

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 348**

Introduced by Krist, 10.

Read first time January 15, 2015

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to banks and banking; to amend section 8-101,  
2 Reissue Revised Statutes of Nebraska, and sections 8-157.01 and  
3 28-636, Revised Statutes Cumulative Supplement, 2014; to redefine a  
4 term; to change provisions relating to automatic teller machines and  
5 point-of-sale terminals; to change and eliminate provisions relating  
6 to branch banking; to harmonize provisions; to repeal the original  
7 sections; and to declare an emergency.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-101, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 8-101 For purposes of the Nebraska Banking Act, unless the context  
4 otherwise requires:

5 (1) Bank subsidiary corporation means a corporation which has a bank  
6 as a shareholder and which is organized for purposes of engaging in  
7 activities which are part of the business of banking or incidental to  
8 such business except for the receipt of deposits. A bank subsidiary  
9 corporation is not to be considered a branch of its bank shareholder;

10 (2) Capital or capital stock means capital stock;

11 (3) Department means the Department of Banking and Finance;

12 (4) Director means the Director of Banking and Finance;

13 (5) Bank or banking corporation means any incorporated banking  
14 institution which was incorporated under the laws of this state as they  
15 existed prior to May 9, 1933, and any corporation duly organized under  
16 the laws of this state for the purpose of conducting a bank within this  
17 state under the act. Bank means any such banking institution which is, in  
18 addition to the exercise of other powers, following the practice of  
19 repaying deposits upon check, draft, or order and of making loans;

20 (6) Order includes orders transmitted by electronic transmission;

21 (7) Automatic teller machine means a machine established and located  
22 off the premises of a financial institution which has a main chartered  
23 office or approved branch located in the State of Nebraska, whether  
24 attended or unattended, which utilizes electronic, sound, or mechanical  
25 signals or impulses, or any combination thereof, and from which  
26 electronic funds transfers may be initiated and at which all banking  
27 transactions as defined by law may be conducted. An unattended automatic  
28 teller machine shall not be deemed to be a branch operated by a financial  
29 institution;

30 (8) Automatic teller machine surcharge means a fee that an operator  
31 of an automatic teller machine imposes upon a consumer for an electronic

1 funds transfer, if such operator is not the financial institution that  
2 holds an account of such consumer from which the electronic funds  
3 transfer is to be made;

4 (9) Data processing center means a facility, wherever located, at  
5 which electronic impulses or other indicia of a transaction originating  
6 at an automatic teller machine or point-of-sale terminal are received and  
7 either authorized or routed to a switch or other data processing center  
8 in order to enable the automatic teller machine or point-of-sale terminal  
9 to perform any function for which it is designed;

10 (10) Point-of-sale terminal means an information processing terminal  
11 which utilizes electronic, sound, or mechanical signals or impulses, or  
12 any combination thereof, which are transmitted to a financial institution  
13 or which are recorded for later transmission to effectuate electronic  
14 funds transfer transactions for the purchase or payment of goods and  
15 services and which are initiated by a card or an access device in  
16 conjunction with a personal identification number. A point-of-sale  
17 terminal is not a branch operated by a financial institution. Any  
18 terminal owned or operated by a seller of goods and services shall be  
19 connected directly or indirectly to an acquiring financial institution;

20 (11) Making loans includes advances or credits that are initiated by  
21 means of credit card or other transaction card. Transaction card and  
22 other transactions, including transactions made pursuant to prior  
23 agreements, may be brought about and transmitted by means of an  
24 electronic impulse. Such loan transactions including transactions made  
25 pursuant to prior agreements shall be subject to sections 8-815 to 8-829  
26 and shall be deemed loans made at the place of business of the financial  
27 institution;

28 (12) Financial institution means a bank, savings bank, building and  
29 loan association, savings and loan association, or credit union, whether  
30 chartered by the United States, the department, or a foreign state  
31 agency; any other similar organization which is covered by federal

1 deposit insurance; or a trust company;

2 (13) Financial institution employees includes parent holding company  
3 and affiliate employees;

4 (14) Switch means any facility where electronic impulses or other  
5 indicia of a transaction originating at an automatic teller machine or  
6 point-of-sale terminal are received and are routed and transmitted to a  
7 financial institution, data processing center, or other switch, wherever  
8 located. A switch may also be a data processing center;

9 (15) Impulse means an electronic, sound, or mechanical impulse, or  
10 any combination thereof;

11 (16) Insolvent means a condition in which (a) the actual cash market  
12 value of the assets of a bank is insufficient to pay its liabilities to  
13 its depositors, (b) a bank is unable to meet the demands of its creditors  
14 in the usual and customary manner, (c) a bank, after demand in writing by  
15 the director, fails to make good any deficiency in its reserves as  
16 required by law, or (d) the stockholders of a bank, after written demand  
17 by the director, fail to make good an impairment of its capital or  
18 surplus; and

19 (17) Foreign state agency means any duly constituted regulatory or  
20 supervisory agency which has authority over financial institutions and  
21 which is created under the laws of any other state, any territory of the  
22 United States, Puerto Rico, Guam, American Samoa, the Trust Territory of  
23 the Pacific Islands, or the Virgin Islands or which is operating under  
24 the code of law for the District of Columbia.

25 Sec. 2. Section 8-157.01, Revised Statutes Cumulative Supplement,  
26 2014, is amended to read:

27 8-157.01 (1) Any financial institution which has a main chartered  
28 office or approved branch located in the State of Nebraska, a group of  
29 two or more of such financial institutions, or a combination of such  
30 financial institution or financial institutions and a third party or  
31 parties, may establish and maintain any number of automatic teller

1 machines at which all banking transactions, defined as receiving deposits  
2 of every kind and nature and crediting such to customer accounts, cashing  
3 checks and cash withdrawals, transfer of funds from checking accounts to  
4 savings accounts, transfer of funds from savings accounts to checking  
5 accounts, transfer of funds from either checking accounts and savings  
6 accounts to accounts of other customers, payment transfers from customer  
7 accounts into accounts maintained by other customers of the financial  
8 institution or the financial institution, including preauthorized draft  
9 authority, preauthorized loans, and credit transactions, receiving  
10 payments payable at the financial institution or otherwise, and account  
11 balance inquiry, may be conducted. Any other transaction incidental to  
12 the business of the financial institution or which will provide a benefit  
13 to the financial institution's customers or the general public may be  
14 conducted at an automatic teller machine. Any third party or parties  
15 establishing or maintaining an automatic teller machine with a financial  
16 institution or financial institutions shall be subject to the direction  
17 of the participating financial institution or financial institutions upon  
18 thirty days' prior written notice to the director if the director does  
19 not object to the proposed other transaction within the thirty-day notice  
20 period. Neither such automatic teller machines nor the transactions  
21 conducted thereat shall be construed as the establishment of a branch or  
22 as branch banking. Such automatic teller machines shall be made available  
23 on a nondiscriminating basis for use by customers of any financial  
24 institution which has a main chartered office or approved branch located  
25 in the State of Nebraska which becomes a user financial institution. It  
26 shall not be deemed discrimination if an automatic teller machine does  
27 not offer the same transaction services as other automatic teller  
28 machines or if there are no fees charged between affiliate financial  
29 institutions for the use of automatic teller machines.

30 (2) ~~Any financial institution may become a user financial~~  
31 ~~institution by agreeing to pay the establishing financial institution its~~

1 ~~automatic teller machine usage fee. Such agreement shall be implied by~~  
2 ~~the use of such automatic teller machines. Nothing in this subsection~~  
3 ~~shall prohibit a user financial institution from agreeing to~~  
4 ~~responsibilities and benefits which might be contained in a standardized~~  
5 ~~agreement. The establishing financial institution or its designated data~~  
6 ~~processing center shall be responsible for transmitting transactions~~  
7 ~~originating from its automatic teller machine to a switch, but nothing~~  
8 ~~contained in this section shall be construed to require routing of all~~  
9 ~~transactions to a switch. All automatic teller machines must be made~~  
10 ~~available on a nondiscriminating basis, for use by customers of any~~  
11 ~~financial institution which has a main chartered office or approved~~  
12 ~~branch located in the State of Nebraska which becomes a user financial~~  
13 ~~institution, through methods, fees, and processes that the establishing~~  
14 ~~financial institution has provided for switching transactions. The~~  
15 ~~director, upon notice and after a hearing, may terminate or suspend the~~  
16 ~~use of any automatic teller machine if he or she determines that it is~~  
17 ~~not available on a nondiscriminating basis for use by customers of any~~  
18 ~~financial institution which has a main chartered office or approved~~  
19 ~~branch located in the State of Nebraska which becomes a user financial~~  
20 ~~institution or that transactions originated by customers of user~~  
21 ~~financial institutions are not being routed to a switch or other data~~  
22 ~~processing centers. Nothing in this section may be construed to prohibit~~  
23 ~~nonbank employees from assisting in transactions originated at the~~  
24 ~~automatic teller machines, and such assistance shall not be deemed to be~~  
25 ~~engaging in the business of banking. Such nonbank employees may be~~  
26 ~~trained in the use of the automatic teller machines by financial~~  
27 ~~institution employees.~~

28 ~~(3) An establishing financial institution shall not be deemed to~~  
29 ~~make an automatic teller machine available on a nondiscriminating basis~~  
30 ~~if, through personnel services offered, advertising on or off the~~  
31 ~~automatic teller machine's premises, or otherwise, it discriminates in~~

1 ~~the use of the automatic teller machine against any user financial~~  
2 ~~institution which has a main chartered office or approved branch located~~  
3 ~~in the State of Nebraska.~~

4 (2 4) Any consumer initiating an electronic funds transfer at an  
5 automatic teller machine for which an automatic teller machine surcharge  
6 will be imposed shall receive notice in accordance with the provisions of  
7 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,  
8 2015 ~~2013~~. Such notice shall appear on the screen of the automatic teller  
9 machine or appear on a paper notice issued from such machine after the  
10 transaction is initiated and before the consumer is irrevocably committed  
11 to completing the transaction.

12 (3 5) A point-of-sale terminal may be established at any point  
13 within this state. A financial institution, a group of two or more  
14 financial institutions, or a combination of a financial institution or  
15 financial institutions and a third party or parties, may contract with a  
16 seller of goods and services or any other third party for the operation  
17 of point-of-sale terminals. ~~A point-of-sale terminal shall be made~~  
18 ~~available on a nondiscriminating basis for use by customers of any~~  
19 ~~financial institution which has a main chartered office or approved~~  
20 ~~branch located in the State of Nebraska which becomes a user financial~~  
21 ~~institution. Nothing in this subsection shall prohibit payment of fees to~~  
22 ~~a financial institution which issues an access device used to initiate~~  
23 ~~electronic funds transfer transactions at a point-of-sale terminal.~~

24 (4 6) A seller of goods and services or any other third party on  
25 whose premises one or more point-of-sale terminals are established shall  
26 not be, solely by virtue of such establishment, a financial institution  
27 and shall not be subject to the laws governing, or other requirements  
28 imposed on, financial institutions, except for the requirement that it  
29 faithfully perform its obligations in connection with any transaction  
30 originated at any point-of-sale terminal on its premises. ~~The acquiring~~  
31 ~~financial institution shall be responsible for compliance with all~~

1 ~~applicable standards, rules, and regulations governing point-of-sale~~  
2 ~~transactions.~~

3       ~~(5.7) Any financial institution, upon a request of the director,~~  
4 ~~shall file with the director a current listing of all point-of-sale~~  
5 ~~terminals established by the financial institution within this state. For~~  
6 ~~purposes of this subsection, point-of-sale terminal shall include a group~~  
7 ~~of one or more of such terminals established at a single business~~  
8 ~~location. Such listing shall contain any reasonable descriptive~~  
9 ~~information pertaining to the point-of-sale terminal as required by the~~  
10 ~~director. Neither the establishment of such point-of-sale terminal nor~~  
11 ~~any transactions conducted thereat shall be construed as the~~  
12 ~~establishment of a branch or as branch banking. Following establishment~~  
13 ~~of a point-of-sale terminal, the director, upon notice and after a~~  
14 ~~hearing, may terminate or suspend the use of such point-of-sale terminal~~  
15 ~~if he or she determines that it is not made available on a~~  
16 ~~nondiscriminating basis for use by customers of any financial institution~~  
17 ~~which has a main chartered office or approved branch located in the State~~  
18 ~~of Nebraska which becomes a user financial institution, that the~~  
19 ~~necessary information is not on file with the director, or that~~  
20 ~~transactions originated by customers of user financial institutions are~~  
21 ~~not being routed to a switch or other data processing center. Nothing in~~  
22 ~~this section shall be construed to prohibit nonbank employees from~~  
23 ~~assisting in transactions originated at automatic teller machines or the~~  
24 ~~point-of-sale terminals, and such assistance shall not be deemed to be~~  
25 ~~engaging in the business of banking.~~

26       (6) Every automatic teller machine and point-of-sale terminal shall  
27 either provide a receipt to the person using the automatic teller machine  
28 or point-of-sale terminal or provide an option to receive a receipt of  
29 the transaction. Such receipt shall be admissible as evidence in any  
30 legal action or proceeding and shall constitute prima facie proof of the  
31 transaction evidenced by such receipt or record. When a financial

1 institution furnishes a statement of account to an account holder, such  
2 statement shall reflect each banking transaction affecting such account  
3 made by the account holder at an automatic teller machine and point-of-  
4 sale terminal during the time period covered by the statement.

5 (7) No account holder shall be liable for any loss occurring as the  
6 result of any tampering or manipulation of an automatic teller machine or  
7 point-of-sale terminal unless such account holder performs or authorizes  
8 such tampering or manipulation.

9 (8)(a) No agreement to operate or share an automatic teller machine  
10 or point-of-sale terminal may prohibit, limit, or restrict the right of  
11 an operator or owner of an automatic teller machine or point-of-sale  
12 terminal to charge a fee.

13 (b) Notwithstanding subdivision (8)(a) of this section, nothing in  
14 this section may be construed to prohibit, limit, or restrict the right  
15 of an operator or owner of an automatic teller machine or point-of-sale  
16 terminal from voluntarily entering into an agreement to participate in a  
17 surcharge fee network.

18 (9)(a) Beginning September 1, 2015, and annually thereafter, any  
19 switch approved by the department prior to September 1, 2015, shall file  
20 a notice with the department setting forth its name, address, and contact  
21 information for an officer authorized to answer inquiries related to its  
22 operations in Nebraska.

23 (b) On or after September 1, 2015, any switch commencing operations  
24 in Nebraska shall file a notice with the department setting forth its  
25 name, address, and contact information for an officer authorized to  
26 answer inquiries related to its operations in Nebraska. Such notice shall  
27 be filed no later than thirty days after the switch commences operations,  
28 and thereafter annually by September 1.

29 (10) For purposes of this section, financial institution means a  
30 bank, savings bank, building and loan association, savings and loan  
31 association, or credit union, whether chartered by the department, the

1 United States, or a foreign state agency; any other similar organization  
2 which is covered by federal deposit insurance; or a subsidiary of any  
3 such entity.

4 ~~(8) Transactions at point-of-sale terminals may include:~~

5 ~~(a) Check guarantees;~~

6 ~~(b) Account balance inquiries;~~

7 ~~(c) Transfers of funds from a customer's account for payment to a~~  
8 ~~seller's account for goods and services on whose premises the point-of-~~  
9 ~~sale terminal is located in payment for the goods and services;~~

10 ~~(d) Cash withdrawals by a customer from the customer's account or~~  
11 ~~accounts;~~

12 ~~(e) Transfers between accounts of the same customers at the same~~  
13 ~~financial institution; and~~

14 ~~(f) Such other transactions as the director, upon application,~~  
15 ~~notice, and hearing, may approve.~~

16 ~~(9)(a) Automatic teller machines may be established and maintained~~  
17 ~~by a financial institution which has a main chartered office or approved~~  
18 ~~branch located in the State of Nebraska, by a group of two or more of~~  
19 ~~such financial institutions, or by a combination of such financial~~  
20 ~~institution or financial institutions and a third party.~~

21 ~~(b) Point-of-sale terminals may be established and maintained by a~~  
22 ~~financial institution which has a main chartered office or approved~~  
23 ~~branch located in the State of Nebraska, by a group of two or more of~~  
24 ~~such financial institutions, or by a combination of such financial~~  
25 ~~institutions and a third party. No one, through personnel services~~  
26 ~~offered, advertising on or off the point-of-sale terminal premises, or~~  
27 ~~otherwise, may discriminate in the use of the point-of-sale terminal~~  
28 ~~against any other user financial institution.~~

29 ~~(10) All financial institutions shall be given an equal opportunity~~  
30 ~~for the use of and access to a switch, and no discrimination shall exist~~  
31 ~~or preferential treatment be given in either the operation of such switch~~

1 ~~or the charges for use thereof. The operation of such switch shall be~~  
2 ~~with the approval of the director. Approval of such switch shall be given~~  
3 ~~by the director when he or she determines that its design and operation~~  
4 ~~are such as to provide access thereto and use thereof by any financial~~  
5 ~~institution without discrimination as to access or cost of its use. Any~~  
6 ~~switch established in Nebraska and approved by the director prior to~~  
7 ~~January 1, 1993, shall be deemed to be approved for purposes of this~~  
8 ~~section.~~

9 ~~(11) Use of an automatic teller machine or a point-of-sale terminal~~  
10 ~~through access to a switch and use of any switch shall be made available~~  
11 ~~on a nondiscriminating basis to any financial institution. A financial~~  
12 ~~institution shall only be permitted use of the switch if the financial~~  
13 ~~institution conforms to reasonable technical operating standards which~~  
14 ~~have been established by the switch.~~

15 ~~(12) To assure maximum safety and security against malfunction,~~  
16 ~~fraud, theft, and other accidents or abuses and to assure that all such~~  
17 ~~access devices will have the capability of activating all automatic~~  
18 ~~teller machines and point-of-sale terminals established in this state, no~~  
19 ~~automatic teller machine or point-of-sale terminal shall accept an access~~  
20 ~~device which does not conform to such specifications as are generally~~  
21 ~~accepted. No automatic teller machine or point-of-sale terminal shall be~~  
22 ~~established or operated which does not accept an access device which~~  
23 ~~conforms with such specifications.~~

24 ~~An automatic teller machine shall bear a logo type or other~~  
25 ~~identification symbol designed to advise customers that the automatic~~  
26 ~~teller machine may be activated by any access device which complies with~~  
27 ~~the generally accepted specifications. A point-of-sale terminal shall~~  
28 ~~either bear or the premises on which the point-of-sale terminal is~~  
29 ~~established shall contain a visible logo type or other identification~~  
30 ~~symbol designed to advise customers that the point-of-sale terminal may~~  
31 ~~be activated by any access device which complies with the generally~~

1 ~~accepted specifications. An automatic teller machine or point-of-sale~~  
2 ~~terminal may also bear, at the option of the establishing or acquiring~~  
3 ~~financial institution, any of the following:~~

4 ~~(a) The names of all individual financial institutions using such~~  
5 ~~automatic teller machines or point-of-sale terminals in alphabetical~~  
6 ~~order, except that the establishing or acquiring financial institution~~  
7 ~~may be listed first, and in a uniform typeface, size, and color; or~~

8 ~~(b) The logo type or symbol of any association, corporation, or~~  
9 ~~other entity or organization formed by one or more of the financial~~  
10 ~~institutions using such automatic teller machines or point-of-sale~~  
11 ~~terminals.~~

12 ~~(13) If the director, upon notice and hearing, determines at any~~  
13 ~~time that the design or operation of a switch or provision for use~~  
14 ~~thereof does discriminate against any financial institution in providing~~  
15 ~~access thereto and use thereof either through access thereto or by virtue~~  
16 ~~of the cost of its use, he or she may revoke his or her approval of such~~  
17 ~~switch operation and immediately order the discontinuance of the~~  
18 ~~operation of such switch.~~

19 ~~(14) If it is determined by the director, after notice and hearing,~~  
20 ~~that discrimination against any financial institution has taken place,~~  
21 ~~that one financial institution has been preferred over another, or that~~  
22 ~~any financial institution or person has not complied with any of the~~  
23 ~~provisions of this section, he or she shall immediately issue a cease and~~  
24 ~~desist order or an order for compliance within ten days after the date of~~  
25 ~~the order, and upon noncompliance with such order, the offending~~  
26 ~~financial institution shall be subject to sections 8-1,134 to 8-1,139 and~~  
27 ~~to having the privileges granted in this section revoked.~~

28 ~~(15) For purposes of this section:~~

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

1       ~~(b) Access device means a code, a transaction card, or any other~~  
2 ~~means of access to a customer's account, or any combination thereof, that~~  
3 ~~may be used by a customer for the purpose of initiating an electronic~~  
4 ~~funds transfer at an automatic teller machine or a point-of-sale~~  
5 ~~terminal;~~

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

10       ~~(d) Acquiring financial institution means any financial institution~~  
11 ~~establishing a point-of-sale terminal;~~

12       ~~(e) Affiliate financial institution means any financial institution~~  
13 ~~which is a subsidiary of the same bank holding company;~~

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

20       ~~(g) Establishing financial institution means any financial~~  
21 ~~institution establishing an automatic teller machine which has a main~~  
22 ~~chartered office or approved branch located in the State of Nebraska;~~

23       ~~(h) Financial institution means a state chartered or federally~~  
24 ~~chartered bank, savings bank, building and loan association, savings and~~  
25 ~~loan association, or credit union, or a subsidiary of any such entity;~~

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

28       ~~(j) Personal identification number means a combination of numerals~~  
29 ~~or letters selected for a customer of a financial institution, a~~  
30 ~~merchant, or any other third party which is used in conjunction with an~~  
31 ~~access device to initiate an electronic funds transfer transaction;~~

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

5       ~~(l) User financial institution means any financial institution which~~  
6 ~~desires to avail itself of and provide its customers with automatic~~  
7 ~~teller machine or point-of-sale terminal services.~~

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

10       ~~(17) Nothing in this section requires any federally chartered~~  
11 ~~establishing financial institution to obtain the approval of the director~~  
12 ~~for the establishment of any automatic teller machine.~~

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

31       ~~(19) An agreement to operate or share an automatic teller machine~~

1 ~~may not prohibit, limit, or restrict the right of the operator or owner~~  
2 ~~of the automatic teller machine to charge a customer conducting a~~  
3 ~~transaction using an account from a foreign financial institution an~~  
4 ~~access fee or surcharge not otherwise prohibited under state or federal~~  
5 ~~law.~~

6 Sec. 3. Section 28-636, Revised Statutes Cumulative Supplement,  
7 2014, is amended to read:

8 28-636 For purposes of sections 28-636 to 28-640:

9 (1) Personal identification document means a birth certificate,  
10 motor vehicle operator's license, state identification card, public,  
11 government, or private employment identification card, social security  
12 card, visa work permit, firearm owner's identification card, certificate  
13 issued under section 69-2404, or passport or any document made or altered  
14 in a manner that it purports to have been made on behalf of or issued to  
15 another person or by the authority of a person who did not give that  
16 authority. Personal identification document does not include a financial  
17 transaction device as defined in section 28-618;

18 (2) Personal identification number means a combination of numerals  
19 or letters selected for a customer of a financial institution, a  
20 merchant, or any other third party which is used in conjunction with an  
21 access device to initiate an electronic funds transfer transaction;

22 (3) Personal identifying information means any name or number that  
23 may be used, alone or in conjunction with any other information, to  
24 identify a specific person including a person's: (a) Name; (b) date of  
25 birth; (c) address; (d) motor vehicle operator's license number or state  
26 identification card number as assigned by the State of Nebraska or  
27 another state; (e) social security number or visa work permit number; (f)  
28 public, private, or government employer, place of employment, or  
29 employment identification number; (g) maiden name of a person's mother;  
30 (h) number assigned to a person's credit card, charge card, or debit  
31 card, whether issued by a financial institution, corporation, or other

1 business entity; (i) number assigned to a person's depository account,  
2 savings account, or brokerage account; (j) personal identification number  
3 as defined in section 8-157.01; (k) electronic identification number,  
4 address, or routing code used to access financial information; (l)  
5 digital signature; (m) telecommunications identifying information or  
6 access device; (n) unique biometric data, such as fingerprint, voice  
7 print, retina or iris image, or other unique physical representation; and  
8 (o) other number or information which can be used to access a person's  
9 financial resources; and

10 (4 3) Telecommunications identifying information or access device  
11 means a card, plate, code, account number, mobile identification number,  
12 or other telecommunications service, equipment, or instrument identifier  
13 or means of account access that alone or in conjunction with other  
14 telecommunications identifying information or another telecommunications  
15 access device may be used to: (a) Obtain money, goods, services, or any  
16 other thing of value; or (b) initiate a transfer of funds other than a  
17 transfer originated solely by a paper instrument.

18 Sec. 4. Original section 8-101, Reissue Revised Statutes of  
19 Nebraska, and sections 8-157.01 and 28-636, Revised Statutes Cumulative  
20 Supplement, 2014, are repealed.

21 Sec. 5. Since an emergency exists, this act takes effect when  
22 passed and approved according to law.