts, cashing checks and cash withdrawals, transferring funds from checking accounts to savings accounts, transferring funds from savings accounts to checking accounts, transferring funds from either checking accounts and savings accounts to accounts of other customers, transferring payments from customer accounts into accounts maintained by other customers of the financial institution or the financial institution, including preauthorized draft authority, preauthorized loans, and credit transactions,

receiving payments payable at the financial institution or otherwise, account balance inquiry, and any other transaction incidental to the business of the financial institution or which will provide a benefit to the financial institution's customers or the general public, may be conducted. Any automatic teller machine owned by a nonfinancial institution third party shall be sponsored by an establishing financial institution. Neither such automatic teller machines nor the transactions conducted thereat shall be construed as the establishment of a branch or as branch banking.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) For purposes of this section:

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

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

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

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

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

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

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

of-state financial institution that establishes or sponsors an automatic teller machine;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (ii) Electronic means through:
  - (A) Preauthorized direct withdrawal;
  - (B) An automatic teller machine;
  - (C) A debit card;
  - (D) A transfer by telephone;
  - (E) A network, including the Internet; or
  - (F) Any electronic terminal, computer, magnetic tape, or other electronic means.

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

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

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

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

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

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

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

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

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

(2) Broker-dealer means any person engaged in the business of effecting transactions in securities for the account of others or for his or her own account. Broker-dealer does not include (a) an issuer-dealer, agent, bank, savings institution, or trust company, (b) an issuer effecting a transaction in its own security exempted by subdivision (5)(a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933, (c) a person who has no place of business in this state if he or she effects transactions in this state

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

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

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

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

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

(7) Investment adviser means any person who for compensation engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who for compensation and as a part of a regular business issues or promulgates analyses or reports concerning securities. Investment adviser also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. Investment adviser does not include (a) an investment adviser representative, (b) a bank, savings institution, or trust company, (c) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his or her profession, (d) a broker-dealer or its agent whose performance of these services is solely incidental to its business as a broker-dealer and who receives no special compensation for them, (e) an issuer-dealer, (f) a publisher of any bona fide newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form, by electronic means, or otherwise which does not consist of the rendering of advice on the basis of the specific investment situation of each client, (g) a person who has no place of business in this state if (i) his or her only clients in this state are other investment advisers, federal covered advisers, broker-dealers, banks, savings institutions, credit unions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during the preceding twelve-month period, he or she has had five or fewer clients who are residents of this state other than those persons specified in subdivision (g)(i) of this subdivision, (h) any person that is a federal covered adviser or is excluded from the definition of investment adviser under section 202 of the Investment Adviser Act of 1940, or (i) such other persons not within the intent of this subdivision as the director may by rule and regulation or order designate;

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

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

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

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

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

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

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

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

(15) Security means any note, stock, treasury stock, bond, debenture, units of beneficial interest in a real estate trust, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, viatical settlement contract or any fractional or pooled interest in such contract, membership interest in any limited liability company organized under Nebraska law or any other jurisdiction unless otherwise excluded from this definition, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, in general any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. Security does not include any insurance or endowment policy or annuity contract issued by an insurance company. Security also does not include a membership interest in a limited liability company when all of the following exist: (a) The member enters into a written commitment to be engaged actively and directly in the management of the limited liability company; and (b) all members of the limited liability company are actively engaged in the management of the limited liability company. For the limited purposes of determining professional malpractice insurance premiums, a security issued through a transaction that is exempted pursuant to subdivision (23) of section 8-1111 shall not be considered a security;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

authority to be invalid for any reason.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Issue a cease and desist order;

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

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

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

(a) An action for a declaratory judgment;

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

(c) An action for disgorgement or restitution; or

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

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

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

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

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

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

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

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

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

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

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

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

(c) A state or any political subdivision thereof;

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) For all applicants:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

to:

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

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

(ii) Checks of civil or administrative records;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3)(a) Except as provided in subdivisions (b) and (c) of this subsection, a licensee shall notify the director in writing or through the Nationwide Mortgage Licensing System and Registry within three business days from the time

that the licensee becomes aware of any breach of security of the system of computerized data owned or licensed by the licensee, which contains personal information about a Nebraska resident, or the unauthorized access to or use of such information about a Nebraska resident as a result of the breach.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) Make contracts as a corporation under Nebraska law;
- (ii) Sue and be sued;
- (iii) Receive notes as permitted by federal law;
- (iv) Carry on a nonlending digital asset banking business for customers, consistent with subdivision (2)(b) of this section;
- (v) Provide payment services upon the request of a customer; and
- (vi) Make an application to become a member bank of the federal reserve system.

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

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

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

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

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

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

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

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

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

including:

- (a) The collection and reporting of data;
- (b) Its policies and procedures for accepting and responding to consumer complaints; and
- (c) Its efforts to assist with financial literacy or personal finance programs to increase knowledge and skills of Nebraska students in areas such as digital assets, budgeting, credit, checking and savings accounts, loans, stocks, and insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The types of credit cards, charge cards, or debit cards accepted and the payment services provided shall be determined by the State Treasurer and the Director of Administrative Services with the advice of a committee convened by the State Treasurer and the director. The committee shall consist of the State Treasurer, the Tax Commissioner, the director, and representatives from counties, cities, and other political subdivisions as may be appropriate. The committee shall develop recommendations for the contracting of such services. The State Treasurer and the director shall contract with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those counties, cities, and political subdivisions that choose to participate in the state contract for such services. The State Treasurer and the director shall consider, for purposes of this section, any negotiated discount, processing, or transaction fee imposed by a credit card, charge card, or debit card company or third-party merchant bank as an administrative expense. Counties, cities, and other political subdivisions that choose not to participate in the state contract may choose types of credit cards, charge cards, and debit cards and may negotiate and

contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of such services. All county officials within each county choosing to accept credit cards, charge cards, and debit cards shall contract for services through the same financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of such services. County officials who accept credit cards, charge cards, and debit cards shall notify the county board of such decision and the discount or administrative fees charged for such service.

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

(7) For purposes of this section: τ

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 66. Section 21-1736, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

director in attendance shall immediately comply with the request.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) When two or more credit unions merge or consolidate, one shall be designated as the continuing credit union or a totally new credit union shall

be organized. If the latter procedure is followed, the new credit union shall be organized under the Credit Union Act or under the laws of the United States. All participating credit unions other than the continuing or new credit union shall be designated as merging credit unions.

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

- (a) The time and place of the meeting of the boards of directors at which the plan of merger or consolidation was agreed upon;
- (b) The vote of the directors in favor of the adoption of the plan; and
- (c) A copy of a resolution or other action by which the plan was agreed upon.

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

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

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

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

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

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

- (a) An emergency requiring expeditious action exists with respect to such credit union;
- (b) Other alternatives for such credit union are not reasonably available; and
- (c) The public interest would best be served by the approval of such merger, consolidation, purchase, or assumption.

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

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

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

21-17,115 Notwithstanding any of the other provisions of the Credit Union Act or any other Nebraska statute, any credit union incorporated under the laws

of the State of Nebraska and organized under the provisions of the act shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2024 2023, by a federal credit union doing business in Nebraska on the condition that such rights, powers, privileges, benefits, and immunities shall not relieve such credit union from payment of state taxes assessed under any applicable laws of this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45-346 (1) A license issued under the Nebraska Installment Sales Act is nontransferable and nonassignable. The same person may obtain additional licenses for each place of business operating as a sales finance company in this state upon compliance with the act as to each license, except that on or after January 1, 2020, a person is no longer required to obtain a new license

for each place of business and may maintain a branch office or offices upon compliance with the act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) (3) A licensee shall maintain the minimum net worth as required by

section 45-346 while a license issued under the Nebraska Installment Sales Act is in effect. The minimum net worth shall be proven by an annual audit conducted by a certified public accountant. A licensee shall submit a copy of the annual audit to the director as required by section 45-348 or upon written request of the director. If a licensee fails to maintain the required minimum net worth, the department may issue a notice of cancellation of the license in lieu of revocation proceedings.

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

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

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

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

(i) Fingerprints of every executive officer, director, partner, member, sole proprietor, or shareholder submitted to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national, and international criminal history record information check ~~Criminal history through fingerprint or other databases;~~

(ii) Civil or administrative records;

(iii) Credit history; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Pay any penalty incurred by the borrower because of the failure of the licensee to make the payments required in subdivisions (1) and (2) of this section unless the licensee establishes that the failure to timely make the payments was due solely to the fact that the borrower was sent a written notice of the amount due more than fifteen calendar days before the due date to the borrower's last-known address and failed to timely remit the amount due to the licensee;

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

(a) The name and address of the licensee;  
(b) The name and address of the borrower;  
(c) A summary of the escrow account activity during the year which includes all of the following:

(i) The balance of the escrow account at the beginning of the year;  
(ii) The aggregate amount of deposits to the escrow account during the year; and

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

(A) Payments applied to loan principal;  
(B) Payments applied to interest;  
(C) Payments applied to real estate taxes;  
(D) Payments for real property insurance premiums; and  
(E) All other withdrawals; and  
(d) A summary of loan principal for the year as follows:  
(i) The amount of principal outstanding at the beginning of the year;  
(ii) The aggregate amount of payments applied to principal during the year; and

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

(5) Establish and maintain a toll-free telephone number or accept collect telephone calls to respond to inquiries from borrowers, if the licensee services residential mortgage loans. If a licensee ceases to service residential mortgage loans, it shall continue to maintain a toll-free telephone number or accept collect telephone calls to respond to inquiries from borrowers for a period of twelve months after the date the licensee ceased to service residential mortgage loans. A telephonic messaging service which does not permit the borrower an option of personal contact with an employee, agent, or contractor of the licensee shall not satisfy the conditions of this section. Each day such licensee fails to comply with this subdivision shall constitute a separate violation of the Residential Mortgage Licensing Act;

(6) Answer in writing, within seven business days after receipt, any written request for payoff information received from a borrower or a borrower's designated representative. This service shall be provided without charge to the borrower, except that when such information is provided upon request within sixty days after the fulfillment of a previous request, a processing fee of up to ten dollars may be charged;

(7) Record or cause to be recorded a release of mortgage pursuant to the provisions of section 76-2803 or, in the case of a trust deed, record or cause to be recorded a reconveyance pursuant to the provisions of section 76-2803;

(8) Maintain a copy of all documents and records relating to each residential mortgage loan and application for a residential mortgage loan, including, but not limited to, loan applications, federal Truth in Lending Act statements, good faith estimates, appraisals, notes, rights of rescission, and mortgages or trust deeds for a period of five years after the date the residential mortgage loan is funded or the loan application is denied or withdrawn;

(9) Notify the director in writing or through the Nationwide Mortgage Licensing System and Registry within three business days after the occurrence of any of the following:

(a) The filing of a voluntary petition in bankruptcy by the licensee or notice of a filing of an involuntary petition in bankruptcy against the licensee;

(b) The licensee has lost the ability to fund a loan or loans after it had made a loan commitment or commitments and approved a loan application or applications;

(c) Any other state or jurisdiction institutes license denial, cease and desist, suspension, or revocation procedures against the licensee;

(d) The attorney general of any state, the Consumer Financial Protection Bureau, or the Federal Trade Commission initiates an action to enforce consumer protection laws against the licensee or any of the licensee's officers, directors, shareholders, partners, members, employees, or agents;

(e) The Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, or Government National Mortgage Association suspends or terminates the licensee's status as an approved seller or seller and servicer;

(f) The filing of a criminal indictment or information against the licensee or any of its officers, directors, shareholders, partners, members,

employees, or agents; ~~or~~

(g) The licensee or any of the licensee's officers, directors, shareholders, partners, members, employees, or agents was convicted of, pleaded guilty to, or was found guilty after a plea of nolo contendere to (i) a misdemeanor under state or federal law which involves dishonesty or fraud or which involves any aspect of the mortgage banking business, depository institution business, or installment loan company business or (ii) any felony under state or federal law; or and

(h)(i) Except as provided in subdivisions (9)(h)(ii) and (iii) of this section, a licensee shall notify the director in writing or through the Nationwide Mortgage Licensing System and Registry within three business days from the time that the licensee becomes aware of any breach of security of the system of computerized data owned or licensed by the licensee, which contains personal information about a Nebraska resident, or the unauthorized access to or use of such information about a Nebraska resident as a result of the breach.

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

(iii) Notice required by subdivision (9)(h) of this section may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice shall be made in good faith, without unreasonable delay, and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.

(iv) For purposes of subdivision (9)(h) of this section, the terms breach of the security of the system and personal information have the same meaning as in section 87-802; and

(10) Notify the director in writing or through the Nationwide Mortgage Licensing System and Registry within thirty days after the occurrence of a material development other than as described in subdivision (9) of this section, including, but not limited to, any of the following:

(a) Business reorganization;

(b) A change of name, trade name, doing business as designation, or main office address;

(c) The establishment of a branch office. Notice of such establishment shall be on a form prescribed by the department and accompanied by a fee of seventy-five dollars for each branch office;

(d) The relocation or closing of a branch office; or

(e) The entry of an order against the licensee or any of the licensee's officers, directors, shareholders, partners, members, employees, or agents, including orders to which the licensee or other parties consented, by any other state or federal regulator.

Sec. 84. Section 45-905.01, Reissue Revised Statutes of Nebraska, is amended to read:

45-905.01 (1) On and after January 1, 2021, licensees under the Delayed Deposit Services Licensing Act are required to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the department is authorized to participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the director may establish requirements as necessary by adopting and promulgating rules and regulations or by order. The requirements may include, but are not limited to:

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

(i) Fingerprints of any principal officer, director, partner, member, or sole proprietor submitted to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national, and international criminal history record information check;

(ii) Checks of civil or administrative records;

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

(iv) Any other information as deemed necessary by the director;

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

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

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

(2) In order to fulfill the purposes of the Delayed Deposit Services Licensing Act, the department may contract with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to applicants, licensees, or other persons subject to the act. The department may allow such system to collect licensing fees on behalf of the department and may allow such system to collect a processing fee for the services of the system directly from each applicant or licensee.

(3) The director shall regularly report enforcement actions and other relevant information to the Nationwide Mortgage Licensing System and Registry.

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

(5) The department shall ensure that the Nationwide Mortgage Licensing

System and Registry adopts a privacy, data security, and breach of security of the system notification policy. The director shall make available upon written request a copy of such policy and the contract between the department and the system.

(6) Upon written request the department shall provide the most recently available audited financial report of the Nationwide Mortgage Licensing System and Registry.

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

Sec. 85. Section 45-912, Reissue Revised Statutes of Nebraska, is amended to read:

45-912 (1) A licensee shall be required to notify the director in writing through the Nationwide Mortgage Licensing System and Registry within thirty days after the occurrence of any material development, including, but not limited to:

(a) (1) Bankruptcy or corporate reorganization;

(b) (2) Business reorganization;

(c) (3) Institution of license revocation procedures by any other state or jurisdiction;

(d) (4) The filing of a criminal indictment or complaint against the licensee or any of its officers, directors, shareholders, partners, members, employees, or agents;

(e) (5) A felony conviction against the licensee or any of the licensee's officers, directors, shareholders, partners, members, employees, or agents; or

(f) (6) The termination of employment or association with the licensee of any of the licensee's officers, directors, shareholders, partners, members, employees, or agents for violations or suspected violations of the Delayed Deposit Services Licensing Act, any rule, regulation, or order thereunder, or any state or federal law applicable to the licensee.

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

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

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

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

Sec. 86. Section 45-1005, Reissue Revised Statutes of Nebraska, is amended to read:

45-1005 Any person who desires to obtain an original license to engage in the business of lending money under the terms and conditions of the Nebraska Installment Loan Act or an original license to hold or acquire any rights of ownership, servicing, or other forms of participation in a loan under the act or to engage with, or conduct loan activity with, an installment loan borrower in connection with a loan under the act, shall apply to the department for the license under oath, on a form prescribed by the department, and pay an original license fee of five hundred dollars, and submit background checks as provided in section 45-1033.01. If the applicant is an individual, the application shall include the applicant's social security number.

Sec. 87. Section 45-1018, Reissue Revised Statutes of Nebraska, is amended to read:

45-1018 (1) A licensee shall on or before March 1 of each year file with the department a report of the licensee's earnings and operations for the preceding calendar year, and its assets at the end of the year, and giving such other relevant information as the department may reasonably require. The report shall be made under oath and shall be in the form and manner prescribed by the department.

(2) A licensee shall submit a mortgage report of condition as required by section 45-726, on or before a date or dates established by rule, regulation, or order of the director.

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

(b) If a licensee would be required under Nebraska law to provide notification to a Nebraska resident regarding such incident, then the licensee

shall provide a copy of such notification to the department prior to or simultaneously with the licensee's notification to the Nebraska resident.

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

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

Sec. 88. Section 45-1033.01, Reissue Revised Statutes of Nebraska, is amended to read:

45-1033.01 (1) The department shall require licensees to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the department is authorized to participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the department may establish, by adopting and promulgating rules and regulations or by order, requirements as necessary. The requirements may include, but not be limited to:

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

(i) Fingerprints of every executive officer, director, partner, member, sole proprietor, or shareholder submitted to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national, and international criminal history record information check ~~Criminal history through fingerprint or other databases;~~

(ii) Civil or administrative records;

(iii) Credit history; or

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

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

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

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

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

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

(3) The director is required to regularly report violations of the act pertaining to residential mortgage loans, as defined in section 45-702, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in section 45-1033.02.

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

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

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

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

Sec. 89. Section 59-1722, Revised Statutes Supplement, 2023, is amended to read:

59-1722 (1) Any transaction involving the sale of a franchise as defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1, ~~2024~~ 2023, shall be exempt from the Seller-Assisted Marketing Plan Act, except that such transactions shall be subject to subdivision (1)(d) of section 59-1757, those provisions regulating or prescribing the use of the phrase buy-back or secured investment or similar phrases as set forth in sections 59-1726 to 59-1728 and 59-1751, and all sections which provide for their enforcement. The exemption shall only apply if:

(a) The franchise is offered and sold in compliance with the requirements of 16 C.F.R. part 436, Disclosure Requirements and Prohibitions Concerning

Franchising, as such part existed on January 1, ~~2024~~ 2023;

(b) Before placing any advertisement in a Nebraska-based publication, offering for sale to any prospective purchaser in Nebraska, or making any representations in connection with such offer or sale to any prospective purchaser in Nebraska, the seller files a notice with the Department of Banking and Finance which contains (i) the name, address, and telephone number of the seller and the name under which the seller intends to do business and (ii) a brief description of the plan offered by the seller; and

(c) The seller pays a filing fee of one hundred dollars.

(2) The department may request a copy of the disclosure document upon receipt of a written complaint or inquiry regarding the seller or upon a reasonable belief that a violation of the Seller-Assisted Marketing Plan Act has occurred or may occur. The seller shall provide such copy within ten business days of receipt of the request.

(3) All funds collected by the department under this section shall be remitted to the State Treasurer for credit to the Securities Act Cash Fund.

(4) The Director of Banking and Finance may by order deny or revoke an exemption specified in this section with respect to a particular offering of one or more business opportunities if the director finds that such an order is in the public interest or is necessary for the protection of purchasers. An order shall not be entered without appropriate prior notice to all interested parties, an opportunity for hearing, and written findings of fact and conclusions of law. If the public interest or the protection of purchasers so requires, the director may by order summarily deny or revoke an exemption specified in this section pending final determination of any proceedings under this section. An order under this section shall not operate retroactively.

Sec. 90. Section 69-2103, Revised Statutes Supplement, 2023, is amended to read:

69-2103 For purposes of the Consumer Rental Purchase Agreement Act:

(1) Advertisement means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer rental purchase agreement but does not include in-store merchandising aids such as window signs and ceiling banners;

(2) Cash price means the price at which the lessor would have sold the property to the consumer for cash on the date of the consumer rental purchase agreement for the property;

(3) Consumer means a natural person who rents property under a consumer rental purchase agreement;

(4) Consumer rental purchase agreement means an agreement which is for the use of property by a consumer primarily for personal, family, or household purposes, which is for an initial period of four months or less, whether or not there is any obligation beyond the initial period, which is automatically renewable with each payment, and which permits the consumer to become the owner of the property. A consumer rental purchase agreement in compliance with the act shall not be construed to be a lease or agreement which constitutes a credit sale as defined in 12 C.F.R. 1026.2(a)(16), as such regulation existed on January 1, ~~2024~~ 2023, and 15 U.S.C. 1602(h), as such section existed on January 1, ~~2024~~ 2023, or a lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2, as such regulation existed on January 1, ~~2024~~ 2023. Consumer rental purchase agreement does not include:

(a) Any lease for agricultural, business, or commercial purposes;

(b) Any lease made to an organization;

(c) A lease or agreement which constitutes an installment sale or installment contract as defined in section 45-335;

(d) A security interest as defined in subdivision (35) of section 1-201, Uniform Commercial Code; and

(e) A home solicitation sale as defined in section 69-1601;

(5) Consummation means the occurrence of an event which causes a consumer to become contractually obligated on a consumer rental purchase agreement;

(6) Department means the Department of Banking and Finance;

(7) Lease payment means a payment to be made by the consumer for the right of possession and use of the property for a specific lease period but does not include taxes imposed on such payment;

(8) Lease period means a week, month, or other specific period of time, during which the consumer has the right to possess and use the property after paying the lease payment and applicable taxes for such period;

(9) Lessor means a person who in the ordinary course of business operates a commercial outlet which regularly leases, offers to lease, or arranges for the leasing of property under a consumer rental purchase agreement;

(10) Property means any property that is not real property under the laws of this state when made available for a consumer rental purchase agreement; and

(11) Total of payments to acquire ownership means the total of all charges imposed by the lessor and payable by the consumer as a condition of acquiring ownership of the property. Total of payments to acquire ownership includes lease payments and any initial nonrefundable administrative fee or required delivery charge but does not include taxes, late charges, reinstatement fees, or charges for optional products or services.

Sec. 91. Section 69-2104, Revised Statutes Supplement, 2023, is amended to read:

69-2104 (1) Before entering into any consumer rental purchase agreement, the lessor shall disclose to the consumer the following items as applicable:

(a) A brief description of the leased property sufficient to identify the property to the consumer and lessor;

(b) The number, amount, and timing of all payments included in the total of payments to acquire ownership;

(c) The total of payments to acquire ownership;

(d) A statement that the consumer will not own the property until the consumer has paid the total of payments to acquire ownership plus applicable taxes;

(e) A statement that the total of payments to acquire ownership does not include other charges such as taxes, late charges, reinstatement fees, or charges for optional products or services the consumer may have elected to purchase and that the consumer should see the rental purchase agreement for an explanation of these charges;

(f) A statement that the consumer is responsible for the fair market value, remaining rent, early purchase option amount, or cost of repair of the property, whichever is less, if it is lost, stolen, damaged, or destroyed;

(g) A statement indicating whether the property is new or used. A statement that indicates that new property is used shall not be a violation of the Consumer Rental Purchase Agreement Act;

(h) A statement of the cash price of the property. When the agreement involves a lease for two or more items, a statement of the aggregate cash price of all items shall satisfy the requirement of this subdivision;

(i) The total amount of the initial payments required to be paid before consummation of the agreement or delivery of the property, whichever occurs later, and an itemization of the components of the initial payment, including any initial nonrefundable administrative fee or delivery charge, lease payment, taxes, or fee or charge for optional products or services;

(j) A statement clearly summarizing the terms of the consumer's options to purchase, including a statement that at any time after the first periodic payment is made the consumer may acquire ownership of the property by tendering an amount which may not exceed fifty-five percent of the difference between the total of payments to acquire ownership and the total of lease payments the consumer has paid on the property at that time;

(k) A statement identifying the party responsible for maintaining or servicing the property while it is being leased, together with a description of that responsibility and a statement that if any part of a manufacturer's warranty covers the leased property at the time the consumer acquires ownership of the property, such warranty shall be transferred to the consumer if allowed by the terms of the warranty; and

(1) The date of the transaction and the names of the lessor and the consumer.

(2) With respect to matters specifically governed by the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, ~~2024~~ 2023, compliance with such act shall satisfy the requirements of this section.

(3) Subsection (1) of this section shall not apply to a lessor who complies with the disclosure requirements of the federal Consumer Credit Protection Act, 15 U.S.C. 1667a, as such section existed on January 1, ~~2024~~ 2023, with respect to a consumer rental purchase agreement entered into with a consumer.

Sec. 92. Section 69-2112, Revised Statutes Supplement, 2023, is amended to read:

69-2112 (1) Any advertisement for a consumer rental purchase agreement which refers to or states the amount of any payment or the right to acquire ownership for any specific item shall also state clearly and conspicuously the following if applicable:

(a) That the transaction advertised is a consumer rental purchase agreement;

(b) The total of payments to acquire ownership; and

(c) That the consumer acquires no ownership rights until the total of payments to acquire ownership is paid.

(2) Any owner or employee of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

(3) Subsection (1) of this section shall not apply to an advertisement which does not refer to a specific item of property, which does not refer to or state the amount of any payment, or which is published in the yellow pages of a telephone directory or any similar directory of business.

(4) With respect to matters specifically governed by the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, ~~2024~~ 2023, compliance with such act shall satisfy the requirements of this section.

Sec. 93. Section 71-605.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-605.02 The department shall preserve permanently and ~~index~~ all such certificates and shall charge and collect in advance the fee prescribed in section 71-612, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record, whether or not the record is found on file with the department. All fees so collected shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund as provided in section 71-612.

Sec. 94. Section 71-612, Revised Statutes Supplement, 2023, is amended to read:

71-612 (1) The department, as the State Registrar, shall preserve permanently and ~~index~~ all certificates received. The department shall supply to

any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, annulment, or dissolution of marriage or an abstract of marriage. The department shall supply a copy of a public vital record for viewing purposes at its office upon an application signed by the applicant and upon proof of the identity of the applicant. The application may include the name, address, and telephone number of the applicant, purpose for viewing each record, and other information as may be prescribed by the department by rules and regulations to protect the integrity of vital records and prevent their fraudulent use. Except as provided in subsections (2), (3), (5), (6), (7), and (9) of this section, the department shall be entitled to charge and collect in advance a fee of sixteen dollars to be paid by the applicant for each certified copy or abstract of marriage supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record or abstract of marriage, whether or not the record or abstract is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record or abstract of marriage on file with the department upon the request of (a) the United States Department of Veterans Affairs or any lawful service organization empowered to represent veterans if the copy of the record or abstract of marriage is to be issued, for the welfare of any member or veteran of the armed forces of the United States or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the Military Department.

(3) The department may, free of charge, search for and furnish a certified copy of any record or abstract of marriage on file with the department when in the opinion of the department it would be a hardship for the claimant of old age, survivors, or disability benefits under the federal Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Funds received pursuant to subsections (1), (5), (6), and (8) of this section shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used for the purpose of administering the laws relating to vital statistics and may be used to create a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies or abstracts of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the petty cash fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The department shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any inhospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that the fee shall not exceed three dollars per individual search or copy requested.

(6) The department may permit use of data from vital records for statistical or research purposes under section 71-602 or disclose data from certificates or records to federal, state, county, or municipal agencies of government for use in administration of their official duties for the limited purposes of preventing, identifying, or halting fraudulent activity or waste of government funding. The department shall and charge and collect a fee that will recover the department's cost of production of the data. The department may provide access to public vital records for viewing purposes by electronic means, if available, under security provisions which shall assure the integrity and security of the records and database and shall charge and collect a fee that shall recover the department's costs.

(7) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for access to or a certified copy of any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established system of registering births and deaths shall charge and collect in advance a fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for such record, whether or not the record is found on file with the county. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(8) The department shall not charge other state agencies the fees authorized under subsections (1) and (7) of this section for automated review of any certificates or abstracts of marriage. The department shall charge and collect a fee from other state agencies for such automated review that will recover the department's cost.

(9) The department shall not charge any fee for a certified copy of a birth record if the applicant does not have a current Nebraska driver's license or state identification card and indicates in the application that the applicant needs a certified copy of the birth record to apply for a state identification card for voting purposes.

Sec. 95. Section 71-616, Reissue Revised Statutes of Nebraska, is amended to read:

71-616 The department shall preserve permanently and ~~index~~ all births, deaths, marriages, and divorces received, and shall tabulate statistics therefrom.

Sec. 96. Section 77-2341, Reissue Revised Statutes of Nebraska, is amended to read:

77-2341 (1) Whenever any county, city, village, or other governmental subdivision, other than a school district, of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such county, city, village, or other governmental subdivision may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The state investment officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.

(2) Whenever any school district of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a fund for the payment of bonds and the money in such fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the board of education of such school district may invest any such surplus in excess of current needs or such excess in the bond fund in securities in which such board of education is authorized to invest pursuant to section 79-1043.

(3) Nothing in subsection (1) of this section shall be construed to restrict investments authorized pursuant to section 14-563.

(4) Nothing in subsections (1), (2), and (3) of this section shall be construed to authorize investments in venture capital or to expand the investment authority of a local government investment pool under the Public Entities Pooled Investment Act.

Sec. 97. Section 81-118.01, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

(5) The types of credit cards, charge cards, or debit cards accepted and the payment services provided for any state official or state agency shall be determined by the State Treasurer and the Director of Administrative Services with the advice of the committee convened pursuant to subsection (5) of section 13-609. The State Treasurer and the director shall contract with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those counties, cities, and political subdivisions that choose to participate in the state contract for such services. Any negotiated discount, processing, or transaction fee imposed by a credit card, charge card, or debit card company or third-party merchant bank shall be considered, for purposes of this section, as an administrative expense.

(6) A state official or state agency obtaining, for each transaction, authorization for use of any credit card or charge card used pursuant to this section may, but is not required to, impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the state agency, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted under subsection (5) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or

charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to a state agency by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the state official or state agency shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

(7) For purposes of this section: 7

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

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

Sec. 98. Section 84-712.05, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

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

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

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

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

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

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

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

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

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

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

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

(10) Information that relates details of physical and cyber assets of critical energy infrastructure or critical electric infrastructure, including

(a) specific engineering, vulnerability, or detailed design information about proposed or existing critical energy infrastructure or critical electric infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy, (ii) could be useful to a person in planning an attack on such critical infrastructure, and (iii) does not simply give the general location of the critical infrastructure and (b) the identity of personnel whose primary job function makes such personnel responsible for (i) providing or granting individuals access to physical or cyber assets or (ii) operating and maintaining physical or cyber assets, if a reasonable person, knowledgeable of the electric utility or energy industry, would conclude that the public disclosure of such identity could create a substantial likelihood of risk to such physical or cyber assets. Subdivision (10)(b) of this section shall not apply to the identity of a chief executive officer, general manager, vice president, or board member of a public entity that manages critical energy infrastructure or critical electric infrastructure. The lawful custodian of the records must provide a detailed job description for any personnel whose identity is withheld pursuant to subdivision (10)(b) of this section. For purposes of subdivision (10) of this section, critical energy infrastructure and critical electric infrastructure mean existing and proposed systems and assets, including a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of such matters;

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

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

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

(14) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

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

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

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

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

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

(18) Job application materials submitted by applicants, other than finalists or a priority candidate for a position described in section 85-106.06 selected using the enhanced public scrutiny process in section 85-106.06, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant who is not an applicant for a position described in section 85-106.06 and (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to

be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

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

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

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

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

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

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

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

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

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

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

Sec. 99. Section 4A-108, Uniform Commercial Code, Revised Statutes Supplement, 2023, is amended to read:

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

(a) Except as provided in subsection (b), this article does not apply to a funds transfer any part of which is governed by the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed on January 1, 2024 ~~2023~~.

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

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

Sec. 100. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 93, 94, 95, 98, and 102 of this act become operative on January 1, 2025. Sections 31, 32, 33, 34, 35, 36, 52, 54, 55, 56, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 96, 97, and 103 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 101. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 102. Original sections 71-605.02 and 71-616, Reissue Revised Statutes of Nebraska, section 84-712.05, Revised Statutes Cumulative Supplement, 2022, and section 71-612, Revised Statutes Supplement, 2023, are repealed.

Sec. 103. Original sections 8-2504, 8-2729, 8-2730, 8-2735, 13-609, 21-1701, 21-1702, 21-1705, 21-1729, 21-1743, 21-1749, 21-1767, 21-17,102, 21-17,109, 30-3801, 45-346, 45-346.01, 45-354, 45-737, 45-905.01, 45-912, 45-1005, 45-1018, 45-1033.01, 77-2341, and 81-118.01, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 104. Original sections 8-1116, 8-1120, 8-1726, and 21-1736, Reissue Revised Statutes of Nebraska, sections 8-135, 8-141, 8-143.01, 8-157.01, 8-183.04, 8-1,140, 8-318, 8-355, 8-1101, 8-1101.01, 8-1704, 8-1707, 8-2724, 8-2903, 8-3005, 8-3007, 21-17,115, 59-1722, 69-2103, 69-2104, and 69-2112,

Revised Statutes Supplement, 2023, and section 4A-108, Uniform Commercial Code, Revised Statutes Supplement, 2023, are repealed.

Sec. 105. Since an emergency exists, this act takes effect when passed and approved according to law.