

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 649

Introduced by Flood, 19.

Read first time January 20, 2021

Committee:

1 A BILL FOR AN ACT relating to banking and finance; to amend section
2 8-115, Reissue Revised Statutes of Nebraska, and sections 8-101.02,
3 8-101.03, 8-102, 8-113, 8-148.09, 8-601, 8-602, 8-701, and 8-702,
4 Revised Statutes Cumulative Supplement, 2020; to adopt the Nebraska
5 Financial Innovation Act; to create digital asset depository
6 institutions and provide for charter, operation, supervision, and
7 regulation of such institutions; to harmonize provisions; to provide
8 an operative date; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 28 of this act shall be known and may be
2 cited as the Nebraska Financial Innovation Act.

3 Sec. 2. The Legislature finds and declares that:

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

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

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

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

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

30 (6) Compliance with applicable federal and state laws, including
31 know your customer and anti-money laundering rules and the federal Bank

1 Secrecy Act, is critical to ensuring the future growth and reputation of
2 the blockchain and technology industries as a whole;

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

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

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

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

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

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

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

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

26 (2) Each digital asset depository institution may:

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

28 (b) Sue and be sued;

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

31 (d) Carry on a nonlending banking business for depositors,

1 consistent with subsection (3) of this section;

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

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

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

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

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

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

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

31 (5) As otherwise authorized by this section, the digital asset

1 depository institution may conduct business with depositors outside this
2 state.

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

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

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

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

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

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

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

30 (3) Consistent with subdivisions (2)(d) and (e) of section 5 of this
31 act, and in addition to any requirements specified by federal law, a

1 digital asset depository institution shall require that any potential
2 depositor that is a legal entity other than a natural person provide
3 reasonable evidence that the entity is engaged in a lawful, bona fide
4 business, or is likely to open a lawful, bona fide business within the
5 next six months. For purposes of this subsection, reasonable evidence
6 includes business entity filings, articles of incorporation or
7 organization, bylaws, operating agreements, business plans, promotional
8 materials, financing agreements, or other evidence.

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

12 (2) For purposes of this section, liquid assets means:

13 (a) United States currency held on the premises of the digital asset
14 depository institution;

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

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

21 Sec. 8. (1) A digital asset depository institution shall maintain a
22 contingency account to account for unexpected losses and expenses. A
23 digital asset depository institution may require the payment of
24 contributions from depositors to fund a contingency account. Initial
25 capital under section 12 of this act shall constitute compliance with
26 this subsection for the first three years a digital asset depository
27 institution is in operation. After the conclusion of the first three
28 years of operation, a digital asset depository institution shall maintain
29 a contingency account totaling not less than two percent of the
30 depository institution liabilities of the digital asset depository
31 institution, provided that the contingency account shall be adequate and

1 reasonable in light of current and prospective business conditions, as
2 determined by the director.

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

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

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

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

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

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

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

29 (a) The corporate name;

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

31 (c) The term of its existence, which may be perpetual;

1 (d) The place where its office shall be located and its operations
2 conducted;

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

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

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

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

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

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

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

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

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

1 the director.

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

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

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

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

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

28 (2) Within thirty days after receipt of notice of the time and place
29 of the public hearing, the applicants shall cause notice of filing of the
30 application and the hearing to be published at the applicants' expense in
31 a newspaper of general circulation within the county where the proposed

1 digital asset depository institution is to be located. Publication shall
2 be made at least once a week for three consecutive weeks before the
3 hearing, stating the proposed location of the digital asset depository
4 institution, the names of the applicants for a charter, the nature of the
5 activities to be conducted by the proposed institution and other
6 information required by rule and regulation. The applicants shall furnish
7 proof of publication to the director not more than ten days prior to the
8 hearing. The director shall send notice of the hearing to state and
9 national banks, federal savings and loan associations, and other
10 financial institutions in the state and federal agencies who have
11 requested notice from the director.

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

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

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

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

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

28 (2) The director shall submit the results of such investigation and
29 examination at the public hearing on the charter application and shall be
30 subject to cross-examination by any interested party. No relevant
31 information shall be excluded by the director as hearsay.

1 Sec. 17. (1) Within ninety days after receipt of the transcript of
2 the public hearing, the director shall render a decision on the charter
3 application based solely on the following criteria and requirements:

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

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

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

13 (d) Compliance with the capital and surplus requirements of section
14 12 of this act;

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

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

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

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

29 (3) If the director approves the application, the director shall
30 endorse upon the articles of incorporation the approval of the director
31 and shall transmit one copy to the Secretary of State, retain one copy,

1 and return a copy to the applicants within twenty days after the date of
2 the decision.

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

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

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

1 of authority within thirty days shall be deemed an approval.

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

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

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

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

1 the responsibility of the digital asset depository institution.

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

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

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

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

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

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

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

29 (2) All reports required of digital asset depositories by the
30 director and all materials relating to examinations of these depositories
31 shall be subject to the provisions of sections 8-103 and 8-108.

1 (3) Every digital asset depository institution is subject to the
2 examination of the director. The director or a duly appointed examiner
3 shall visit and examine digital asset depositories on a schedule
4 established by rule and regulation. The director or a duly appointed
5 examiner shall make a complete and careful examination of the condition
6 and resources of a digital asset depository institution, the mode of
7 managing depository institution affairs and conducting business, the
8 actions of officers and directors in the investment and disposition of
9 funds, the safety and prudence of depository institution management,
10 compliance with the requirements of the Nebraska Financial Innovation
11 Act, and such other matters as the director may require. After an
12 examination, the digital asset depository institution shall remit to the
13 director an amount equal to the total cost of the examination.

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

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

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

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

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

30 (3) An officer, director, or agent of the digital asset depository
31 institution, in connection with an application for a charter, certificate

1 of authority, examination, report, or other document filed with the
2 director, knowingly made a materially false statement, misrepresentation,
3 or omission to the department, the director, or the duly authorized agent
4 of the department or director.

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

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

16 (2) For purposes of this section:

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

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

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

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

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

30 (i) Cause the failure of the depository institution;

31 (ii) Cause a substantial dissipation of assets or earnings;

1 (iii) Substantially disrupt the services provided by the depository
2 institution to depositors; or

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

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

16 (2) A digital asset depository institution may dissolve its charter
17 either by liquidation or reorganization. The board of directors shall
18 file an application for dissolution with the Director of Banking and
19 Finance, accompanied by a filing fee established by rule and regulation
20 of the director. The application shall include a comprehensive plan for
21 dissolution setting forth the proposed disposition of all assets and
22 liabilities in reasonable detail to effect a liquidation or
23 reorganization, and any other plans required by the director. The plan of
24 dissolution shall provide for the discharge or assumption of all of the
25 known and unknown claims and liabilities of the digital asset depository
26 institution. Additionally, the application for dissolution shall include
27 other evidence, certifications, affidavits, documents, or information as
28 the director may require, including demonstration of how assets and
29 liabilities will be disposed, the timetable for effecting disposition of
30 the assets and liabilities, and a proposal of the digital asset
31 depository institution for addressing any claims that are asserted after

1 dissolution has been completed. The director shall examine the
2 application for compliance with this section, the business entity laws
3 applicable to the required type of dissolution, and applicable rules and
4 regulations. The director may conduct a special examination of the
5 digital asset depository institution, consistent with subsection (3) of
6 section 21 of this act, for purposes of evaluating the application.

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

21 (4) Upon completion of all actions required under the plan of
22 dissolution and satisfaction of all conditions prescribed by the
23 director, the digital asset depository institution shall submit a written
24 report of its actions to the director. The report shall contain a
25 certification made under oath that the report is true and correct.
26 Following receipt of the report, the director, no later than sixty days
27 after the filing of the report, shall examine the digital asset
28 depository institution to determine whether the director is satisfied
29 that all required actions have been taken in accordance with the plan of
30 dissolution and any conditions prescribed by the director. If all
31 requirements and conditions have been met, the director shall, within

1 thirty days of the examination, notify the digital asset depository
2 institution in writing that the dissolution has been completed and issue
3 a certificate of dissolution.

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

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

27 Sec. 26. If a digital asset depository institution fails to submit
28 any report required by the Nebraska Financial Innovation Act or by rule
29 and regulation within the prescribed period, the director may impose and
30 collect a fee for each day the report is overdue, as established by rule
31 and regulation.

1 Sec. 27. Each officer, director, employee, or agent of a digital
2 asset depository institution, following written notice from the director,
3 is subject to removal upon order of the director if such officer,
4 director, employee, or agent knowingly or willfully fails to:

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

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

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

11 Sec. 29. Section 8-101.02, Revised Statutes Cumulative Supplement,
12 2020, is amended to read:

13 8-101.02 Sections 8-101.02 to 8-1,140 and section 35 of this act
14 shall be known and may be cited as the Nebraska Banking Act.

15 Sec. 30. Section 8-101.03, Revised Statutes Cumulative Supplement,
16 2020, is amended to read:

17 8-101.03 For purposes of the Nebraska Banking Act, unless the
18 context otherwise requires:

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

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

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

1 be a branch operated by a financial institution;

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

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

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

22 (7) Capital or capital stock means capital stock;

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

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

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

1 Innovation Act;

2 (11) ~~(10)~~ Director means the Director of Banking and Finance;

3 (12) ~~(11)~~ Financial institution means a bank, savings bank, building
4 and loan association, savings and loan association, or credit union,
5 whether chartered by the United States, the department, or a foreign
6 state agency; any other similar organization which is covered by federal
7 deposit insurance; ~~or a trust company; or a digital asset depository~~
8 institution;

9 (13) ~~(12)~~ Financial institution employees includes parent holding
10 company and affiliate employees;

11 (14) ~~(13)~~ Foreign state agency means any duly constituted regulatory
12 or supervisory agency which has authority over financial institutions and
13 which is created under the laws of any other state, any territory of the
14 United States, Puerto Rico, Guam, American Samoa, the Trust Territory of
15 the Pacific Islands, or the Virgin Islands or which is operating under
16 the code of law for the District of Columbia;

17 (15) ~~(14)~~ Impulse means an electronic, sound, or mechanical impulse,
18 or any combination thereof;

19 (16) ~~(15)~~ Insolvent means a condition in which (a) the actual cash
20 market value of the assets of a bank is insufficient to pay its
21 liabilities to its depositors, (b) a bank is unable to meet the demands
22 of its creditors in the usual and customary manner, (c) a bank, after
23 demand in writing by the director, fails to make good any deficiency in
24 its reserves as required by law, or (d) the stockholders of a bank, after
25 written demand by the director, fail to make good an impairment of its
26 capital or surplus;

27 (17) ~~(16)~~ Making loans includes advances or credits that are
28 initiated by means of credit card or other transaction card. Transaction
29 card and other transactions, including transactions made pursuant to
30 prior agreements, may be brought about and transmitted by means of an
31 electronic impulse. Such loan transactions including transactions made

1 pursuant to prior agreements shall be subject to sections 8-815 to 8-829
2 and shall be deemed loans made at the place of business of the financial
3 institution;

4 (18) ~~(17)~~ Order includes orders transmitted by electronic
5 transmission;

6 (19) ~~(18)~~ Point-of-sale terminal means an information processing
7 terminal which utilizes electronic, sound, or mechanical signals or
8 impulses, or any combination thereof, which are transmitted to a
9 financial institution or which are recorded for later transmission to
10 effectuate electronic funds transfer transactions for the purchase or
11 payment of goods and services and which are initiated by an access
12 device. A point-of-sale terminal is not a branch operated by a financial
13 institution. Any terminal owned or operated by a seller of goods and
14 services shall be connected directly or indirectly to an acquiring
15 financial institution; and

16 (20) ~~(19)~~ Switch means any facility where electronic impulses or
17 other indicia of a transaction originating at an automatic teller machine
18 are received and are routed and transmitted to a financial institution or
19 data processing center, wherever located. A switch may also be a data
20 processing center.

21 Sec. 31. Section 8-102, Revised Statutes Cumulative Supplement,
22 2020, is amended to read:

23 8-102 The department shall, under the laws of this state
24 specifically made applicable to each, have general supervision and
25 control over banks, trust companies, credit unions, building and loan
26 associations, ~~and~~ savings and loan associations, and digital asset
27 depository institution, all of which are hereby declared to be quasi-
28 public in nature and subject to regulation and control by the state.

29 Sec. 32. Section 8-113, Revised Statutes Cumulative Supplement,
30 2020, is amended to read:

31 8-113 (1) No individual, firm, company, corporation, or association

1 doing business in the State of Nebraska, unless organized as a bank under
2 the Nebraska Banking Act, a digital asset depository institution under
3 the Nebraska Financial Innovation Act, or the authority of the federal
4 government, or as a building and loan association, savings and loan
5 association, or savings bank under Chapter 8, article 3, or the authority
6 of the federal government, shall use the word bank or any derivative
7 thereof as any part of a title or description of any business activity.

8 (2) This section does not apply to:

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

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

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

24 (d) Organizations substantially owned by (i) a bank organized under
25 the Nebraska Banking Act or the authority of the federal government or
26 chartered and supervised by a foreign state agency, (ii) a building and
27 loan association, savings and loan association, or savings bank organized
28 under Chapter 8, article 3, or the authority of the federal government or
29 chartered and supervised by a foreign state agency, (iii) a bank holding
30 company registered pursuant to section 8-913 if the term holding company
31 is also used as any part of the title or description of any business

1 activity or if the derivative bank is used, or (iv) any combination of
2 entities listed in subdivisions (i) through (iii) of this subdivision;

3 (e) Mortgage bankers licensed or registered under the Residential
4 Mortgage Licensing Act, if the word mortgage immediately precedes the
5 word bank or its derivative;

6 (f) Organizations which are described in section 501(c)(3) of the
7 Internal Revenue Code as defined in section 49-801.01, which are exempt
8 from taxation under section 501(a) of the code, and which are not
9 providing or arranging for financial services subject to the authority of
10 the department, a foreign state agency, or the federal government;

11 (g) Trade associations which are exempt from taxation under section
12 501(c)(6) of the code and which represent a segment of the banking or
13 savings and loan industries, and any affiliate or subsidiary thereof;

14 (h) Firms, companies, corporations, or associations which sponsor
15 incentive-based solid waste recycling programs that issue reward points
16 or credits to persons for their participation therein; and

17 (i) Such other firms, companies, corporations, or associations as
18 have been in existence and doing business prior to December 1, 1975,
19 under a name composed in part of the word bank or some derivative
20 thereof.

21 (3) This section does not apply to an individual, firm, company,
22 corporation, or association doing business in Nebraska which uses the
23 word bank or any derivative thereof as any part of a title or description
24 of any business activity if such use is unlikely to mislead or confuse
25 the public or give the impression that such individual, firm, company,
26 corporation, or association is lawfully organized and operating as a bank
27 under the Nebraska Banking Act or the authority of the federal
28 government, or as a building and loan association, savings and loan
29 association, or savings bank under Chapter 8, article 3, or the authority
30 of the federal government.

31 (4) Any violation of this section is a Class V misdemeanor.

1 Sec. 33. Section 8-115, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 8-115 No corporation shall conduct a bank or digital asset
4 depository institution in this state without having first obtained a
5 charter in the manner provided in the Nebraska Banking Act or the
6 Nebraska Financial Innovation Act, respectively.

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

9 8-148.09 (1) Any bank may subscribe to, invest, buy, and own stock
10 of another financial institution if the transaction is part of the merger
11 or consolidation of the other financial institution with the acquiring
12 bank, or the acquisition of substantially all of the assets of the other
13 financial institution by the acquiring bank, and if:

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

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

19 (2) Any bank may subscribe to, invest, buy, and own stock of a
20 company controlling another financial institution if the transaction is
21 part of (a) the merger or consolidation of the company controlling the
22 other financial institution with the company controlling the acquiring
23 bank, or the acquisition of substantially all of the assets of the
24 company controlling the other financial institution by the company
25 controlling the acquiring bank, and (b) the merger or consolidation of
26 the other financial institution with the acquiring bank, or the
27 acquisition of substantially all of the assets of the other financial
28 institution by the acquiring bank, and if:

29 (i) The merger, consolidation, or asset acquisition occurs on the
30 same day as the acquisition of the shares of the company controlling the
31 other financial institution, and neither the company controlling the

1 other financial institution nor the other financial institution will be
2 operated by the acquiring bank as a separate entity; and

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

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

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

15 Sec. 35. Any bank other than a digital asset depository institution
16 may invest not more than twenty percent of its capital and surplus either
17 in stock of a corporation operating a digital asset depository
18 institution or directly, alone, or with others, in a digital asset
19 depository institution. With written approval of the director, such
20 additional percentage of its capital and surplus may be so invested as
21 the director shall approve. Such investment is not subject to sections
22 8-148, 8-149, and 8-150.

23 Sec. 36. Section 8-601, Revised Statutes Cumulative Supplement,
24 2020, is amended to read:

25 8-601 The Director of Banking and Finance may employ deputies,
26 examiners, attorneys, and other assistants as may be necessary for the
27 administration of the provisions and purposes of the Credit Union Act,
28 Delayed Deposit Services Licensing Act, Interstate Branching and Merger
29 Act, Interstate Trust Company Office Act, Nebraska Bank Holding Company
30 Act of 1995, Nebraska Banking Act, Nebraska Financial Innovation Act,
31 Nebraska Installment Loan Act, Nebraska Installment Sales Act, Nebraska

1 Money Transmitters Act, Nebraska Trust Company Act, and Residential
2 Mortgage Licensing Act; Chapter 8, articles 3, 5, 6, 7, 8, 13, 14, 15,
3 16, 19, 20, 24, and 25; and Chapter 45, articles 1 and 2. The director
4 may levy upon financial institutions, namely, the banks, trust companies,
5 building and loan associations, savings and loan associations, savings
6 banks, digital asset depository institutions, and credit unions,
7 organized under the laws of this state, and holding companies, if any, of
8 such financial institutions, an assessment each year based upon the asset
9 size of the financial institution, except that in determining the asset
10 size of a holding company, the assets of any financial institution or
11 holding company otherwise assessed pursuant to this section and the
12 assets of any nationally chartered financial institution shall be
13 excluded. The assessment shall be a sum determined by the director in
14 accordance with section 8-606 and approved by the Governor.

15 Sec. 37. Section 8-602, Revised Statutes Cumulative Supplement,
16 2020, is amended to read:

17 8-602 The Director of Banking and Finance shall charge and collect
18 fees for certain services rendered by the Department of Banking and
19 Finance according to the following schedule:

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

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

26 (3) For issuing to banks, credit card banks, trust companies,
27 digital asset depository institutions, and building and loan associations
28 a charter, authority, or license to do business in this state, a sum
29 which shall be determined on the basis of one dollar and fifty cents for
30 each one thousand dollars of authorized capital, except that the minimum
31 fee in each case shall be two hundred twenty-five dollars;

1 (4) For issuing an executive officer's or loan officer's license,
2 fifty dollars at the time of the initial license, except credit unions
3 for which the fee shall be twenty-five dollars at the time of the initial
4 license;

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

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

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

10 (8) For investigating the applications required by sections 8-117,
11 8-120, 8-331, and 8-2402 and the documents required by section 8-201, the
12 cost of such examination, investigation, and inspection, including all
13 legal expenses and the cost of any hearing transcript, with a minimum fee
14 under (a) sections 8-117, 8-120, and 8-2402 of two thousand five hundred
15 dollars, (b) section 8-331 of two thousand dollars, and (c) section 8-201
16 of one thousand dollars. The department may require the applicant to
17 procure and give a surety bond in such principal amount as the department
18 may determine and conditioned for the payment of the fees provided in
19 this subdivision;

20 (9) For the handling of pledged securities as provided in sections
21 8-210 and 8-2727 at the time of the initial deposit of such securities,
22 one dollar and fifty cents for each thousand dollars of securities
23 deposited and a like amount on or before January 15 each year thereafter.
24 The fees shall be paid by the entity pledging the securities;

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

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

31 (12) For investigating an application for approval to establish or

1 acquire a branch pursuant to section 8-157 or 8-2103 or to establish a
2 mobile branch pursuant to section 8-157, two hundred fifty dollars;

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

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

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

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

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

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

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

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

22 Sec. 38. Section 8-701, Revised Statutes Cumulative Supplement,
23 2020, is amended to read:

24 8-701 For purposes of sections 8-701 to 8-709, banking institution
25 means any bank, stock savings bank, mutual savings bank, building and
26 loan association, digital asset depository institution, or savings and
27 loan association, which is now or may hereafter be organized under the
28 laws of this state.

29 Sec. 39. Section 8-702, Revised Statutes Cumulative Supplement,
30 2020, is amended to read:

31 8-702 (1) Any banking institution, except a digital asset depository

1 institution organized, chartered, and operated pursuant to the Nebraska
2 Financial Innovation Act, organized under the laws of this state shall,
3 before a charter may be issued, enter into such contracts, incur such
4 obligations, and generally do and perform any and all such acts and
5 things whatsoever as may be necessary or appropriate in order to obtain
6 membership in the Federal Deposit Insurance Corporation and provide for
7 insurance of deposits in the banking institution. Any banking institution
8 may take advantage of any and all memberships, loans, subscriptions,
9 contracts, grants, rights, or privileges which may at any time be
10 available or inure to banking institutions or to their depositors,
11 creditors, stockholders, conservators, receivers, or liquidators by
12 virtue of those provisions of section 8 of the Federal Banking Act of
13 1933 (section 12B of the Federal Reserve Act, as amended) which establish
14 the Federal Deposit Insurance Corporation and provide for the insurance
15 of deposits or of any other provisions of that or of any other act or
16 resolution of Congress to aid, regulate, or safeguard banking
17 institutions and their depositors, including any amendments of the same
18 or any substitutions therefor. Any banking institution may also subscribe
19 for and acquire any stock, debentures, bonds, or other types of
20 securities of the Federal Deposit Insurance Corporation and comply with
21 the lawful regulations and requirements from time to time issued or made
22 by such corporation.

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

1 of a Class III felony.

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

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

7 Sec. 41. Original section 8-115, Reissue Revised Statutes of
8 Nebraska, and sections 8-101.02, 8-101.03, 8-102, 8-113, 8-148.09, 8-601,
9 8-602, 8-701, and 8-702, Revised Statutes Cumulative Supplement, 2020,
10 are repealed.