

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1089

Introduced by Landis, 46

Read first time Janaury 15, 2002

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to financial institutions; to amend sections
2 8-157, 8-345.02, 8-1507, 8-1516, 8-2104, and 81-1298,
3 Reissue Revised Statutes of Nebraska, sections 8-101,
4 8-157.01, 8-183.05, 8-234, 8-602, and 8-910, Revised
5 Statutes Supplement, 2000, and section 8-355, Revised
6 Statutes Supplement, 2001; to eliminate certain branch
7 banking restrictions as prescribed; to change provisions
8 relating to bank holding companies; to harmonize
9 provisions; to repeal the original sections; and to
10 outright repeal section 8-1515, Reissue Revised Statutes
11 of Nebraska.

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

1 Section 1. Section 8-101, Revised Statutes Supplement,
2 2000, is amended to read:

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

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

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

12 (3) Department means the Department of Banking and
13 Finance;

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

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

23 (6) Order includes orders transmitted by electronic
24 transmission;

25 (7) Automatic teller machine means a machine established
26 and located off the premises of a financial institution which has a
27 main chartered office or approved branch ~~office~~ located in the
28 State of Nebraska, whether attended or unattended, which utilizes

1 electronic, sound, or mechanical signals or impulses, or any
2 combination thereof, and from which electronic funds transfers may
3 be initiated. An unattended automatic teller machine shall not be
4 deemed to be ~~an office~~ a branch operated by a financial
5 institution;

6 (8) Automatic teller machine surcharge means a fee that
7 an operator of an automatic teller machine imposes upon a consumer
8 for an electronic funds transfer, if such operator is not the
9 financial institution that holds an account of such consumer from
10 which the electronic funds transfer is to be made;

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

18 (10) Point-of-sale terminal means an information
19 processing terminal which utilizes electronic, sound, or mechanical
20 signals or impulses, or any combination thereof, which are
21 transmitted to a financial institution or which are recorded for
22 later transmission to effectuate electronic funds transfer
23 transactions for the purchase or payment of goods and services and
24 which are initiated by an access device in conjunction with a
25 personal identification number. A point-of-sale terminal is not ~~an~~
26 ~~office~~ a branch operated by a financial institution. Any terminal
27 owned or operated by a seller of goods and services shall be
28 connected directly or indirectly to an acquiring financial

1 institution;

2 (11) Making loans includes advances or credits that are
3 initiated by means of credit card or other transaction card.
4 Transaction card and other transactions, including transactions
5 made pursuant to prior agreements, may be brought about and
6 transmitted by means of an electronic impulse. Such loan
7 transactions including transactions made pursuant to prior
8 agreements shall be subject to sections 8-815 to 8-829 and shall be
9 deemed loans made at the place of business of the financial
10 institution;

11 (12) Financial institution means a bank, savings bank,
12 building and loan association, savings and loan association,
13 industrial loan and investment company, credit union, or trust
14 company; ~~or other institution offering automatic teller machines;~~

15 (13) Financial institution employees includes parent
16 holding company and affiliate employees;

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

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

25 (16) Insolvent means a condition in which (a) the actual
26 cash market value of the assets of a bank is insufficient to pay
27 its liabilities to its depositors, (b) a bank is unable to meet the
28 demands of its creditors in the usual and customary manner, (c) a

1 bank, after demand in writing by the director, fails to make good
 2 any deficiency in its reserves as required by law, or (d) the
 3 stockholders of a bank, after written demand by the director, fail
 4 to make good an impairment of its capital or surplus; and

5 (17) Foreign state agency means any duly constituted
 6 regulatory or supervisory agency which has authority over financial
 7 institutions and which is created under the laws of any other
 8 state, any territory of the United States, Puerto Rico, Guam,
 9 American Samoa, the Trust Territory of the Pacific Islands, or the
 10 Virgin Islands or which is operating under the code of law for the
 11 District of Columbia.

12 Sec. 2. Section 8-157, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 8-157. (1) Except as otherwise provided in ~~subsections~~
 15 ~~(2) through (11)~~ of this section and ~~sections 8-122.01 and section~~
 16 8-2104, the general business of every bank shall be transacted at
 17 the place of business specified in its charter; -

18 (2) (a) ~~With the approval of the director, any bank may~~
 19 ~~maintain an attached branch bank if such branch bank is physically~~
 20 ~~connected by a pneumatic tube or tubes or a walkway, a tunnel, or~~
 21 ~~any other electronic, mechanical, or structural connection or~~
 22 ~~attachment for the public use of the bank and is within two hundred~~
 23 ~~feet of the building containing the premises specified as its place~~
 24 ~~of business in its charter or any adjacent connected building~~
 25 ~~housing a continuation of the operations of the bank's main office.~~

26 ~~(b)~~ With the approval of the director, any bank located
 27 in a ~~Class I or Class III county~~ this state may establish and
 28 maintain in ~~Class I and Class III counties~~ this state an unlimited

1 number of detached branch banks branches at which all banking
2 transactions allowed by law may be made.

3 ~~(c)(i) With the approval of the director, any bank~~
4 ~~located in a Class II county may establish and maintain not more~~
5 ~~than the number of detached branch banks permitted under~~
6 ~~subdivision (2)(c)(ii) of this section at which all banking~~
7 ~~transactions allowed by law may be made.~~

8 ~~(ii)(A) If the bank is located within the corporate~~
9 ~~limits of a city, such bank may establish and maintain not more~~
10 ~~than twelve such detached branch banks and such detached branch~~
11 ~~banks shall be within the corporate limits of the city.~~

12 ~~(B) If the bank is located within the zoning jurisdiction~~
13 ~~of a city of the primary class or is located within an~~
14 ~~unincorporated city or unincorporated area in a county which~~
15 ~~contains a city of the primary class, such bank may establish and~~
16 ~~maintain not more than nine such detached branch banks and such~~
17 ~~detached branch banks may also be within the corporate limits of~~
18 ~~such city if the bank was in existence at such location prior to~~
19 ~~April 4, 1996.~~

20 ~~(d) With the approval of the director, any bank located~~
21 ~~in a Class IV county may establish and maintain not more than six~~
22 ~~detached branch banks at which all banking transactions allowed by~~
23 ~~law may be made. Such detached branch banks shall be within the~~
24 ~~corporate limits of the city in which such bank is located.~~

25 ~~(e) Any detached branch bank established and maintained~~
26 ~~by a bank pursuant to an acquisition or merger under sections~~
27 ~~8-1506 to 8-1510 or an acquisition under section 8-1515 shall not~~
28 ~~be subject to the limitations as to location and number of~~

1 locations of detached branch banks contained in subdivisions ~~(b)~~,
 2 ~~(c)~~, and ~~(d)~~ of this subsection.

3 ~~(f)~~ (b) With the approval of the director, any bank or
 4 any detached branch bank which was chartered as a financial
 5 institution prior to being converted to a detached branch bank may
 6 establish and maintain a mobile branch bank at which all banking
 7 transactions allowed by law may be made. Such mobile branch bank
 8 may consist of one or more vehicles which may transact business
 9 only within the corporate limits of the city in which such bank or
 10 detached such branch bank which was chartered as a financial
 11 institution prior to being converted to a detached branch bank is
 12 located, except that (i) a mobile branch bank of a bank or detached
 13 of a branch bank which was chartered as a financial institution
 14 prior to being converted to a detached branch bank located in a
 15 Class I or Class III county, may transact business anywhere in
 16 Class I and III counties and (ii) a mobile branch bank of a bank or
 17 detached of a branch bank which was chartered as a financial
 18 institution prior to being converted to a detached branch bank
 19 located in a Class II county and within the zoning jurisdiction of
 20 a city of the primary class or within an unincorporated city or
 21 unincorporated area in a county which contains a city of the
 22 primary class may transact business within the corporate limits of
 23 such city if the bank or detached the branch bank which was
 24 chartered as a financial institution prior to being converted to a
 25 detached branch bank was in existence at such location prior to
 26 April 4, 1996.

27 ~~(g)~~ (c) For purposes of this ~~section~~ subsection:

28 (i) Class I county means a county in this state with a

1 population of three hundred thousand or more as determined by the
2 most recent federal decennial census;

3 (ii) Class II county means a county in this state with a
4 population of at least two hundred thousand and less than three
5 hundred thousand as determined by the most recent federal decennial
6 census;

7 (iii) Class III county means a county in this state with
8 a population of at least one hundred thousand and less than two
9 hundred thousand as determined by the most recent federal decennial
10 census; and

11 (iv) Class IV county means a county in this state with a
12 population of less than one hundred thousand as determined by the
13 most recent federal decennial census.

14 (3) With the approval of the director, a bank may
15 establish and maintain branches acquired ~~acquire another financial~~
16 ~~institution in Nebraska as the result of a purchase or merger~~
17 pursuant to section 8-1506 or 8-1516 and all banking transactions
18 allowed by law may be made at such branches. ~~Any detached branch~~
19 ~~banks established and maintained by a bank pursuant to a purchase~~
20 ~~or merger under section 8-1516 shall not be subject to the~~
21 ~~limitations as to location and number of locations of detached~~
22 ~~branch banks contained in subdivisions (2)(b), (2)(c), and (2)(d)~~
23 ~~of this section.~~ If the acquired institution is in a Class I
24 county or in a Class III county, following a purchase or merger
25 pursuant to this subsection the acquiring bank may establish and
26 maintain a mobile branch bank and detached branches to the same
27 extent that the acquired institution could have established and
28 maintained a mobile branch bank and detached branches as provided

1 in subdivisions (2)(b) and (2)(f) of this section or section
2 8-345.02 if the purchase or merger had not occurred. If the
3 acquired institution is in a Class II county and it has not
4 established a mobile branch bank and twelve or nine detached
5 branches as permitted by subdivision (2)(c)(ii)(A) or (2)(c)(ii)(B)
6 of this section, respectively, and subdivision (2)(f) of this
7 section or section 8-345.02, following a purchase or merger
8 pursuant to this subsection the acquiring bank may establish and
9 maintain a mobile branch bank and detached branch banks to the same
10 extent that the acquired institution could have established and
11 maintained a mobile branch bank and detached branches as provided
12 in subdivisions (2)(c) and (2)(f) of this section or section
13 8-345.02 if the purchase or merger had not occurred. If the
14 acquired institution is in a Class IV county and it has not
15 established a mobile branch bank and six detached branches as
16 permitted by subdivisions (2)(d) and (2)(f) of this section or
17 section 8-345.02, following a purchase or merger pursuant to this
18 subsection the acquiring bank may establish and maintain a mobile
19 branch bank and detached branches to the same extent that the
20 acquired institution could have established and maintained a mobile
21 branch bank and detached branches as provided in subdivisions
22 (2)(d) and (2)(f) of this section or section 8-345.02 if the
23 purchase or merger had not occurred. Regardless of the date of
24 acquisition of such financial institution or whether the acquired
25 financial institution was state-chartered or federally chartered,
26 the acquired institution shall be deemed for purposes of this
27 subsection to have been permitted to establish and maintain a
28 mobile branch bank and detached branches solely to the extent

1 permitted to ~~state-chartered~~ financial institutions under
2 subsection (2) of this section or under section ~~8-345.02~~ at the
3 time of establishment of a new mobile branch bank or detached
4 branch. For purposes of this subsection, financial institution or
5 institution means a bank, savings bank, building and loan
6 association, or savings and loan association organized under the
7 laws of this state or organized under the laws of the United States
8 to do business in this state.

9 (4) With the approval of the director, a bank may acquire
10 the assets and assume the deposits of a ~~detached~~ branch of another
11 financial institution in Nebraska if:

12 (a) The ~~acquired detached branch has been established,~~
13 ~~maintained, and operated for more than eighteen months, and~~

14 (b) The the ~~acquired detached branch~~ is converted to a
15 ~~detached branch bank~~ of the acquiring bank.

16 All banking transactions allowed by law may be made at a
17 ~~detached~~ branch acquired pursuant to this subsection. Such
18 ~~detached branches shall not be subject to the limitations as to~~
19 ~~location and number of locations of detached branch banks contained~~
20 ~~in subdivisions (2)(b), (2)(c), and (2)(d) of this section. The~~
21 ~~restrictions contained in this subsection shall not limit the~~
22 ~~authority of a bank to acquire another bank and to continue to~~
23 ~~operate the mobile branch bank and all of the detached branch banks~~
24 ~~of the acquired bank as a mobile branch bank and detached branch~~
25 ~~banks of the acquiring bank.~~

26 For purposes of this subsection, financial institution
27 means a bank, savings bank, building and loan association, or
28 savings and loan association organized under the laws of this state

1 or organized under the laws of the United States to do business in
2 this state.

3 (5) With the approval of the director, a bank may acquire
4 the assets and assume the deposits of a detached branch bank of
5 another bank in Nebraska or acquire the assets and assume the
6 deposits of an eligible savings association acquired by another
7 bank in Nebraska pursuant to section 8-1515 if:

8 (a) The acquired detached branch bank or eligible savings
9 association is converted to a detached branch bank of the acquiring
10 bank, and

11 (b) The detached branch bank or the eligible savings
12 association to be acquired was operated, established, and
13 maintained as an eligible savings association at its existing
14 location prior to August 9, 1989, and was maintained at such
15 location on such date.

16 All banking transactions allowed by law may be made at a
17 detached branch bank acquired pursuant to this subsection. Such
18 detached branch banks shall not be subject to the limitations as to
19 location and number of locations of detached branch banks contained
20 in subdivisions (2)(b), (2)(c), and (2)(d) of this section. The
21 restrictions contained in this subsection shall not limit the
22 authority of a bank to acquire another bank and to continue to
23 operate the mobile branch bank and all of the detached branch banks
24 of the acquired bank as a mobile branch bank and detached branch
25 banks of the acquiring bank. The detached branch bank or eligible
26 savings association acquired as a detached branch bank under this
27 subsection and section 8-1515 shall continue to be entitled to
28 establish and maintain such branches as it could have established

1 and maintained if such acquisition had not occurred. Regardless of
2 the date of acquisition of such detached branch bank or eligible
3 savings association or whether the acquired detached branch bank or
4 eligible savings association was state-chartered or federally
5 chartered, the acquired detached branch bank or eligible savings
6 association shall be deemed for purposes of this subsection to have
7 been permitted to establish and maintain a mobile branch bank and
8 detached branches solely to the extent permitted to state-chartered
9 financial institutions under subsection (2) of this section or
10 under section 8-345.02 at the time of establishment of a new mobile
11 branch bank or detached branch.

12 (6) With the approval of the director, a bank may acquire
13 a branch of a savings association which is a successor to an
14 eligible savings association if such acquisition occurs within
15 ninety days of the date the successor savings association acquired
16 the eligible savings association and the branch is converted to a
17 detached branch bank of the acquiring bank. The detached branch of
18 an eligible savings association acquired as a detached branch bank
19 under this subsection and section 8-1515 shall continue to be
20 entitled to establish and maintain a mobile branch bank and such
21 branches as it could have established and maintained if such
22 acquisition had not occurred. Regardless of the date of
23 acquisition of such detached branch of an eligible savings
24 association or whether the acquired detached branch of an eligible
25 savings association was state-chartered or federally chartered, the
26 acquired detached branch of an eligible savings association shall
27 be deemed for purposes of this subsection to have been permitted to
28 establish and maintain a mobile branch bank and detached branches

1 solely to the extent permitted to state-chartered financial
2 institutions under section 8-345.02 at the time of establishment of
3 a new mobile branch bank or detached branch.

4 ~~(7)~~ With the approval of the director and subject to the
5 limitations specified in this subsection, a single bank may
6 establish one detached branch bank within the corporate limits of
7 any municipality in which a financial institution has closed and
8 ceased doing business within the preceding two years if no other
9 financial institution operates an office within such municipality.
10 If thirty days or less have elapsed since the financial institution
11 ceased operation, the director shall only approve the establishment
12 of a detached branch bank by a bank which has its place of
13 business, as specified in its charter, in the same county as or in
14 a contiguous county to the county in which such municipality is
15 located. If more than thirty days have elapsed since the financial
16 institution ceased operation, the director may approve the
17 establishment of a detached branch bank by any bank located within
18 Nebraska.

19 For purposes of this subsection:

20 ~~(a)~~ An unattended automatic teller machine shall not be
21 deemed to be an office operated by a financial institution, and

22 ~~(b)~~ Financial institution means a bank, savings bank,
23 building and loan association, savings and loan association,
24 industrial loan and investment company, credit union, trust
25 company, or other institution offering automatic teller machine
26 transactions.

27 ~~(8)~~ (5) The name given to any detached branch bank
28 established and maintained pursuant to this section shall not be

1 substantially similar to the name of any existing bank or branch
 2 ~~bank~~ which is unaffiliated with the newly created ~~detached~~ branch
 3 ~~bank~~ and is located in the same ~~municipality~~ city, village, or
 4 county. The name of such newly created ~~detached~~ branch ~~bank~~ shall
 5 be approved by the director.

6 ~~(9)~~ (6) A bank which has a main chartered office or an
 7 approved branch ~~bank~~ located in the State of Nebraska may, through
 8 any of its executive officers, including executive officers
 9 licensed as such pursuant to section 8-139, or designated agents,
 10 conduct a loan closing at a location other than the place of
 11 business specified in the bank's charter or any ~~detached~~ branch
 12 thereof. ~~The director may adopt and promulgate rules and~~
 13 ~~regulations to implement the provisions of this section.~~

14 ~~(10)~~ (7) A bank which has a main chartered office or
 15 approved branch ~~office~~ located in the State of Nebraska may, upon
 16 notification to the department, establish savings account programs
 17 at any elementary or secondary school, whether public or private,
 18 ~~located~~ that has students who reside in the same city or village as
 19 the main chartered office or branch ~~office~~ of the bank, or, if the
 20 main office of the bank is located in an unincorporated area of a
 21 county, at any school ~~located~~ that has students who reside in the
 22 same unincorporated area. The savings account programs shall be
 23 limited to the establishment of individual student accounts and the
 24 receipt of deposits for such accounts.

25 ~~(11)~~ (8) Upon receiving an application for a ~~detached~~
 26 branch ~~bank~~ to be established pursuant to subdivision ~~(2)(b)~~,
 27 ~~(2)(c)~~, ~~or (2)(d)~~ (2)(a) of this section, for a mobile branch to be
 28 established pursuant to subdivision (2)(b) of this section, to

1 acquire a branch of another financial institution pursuant to
2 subsection (4) of this section, or to move the location of an
3 established branch, the director shall hold a public hearing on the
4 matter if he or she determines, in his or her discretion, that the
5 condition of the applicant bank warrants a hearing. If the
6 director determines that the condition of the bank does not warrant
7 a hearing, the director shall (a) publish a notice of the filing of
8 the application in a newspaper of general circulation in the county
9 where the proposed branch or mobile branch would be located, the
10 expense of which shall be paid by the applicant bank, and (b) give
11 notice of such application ~~for a detached branch bank~~ by certified
12 mail to all financial institutions located within the county where
13 the proposed ~~detached branch bank~~ or mobile branch would be
14 located, and to such other interested parties as the director may
15 determine. If the director receives any substantive objection to
16 the proposed ~~detached branch bank~~ or mobile branch within fifteen
17 days after publication or mailing of such notice, he or she shall
18 hold a hearing on the application. Notice of a hearing held
19 pursuant to this subsection shall be published for two consecutive
20 weeks in a newspaper of general circulation in the county where the
21 proposed branch or mobile branch would be located. The date for
22 hearing the application shall not be more than ninety days after
23 the filing of the application and not less than thirty days after
24 the last publication of notice of hearing.

25 Sec. 3. Section 8-157.01, Revised Statutes Supplement,
26 2000, is amended to read:

27 8-157.01. (1) Upon prior written notice to the director,
28 any financial institution which has a main chartered office or

1 approved branch ~~office~~ located in the State of Nebraska may
2 establish and maintain any number of automatic teller machines at
3 which all banking transactions, defined as receiving deposits of
4 every kind and nature and crediting such to customer accounts,
5 cashing checks and cash withdrawals, transfer of funds from
6 checking accounts to savings accounts, transfer of funds from
7 savings accounts to checking accounts, transfer of funds from
8 either checking accounts and savings accounts to accounts of other
9 customers, payment transfers from customer accounts into accounts
10 maintained by other customers of the financial institution or the
11 financial institution, including preauthorized draft authority,
12 preauthorized loans, and credit transactions, receiving payments
13 payable at the financial institution or otherwise, and account
14 balance inquiry, may be conducted. Any other transaction
15 incidental to the business of the financial institution or which
16 will provide a benefit to the financial institution's customers or
17 the general public may be conducted at an automatic teller machine
18 upon thirty days' prior written notice to the director if the
19 director does not object to the proposed other transaction within
20 the thirty-day notice period. Neither such automatic teller
21 machines nor the transactions conducted thereat shall be construed
22 as the establishment of a branch ~~bank~~ or as branch banking. Such
23 automatic teller machines shall be made available on a
24 nondiscriminating basis for use by customers of any financial
25 institution which has a main chartered office or approved branch
26 ~~office~~ located in the State of Nebraska which becomes a user
27 financial institution. It shall not be deemed discrimination if an
28 automatic teller machine does not offer the same transaction

1 services as other automatic teller machines or if there are no fees
2 charged between affiliate financial institutions for the use of
3 automatic teller machines.

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

1 other data processing centers. Nothing in this section may be
2 construed to prohibit nonbank employees from assisting in
3 transactions originated at the automatic teller machines, and such
4 assistance shall not be deemed to be engaging in the business of
5 banking. Such nonbank employees may be trained in the use of the
6 automatic teller machines by financial institution employees.

7 (3) An establishing financial institution shall not be
8 deemed to make an automatic teller machine available on a
9 nondiscriminating basis if, through personnel services offered,
10 advertising on or off the automatic teller machines premises, or
11 otherwise, it discriminates in the use of the automatic teller
12 machine against any user financial institution which has a main
13 chartered office or approved branch ~~office~~ located in the State of
14 Nebraska.

15 (4) (a) On and after August 1, 2000, any consumer
16 initiating an electronic funds transfer at an automatic teller
17 machine for which an automatic teller machine surcharge will be
18 imposed shall receive notice in accordance with the provisions of
19 15 U.S.C. 1693b(d) (3) (A) and (B), as it existed on the effective
20 date of this act. Such notice shall (i) be posted in a prominent
21 and conspicuous location on or at the automatic teller machine at
22 which the electronic funds transfer is initiated by the consumer
23 and (ii) appear on the screen of the automatic teller machine or
24 appear on a paper notice issued from such machine after the
25 transaction is initiated and before the consumer is irrevocably
26 committed to completing the transaction.

27 (b) Subdivision (a) (ii) of this subsection shall not
28 apply until January 1, 2005, to any automatic teller machine that

1 lacks the technical capability to disclose the notice on the screen
2 or to issue a paper notice after the transaction is initiated and
3 before the consumer is irrevocably committed to completing the
4 transaction.

5 (5) A point-of-sale terminal may be established at any
6 point within this state. A financial institution may contract with
7 a seller of goods and services or any other third party for the
8 operation of point-of-sale terminals. A point-of-sale terminal
9 shall be made available on a nondiscriminating basis for use by
10 customers of any financial institution which has a main chartered
11 office or approved branch ~~office~~ located in the State of Nebraska
12 which becomes a user financial institution. Nothing in this
13 subsection shall prohibit payment of fees to a financial
14 institution which issues an access device used to initiate
15 electronic funds transfer transactions at a point-of-sale terminal.

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

27 (7) Any financial institution, upon a request of the
28 director, shall file with the director a current listing of all

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

- 24 (8) Transactions at point-of-sale terminals may include:
- 25 (a) Check guarantees;
- 26 (b) Account balance inquiries;
- 27 (c) Transfers of funds from a customer's account for
28 payment to a seller's account for goods and services on whose

1 premises the point-of-sale terminal is located in payment for the
2 goods and services;

3 (d) Cash withdrawals by a customer from the customer's
4 account or accounts;

5 (e) Transfers between accounts of the same customers at
6 the same financial institution; and

7 (f) Such other transactions as the director, upon
8 application, notice, and hearing, may approve.

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

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

24 (10) All financial institutions shall be given an equal
25 opportunity for the use of and access to a switch, and no
26 discrimination shall exist or preferential treatment be given in
27 either the operation of such switch or the charges for use thereof.
28 The operation of such switch shall be with the approval of the

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

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

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

25 An automatic teller machine shall bear a logo type or
26 other identification symbol designed to advise customers that the
27 automatic teller machine may be activated by any access device
28 which complies with the generally accepted specifications. A

1 point-of-sale terminal shall either bear on the premises on which
2 the point-of-sale terminal is established shall contain a visible
3 logo type or other identification symbol designed to advise
4 customers that the point-of-sale terminal may be activated by any
5 access device which complies with the generally accepted
6 specifications. An automatic teller machine or point-of-sale
7 terminal may also bear, at the option of the establishing or
8 acquiring financial institution, any of the following:

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

14 (b) The logo type or symbol of any association,
15 corporation, or other entity or organization formed by one or more
16 of the financial institutions using such automatic teller machines
17 or point-of-sale terminals.

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

25 (14) If it is determined by the director, after notice
26 and hearing, that discrimination against any financial institution
27 has taken place, that one financial institution has been preferred
28 over another, or that any financial institution or person has not

1 complied with any of the provisions of this section, he or she
2 shall immediately issue a cease and desist order or an order for
3 compliance within ten days after the date of the order, and upon
4 noncompliance with such order, the offending financial institution
5 shall be subject to sections 8-1,135 to 8-1,138 and to having the
6 privileges granted in this section revoked.

7 (15) For purposes of this section:

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

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

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

21 (d) Acquiring financial institution means any financial
22 institution establishing a point-of-sale terminal;

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

25 (f) Electronic funds transfer means any transfer of
26 funds, other than a transaction originated by check, draft, or
27 similar paper instrument, that is initiated through a point-of-sale
28 terminal, an automatic teller machine, or a personal terminal for

1 the purpose of ordering, instructing, or authorizing a financial
2 institution to debit or credit an account;

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

7 (h) Financial institution means a state-chartered or
8 federally chartered bank, savings bank, building and loan
9 association, savings and loan association, industrial loan and
10 investment company, or credit union;

11 (i) Personal identification number means a combination of
12 numerals or letters selected for a customer of a financial
13 institution, a merchant, or any other third party which is used in
14 conjunction with an access device to initiate an electronic funds
15 transfer transaction;

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

20 (k) User financial institution means any financial
21 institution which desires to avail itself of and provide its
22 customers with automatic teller machine or point-of-sale terminal
23 services.

24 (16) Nothing in this section prohibits ordinary
25 clearinghouse transactions between financial institutions.

26 (17) Nothing in this section requires any federally
27 chartered establishing financial institution to obtain the approval
28 of the director for the establishment of any automatic teller

1 machine.

2 (18) Nothing in this section shall prevent any financial
3 institution which has a main chartered office or an approved branch
4 ~~office~~ located in the State of Nebraska from participating in a
5 national automatic teller machine program to allow its customers to
6 use automatic teller machines located outside of the State of
7 Nebraska which are established by out-of-state financial
8 institutions or to allow customers of out-of-state financial
9 institutions to use its automatic teller machines located in the
10 State of Nebraska. Such participation and any automatic teller
11 machine usage fees charged or received pursuant to the national
12 automatic teller machine program shall not be considered for
13 purposes of determining if an automatic teller machine located in
14 the State of Nebraska has been made available on a
15 nondiscriminating basis for use by customers of any financial
16 institution which has a main chartered office or approved branch
17 ~~office~~ located in the State of Nebraska which becomes a user
18 financial institution.

19 Sec. 4. Section 8-183.05, Revised Statutes Supplement,
20 2000, is amended to read:

21 8-183.05. (1) Upon the issuance of a state bank charter
22 to a converting savings association, the corporate existence of the
23 converting association shall not terminate, but such bank shall be
24 a continuation of the entity so converted and all property of the
25 converted savings association, including its rights, titles, and
26 interests in and to all property of whatever kind, whether real,
27 personal, or mixed, things in action, and every right, privilege,
28 interest, and asset of any conceivable value or benefit then

1 existing, or pertaining to it, or which would inure to it,
2 immediately, by operation of law and without any conveyance or
3 transfer and without any further act or deed, shall vest in and
4 remain the property of such converted savings association, and the
5 same shall have, hold, and enjoy the same in its own right as fully
6 and to the same extent as the same was possessed, held, and enjoyed
7 by the converting savings association.

8 (2) Upon issuance of the charter, the new state bank
9 shall continue to have and succeed to all the rights, obligations,
10 and relations of the converting savings association.

11 (3) All pending actions and other judicial proceedings to
12 which the converting savings association is a party shall not be
13 abated or discontinued by reason of such conversion but may be
14 prosecuted to final judgment, order, or decree in the same manner
15 as if such conversion had not been made, and such converted savings
16 association may continue the actions in its new corporate name.
17 Any judgment, order, or decree may be rendered for or against the
18 converting savings association theretofore involved in the
19 proceedings.

20 (4) Nothing in this section shall be construed to
21 authorize a converted savings association to establish ~~detached~~
22 ~~branch banks~~ branches except as permitted by section 8-157 and the
23 Interstate Branching by Merger Act of 1997. This subsection shall
24 not be construed to require divestiture of any ~~branch offices~~
25 branches of a savings association in existence at the time of the
26 conversion to a state bank charter.

27 Sec. 5. Section 8-234, Revised Statutes Supplement,
28 2000, is amended to read:

1 8-234. (1) With the approval of the Director of Banking
2 and Finance, a corporation organized to do business as a trust
3 company under the Nebraska Trust Company Act may establish and
4 maintain branch trust offices within this state and in any other
5 state pursuant to section 8-2303.

6 (2) A corporation organized to do business as a trust
7 company under the Nebraska Trust Company Act, in order to establish
8 a branch trust office in Nebraska pursuant to subsection (1) of
9 this section, shall apply to the Director of Banking and Finance on
10 a form prescribed by the director. Upon receipt of a substantially
11 complete application, the director shall hold a public hearing on
12 the matter if he or she determines, in his or her discretion, that
13 the condition of the corporation organized to do business as a
14 trust company warrants a hearing. If the director determines that
15 the condition of the corporation organized to do business as a
16 trust company does not warrant a hearing, the director shall (a)
17 publish a notice of the filing of the application in a newspaper of
18 general circulation in the county where the proposed branch trust
19 office would be located, the expense of which shall be paid by the
20 corporation organized to do business as a trust company, and (b)
21 give notice of such application for a branch trust office by
22 certified mail to all financial institutions within the county
23 where the proposed branch trust office would be located and to such
24 other interested parties as the director may determine. If the
25 director receives a substantive objection to the proposed branch
26 trust office within fifteen days after publication or mailing of
27 such notice, he or she shall hold a hearing on the application.
28 Notice of a hearing held pursuant to this subsection shall be

1 published for two consecutive weeks in a newspaper of general
2 circulation in the county where the proposed branch would be
3 located, the expense of which shall be paid by the trust company.
4 The date for hearing the application shall not be more than ninety
5 days after the filing of the application and not less than
6 thirty-one days after the last publication of notice of hearing.
7 The costs of the hearing shall be assessed in accordance with the
8 rules and regulations of the Department of Banking and Finance.

9 (3) The director shall approve the application for a
10 branch trust office if he or she finds that (a) the establishment
11 of the branch trust office would not adversely affect the financial
12 condition of the corporation organized to do business as a trust
13 company, (b) there is a need in the community for the branch trust
14 office, and (c) establishment of the branch trust office would be
15 in the public interest.

16 (4) With the approval of the director, a state-chartered
17 bank authorized to conduct a trust business pursuant to sections
18 8-159 to 8-162 may establish and maintain branch trust offices
19 within this state and in any other state pursuant to section
20 8-2303. The procedure for the establishment of any branch trust
21 office under this subsection shall be the same as provided in
22 subsections (2) and (3) of this section. The activities at the
23 branch trust office shall be limited to the activities permitted by
24 the Nebraska Trust Company Act, and the general business of banking
25 shall not be conducted at the branch trust office. Nothing in this
26 subsection is intended to prohibit the establishment of a branch
27 ~~bank~~ pursuant to section 8-157 at which trust business may be
28 conducted.

1 (5) A branch trust office of a corporation organized to
2 do business as a trust company or of a state-chartered bank shall
3 not be closed without the prior written approval of the director.

4 Sec. 6. Section 8-345.02, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 8-345.02. No building and loan association organized
7 under the provisions of Chapter 8, article 3, shall establish any
8 new ~~detached~~ branch ~~within this state~~ on or after March 26, 1992,
9 except to the extent provided for banks in ~~subsection (2) of~~
10 section 8-157.

11 Sec. 7. Section 8-602, Revised Statutes Supplement,
12 2000, is amended to read:

13 8-602. The Director of Banking and Finance shall charge
14 and collect fees for certain services rendered by the Department of
15 Banking and Finance according to the following schedule:

16 (1) For filing and examining articles of incorporation,
17 association, and bylaws, except cooperative credit associations and
18 credit unions, one hundred dollars, and for cooperative credit
19 associations and credit unions, fifty dollars;

20 (2) For filing and examining an amendment to articles of
21 incorporation, association, and bylaws, except cooperative credit
22 associations and credit unions, fifty dollars, for cooperative
23 credit associations, twenty-five dollars, and for credit unions,
24 fifteen dollars;

25 (3) For issuing to banks, trust companies, building and
26 loan associations, and industrial loan and investment companies a
27 charter, authority, or license to do business in this state, a sum
28 which shall be determined on the basis of one dollar and fifty

1 cents for each one thousand dollars of authorized capital, except
2 that the minimum fee in each case shall be two hundred twenty-five
3 dollars;

4 (4) For issuing to cooperative credit associations a
5 charter, authority, or license to do business in this state,
6 twenty-five dollars;

7 (5) For issuing an executive officer's or loan officer's
8 license, fifty dollars at the time of the initial license and
9 fifteen dollars on or before January 15 each year thereafter,
10 except cooperative credit associations and credit unions for which
11 the fee shall be twenty-five dollars at the time of the initial
12 license and fifteen dollars on or before January 15 each year
13 thereafter;

14 (6) For affixing certificate and seal, five dollars;

15 (7) For making a photostatic copy of instruments,
16 documents, or any other departmental records and for providing a
17 computer-generated document, one dollar and fifty cents per page;

18 (8) For making substitution of securities held by it and
19 issuing a receipt, fifteen dollars;

20 (9) For issuing a certificate of approval to a credit
21 union, ten dollars;

22 (10) For investigating the applications required by
23 sections 8-120, 8-331, and 8-403 and the documents required by
24 sections 8-201, 21-1312, and 21-1313, the cost of such examination,
25 investigation, and inspection, including all legal expenses and the
26 cost of any hearing transcript, with a minimum fee under (a)
27 section 8-120 of two thousand five hundred dollars, (b) section
28 8-331 of two thousand dollars, (c) section 8-403 of two thousand

1 five hundred dollars, and (d) sections 8-201, 21-1312, and 21-1313
2 of one thousand dollars. The department may require the applicant
3 to procure and give a surety bond in such principal amount as the
4 department may determine and conditioned for the payment of the
5 fees provided in this subdivision;

6 (11) For registering a statement of intention to engage
7 in the business of making personal loans pursuant to section 8-816,
8 fifty dollars;

9 (12) To meet the expense of safekeeping securities as
10 provided in section 8-210, the company, national bank, federal
11 savings association, federally chartered trust company,
12 out-of-state trust company authorized under the Interstate Trust
13 Company Office Act, or state-chartered bank shall, at the time of
14 the initial deposit of such securities, pay one dollar and fifty
15 cents for each thousand dollars of securities deposited and a like
16 amount on or before January 15 each year thereafter;

17 (13) For investigating an application to move its
18 location within the city or village limits of its original license
19 or charter for banks, trust companies, building and loan
20 associations, and industrial loan and investment companies, two
21 hundred fifty dollars;

22 (14) For investigating an application for approval to
23 establish or acquire a ~~detached~~ branch ~~bank~~ or to establish a
24 mobile branch pursuant to section 8-157, two hundred fifty dollars;

25 (15) For filing a notice to establish an automatic teller
26 machine, fifteen dollars;

27 (16) For investigating a notice of acquisition of control
28 under subsection (1) of section 8-1502, five hundred dollars;

1 (17) For investigating an application for a
2 cross-industry merger under section 8-1510, five hundred dollars;

3 (18) For investigating an application for a merger of two
4 state banks or a merger of a state bank and a national bank in
5 which the state bank is the surviving entity, five hundred dollars;

6 (19) ~~For investigating an application for a purchase of~~
7 ~~an eligible savings association under section 8-1515, five hundred~~
8 ~~dollars;~~

9 ~~(20)~~ For investigating an application or a notice to
10 establish a branch trust office, five hundred dollars; and

11 ~~(21)~~ (20) For investigating an application or a notice to
12 establish a representative trust office, five hundred dollars.

13 All fees and money collected by or paid to the department
14 under any of the provisions of Chapter 8, 21, or 45 or any other
15 law shall, if and when specifically appropriated by the Legislature
16 during any biennium, constitute the Financial Institution
17 Assessment Cash Fund for the use of the department during any
18 biennium in administering the provisions of such chapters and any
19 duties imposed upon the department by any other law, and all of
20 such money when appropriated shall be appropriated for the purposes
21 expressed in this section.

22 Sec. 8. Section 8-910, Revised Statutes Supplement,
23 2000, is amended to read:

24 8-910. (1) It shall be unlawful, except as provided in
25 this section, for:

26 (a) Any action to be taken that causes any company to
27 become a bank holding company;

28 (b) Any action to be taken that causes a bank to become a

1 subsidiary of a bank holding company;

2 (c) Any bank holding company to acquire direct or
3 indirect ownership or control of any voting shares of any bank if,
4 after such acquisition, such company will directly or indirectly
5 own or control more than twenty-five percent of the voting shares
6 of such bank;

7 (d) Any bank holding company or subsidiary thereof, other
8 than a bank, to acquire all or substantially all of the assets of a
9 bank; or

10 (e) Any bank holding company to merge or consolidate with
11 any other bank holding company.

12 (2) The prohibition set forth in subsection (1) of this
13 section shall not apply if:

14 (a) (i) The bank holding company is registered with the
15 department as of September 29, 1995, as a bank holding company for
16 any bank or banks; or (ii) the bank holding company registers with
17 the department in accordance with the provisions of section 8-913
18 as a bank holding company;

19 (b) The bank holding company does not have a name
20 deceptively similar to an existing unaffiliated bank or bank
21 holding company located in Nebraska;

22 (c) (i) Prior to the effective date of this act, upon ~~upon~~
23 any action referred to in subsection (1) of this section and
24 subject to subsection (3) of this section, the bank or banks so
25 owned or controlled would have deposits in Nebraska in an amount no
26 greater than fourteen percent of the total deposits of all banks in
27 Nebraska plus the total deposits, savings accounts, passbook
28 accounts, and shares in savings and loan associations and building

1 and loan associations in Nebraska as determined by the director on
2 the basis of the most recent midyear reports, except as provided in
3 subsections (4) and (5) of this section;

4 (ii) On and after the effective date of this act and
5 prior to July 1, 2004, upon any action referred to in subsection
6 (1) of this section and subject to subsection (3) of this section,
7 the bank or banks so owned or controlled would have deposits in
8 Nebraska in an amount no greater than twenty percent of the total
9 deposits of all banks in Nebraska plus the total deposits, savings
10 accounts, passbook accounts, and shares in savings and loan
11 associations and building and loan associations in Nebraska as
12 determined by the director on the basis of the most recent midyear
13 reports, except as provided in subsections (4) and (5) of this
14 section;

15 (iii) On and after July 1, 2004, and prior to July 1,
16 2007, upon any action referred to in subsection (1) of this section
17 and subject to subsection (3) of this section, the bank or banks so
18 owned or controlled would have deposits in Nebraska in an amount no
19 greater than twenty-two percent of the total deposits of all banks
20 in Nebraska plus the total deposits, savings accounts, passbook
21 accounts, and shares in savings and loan associations and building
22 and loan associations in Nebraska as determined by the director on
23 the basis of the most recent midyear reports, except as provided in
24 subsections (4) and (5) of this section; and

25 (iv) On and after July 1, 2007, upon any action referred
26 to in subsection (1) of this section and subject to subsection (3)
27 of this section, the bank or banks so owned or controlled would
28 have deposits in Nebraska in an amount no greater than twenty-five

1 percent of the total deposits of all banks in Nebraska plus the
2 total deposits, savings accounts, passbook accounts, and shares in
3 savings and loan associations and building and loan associations in
4 Nebraska as determined by the director on the basis of the most
5 recent midyear reports, except as provided in subsections (4) and
6 (5) of this section;

7 (d) The bank holding company is adequately capitalized
8 and adequately managed;

9 (e) The bank holding company complies with sections
10 8-1501 to 8-1505 if the bank or banks to be acquired are chartered
11 in this state under the Nebraska Banking Act; and

12 (f) The bank holding company, if an out-of-state bank
13 holding company, complies with the limitations of section 8-911.

14 (3) If any person, association, partnership, limited
15 liability company, or corporation owns or controls twenty-five
16 percent or more of the voting stock of any bank holding company
17 acquiring a bank and any such person, association, partnership,
18 limited liability company, or corporation owns or controls
19 twenty-five percent or more of the voting stock of any other bank
20 or bank holding company in Nebraska, then the total deposits of
21 such other bank or banks and of all banks in Nebraska owned or
22 controlled by such bank holding company shall be included in the
23 computation of the total deposits of a bank holding company
24 acquiring a bank.

25 (4) A bank or bank holding company which acquires and
26 holds all or substantially all of the voting stock of one newly
27 established bank under sections 8-1512 and 8-1513 shall not have
28 such acquisition count against the limitations set forth in

1 subdivision (2)(c) of this section.

2 (5) A bank holding company which acquired an institution
3 or which formed a bank which acquired an institution under sections
4 8-1506 to 8-1510 or which acquired any assets and liabilities from
5 the Resolution Trust Corporation or the Federal Deposit Insurance
6 Corporation prior to January 1, 1994, shall not have such
7 acquisition or formation count against the limitations set forth in
8 subdivision (2)(c) of this section.

9 Sec. 9. Section 8-1507, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 8-1507. Pursuant to section 8-1506, the Department of
12 Banking and Finance may permit cross-industry acquisition of any
13 failing financial institution or permit acquisition and operation
14 of such financial institution as a bank subsidiary by a bank
15 holding company when the department determines the acquisition of
16 any of the financial institutions is necessary because its capital
17 is impaired, it is conducting its business in an unsafe or
18 unauthorized manner, or it is endangering the interests of
19 depositors or savers. If the acquiring institution is a bank, it
20 may continue to operate such financial institution in its original
21 form notwithstanding its denomination as a bank subsidiary.
22 Acquisitions by any financial institution under sections 8-1506 to
23 8-1510 or section 8-1516 shall be deemed to be of the same nature
24 as an acquisition of a state-chartered bank and shall follow such
25 rules or regulations established by the Director of Banking and
26 Finance for acquisition of state-chartered banks by a bank holding
27 company. ~~The failing institution acquired under this section shall~~
28 ~~continue to be entitled to establish and maintain such branches as~~

1 it could have established and maintained if such acquisition had
2 not occurred. Regardless of the date of acquisition of such
3 failing institution or whether the acquired failing institution was
4 ~~state-chartered or federally chartered,~~ the acquired failing
5 institution shall be deemed for purposes of this section to have
6 been permitted to establish and maintain detached branches solely
7 to the extent permitted to ~~state-chartered financial institutions~~
8 under subsection (2) of section ~~8-157~~ or under section ~~8-345.02~~ at
9 the time of establishment of a new detached branch.

10 Sec. 10. Section 8-1516, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 8-1516. (1) (a) ~~Except as provided in subsection (2) of~~
13 ~~this section, subsections (4), (5), and (6) of section 8-157, and~~
14 ~~sections 8-1507 and 8-1515, with With the approval of the director,~~
15 a bank may only acquire another bank in Nebraska as a result of a
16 purchase or merger ~~(i) in any case in which a substantially~~
17 ~~completed application for acquisition or merger has been filed with~~
18 ~~the director prior to April 4, 1996, if (A) the acquired bank has~~
19 ~~been chartered for more than eighteen months and (B) the acquired~~
20 ~~bank and its detached branch banks are converted to detached branch~~
21 ~~banks of the acquiring bank or (ii) in any case in which an~~
22 ~~application for acquisition or merger is filed with the director on~~
23 ~~or after April 4, 1996, if (A) the acquiring bank and the acquired~~
24 ~~bank have each been chartered for more than eighteen months and (B)~~
25 ~~the acquired bank and its detached branch banks branches are~~
26 ~~converted to detached branch banks branches of the acquiring bank.~~

27 (b) ~~Except as provided in subsection (2) of this section,~~
28 ~~with With the approval of the director, a financial institution may~~

1 only acquire another financial institution in Nebraska as a result
2 of a cross-industry merger or acquisition under section 8-1510 ~~(i)~~
3 ~~in any case in which a substantially completed application for such~~
4 ~~cross-industry acquisition or merger has been filed with the~~
5 ~~director prior to April 4, 1996, if (A) the acquired financial~~
6 ~~institution and its detached branches are converted to detached~~
7 ~~branches of the acquiring financial institution and (B) section~~
8 ~~8-1510 has been satisfied or (ii) in any case in which an~~
9 ~~application for such cross-industry acquisition or merger has been~~
10 ~~filed with the director on or after April 4, 1996, if (A) the~~
11 ~~acquiring financial institution and the acquired financial~~
12 ~~institution have each been chartered for more than eighteen months,~~
13 ~~(B) (i) the acquired financial institution and its detached~~
14 ~~branches are converted to detached branches of the acquiring~~
15 ~~financial institution, and (C) (ii) section 8-1510 has been~~
16 ~~satisfied.~~

17 (2) ~~Subdivisions (1)(a)(i), (1)(a)(ii), (1)(b)(i)(A),~~
18 ~~(1)(b)(ii)(A), and (1)(b)(ii)(B) of this section shall not apply to~~
19 ~~any application for merger in which a financial institution has~~
20 ~~been organized to merge with an existing financial institution when~~
21 ~~the acquiring financial institution is at the same location as the~~
22 ~~former existing financial institution following the merger and the~~
23 ~~merger involves a purchase of substantially all of the assets and~~
24 ~~liabilities of the former existing financial institution.~~

25 ~~(3) For purposes of this section:~~

26 (a) Bank means a bank organized under the laws of this
27 state or organized under the laws of the United States to do
28 business in this state; and

1 (b) Financial institution means a bank, savings bank,
2 savings and loan association, building and loan association, trust
3 company, industrial loan and investment company, or credit union,
4 organized under the laws of this state or organized under the laws
5 of the United States to do business in this state.

6 Sec. 11. Section 8-2104, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 8-2104. (1) A Nebraska bank which has been in existence
9 for five years or more may be acquired by and engage in an
10 interstate merger transaction with any out-of-state bank.

11 (2) A bank which is acquired and converted to a branch
12 ~~bank~~ of an out-of-state bank pursuant to an interstate merger
13 transaction shall have all the powers and be subject to the same
14 limitations as any other branch located in this state.

15 (3) An out-of-state bank that has acquired a Nebraska
16 bank under the Interstate Branching By Merger Act of 1997 may
17 maintain and operate the branches of a Nebraska bank with which the
18 out-of-state bank engaged in an interstate merger transaction, and
19 may establish or acquire additional branches in this state, to the
20 same extent that any Nebraska bank may establish or acquire a
21 branch in Nebraska.

22 (4) All branches of an out-of-state bank shall comply
23 with all applicable Nebraska laws and regulations in the conduct of
24 their business in this state to the maximum extent authorized by
25 federal law.

26 Sec. 12. Section 81-1298, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 81-1298. For purposes of the Microenterprise Development

1 Act:

2 (1) Commercial lending institution means ~~any financial~~
3 ~~institution as defined in subsection (4) of section 8-157~~ a bank,
4 savings bank, building and loan association, or savings and loan
5 association organized under the laws of this state or organized
6 under the laws of the United States to do business in this state;

7 (2) Department means the Department of Economic
8 Development;

9 (3) Microenterprise means any business, whether new or
10 existing, with five or fewer employees and includes startup,
11 home-based, and self-employed businesses;

12 (4) Microloan means any business loan up to twenty-five
13 thousand dollars;

14 (5) Microloan delivery organization means any
15 community-based or nonprofit program which has developed a viable
16 plan for providing training, access to financing, and technical
17 assistance for microenterprises and which meets the criteria and
18 qualifications established for the act;

19 (6) Operating costs means the costs associated with
20 administering a loan or a loan guaranty, administering a revolving
21 loan program, or providing for business training and technical
22 assistance to a microloan recipient;

23 (7) Program means the Microenterprise Partnership
24 Program;

25 (8) Selection process means the procedures adopted by the
26 department, as specified in section 81-12,100 and in collaboration
27 with any statewide microloan delivery organization, by which grant
28 recipients are selected; and

1 (9) Statewide microlending support organization means any
2 community-based or nonprofit organization which has a demonstrated
3 capacity and a plan for providing and administering grants or loans
4 to microloan delivery organizations.

5 Sec. 13. Original sections 8-157, 8-345.02, 8-1507,
6 8-1516, 8-2104, and 81-1298, Reissue Revised Statutes of Nebraska,
7 sections 8-101, 8-157.01, 8-183.05, 8-234, 8-602, and 8-910,
8 Revised Statutes Supplement, 2000, and section 8-355, Revised
9 Statutes Supplement, 2001, are repealed.

10 Sec. 14. The following section is outright repealed:
11 Section 8-1515, Reissue Revised Statutes of Nebraska.