A BILL FOR AN ACT relating to banking and finance; to amend section
8-115, Reissue Revised Statutes of Nebraska, and sections 8-101.02,
8-101.03, 8-102, 8-113, 8-148.09, 8-601, 8-602, 8-701, and 8-702,
Revised Statutes Cumulative Supplement, 2020; to adopt the Nebraska
Financial Innovation Act; to create digital asset depository
institutions and provide for charter, operation, supervision, and
regulation of such institutions; to harmonize provisions; to provide
an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 28 of this act shall be known and may be cited as the Nebraska Financial Innovation Act.

Sec. 2. The Legislature finds and declares that:

(1) Economic development initiatives demand buy-in and input from community stakeholders across multiple industries. The Legislature should send a strong message that Nebraska wants to bring high-tech jobs and digital asset operations to our state. Nebraska has an incredible opportunity to be a leader in this emerging technology;

(2) Nebraska desires to create an entrepreneurial ecosystem where young talent can be paired with private investors in order to create jobs, enhance our quality of life, and prevent the brain drain that is particularly acute in rural Nebraska. If Nebraska does not make intentional and meaningful changes to how it recruits and retains young people, Nebraska will be left behind;

(3) The rapid innovation of blockchain and digital ledger technology, including the growing use of virtual currency and other digital assets, has resulted in many blockchain innovators and consumers being unable to access secure and reliable banking services, hampering development of blockchain services and products in the marketplace;

(4) Blockchain innovators have greater compliance challenges with federal customer identification, anti-money laundering, and beneficial ownership requirements because of the complex nature of these obligations and the unfamiliarity of regulators with blockchain innovators' businesses;

(5) These intricate obligations have resulted in many financial institutions in Nebraska and across the United States refusing to provide banking services to blockchain innovators and customers and also refusing to accept deposits in United States currency obtained from the sale of virtual currency or other digital assets;

(6) Compliance with applicable federal and state laws, including know your customer and anti-money laundering rules and the federal Bank
Secrecy Act, is critical to ensuring the future growth and reputation of the blockchain and technology industries as a whole;

(7) A Nebraska financial institution that has expertise with customer identification, anti-money laundering, and beneficial ownership requirements could seamlessly integrate these requirements into its operating model; and

(8) Authorizing digital asset depository institutions to be chartered in Nebraska will provide a necessary and valuable service to blockchain innovators and depositors, emphasize Nebraska's partnership with the technology and financial industry, safely grow this state's ever-evolving financial sector, and afford more opportunities for Nebraska residents.

Sec. 3. For purposes of the Nebraska Financial Innovation Act:

(1) Department means the Department of Banking and Finance;

(2) Digital asset depository institution means a bank or financial institution that securely holds liquid financial assets when such assets are in the form of binary data which is self-contained, uniquely identifiable, and has a value or an ability to use; and

(3) Director means the Director of Banking and Finance.

Sec. 4. If any provision of law conflicts with the Nebraska Financial Innovation Act, the provisions of the act shall control.

Sec. 5. (1) Consistent with the Nebraska Financial Innovation Act, a digital asset depository institution shall be organized as a corporation under the Nebraska Model Business Corporation Act to exercise the powers set forth in subsection (2) of this section.

(2) Each digital asset depository institution may:

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

(b) Sue and be sued;

(c) Receive notes and buy and sell gold and silver coins and bullion as permitted by federal law;

(d) Carry on a nonlending banking business for depositors,
consistent with subsection (3) of this section;

(e) Provide payment services upon the request of a depositor;

(f) Make an application to become a member bank of the federal
reserve system;

(g) Issue digital assets representing a digital contract for non-
digital assets, including currencies of payment, provided that the
digital asset depository institution maintains required liquid assets as
specified in section 7 of this act;

(h) Engage in any other activity that is usual or incidental to the
business of banking, subject to the prior written approval of the
director. The director shall not approve a request to engage in an
incidental activity if the director finds that the requested activity
will adversely affect the solvency or the safety and soundness of the
digital asset depository institution or conflict with any provision of
the Nebraska Financial Innovation Act; and

(i) Exercise powers and rights otherwise authorized by law which are
not inconsistent with the Nebraska Financial Innovation Act.

(3) Except as otherwise provided in this subsection, a digital asset
depository institution shall not make loans, including the provision of
temporary credit relating to overdrafts. Notwithstanding this prohibition
against direct lending by a digital asset depository institution, a
digital asset depository institution may facilitate the provision of
financial services resulting from the interaction of depositors with
decentralized platforms including, but not limited to, digital asset
exchange, staking, lending, and borrowing. A digital asset depository
institution may purchase debt obligations specified by subdivision (2)(c)
of section 7 of this act.

(4) A digital asset depository institution shall maintain its
principal operating headquarters and the primary office of its chief
executive officer in Nebraska.

(5) As otherwise authorized by this section, the digital asset
depository institution may conduct business with depositors outside this state.

(6) Subject to the laws of the host state, a digital asset depository institution may open a branch in another state in the manner set forth in section 8-157 or 8-2303. A digital asset depository institution, including any branch of the depository institution, may only accept deposits or provide other services under the Nebraska Financial Innovation Act to depositors engaged in a bona fide business which is lawful under the laws of Nebraska, the laws of the host state, and federal law.

Sec. 6. (1) No depositor shall maintain an account with a digital asset depository institution or otherwise receive any services from the institution unless the depositor meets the criteria of this subsection. A depositor shall:

(a) Make sufficient evidence available to the digital asset depository institution to enable compliance with anti-money laundering, customer identification, and beneficial ownership requirements, as determined by the institution; and

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

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

(ii) Be engaged in a lawful, bona fide business, consistent with subsection (3) of this section and subsection (6) of section 5 of this act.

(2) A depositor which meets the criteria of subsection (1) of this section shall be issued a depository institution account and otherwise receive services from the digital asset depository institution, contingent on the availability of sufficient insurance under subsection (5) of section 21 of this act.

(3) Consistent with subdivisions (2)(d) and (e) of section 5 of this act, and in addition to any requirements specified by federal law, a
digital asset depository institution shall require that any potential
depositor that is a legal entity other than a natural person provide
reasonable evidence that the entity is engaged in a lawful, bona fide
business, or is likely to open a lawful, bona fide business within the
next six months. For purposes of this subsection, reasonable evidence
includes business entity filings, articles of incorporation or
organization, bylaws, operating agreements, business plans, promotional
materials, financing agreements, or other evidence.

Sec. 7. (1) At all times, a digital asset depository institution
shall maintain unencumbered liquid assets valued at not less than one
hundred percent of its depository institution liabilities.

(2) For purposes of this section, liquid assets means:
(a) United States currency held on the premises of the digital asset
depository institution;

(b) United States currency held for the digital asset depository
institute by a federal reserve bank or a federally insured financial
institution; or

(c) Investments which are highly liquid and obligations of the
United States treasury or other federal agency obligations, consistent
with rules and regulations adopted by the director.

Sec. 8. (1) A digital asset depository institution shall maintain a
contingency account to account for unexpected losses and expenses. A
digital asset depository institution may require the payment of
contributions from depositors to fund a contingency account. Initial
capital under section 12 of this act shall constitute compliance with
this subsection for the first three years a digital asset depository
institution is in operation. After the conclusion of the first three
years of operation, a digital asset depository institution shall maintain
a contingency account totaling not less than two percent of the
depository institution liabilities of the digital asset depository
institution, provided that the contingency account shall be adequate and
reasonable in light of current and prospective business conditions, as
determined by the director.

(2) A depositor shall obtain a refund of any contingency account
contributions made under subsection (1) of this section after closing an
account with the digital asset depository institution.

Sec. 9. A digital asset depository institution shall comply with
all applicable federal laws, including those relating to anti-money
laundering, customer identification, and beneficial ownership.

Sec. 10. (1) A digital asset depository institution shall display
on any Internet web site it maintains, and at each window or place where
it accepts deposits, a sign conspicuously stating that deposits are not
insured by the Federal Deposit Insurance Corporation, if applicable.

(2) Upon opening an account and if applicable, a digital asset
depository institution shall require each depositor to execute a
statement acknowledging that all deposits at the digital asset depository
institution are not insured by the Federal Deposit Insurance Corporation.
The digital asset depository institution shall permanently retain this
acknowledgment.

(3) A digital asset depository institution shall include in all
advertising a disclosure that deposits are not insured by the Federal
Deposit Insurance Corporation, if applicable.

Sec. 11. (1) Except as otherwise provided by subsection (5) of this
section, five or more adult persons may form a digital asset depository
institution. The incorporators shall subscribe the articles of
incorporation and transmit them to the director as part of an application
for a charter under section 13 of this act.

(2) The articles of incorporation shall include the following
information:

(a) The corporate name;

(b) The object for which the corporation is organized;

(c) The term of its existence, which may be perpetual:
(d) The place where its office shall be located and its operations conducted;

(e) The amount of capital stock and the number of shares;

(f) The name and residence of each shareholder subscribing to more than ten percent of the stock and the number of shares owned by that shareholder;

(g) The number of directors and the names of those who shall manage the affairs of the corporation for the first year; and

(h) A statement that the articles of incorporation are made to enable the incorporators to avail themselves of the advantages of the laws of the state.

(3) Copies of all amended articles of incorporation shall be filed in the same manner as the original articles of incorporation.

(4) The incorporators shall solicit capital prior to filing an application for a charter with the director, consistent with section 12 of this act. In the event an application for a charter is not filed or is denied by the director, all capital shall be promptly returned without loss.

(5) Subject to applicable federal and state law, a bank holding company may apply to hold a digital asset depository institution.

Sec. 12. (1) The capital stock of each digital asset depository institution chartered under the Nebraska Financial Innovation Act shall be subscribed for as fully paid stock. No digital asset depository institution shall be chartered with capital stock of less than five million dollars.

(2) No digital asset depository institution shall commence business until the full amount of its authorized capital is subscribed and all capital stock is fully paid in. No digital asset depository institution may be chartered without a paid-up surplus fund of not less than three years of estimated operating expenses in the amount disclosed pursuant to subsection (2) of section 13 of this act or in another amount required by
the director.

(3) A digital asset depository institution may acquire additional capital prior to the granting of a charter and may report this capital in its charter application.

Sec. 13. (1) No person shall act as a digital asset depository institution without first obtaining a charter and certificate of authority to operate from the director under the Nebraska Financial Innovation Act.

(2) The incorporators under subsection (1) of section 11 of this act shall apply to the director for a charter. The application shall contain the digital asset depository institution's articles of incorporation, a detailed business plan, a comprehensive estimate of operating expenses for the first three years of operation, a complete proposal for compliance with the provisions of the Nebraska Financial Innovation Act, and evidence of the capital required under section 12 of this act. The director may prescribe the form of application by rule and regulation.

(3) Each application for a charter shall be accompanied by an application fee established by the director pursuant to section 8-602.

Sec. 14. (1) Upon receiving an application for a digital asset depository institution charter, the director shall notify the applicants in writing within thirty calendar days of any deficiency in the required information or that the application has been accepted for filing. When the director is satisfied that all required information has been furnished, the director shall establish a time and place for a public hearing which shall be conducted not less than sixty days, nor more than one hundred twenty days, after notice from the director to the applicants that the application is in order.

(2) Within thirty days after receipt of notice of the time and place of the public hearing, the applicants shall cause notice of filing of the application and the hearing to be published at the applicants' expense in a newspaper of general circulation within the county where the proposed
digital asset depository institution is to be located. Publication shall be made at least once a week for three consecutive weeks before the hearing, stating the proposed location of the digital asset depository institution, the names of the applicants for a charter, the nature of the activities to be conducted by the proposed institution and other information required by rule and regulation. The applicants shall furnish proof of publication to the director not more than ten days prior to the hearing. The director shall send notice of the hearing to state and national banks, federal savings and loan associations, and other financial institutions in the state and federal agencies who have requested notice from the director.

Sec. 15. The hearing for a charter application shall be conducted as a contested case under the Administrative Procedure Act and shall comply with the requirements of the act.

Sec. 16. (1) Upon receiving the articles of incorporation, the application for a charter and other information required by the director, the director shall make a careful investigation and examination of the following:

(a) The character, reputation, financial standing, and ability of the incorporators;

(b) The character, financial responsibility, banking, or other financial experience and business qualifications of those proposed as officers and directors; and

(c) The application for a charter, including the adequacy and plausibility of the business plan of the digital asset depository institution and whether the depository institution has offered a complete proposal for compliance with the Nebraska Financial Innovation Act.

(2) The director shall submit the results of such investigation and examination at the public hearing on the charter application and shall be subject to cross-examination by any interested party. No relevant information shall be excluded by the director as hearsay.
Sec. 17. (1) Within ninety days after receipt of the transcript of the public hearing, the director shall render a decision on the charter application based solely on the following criteria and requirements:

(a) Whether the character, reputation, financial standing, and ability of the incorporators is sufficient to afford reasonable promise of a successful operation;

(b) Whether the character, financial responsibility, banking, or other financial experience and business qualifications of those proposed as officers and directors is sufficient to afford reasonable promise of a successful operation;

(c) The adequacy and plausibility of the business plan of the digital asset depository institution;

(d) Compliance with the capital and surplus requirements of section 12 of this act;

(e) Whether the digital asset depository institution is being formed for no other purpose than legitimate objectives authorized by law;

(f) That the name of the proposed digital asset depository institution does not resemble so closely the name of any other financial institution transacting business in the state so as to cause confusion; and

(g) Whether the applicants have complied with all applicable provisions of state law.

(2) The director shall approve an application upon making favorable findings on the criteria set forth in subsection (1) of this section. If necessary, the director may either conditionally approve an application by specifying conditions relating to the criteria or may disapprove the application. The director shall state findings of fact and conclusions of law as part of such decision.

(3) If the director approves the application, the director shall endorse upon the articles of incorporation the approval of the director and shall transmit one copy to the Secretary of State, retain one copy,
and return a copy to the applicants within twenty days after the date of
the decision.

(4) If the director conditionally approves an application and upon
compliance with necessary conditions required by the director, the
director shall proceed as provided in subsection (3) of this section.

(5) If the director disapproves the application, the director shall
mail notice of the disapproval to the applicants within twenty days after
such decision.

Sec. 18. (1) If an application is approved and a charter granted by
the director under section 17 of this act, the digital asset depository
institution shall not commence business before receiving a certificate of
authority to operate from the director. The application for a certificate
of authority shall be made to the director and shall certify the address
at which the digital asset depository institution will operate and that
all adopted bylaws of the depository institution have been attached as an
exhibit to the application. The application shall state the identities
and contact information of all officers and directors. The director shall
approve or deny an application for a certificate of authority to operate
within thirty days after a complete application has been filed. The
authority of the director to disapprove any application shall be
restricted solely to noncompliance with this section, provided that if
the director approves the application, the director shall issue a
certificate of authority to the applicants within twenty days. If the
director denies the application, the director shall mail a notice of
denial to the applicants within twenty days, stating the reasons for
denying the application, and grant to the applicants a period of ninety
days to resubmit the application with the necessary corrections. If the
applicants fail to comply with requirements of the notice of denial
within ninety days from the receipt of the notice, the charter of the
digital asset depository institution shall be revoked by the director.
The failure of the director to act upon an application for a certificate
of authority within thirty days shall be deemed an approval.

(2) If an approved digital asset depository institution fails to commence business in good faith within six months after the issuance of a certificate of authority to operate by the director, the charter and certificate of authority shall expire. The director, for good cause and upon an application filed prior to the expiration of the six-month period, may extend the time within which the digital asset depository institution may open for business.

Sec. 19. Any decision of the department or director in approving, conditionally approving, or disapproving a charter for a digital asset depository institution or the issuance or denial of a certificate of authority to operate is appealable to the district court of Lancaster County in accordance with the Administrative Procedure Act. In addition to the grounds for appeal contained in the Administrative Procedure Act, an appellant may appeal if the department or the director fails to make any of the required findings or otherwise takes an action required by law.

Sec. 20. (1) Except as otherwise provided by subsection (2) of this section, a digital asset depository institution shall, before transacting any business, pledge or furnish a surety bond to the director to cover costs likely to be incurred by the director in a liquidation or conservatorship of the digital asset depository institution. The amount of the surety bond or pledge of capital under subsection (2) of this section shall be determined by the director in an amount sufficient to defray the costs of a liquidation or conservatorship.

(2) In lieu of a bond, a digital asset depository institution may irrevocably pledge specified capital equivalent to a bond under subsection (1) of this section. Any capital pledged to the director under this subsection shall be held in a state or nationally chartered bank or savings and loan association having a principal or branch office in this state. All costs associated with pledging and holding such capital are
the responsibility of the digital asset depository institution.

(3) Capital pledged to the director shall be of the same nature and quality as those required under section 8-210.

(4) Surety bonds shall run to the State of Nebraska, and shall be approved under the terms and conditions required under section 8-110.

(5) The director may adopt and promulgate rules and regulations to establish additional investment guidelines or investment options for purposes of the pledge or surety bond required by this section.

(6) In the event of a liquidation or conservatorship of a digital asset depository institution pursuant to section 24 of this act, the director may, without regard to priorities, preferences, or adverse claims, reduce the surety bond or capital pledged under this section to cash as soon as practicable and utilize the cash to defray the costs associated with the liquidation or conservatorship.

(7) Income from capital pledged under subsection (2) of this section shall be paid to the digital asset depository institution no less than annually, unless a liquidation or conservatorship takes place.

(8) Upon evidence that the current surety bond or pledged capital is insufficient, the director may require a digital asset depository institution to increase its surety bond or pledged capital by providing not less than thirty days' written notice to the institution. The digital asset depository institution may request a hearing before the director not more than thirty days after receiving written notice from the director under this subsection. Any hearing before the director shall be held pursuant to the Administrative Procedure Act.

Sec. 21. (1) The director may call for reports verified under oath from a digital asset depository institution at any time as necessary to inform the director of the condition of the institution.

(2) All reports required of digital asset depositories by the director and all materials relating to examinations of these depositories shall be subject to the provisions of sections 8-103 and 8-108.
(3) Every digital asset depository institution is subject to the examination of the director. The director or a duly appointed examiner shall visit and examine digital asset depositories on a schedule established by rule and regulation. The director or a duly appointed examiner shall make a complete and careful examination of the condition and resources of a digital asset depository institution, the mode of managing depository institution affairs and conducting business, the actions of officers and directors in the investment and disposition of funds, the safety and prudence of depository institution management, compliance with the requirements of the Nebraska Financial Innovation Act, and such other matters as the director may require. After an examination, the digital asset depository institution shall remit to the director an amount equal to the total cost of the examination.

(4) A digital asset depository institution shall pay the assessment as provided for in sections 8-601 and 8-605 and the costs of any examination or investigation as provided in sections 8-108 and 8-606.

(5) A digital asset depository institution shall maintain appropriate insurance or a bond covering the operational risks of the institution, which shall include coverage for directors' and officers' liability, errors and omissions liability, and information technology infrastructure and activities liability.

Sec. 22. The director may suspend or revoke the charter of a digital asset depository institution if, after notice and opportunity for a hearing, the director determines that:

(1) The digital asset depository institution has failed or refused to comply with an order issued under section 8-1,136, 8-2504, or 8-2743;

(2) The application for a charter or certificate of authority contained a materially false statement, misrepresentation, or omission; or

(3) An officer, director, or agent of the digital asset depository institution, in connection with an application for a charter, certificate
of authority, examination, report, or other document filed with the director, knowingly made a materially false statement, misrepresentation, or omission to the department, the director, or the duly authorized agent of the department or director.

Sec. 23. If the charter of a digital asset depository institution is surrendered, suspended, or revoked, the institution shall continue to be subject to the provisions of the Nebraska Financial Innovation Act during any liquidation or conservatorship.

Sec. 24. (1) If the director finds that a digital asset depository institution has failed or is operating in an unsafe or unsound condition, and the failure or unsafe or unsound condition has not been remedied within the time prescribed under section 8-1,117 or as directed by order of the director issued pursuant to section 8-1,136, 8-2504, or 8-2743, the director shall conduct a liquidation or appoint a receiver as provided by sections 8-198, 8-1,100, and 8-1,102.

(2) For purposes of this section:

(a) Failed or failure means, consistent with rules and regulations adopted and promulgated by the director, a circumstance when a digital asset depository institution has not:

(i) Complied with the requirements of section 7 of this act;

(ii) Maintained a contingency account, as required by section 8 of this act; or

(iii) Paid, in the manner commonly accepted by business practices, its legal obligations to depositors on demand or to discharge any certificates of deposit, promissory notes, or other indebtedness when due; and

(b) Unsafe or unsound condition means, consistent with rules and regulations adopted and promulgated by the director, a circumstance relating to a digital asset depository institution which is likely to:

(i) Cause the failure of the depository institution;

(ii) Cause a substantial dissipation of assets or earnings;
(iii) Substantially disrupt the services provided by the depository institution to depositors; or

(iv) Otherwise substantially prejudice the depository institution interests of depositors.

Sec. 25. (1) A digital asset depository institution may voluntarily dissolve in accordance with this section. Voluntary dissolution shall be accomplished by either liquidating the digital asset depository institution or reorganizing the depository institution into an appropriate business entity that does not engage in any activity authorized only for a digital asset depository institution. Upon complete liquidation or completion of the reorganization, the director shall revoke the charter of the digital asset depository institution. Thereafter, the company shall not use the words digital asset depository institution or bank in its business name or in connection with its ongoing business.

(2) A digital asset depository institution may dissolve its charter either by liquidation or reorganization. The board of directors shall file an application for dissolution with the Director of Banking and Finance, accompanied by a filing fee established by rule and regulation of the director. The application shall include a comprehensive plan for dissolution setting forth the proposed disposition of all assets and liabilities in reasonable detail to effect a liquidation or reorganization, and any other plans required by the director. The plan of dissolution shall provide for the discharge or assumption of all of the known and unknown claims and liabilities of the digital asset depository institution. Additionally, the application for dissolution shall include other evidence, certifications, affidavits, documents, or information as the director may require, including demonstration of how assets and liabilities will be disposed, the timetable for effecting disposition of the assets and liabilities, and a proposal of the digital asset depository institution for addressing any claims that are asserted after
dissolution has been completed. The director shall examine the
application for compliance with this section, the business entity laws
applicable to the required type of dissolution, and applicable rules and
regulations. The director may conduct a special examination of the
digital asset depository institution, consistent with subsection (3) of
section 21 of this act, for purposes of evaluating the application.

(3) If the director finds that the application is incomplete, the
director shall return it for completion not later than sixty days after
it is filed. If the application is found to be complete by the director,
the director shall approve or disapprove the application not later than
thirty days after it is filed. If the director approves the application,
the digital asset depository institution may proceed with the dissolution
pursuant to the plan outlined in the application, subject to any further
conditions the director may prescribe. If the digital asset depository
institution subsequently determines that the plan of dissolution needs to
be amended to complete the dissolution, it shall file an amended plan
with the director and obtain approval to proceed under the amended plan.
If the director does not approve the application or amended plan, the
digital asset depository institution may appeal the decision to the
director pursuant to the Administrative Procedure Act.

(4) Upon completion of all actions required under the plan of
dissolution and satisfaction of all conditions prescribed by the
director, the digital asset depository institution shall submit a written
report of its actions to the director. The report shall contain a
certification made under oath that the report is true and correct.
Following receipt of the report, the director, no later than sixty days
after the filing of the report, shall examine the digital asset
depository institution to determine whether the director is satisfied
that all required actions have been taken in accordance with the plan of
dissolution and any conditions prescribed by the director. If all
requirements and conditions have been met, the director shall, within
thirty days of the examination, notify the digital asset depository institution in writing that the dissolution has been completed and issue a certificate of dissolution.

(5) Upon receiving a certificate of dissolution, the digital asset depository institution shall surrender its charter to the director. The digital asset depository institution shall then file articles of dissolution and other documents required by sections 21-2,184 to 21-2,201 for a corporation with the Secretary of State. In the case of reorganization, the digital asset depository institution shall file the documents required by the Secretary of State to finalize the reorganization.

(6) If the director determines that all required actions under the plan for dissolution, or as otherwise required by the director, have not been completed, the director shall notify the digital asset depository institution, not later than thirty days after this determination, in writing, of what additional actions shall be taken in order for the institution to be eligible for a certificate of dissolution. The director shall establish a reasonable deadline for the submission of evidence that additional actions have been taken and the director may extend any deadline upon good cause. If the digital asset depository institution fails to file a supplemental report showing that the additional actions have been taken before the deadline, or submits a report that is found not to be satisfactory by the director, the director shall notify the digital asset depository institution in writing that its voluntary dissolution is not approved, and the institution may appeal the decision to the director pursuant to the Administrative Procedure Act.

Sec. 26. If a digital asset depository institution fails to submit any report required by the Nebraska Financial Innovation Act or by rule and regulation within the prescribed period, the director may impose and collect a fee for each day the report is overdue, as established by rule and regulation.
Sec. 27. Each officer, director, employee, or agent of a digital asset depository institution, following written notice from the director, is subject to removal upon order of the director if such officer, director, employee, or agent knowingly or willfully fails to:

(1) Perform any duty required by the Nebraska Financial Innovation Act or other applicable law; or

(2) Conform to any rule, regulation, or order of the director.

Sec. 28. Any rules and regulations necessary to implement the Nebraska Financial Innovation Act may be adopted and promulgated by the director.

Sec. 29. Section 8-101.02, Revised Statutes Cumulative Supplement, 2020, is amended to read:

8-101.02 Sections 8-101.02 to 8-1,140 and section 35 of this act shall be known and may be cited as the Nebraska Banking Act.

Sec. 30. Section 8-101.03, Revised Statutes Cumulative Supplement, 2020, is amended to read:

8-101.03 For purposes of the Nebraska Banking Act, unless the context otherwise requires:

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

(2) Acquiring financial institution means any financial institution establishing a point-of-sale terminal;

(3) Automatic teller machine means a machine established and located in the State of Nebraska, whether attended or unattended, which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, and from which electronic funds transfers may be initiated and at which banking transactions as defined in section 8-157.01 may be conducted. An unattended automatic teller machine shall not be deemed to
be a branch operated by a financial institution;

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

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

(6) Bank subsidiary corporation means a corporation which has a bank as a shareholder and which is organized for purposes of engaging in activities which are part of the business of banking or incidental to such business except for the receipt of deposits. A bank subsidiary corporation may include a corporation organized under the Nebraska Financial Innovation Act. A bank subsidiary is not to be considered a branch of its bank shareholder;

(7) Capital or capital stock means capital stock;

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

(9) Department means the Department of Banking and Finance;

(10) Digital asset depository institution means a corporation organized, chartered, and operated pursuant to the Nebraska Financial
Innovation Act;

(11) Director means the Director of Banking and Finance;

(12) Financial institution means a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the United States, the department, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; or a trust company; or a digital asset depository institution;

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

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

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

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

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

(18) (17) Order includes orders transmitted by electronic
transmission;

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

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

Sec. 31. Section 8-102, Revised Statutes Cumulative Supplement,
2020, is amended to read:

8-102 The department shall, under the laws of this state
specifically made applicable to each, have general supervision and
control over banks, trust companies, credit unions, building and loan
associations, and savings and loan associations, and digital asset
depository institution, all of which are hereby declared to be quasi-
public in nature and subject to regulation and control by the state.

Sec. 32. Section 8-113, Revised Statutes Cumulative Supplement,
2020, is amended to read:

8-113 (1) No individual, firm, company, corporation, or association
doing business in the State of Nebraska, unless organized as a bank under the Nebraska Banking Act, a digital asset depository institution under the Nebraska Financial Innovation Act, or the authority of the federal government, or as a building and loan association, savings and loan association, or savings bank under Chapter 8, article 3, or the authority of the federal government, shall use the word bank or any derivative thereof as any part of a title or description of any business activity.

(2) This section does not apply to:

(a) Banks, building and loan associations, savings and loan associations, or savings banks chartered and supervised by a foreign state agency;

(b) Bank holding companies registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative banc is used;

(c) Affiliates or subsidiaries of (i) a bank organized under the Nebraska Banking Act or the authority of the federal government or chartered and supervised by a foreign state agency, (ii) a building and loan association, savings and loan association, or savings bank organized under Chapter 8, article 3, or the authority of the federal government or chartered and supervised by a foreign state agency, or (iii) a bank holding company registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative banc is used;

(d) Organizations substantially owned by (i) a bank organized under the Nebraska Banking Act or the authority of the federal government or chartered and supervised by a foreign state agency, (ii) a building and loan association, savings and loan association, or savings bank organized under Chapter 8, article 3, or the authority of the federal government or chartered and supervised by a foreign state agency, (iii) a bank holding company registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative banc is used;
activity or if the derivative banc is used, or (iv) any combination of
entities listed in subdivisions (i) through (iii) of this subdivision;
(e) Mortgage bankers licensed or registered under the Residential
Mortgage Licensing Act, if the word mortgage immediately precedes the
word bank or its derivative;
(f) Organizations which are described in section 501(c)(3) of the
Internal Revenue Code as defined in section 49-801.01, which are exempt
from taxation under section 501(a) of the code, and which are not
providing or arranging for financial services subject to the authority of
the department, a foreign state agency, or the federal government;
(g) Trade associations which are exempt from taxation under section
501(c)(6) of the code and which represent a segment of the banking or
savings and loan industries, and any affiliate or subsidiary thereof;
(h) Firms, companies, corporations, or associations which sponsor
incentive-based solid waste recycling programs that issue reward points
or credits to persons for their participation therein; and
(i) Such other firms, companies, corporations, or associations as
have been in existence and doing business prior to December 1, 1975,
under a name composed in part of the word bank or some derivative
thereof.
(3) This section does not apply to an individual, firm, company,
corporation, or association doing business in Nebraska which uses the
word bank or any derivative thereof as any part of a title or description
of any business activity if such use is unlikely to mislead or confuse
the public or give the impression that such individual, firm, company,
corporation, or association is lawfully organized and operating as a bank
under the Nebraska Banking Act or the authority of the federal
government, or as a building and loan association, savings and loan
association, or savings bank under Chapter 8, article 3, or the authority
of the federal government.
(4) Any violation of this section is a Class V misdemeanor.
Sec. 33. Section 8-115, Reissue Revised Statutes of Nebraska, is amended to read:

8-115 No corporation shall conduct a bank or digital asset depository institution in this state without having first obtained a charter in the manner provided in the Nebraska Banking Act or the Nebraska Financial Innovation Act, respectively.

Sec. 34. Section 8-148.09, Revised Statutes Cumulative Supplement, 2020, is amended to read:

8-148.09 (1) Any bank may subscribe to, invest, buy, and own stock of another financial institution if the transaction is part of the merger or consolidation of the other financial institution with the acquiring bank, or the acquisition of substantially all of the assets of the other financial institution by the acquiring bank, and if:

(a) The merger, consolidation, or asset acquisition occurs on the same day as the acquisition of the shares of the other financial institution and the other financial institution will not be operated by the acquiring bank as a separate entity; and

(b) The transaction receives the prior approval of the director.

(2) Any bank may subscribe to, invest, buy, and own stock of a company controlling another financial institution if the transaction is part of (a) the merger or consolidation of the company controlling the other financial institution with the company controlling the acquiring bank, or the acquisition of substantially all of the assets of the company controlling the other financial institution by the company controlling the acquiring bank, and (b) the merger or consolidation of the other financial institution with the acquiring bank, or the acquisition of substantially all of the assets of the other financial institution by the acquiring bank, and if:

(i) The merger, consolidation, or asset acquisition occurs on the same day as the acquisition of the shares of the company controlling the other financial institution, and neither the company controlling the
other financial institution nor the other financial institution will be operated by the acquiring bank as a separate entity; and

(ii) The transaction receives the prior approval of the director.

(3) Any bank that acquires stock of another financial institution or company controlling another financial institution pursuant to this section shall not be deemed to be a bank holding company for purposes of the Nebraska Bank Holding Company Act of 1995, so long as the conditions of subdivision (1)(a) or (2)(b)(i) of this section, as applicable, are satisfied.

(4) For purposes of this section, financial institution means a bank, savings bank, credit card bank, savings and loan association, digital asset depository institution, building and loan association, trust company, or credit union organized under the laws of any state or organized under the laws of the United States.

Sec. 35. Any bank other than a digital asset depository institution may invest not more than twenty percent of its capital and surplus either in stock of a corporation operating a digital asset depository institution or directly, alone, or with others, in a digital asset depository institution. With written approval of the director, such additional percentage of its capital and surplus may be so invested as the director shall approve. Such investment is not subject to sections 8-148, 8-149, and 8-150.

Sec. 36. Section 8-601, Revised Statutes Cumulative Supplement, 2020, is amended to read:

8-601 The Director of Banking and Finance may employ deputies, examiners, attorneys, and other assistants as may be necessary for the administration of the provisions and purposes of the Credit Union Act, Delayed Deposit Services Licensing Act, Interstate Branching and Merger Act, Interstate Trust Company Office Act, Nebraska Bank Holding Company Act of 1995, Nebraska Banking Act, Nebraska Financial Innovation Act, Nebraska Installment Loan Act, Nebraska Installment Sales Act, Nebraska
Money Transmitters Act, Nebraska Trust Company Act, and Residential Mortgage Licensing Act; Chapter 8, articles 3, 5, 6, 7, 8, 13, 14, 15, 16, 19, 20, 24, and 25; and Chapter 45, articles 1 and 2. The director may levy upon financial institutions, namely, the banks, trust companies, building and loan associations, savings and loan associations, savings banks, digital asset depository institutions, and credit unions, organized under the laws of this state, and holding companies, if any, of such financial institutions, an assessment each year based upon the asset size of the financial institution, except that in determining the asset size of a holding company, the assets of any financial institution or holding company otherwise assessed pursuant to this section and the assets of any nationally chartered financial institution shall be excluded. The assessment shall be a sum determined by the director in accordance with section 8-606 and approved by the Governor.

Sec. 37. Section 8-602, Revised Statutes Cumulative Supplement, 2020, is amended to read:

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

(1) For filing and examining articles of incorporation, articles of association, and bylaws, except credit unions, one hundred dollars, and for credit unions, fifty dollars;

(2) For filing and examining an amendment to articles of incorporation, articles of association, and bylaws, except credit unions, fifty dollars, and for credit unions, fifteen dollars;

(3) For issuing to banks, credit card banks, trust companies, digital asset depository institutions, and building and loan associations a charter, authority, or license to do business in this state, a sum which shall be determined on the basis of one dollar and fifty cents for each one thousand dollars of authorized capital, except that the minimum fee in each case shall be two hundred twenty-five dollars;
(4) For issuing an executive officer's or loan officer's license, fifty dollars at the time of the initial license, except credit unions for which the fee shall be twenty-five dollars at the time of the initial license;

(5) For affixing certificate and seal, five dollars;

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

(7) For issuing a certificate of approval to a credit union, ten dollars;

(8) For investigating the applications required by sections 8-117, 8-120, 8-331, and 8-2402 and the documents required by section 8-201, the cost of such examination, investigation, and inspection, including all legal expenses and the cost of any hearing transcript, with a minimum fee under (a) sections 8-117, 8-120, and 8-2402 of two thousand five hundred dollars, (b) section 8-331 of two thousand dollars, and (c) section 8-201 of one thousand dollars. The department may require the applicant to procure and give a surety bond in such principal amount as the department may determine and conditioned for the payment of the fees provided in this subdivision;

(9) For the handling of pledged securities as provided in sections 8-210 and 8-2727 at the time of the initial deposit of such securities, one dollar and fifty cents for each thousand dollars of securities deposited and a like amount on or before January 15 each year thereafter. The fees shall be paid by the entity pledging the securities;

(10) For investigating an application to move its location within the city or village limits of its original license or charter for banks, trust companies, and building and loan associations, two hundred fifty dollars;

(11) For investigating an application under subdivision (6) of section 8-115.01, five hundred dollars;

(12) For investigating an application for approval to establish or
acquire a branch pursuant to section 8-157 or 8-2103 or to establish a mobile branch pursuant to section 8-157, two hundred fifty dollars;

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

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

(15) For investigating an application for a merger of two state banks, a merger of a state bank and a national bank in which the state bank is the surviving entity, or an interstate merger application in which the Nebraska state chartered bank is the resulting bank, five hundred dollars;

(16) For investigating an application or a notice to establish a branch trust office, five hundred dollars;

(17) For investigating an application or a notice to establish a representative trust office, five hundred dollars;

(18) For investigating an application to establish a credit union branch under section 21-1725.01, two hundred fifty dollars;

(19) For investigating an applicant under section 8-1513, five thousand dollars; and

(20) For investigating a request to extend a conditional bank charter under section 8-117, one thousand dollars.

Sec. 38. Section 8-701, Revised Statutes Cumulative Supplement, 2020, is amended to read:

8-701 For purposes of sections 8-701 to 8-709, banking institution means any bank, stock savings bank, mutual savings bank, building and loan association, digital asset depository institution, or savings and loan association, which is now or may hereafter be organized under the laws of this state.

Sec. 39. Section 8-702, Revised Statutes Cumulative Supplement, 2020, is amended to read:

8-702 (1) Any banking institution, except a digital asset depository
institution organized, chartered, and operated pursuant to the Nebraska
Financial Innovation Act, organized under the laws of this state shall,
before a charter may be issued, enter into such contracts, incur such
obligations, and generally do and perform any and all such acts and
things whatsoever as may be necessary or appropriate in order to obtain
membership in the Federal Deposit Insurance Corporation and provide for
insurance of deposits in the banking institution. Any banking institution
may take advantage of any and all memberships, loans, subscriptions,
contracts, grants, rights, or privileges which may at any time be
available or inure to banking institutions or to their depositors,
creditors, stockholders, conservators, receivers, or liquidators by
virtue of those provisions of section 8 of the Federal Banking Act of
1933 (section 12B of the Federal Reserve Act, as amended) which establish
the Federal Deposit Insurance Corporation and provide for the insurance
of deposits or of any other provisions of that or of any other act or
resolution of Congress to aid, regulate, or safeguard banking
institutions and their depositors, including any amendments of the same
or any substitutions therefor. Any banking institution may also subscribe
for and acquire any stock, debentures, bonds, or other types of
securities of the Federal Deposit Insurance Corporation and comply with
the lawful regulations and requirements from time to time issued or made
by such corporation.

(2) The charter of any banking institution which fails to maintain
membership in the Federal Deposit Insurance Corporation shall be
automatically forfeited and such banking institution shall be liquidated
and dissolved, either voluntarily by its board of directors under the
supervision of the department or involuntarily by the department as in
cases of insolvency. Any banking institution whose charter is
automatically forfeited under the provisions of this subsection which
continues to engage in the business for which it had been chartered after
such forfeiture, as well as the directors and officers thereof, is guilty
of a Class III felony.

(3) Nothing in this section shall be construed as prohibiting a digital asset depository institution organized, chartered, and operated pursuant to the Nebraska Financial Innovation Act from obtaining Federal Deposit Insurance Corporation insurance, if available.

Sec. 40. This act becomes operative on October 1, 2021.

Sec. 41. Original section 8-115, Reissue Revised Statutes of Nebraska, and sections 8-101.02, 8-101.03, 8-102, 8-113, 8-148.09, 8-601, 8-602, 8-701, and 8-702, Revised Statutes Cumulative Supplement, 2020, are repealed.