I. INTRODUCTION

As typical of any other state, the evolving structure of the banking industry in Nebraska regularly attracts center stage attention of bankers and state lawmakers alike. The structure of banking organizations within Nebraska has been the subject of numerous legislative proposals, hearings, studies and debates. In theory, when considering the respective interests of bank management, bank investors and bank customers, and reconciling such interests with concerns that may be expressed by the public at large, the ideal banking structure should ensure safety and soundness, stability and profitability. More specifically from a state legislative viewpoint, the ideal structure should offer banks the opportunity to operate efficiently and competitively, to promote “the public necessity, convenience, and advantage,”¹ and to meet the needs of its customers. In reality, there have been sharp disagreements within the industry and among lawmakers as to what type of banking structure would best achieve such theoretical objectives. As a result, bank structure laws may best be described in terms of the ongoing processes of design and construct, accommodation and compromise.

The purpose of this Article is to provide a historical and descriptive overview of major legislative enactments regarding Nebraska bank structure. This Article will not address public policy arguments over whether one structural change is preferable to another. The advantages or disadvantages of one form or structure over another have been rehashed in volumes of material found elsewhere and are also omitted from discussion. It will be observed in this Article that the grant of legislative authority for banks to merge or acquire, to consolidate or branch, or to otherwise conduct multiple-office banking by any means are considered as different aspects of the same fundamental issue — bank structure — and that furthermore, the issue of a state's

¹. NEB. REV. STAT § 8-122. (Reissue 1991).
bank structure has been a continuing interrelationship between state and federal public policy.

A. THE INTER-PLAY OF FEDERAL AND STATE BANK STRUCTURE LAWS

Bank structure in the United States has remained decentralized as a result of deliberate public policy decisions made on the federal legislative level. State and national branch banking first appeared in the late eighteenth century and expanded in the early nineteenth century, although towards the end of the Civil War, with the passage of the National Bank Act, branch banking effectively came to an end until the turn of this century.\(^2\) The National Bank Act imposed a tax of ten percent on note-issues of state banks. Since note-issuing, rather than deposit-taking, was generally employed to attract funds for loans, the ten percent tax made such note-issuing uneconomical and for the most part branches used for distributing the notes were subsequently closed. Furthermore, the National Bank Act made no mention of the ability of nationally chartered banks to branch.\(^3\) Although the Act was amended in 1865, allowing state banks converting to national charters to retain their existing branches, there were no strong economic incentives at that time for either national or state-chartered banks to branch.\(^4\) As urbanization grew and Americans grew mobilized, fundamental bank structure changes would become inevitable.

In 1927, the McFadden Act\(^5\) allowed national banks to establish branches within their home-office cities so long as state-chartered banks were given similar authority.\(^6\) In addition, the Banking Act of 1933 authorized national banks to establish branches anywhere within a state to the same extent and under the same conditions that state law allowed state-chartered banks to branch.\(^7\)

As a result of the Great Depression, the era of “free” banking gave way to the beginning of the modern period of “regulated” banking. The United States Congress partially segmented commercial and investment banking in the Banking Act of 1933 which also created the Federal Deposit Insurance Corporation.\(^8\) The segregation of banking and commerce was extended to restrictions on activities of corporate


\(^3\) FISCHER, supra note 2, at 19.

\(^4\) See id. at 23.


\(^6\) Id. § 7(c) at 1228. See FISCHER, supra note 2, at 48.

\(^7\) See FISCHER, supra note 2, at 52.

\(^8\) See id. at 202.
owners of banks through the 1956 Bank Holding Company Act\(^9\) and the Bank Holding Company Act Amendments of 1966\(^10\) and 1970.\(^{11}\) The 1956 Bank Holding Company Act limited the further expansion of multi-bank holding companies by requiring Federal Reserve Board approval for new acquisitions.\(^12\) The "Douglas Amendment" to the 1956 Act prohibited interstate bank acquisitions by holding companies.\(^13\) The 1970 Amendments to the Bank Holding Company Act brought one-bank holding companies under federal regulation and changed the definition of "bank" to include institutions that accept demand deposits and extend commercial loans.\(^14\) As a result of this definitional change, a new means to avoid the Bank Holding Company Act restrictions was later devised by the establishment of so-called "nonbank banks." These entities either extended commercial loans or accepted demand deposits, but did not engage in both activities, effectively carrying out banking activities without the regulatory limitations of the Bank Holding Company Act or the geographic restrictions of the "Douglas Amendment." It was not until 1987 that the Competitive Equality Banking Act changed the definition of a "bank" in order to eliminate the "nonbank-bank" loophole.\(^15\)

B. THE BIRTH OF BANKING IN NEBRASKA (1855-1857)

In January of 1855, the first Nebraska Territorial Legislature convened.\(^16\) Although the Territorial Legislature's primary task was to organize a government, one of its first items of business prohibited both the formation and operation of the business of banking in the Nebraska Territory.\(^17\) The 1855 Act, incorporated as part of the Nebraska Territorial Criminal Code, provided:

> If any person [shall] subscribe to, or become . . . in any way interested in any association or company formed for the purpose of issuing or putting in circulation any bill, check, ticket, certificate, promissory note, or other paper of any bank to circulate as money in this territory, he shall be punished by im-


\(^{12.}\) Bank Holding Company Act of 1956, § 3.

\(^{13.}\) FISCHER, supra note 2, at 145.


\(^{16.}\) BEN HALLER, JR., A HISTORY OF BANKING IN NEBRASKA 19 (1990) [hereinafter HALLER].

\(^{17.}\) See HALLER, supra note 16, at 19.
prisonment in the county jail not exceeding one year, or by [a] fine [of] not more than one thousand dollars.\textsuperscript{18}

This legislative action was not unique, in that several years earlier, the Iowa Territorial Legislature had similarly prohibited the business of banking. The reasons for these territorial legislative enactments were twofold: first, to temporarily prohibit the business of banking until laws regulating the business could be enacted; and second, to temporarily curb any further financial unrest that could occur within the territory resulting from the issuance of banknote currency.\textsuperscript{19}

In January, 1856, the second Nebraska Territorial Legislature approved five special corporate charters, authorizing them to operate the business of banking.\textsuperscript{20} The authority to issue banknotes by these charters was specifically allowed.\textsuperscript{21} Additional special bank charter legislation was approved in 1856 and 1857. But the ensuing financial panic of 1857 put an end to all but one of the specially chartered banks in territorial Nebraska, as well as effectively ending further issuances of banknote currency. Notwithstanding the financial events of 1857, the third Nebraska Territorial Legislature had repealed the ban on the formation or operation of the business of banking.\textsuperscript{22} In the aftermath of the financial and business disasters resulting from the panic of 1857, private banking in Nebraska took root.

II. THE ERA OF "UNIT" BANKING (1855-1983)

Since commercial banks were first subjected to the jurisdiction of the Nebraska Territorial Legislature in 1855, the structure of banking organizations within the state has been the topic of many legislative hearings and debates.\textsuperscript{23}

For over a century, Nebraska law provided that all commercial banks were required to be chartered, incorporated and formally organized as separate and distinct unit banking institutions, located exclusively within the limits of incorporated municipalities. Even though state law formally confined commercial banking to a "unit" banking

\textsuperscript{18}. Territory of Neb. Criminal Code, ch. 11, § 168 (1855). See also HALLER, supra note 16, at 19.

\textsuperscript{19}. In the 1840s and 1850s, banknote currency issued by banks in other parts of the country were treated warily by settlers in the newly formed territory of Nebraska because of risks involved in redeeming such notes or because of scoundrels and speculators alike, circulating and discounting notes of questionable value.

\textsuperscript{20}. See HALLER, supra note 16, at 19-20.

\textsuperscript{21}. See id.

\textsuperscript{22}. See id. at 23.

\textsuperscript{23}. See infra notes 25-37 and accompanying text.
structure, Nebraska developed a number of informally organized "chain banking" entities.\textsuperscript{24}

A. Multi-Bank Holding Companies — Restrictions and Exceptions (1963 - 1983)

The Nebraska Bank Holding Company Act, effective March 12, 1963, made it unlawful for any bank holding company to form a multi-bank holding company (but not one-bank holding companies) after such date.\textsuperscript{25} Specifically, the law stated in part that:

\begin{quote}
  it shall be unlawful for a bank holding company operating in this state to acquire ownership or control of twenty-five percent or more of the voting shares of any bank operating in this state.\textsuperscript{26}
\end{quote}

It would be incorrect to assume that, as a result of this legislation, no multi-bank holding companies operated in Nebraska. The law contained a grandfather clause, which in effect, enabled a Minnesota based bank holding company to retain ownership and operation of five banks in the state: three in Omaha and two in outstate Nebraska.\textsuperscript{27}

B. One-Bank Holding Companies (1973 to Present)

In September, 1973, the Legislature passed the Nebraska "One Bank Holding Company Act."\textsuperscript{28} A one-bank holding company is defined as a company "which directly or indirectly owns or controls twenty-five percent or more of the voting shares [and] controls in any manner the election of the majority of the directors of no more than one bank."\textsuperscript{29} The Nebraska "One Bank Holding Company Act" was passed for the identical reasons that the United States Congress in 1970 amended the federal "Bank Holding Company Act of 1956": to subject one-bank holding companies, which did not fall within the definition of multi-bank holding companies, to the regulatory control of the Federal Reserve Board.\textsuperscript{30}
C. Auxiliary Teller Units — Accommodating a “Branchless” Banking Environment (1959 - 1983)

The first shoot to spring forth from Nebraska’s branchless bank structure system took place in 1959, when the law was amended to allow banks in metropolitan, primary, or first-class cities to maintain a detached drive-in teller office within 2,600 feet of the main bank.\(^1\) In 1973, the law was further changed to permit the establishment of “auxiliary teller offices” subject to several restrictions.\(^2\) With the approval of the Director of the Nebraska Department of Banking and Finance, any bank could maintain an attached auxiliary teller office and up to two detached auxiliary teller offices to be used as drive-in and walk-up off-street banking facilities, all located within the corporate limits of the city where chartered.\(^3\) One detached office had to be located within three miles of the main bank.\(^4\) No detached facility could be “located within 300 feet of another non-participating bank or within 50 feet of another auxiliary teller office.”\(^5\) The services of such offices were restricted to receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange and receiving loan payments.\(^6\) Loans could not be made at such auxiliary teller units.\(^7\)

D. Electronic Funds Transfer Systems — Facilities Are Not Construed as Branches (1975 to Present)

In 1975, another innovation to Nebraska banking structure laws was recognized by the enactment of legislation defining electronic funds transfer systems.\(^8\) Since 1975, neither manned nor unmanned electronic satellite facilities are considered branch banks.\(^9\) This legislation, specifically excluding electronic facilities from being construed as branches, was necessary in that the McFadden Act defines a branch as a “branch bank, branch office, branch agency, additional office, or any branch place of business... at which deposits are received, or checks paid, or money lent.”\(^10\) The definition applies only to na-


\(^{33}\) L.B. 312, supra note 32, at 846.

\(^{34}\) Id.

\(^{35}\) Id.

\(^{36}\) Id.

\(^{37}\) Id.


\(^{39}\) L.B. 269 § 2, supra note 38, at 516-17.

Accordingly, without clarification in state law, the operation of an off-premises electronic funds transfer terminal may have been interpreted as a branch for a national bank, but not for a state bank.

III. THE LEGISLATIVE EVOLUTION OF INTRA-STATE BANK STRUCTURE IN NEBRASKA (1983 to Present)

A. ENTRY INTO THE BRANCHING AND MULTI-BANK HOLDING COMPANY ERA

The year 1983 marked a watershed year for Nebraska commercial bank structure. Legislation was enacted not only to permit limited de novo branches within municipalities and to relax limits on multi-bank holding companies, but to allow for the merger or acquisition of troubled institutions and to permit the chartering of limited interstate credit card banks. In both 1984 and 1985, further liberalizations of Nebraska bank structure laws were made, with the end result that Nebraska could be categorized as allowing for statewide branching through merger or acquisition.

To address the need for banking facilities in communities which lost their only financial institution due to closure, legislation enacted in 1986 allowed for limited extra-municipal de novo branching in such special cases. Since 1986, layers of exceptions to the Bank Holding Company Act and to the general branching statute (section 8-157) have been added, almost annually, to accommodate certain problems, such as the thrift crisis or a particular bank's unique circumstances.

B. BRANCH BANKING

1. DE NOVO BRANCHING

Legislative Bill 58, effective August 26, 1983, allowed a bank, on a de novo basis, to establish up to three branch offices by 1983; up to four branches by 1984; and up to five branches by 1985 and thereafter, all within the city in which the main bank is located. Although the law referred to such offices as "detached auxiliary offices," full banking services were permitted.

41. Id.
42. See infra notes 43, 47, 66-68, 117-22 and accompanying text.
43. Id.
44. See infra notes 47-48, 69-73 and accompanying text.
45. See infra notes 67-75 and accompanying text.
46. See infra notes 47-116 and accompanying text.
48. L.B. 58 § 1, supra note 47, at 253-54.
In 1988, LB 703 was enacted into law, effective April 8, 1988. The bill removed certain distance prohibitions of both attached and detached auxiliary offices. Specifically, the requirement that an attached auxiliary office not be “within 300 feet of another bank's auxiliary or detached office” was deleted from state law. Also, the requirement that one of two or more auxiliary offices shall be located within three miles of the bank premises specified as its place of business in its charter was deleted from previous law. The prohibition against locating any auxiliary office within 300 feet of another bank or within 50 feet of any other auxiliary office was also lifted by LB 703.

Finally, LB 703 allowed banks located within the zoning jurisdiction of a city of the primary class (only Lincoln meets the definition at this time), to establish and maintain auxiliary offices within the corporate limits of such city.

Legislation enacted in 1991 made further exceptions to the de novo branching statutory provisions. Legislative Bill 190, effective September 5, 1991, allowed banks “located within an unincorporated city or unincorporated area in a county which contains a city of the primary class” (again, only Lincoln currently meets this definition), to establish and maintain auxiliary offices within the corporate limits of such city. Under the provisions of LB 1275, effective April 5, 1996, the ability of a bank “in an unincorporated city or unincorporated area in a county which contains a city of the primary class” to establish and maintain auxiliary offices within the corporate limits of the City of Lincoln was eliminated. However, banks which had taken advantage of these branching provisions prior to April 5, 1996, were allowed to retain their full complement of branching rights within the City of Lincoln.

Legislative Bill 782, effective September 5, 1991, expanded the limitation of five detached auxiliary offices to six such de novo offices.

Legislative Bill 470, enacted in 1992, and effective law on March 26, 1992, again amended the primary branching authority statute.
(section 8-157). Legislation Bill 470 changed previous Nebraska branch banking nomenclature (e.g., branch, auxiliary office, detached office) to "branch bank" as a uniform expression.59 Also, any bank located in a Class I county (population of 300,000 or more, i.e., Douglas County) or a Class III county (population of at least 100,000, but less than 200,000, i.e., Sarpy County) may establish and maintain an unlimited number of branches within either a Class I or Class III county or within both.60 Any bank located in a Class II county (population of at least 200,000 but less than 300,000, i.e., Lancaster County) may maintain up to nine branch banks, as limited by statute, within the Class II county.61 Any bank situated in a Class IV county (population of less than 100,000, i.e., all counties, except Lancaster, Douglas and Sarpy Counties) is limited to six branch banks within the corporate limits of the city in which such bank is located.62 Legislative Bill 470 also restricted state-chartered building and loan associations from future branching except to the extent allowed for state-chartered banks.63 Finally, the measure also allowed acquiring banks to exercise any further branching rights held, but not used by the acquired bank, subject to the class of county restrictions (commonly referred to as "retained branching rights").64

In 1997, LB 56 was enacted, effective March 11, 1997, which provides that a bank located in a Class II county (population of at least 200,000 and less than 300,000) may establish and maintain up to twelve branches; however, the branching authority of banks located within the zoning jurisdiction of a primary class city (i.e., Lincoln) and of banks located in an unincorporated city or area within a Class II county is limited to nine branches.65

2. Conversion of Acquired Cooperative Credit Association into a Bank Branch

Legislative Bill 58, enacted in 1983, authorized any bank to acquire any cooperative credit association located within the county or contiguous county of the bank's main office and operate it as a branch office.66

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59. L.B. 470, supra note 58, at 301-12.
60. Id. at 302.
61. Id.
62. Id. at 302-03.
63. L.B. 470 § 3, supra note 58, at 308.
64. Id. § 1 at 303.
65. L.B. 56, 95th Leg., 1st Sess., § 1, 1997 Neb. Laws ___.
66. L.B. 58 § 3, supra note 27, at 257.
3. Conversion of Acquired “Failed” or “Failing” Financial Institution into a Bank Branch

Even before the de novo branching provisions of LB 58 took effect, emergency legislation was enacted to allow for a Nebraska bank to acquire a failing financial institution in Nebraska and operate it as a full service office (LB 241e; the “Failing Bank” Act).\(^6\) Legislative Bill 241e (effective March 31, 1983) also allowed for statewide cross-industry acquisition with the acquired office being operated as a branch.\(^6\)

Less than one year later, on March 8, 1984, LB 1026e became law.\(^6\) This was the next stepping stone to statewide branching. Legislative Bill 1026e provided that any detached auxiliary office established and maintained by a bank under the Failing Bank Act, would not count against the number or location of such detached offices otherwise restricted by law.\(^7\)

4. Conversion of Acquired or Merged Financial Institution Into Bank Branch

The next major structure change became effective March 4, 1985, with the passage of LB 295.\(^7\) This legislation, as it pertained to branching, kept the existing limitations placed on banks within a bank’s home city, but allowed unlimited branching by either merger or acquisition throughout the state.\(^7\) Such “extra-municipal” branching would be permitted only if the bank or bank holding company first merged with or acquired an existing financial institution which had been chartered for a period of five years, and then converted such financial institution into a branch of the surviving bank.\(^7\) De novo “extra-municipal” branching was still not permitted. With the passage of LB 983, effective April 18, 1986, the number of years required to be chartered for merger or acquisition eligibility was reduced from five years to three years.\(^7\) This three year requirement was further reduced to 18 months, effective April 18, 1988, as a result of LB 703.\(^7\)

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5. Branch Acquisition

Limited branch acquisition was also recognized when LB 272 was signed into law, effective May 26, 1989.76 Legislative Bill 272 provided:

[A] bank may acquire the assets and assume the deposits of a detached auxiliary office of another bank in Nebraska if [each of the following three conditions are met]: (a) The acquired detached auxiliary office has been approved for more than eighteen months; (b) the acquired detached auxiliary office is converted to an auxiliary office of the acquiring bank; and (c) the bank from which the detached auxiliary office is acquired and the acquiring bank are subsidiaries of the same bank holding company or the detached auxiliary office to be acquired was chartered as a bank prior to becoming a detached auxiliary office.77

Once acquired, the acquired office may perform all banking transactions allowed by law.78 In addition, the acquired office will not count against the number of locations of branch offices otherwise permitted by law and will not limit the authority of a bank acquiring other banks and their branches.79

In 1996, LB 1275 was signed into law, effective April 5, 1996.80 Under this legislation, the ability to acquire branches from other healthy financial institutions was expanded to allow a bank to acquire the assets and assume the deposits of a detached branch of another financial institution in Nebraska if each of the following two conditions are met: (a) the acquired detached branch has been established, maintained, and operated for more than eighteen months; and (b) the acquired detached branch is converted to a detached branch bank of the acquiring bank.81 Once acquired, all banking transactions allowed by law may be performed at the acquired detached branch.82 In addition, the acquired detached branch will not count against the number of locations of branch offices otherwise permitted by law and will not limit the authority of a bank acquiring other banks and their branches.83 This procedure has been utilized by a number of banks in

77. L.B. 272, supra note 76, at 853.
78. Id.
79. Id.
81. L.B. 1275, supra note 80, at 1538.
82. Id. at 1540.
83. Id. Examples include prior bank purchases of healthy thrift branches following the FirsTier Bank, N.A. purchase of Occidental Federal Savings and Loan and the First Bank, N.A. purchase of Metropolitan Federal Savings Bank.
acquiring branches of healthy thrifts which would have otherwise been closed.

6. "Eligible Savings Association" Acquisitions

Further inroads into branch acquisitions were subsequently enacted in response to the thrift crisis of the late 1980s and the resultant federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).\textsuperscript{84} In 1990, LB 956 was signed into law, effective March 12, 1990.\textsuperscript{85} Pursuant to this state legislation:

[A] bank may acquire an eligible savings association and convert the eligible savings association into a detached auxiliary office of the acquiring bank [under two conditions]: (a) the eligible savings association was established and maintained at its existing location prior to August 9, 1989 [the effective date of FIRREA of 1989], and was maintained at such location on such date and (b) the acquiring bank purchases or assumes all or any part of the assets or liabilities of the eligible savings association or agrees to act as the paying agent of the Federal Deposit Insurance Corporation or Resolution Trust Corporation with respect to the deposit liabilities of the eligible savings association.\textsuperscript{86}

"Eligible savings association" is defined as:

the main office, any or all branches of the main office, or the main office and any or all branches of the main office of any federally chartered or state-chartered savings bank, building and loan association, or savings and loan association the deposits of which are insured by the [FDIC] (a) with respect to which any adjudication or other official determination of any court of competent jurisdiction, the director, the appropriate federal banking agency, or any other public authority has resulted in the appointment of a conservator, receiver, or other legal custodian or (b) which fails to meet the minimum capital requirements applicable to it as established by law or regulation promulgated by its principal federal or state regulator. The determination of whether any federally chartered or state-chartered savings bank, building and loan association, or savings and loan association has failed to meet the minimum capital requirements applicable to it shall be made without regard to whether it has been granted any forbearance or other relief from any statutory, regulatory, or other capital requirements by any federal or state regulator,


\textsuperscript{86} L.B. 956 § 3, supra note 85, at 554.
whether the institution has submitted to any such regulator a plan to meet applicable capital requirements or standards over time, or whether any such capital plan has been approved by a federal or state regulator.\textsuperscript{87}

7. \textit{Retained Branching Rights}

In addition, LB 956 allows a bank to:

acquire the assets and assume the deposits of a detached auxiliary office of another bank in Nebraska... or eligible savings association acquired by another bank in Nebraska pursuant to... this act if (a) the acquired detached auxiliary office or eligible savings association is converted to an auxiliary office of the acquiring bank and (b) the detached auxiliary office or the eligible savings association to be acquired was operated, established, and maintained as an eligible savings association at its existing location prior to August 9, 1989, and was maintained at such location on such date.\textsuperscript{88}

Once acquired, the acquired office may perform all banking transactions that are allowed by law.\textsuperscript{89} In addition, the acquired office will not count against the number of locations or branch offices otherwise restricted by law and will not limit a bank to acquire other banks and their branches.\textsuperscript{90}

The concept of retained branching rights was further expanded with the passage of LB 456 in 1995.\textsuperscript{91} Effective on September 9, 1995, LB 456 allowed acquiring banks to exercise any further branching rights held, but not used by the acquired financial institution (this authority had previously been limited to acquired banks), subject to the class of county restrictions and further subject to the restriction that the acquired institution is “deemed... to have been permitted to establish and maintain detached branches solely to the extent permitted to state-chartered financial institutions under [section 8-157(2)] or under section 8-345.02 at the time of establishment of a new detached branch.\textsuperscript{92} The provisions of LB 456 were primarily designed to allow banks which had acquired a building and loan association or savings and loan association to retain the branching rights which were held, but not yet utilized by the acquired institution. Since federally chartered savings and loans have unlimited branching rights and state chartered building and loan associations had unlimited branch-

\begin{flushright}
87. L.B. 956 § 3(2), supra note 85, at 554-55.
89. Id.
90. Id.
92. L.B. 456 § 1, supra note 91, at 879-80 (codified as amended at Neb. Rev. Stat. § 8-167(2)).
\end{flushright}
ing rights in Nebraska prior to March 26, 1992, the restrictions contained within LB 456 limit the retained branching rights to those which exist for state chartered institutions at the time that a new detached branch is established.93

8. Loan Closings Off Bank Premises — Activities Are Not Construed As Branching

Pursuant to LB 81, adopted in 1993, banks were granted greater flexibility in conducting loan closings at locations other than the place of business specified in the bank's charter or any detached branch of the bank.94 Prior Nebraska Department of Banking and Finance Interpretations held that the practice of "closing" a loan at any location other than the main bank premises or a branch thereof, constituted an impermissible branching activity.95 As a result, loan closings handled contemporaneously with a real estate closing at the office of an attorney, real estate agent or title insurance agent, or the practice of having a bank customer sign a note at his or her home in the presence of a bank officer constituted violations of state branching laws. Uncertainty also existed in the area of permissible "loan closing" activities which could be conducted at a bank's loan production office.

Among the provisions of LB 81 are amendments to section 8-157(9) which took effect on February 20, 1993, that specifically state:

A bank which has a main chartered office or approved branch bank located in the State of Nebraska may, through any of its executive officers, including executive officers licensed as such pursuant to section 8-139, or designated agents, conduct a loan closing at a location other than the place of business specified in the bank's charter or any detached branch thereof. The director may adopt and promulgate rules and regulations to implement the provisions of this section.96


During the mid 1990's, a number of innovative approaches were developed to avoid the branching restrictions that continue to exist under Nebraska law. The first of these approaches, commonly re-

95. Nebraska Department of Banking and Finance, Statement of Policy, Permissible Branching Services #28 (effective Nov. 30, 1989, revised Dec. 19, 1990); Powers of a State Bank (effective May 9, 1983).
ferred to as a “reverse bank merger” involved the merger of an existing bank (chartered for more than 18 months) into a newly established and chartered bank. A second approach, known colloquially as “S & L charter application/cross-industry merger” involved a procedure under which a bank applied for a state savings and loan charter and simultaneously made application to convert the newly established state savings and loan to a branch of the bank, using the cross-industry acquisition/merger provisions of Nebraska law. Under the “reverse bank merger” approach, if the new state bank charter application was approved, the previously existing bank was converted into a branch of the new bank. Under the “S & L charter application/cross-industry merger” procedure, the newly chartered state savings and loan was merged into the previously existing bank.

Traditionally, it was believed that the acquisition by a bank of another bank or financial institution through purchase or merger with conversion of the acquired institution to a branch of the acquiring bank required an eighteen month waiting period after the charter was approved under section 8-157. However, this traditional “school of thought” was dispelled by these newly created exceptions which, in effect, allowed a bank to establish a branch bank in a community in which it could not have otherwise branched directly. In essence, the eighteen month waiting period and associated capitalization requirements could be avoided under either the “reverse bank merger” or the “S & L charter application/cross-industry merger” procedures described above.

In 1996, legislation was adopted to eliminate these two exceptions to traditional branching restrictions in Nebraska.97 Legislative Bill 1275, which became effective on April 5, 1996, effectively reinstates the eighteen-month chartering requirement which must be satisfied prior to the establishment of a branch following a merger or acquisition of financial institutions.98 Legislative Bill 1275 was designed to negate circumvention of existing branching restrictions via the “S & L charter application/cross-industry merger” procedure and the “reverse bank merger” procedure with respect to applications filed after April 4, 1996.99 This result was accomplished under the provisions of LB 1275, which require both the acquired financial institution and the acquiring bank involved in an application for an acquisition or merger filed after April 4, 1996, to have been chartered for more than eighteen months.100

97. See infra notes 98-100 and accompanying text.
99. L.B. 1275 § 1, supra note 98, at 1538.
100. Id.
10. Bank Agency Authority For Affiliates

In 1995, in response to the United States Congress' passage of the Riegle-Neal Interstate Banking and Branching Efficiency Act, the Nebraska Legislature adopted LB 384 which in pertinent part allows a state chartered bank to act as "agent" for its affiliates. The law, effective September 29, 1995, amended section 8-916, providing in part:

(1) Any bank subsidiary of a bank holding company may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations as an agent for a depository institution affiliate without regard to the location of the depository institution affiliate.

Section 8-916(2) further provides that a bank acting as an agent for a depository institution affiliate in accordance with section 8-916 "shall not be considered to be a branch of the affiliate."

C. Bank Holding Companies

Legislative Bill 58 was also the vehicle to lift Nebraska's multi-bank holding company ban that had been in place since 1963. Effective August 28, 1983, bank holding companies, including out-of-state holding companies that owned at least two Nebraska banks on March 12, 1963, were permitted to acquire state or national banks in Nebraska that had been chartered for at least five years. Acquisition of banks by any such holding company was prohibited if the banks acquired would have total deposits greater than an amount equal to 9% of total deposits held by all banks and savings and loans in Nebraska. As a further restriction, the bill provided that no bank holding company shall control or own more than nine banks located within the state. Again, prior to LB 58 taking effect, the "Failing Bank Act" (LB 241; 1983) allowed for a Nebraska bank or bank holding company to acquire a failing financial institution and operate such as a subsidiary of the holding company where all permitted banking transactions could be made.

103. Id.
104. NEB. REV. STAT. § 8-916(2) (Supp. 1996).
105. L.B. 58 § 2, supra note 27, at 256.
106. Id. at 256-57.
107. Id. at 257.
108. Id.
In 1984, LB 1026 was enacted to exempt banks acquired under the Failing Bank Act between March 8, 1984, and July 1, 1987, from the limits on total number of banks owned or percent of total deposits under a holding company's control in Nebraska. The Nebraska Legislature, with the passage of LB 295 in 1985, retained the numerical limitation of nine banks owned or controlled by a bank holding company, but the bill also raised the total deposit limitation placed on bank holding companies from 9% to 11% of bank and savings and loan deposits in the state. The deposit limitation was subsequently raised from 11% to 12% (LB 375, 1988; effective January 1, 1990), from 12% to 13% (LB 1146, 1990; effective January 1, 1991), and from 13% to 14% (LB 1146, 1990; effective January 1, 1992). Legislative Bill 1146, effective April 7, 1990, also exempts any bank or bank holding company which acquires the assets and liabilities of other institutions through the Failing Bank Act, the Resolution Trust Corporation (RTC) or the FDIC from the deposit limitations until January 1, 1994. The Legislature, with the passage of LB 384 in 1995, removed the numerical limitation of nine banks owned or controlled by a bank holding company.

IV. HISTORICAL SURVEY OF THE LEGISLATIVE EVOLUTION OF INTERSTATE BANK STRUCTURE IN NEBRASKA (1983 to Present)

A. Credit Card Banks

While much attention was focused upon the passage of LB 58 in 1983, little public attention was given to a measure making further inroads into interstate banking which became law on August 26, 1983. Legislative Bill 454 permitted an out-of-state bank holding company or its subsidiary to acquire a newly chartered bank if it is limited to a single office and limited to credit or transaction card business. Such a bank may not acquire another bank. Minimum
capital requirements are $2.5 million and the acquired bank must employ 50 or more persons in one year. 120 There is no reciprocity requirement. 121 The bank must operate in a manner not likely to attract Nebraska customers nor detrimental to existing banks in Nebraska. 122

Further refinements to this “limited” interstate banking venture were made the following year with the enactment of LB 1076, effective July 10, 1984. 123 The bill, as passed, allowed for employees of a qualified association that perform credit card processing services to be counted in meeting LB 454’s minimum employment requirements. 124 In addition, LB 1076 provided that a bank acquiring or controlling a newly established credit card bank will not have such acquisition count against the total deposit or bank acquisition limits otherwise restricted by law. 125 Finally, the bill limited deposits in credit card banks to those received from affiliated banks not domiciled in Nebraska. 126

B. INTERSTATE BANKING

In 1988, LB 375 was passed into law providing for regional reciprocal interstate banking commencing on January 1, 1990 and national reciprocal interstate banking beginning on January 1, 1991. 127 The bill contained supervisory powers for the Department of Banking, including the application process, reviewing examination, and community reinvestment review authority. 128 Legislative Bill 375 provisions were later repealed by the Legislature with the passage of LB 384 in 1995. 129 Legislative Bill 384, entitled the “Nebraska Bank Holding Company Act of 1995,” implemented the interstate banking provisions of the federal Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. 130 For the purpose of an ongoing historical overview, the following is a description of the provisions of LB 375.

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120. Id.
121. Id.
122. Id.
124. L.B. 1076 § 3, supra note 123, at 1279.
125. Id. § 2 at 1278.
126. Id. § 3 at 1279.
127. L.B. 375 § 9, supra note 112, at 348-49.
128. Id. at 349.
129. L.B. 384, supra note 102, at 588.
130. Id.
1. **Regional Reciprocal Interstate Banking**

Legislative Bill 375 defined a regional out-of-state bank holding company to be a bank holding company domiciled in any one of the "north-central states." The north-central states were: "Wisconsin, Minnesota, North Dakota, Montana, South Dakota, Wyoming, Colorado, Kansas, Iowa and Missouri." The bill provided:

> on or after January 1, 1990, a bank holding company . . . which [was] a regional out-of-state bank holding company incorporated and domiciled in a north-central state which authorize(d) the acquisition or control of banks in that state by a Nebraska bank or Nebraska bank holding company under conditions no more restrictive than those imposed by the laws of Nebraska, . . . [was not to be prohibited] from directly or indirectly owning or controlling more than twenty-five percent of the voting shares of any bank or the power to control in any manner the election of a majority of the directors of any bank unless upon such acquisition the banks so owned or controlled in Nebraska would have deposits in Nebraska greater than an amount equal to twelve percent of the total deposits of all banks in this state. . . .

The bill also provided that "any out-of-state bank or bank holding company shall not have a name deceptively similar to an existing Ne-

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131. L.B. 375 § 7, supra note 112, at 348.
132. Id.
133. Id. § 13, supra note 112, at 352-53. Certain definitions contained in L.B. 375 are important to review in order to fully understand the bounds of the legislation. "Nebraska bank" means a bank which "(a) has its principal office located in Nebraska, (b) has held, for the previous three hundred sixty-five days, more than fifty percent of its total deposits in Nebraska, and (c) is not directly or indirectly controlled by another company which has not held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of its bank subsidiaries in Nebraska." Id. § 7 at 347. "Nebraska bank holding company" means a bank holding company which "(a) has its principal office located in Nebraska, (b) has held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of all of its subsidiaries in Nebraska, and (c) is not directly or indirectly controlled by another company which has not held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of its bank subsidiaries in Nebraska." Id. Regional out-of-state bank means a bank which "(a) has its principal office located in one of the north-central states, (b) has held, for the previous three hundred sixty-five days, more than fifty percent of its total deposits in one or more of the north-central states, and (c) is not directly or indirectly controlled by another company which has not held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of its bank subsidiaries in Nebraska or one of the north-central states." Id. at 348. "Regional out-of-state bank holding company" means a bank holding company which "(a) has its principal office located in one of the north-central states; (b) has held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of all its subsidiaries in one or more of the north-central states; and (c) is not directly or indirectly controlled by another company which has not held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of its bank subsidiaries in Nebraska or one of the north-central states." Id.
A regional out-of-state bank holding company may not acquire a bank which has been chartered by the state or the office of the comptroller of the currency for less than five years. Regional out-of-state bank holding companies were also made subject to the provisions of LB 1026.

2. National Reciprocal Interstate Banking

Legislative Bill 375 also provides:

Commencing on or after January 1, 1991, a bank holding company domiciled in a state which authorize[d] the acquisition or control of banks in that state by a Nebraska bank or Nebraska bank holding company under conditions no more restrictive than those imposed by the laws of Nebraska, as determined by the Director of Banking and Finance, [could] own or control more than twenty-five percent of the voting shares of any bank or the power to control in any manner the election of a majority of the directors of any bank upon the same conditions and with the same limitations as those made applicable to a regional out-of-state bank holding company incorporated and domiciled in a north-central state.

3. Nationwide Interstate Banking


Barriers to nationwide banking were removed by the United States Congress in 1994. The “Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994” (“Riegle-Neal”) was signed into law by President Clinton on September 29, 1994. Riegle-Neal authorizes interstate acquisitions by bank holding companies, interstate mergers of banks, interstate bank branching and “agency banking” with affiliate banks in different states.

Under Riegle-Neal, interstate bank acquisitions and “agency banking” were permitted as of September 29, 1995, and interstate bank mergers and interstate branching will be permitted as of June 1,
1997. There is no “opt-out” provision for interstate banking. However, states may “opt-in” or “opt-out” of the interstate merger and branching provisions prior to June 1, 1997.

Riegle-Neal amended the Federal Bank Holding Company Act to allow an adequately capitalized and managed bank holding company to acquire a bank located in another state, beginning September 29, 1995.

The Riegle-Neal Act further permitted a state (1) to specify a minimum age requirement, not to exceed five years, for banks that are acquired by out-of-state banking organizations and (2) to prohibit interstate acquisitions if the acquiring bank holding company - including all affiliates - would control ten percent or more of insured deposits nationwide or thirty percent or more of a state's insured deposits after the acquisition. However, individual states, by statute, regulation or order, may permit a lower concentration limit or “deposit cap” on the amount of insured deposits in the state controlled by any single bank or bank holding company, provided it does not discriminate against out-of-state bank holding companies, banks or their subsidiaries and may establish “agency banking” provisions permitting affiliated banks to act as agents for each other in the conduct of most core banking activities. Beginning September 29, 1995, affiliated banks were authorized to “receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations” on behalf of each other, without being treated as branches.


Effective, September 29, 1995, all interstate banking provisions relating to reciprocity were eliminated in Nebraska. Legislative Bill 384 removed provisions from state law which discriminate against out-of-state bank holding companies in order to comply with the requirements of the Riegle-Neal Interstate Banking and Branching Efficiency Act. In establishing the Nebraska Bank Holding Company Act of 1995, LB 384 provided that an out-of-state bank holding company may acquire a bank or banks in Nebraska only if the bank or

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140. Id. at 2343.
141. See generally id. § 101-02 at 2339-52.
142. Id. § 103 at 2353-54.
143. Id. § 101 at 2339, 2343.
144. Id. at 2339 & 2340.
145. Id. at 2340.
146. Id. at 2342.
147. L.B. 384, supra note 102, at 596. See supra note 101-03 and accompanying text.
banks to be acquired have been chartered for five years or more and provided that the bank or banks so owned or controlled in Nebraska do not have deposits in an amount greater than 14% "of the total deposits of all banks in Nebraska plus the total deposits, savings accounts, passbook accounts, and shares in savings and loan associations and building and loan associations in Nebraska. . . ."\(^{148}\) The legislation also authorized state-chartered banks and their affiliated banks to act as agents for one another in the conduct of core banking activities.\(^{149}\)

C. **Nationwide Interstate Branching — Federal Legislation and Nebraska Response**

The Riegle-Neal Act generally permits adequately capitalized and managed banks to merge across state lines, beginning June 1, 1997.\(^ {150}\) Interstate branching may be accomplished by merger or acquisition of existing institutions, or it may be accomplished by acquiring an existing branch in another state or by establishing a *de novo* branch in another state.\(^ {151}\) However, branching through acquisition of an existing branch or on a *de novo* basis may only occur if expressly permitted by the law of the state where the branch is or will be located.\(^ {152}\) Once a bank has established branches in another state, it may only establish and acquire additional branches in that state to the same extent as other banks in the state.\(^ {153}\)

Under Riegle-Neal, states retain control over the structure of out-of-state banking organizations within their borders.\(^ {154}\) States must decide prior to June 1, 1997, whether to allow out-of-state banks to operate as branches within their borders, or to require that they maintain separate charters.\(^ {155}\)

1. **Interstate Branching**

Unless the State of Nebraska were to pass legislation to "opt-out" of interstate branching, beginning on June 1, 1997, bank holding companies may merge existing bank subsidiaries into one bank and mergers between banks with different home states may occur in which one bank would survive and operate the other bank as an interstate

\(^{148}\) *Id.* § 21 at 595.

\(^{149}\) *Id.* § 27 at 596-97.

\(^{150}\) Riegle-Neal, § 102 *supra* note 138, at 2343.

\(^{151}\) *Id.* §§ 101-03 at 2339-54.

\(^{152}\) *Id.* §§ 102-03 at 2344, 2352.

\(^{153}\) *Id.*

\(^{154}\) *Id.* at §§ 101-03 at 2339-54.

\(^{155}\) *Id.* at 2343-44.
branch. These interstate branching activities may be limited by "state entry rules" which may require an acquired bank to have been in existence for a specified period of time prior to becoming an interstate branch of the acquiring bank. The Federal Reserve Board may, however, approve the acquisition of a bank which has been in operation for at least five years, regardless of the period specified by the laws of the host state. States are also granted the authority to require the acquisition of an entire bank charter, to permit the acquisition of existing branches without the acquisition of a charter, or to permit de novo branching, at their discretion. Under existing Nebraska law, an out-of-state bank holding company may only acquire a Nebraska bank which has been in existence for a period of at least five years and Nebraska law does not permit the acquisition of existing branches without the acquisition of a charter nor does it permit de novo interstate branching.

With "opt-out" legislation being rejected during the 1995 and 1996 sessions of the Nebraska Legislature, Senator David Landis of Lincoln introduced LB 351 before the 1997 Nebraska Legislature, which was enacted and became effective on March 11, 1997. Legislative Bill 351 authorizes interstate branching in Nebraska as of May 31, 1997. The provisions of this legislation include the following:

1. Authorize Acquisitions & Mergers Across State Lines: A Nebraska state bank will be able to purchase a bank in another state and convert the acquired bank to a branch. Likewise, out-of-state banks will be able to purchase a Nebraska bank and convert the acquired bank to a branch.

2. Authorized Powers for Interstate Branches: Branches of out-of-state banks will be authorized to exercise all of the powers to which Nebraska banks are entitled, including the right to operate and establish additional branches. In addition, a Nebraska bank establishing a branch in another state will be authorized to exercise all of the powers that a bank located in the host state where the Nebraska branch is established could conduct.

156. Id. §§ 102-03 at 2343-44, 2352.
157. Id. § 101 at 2339.
158. Id.
159. See id. §§ 101-03 at 2339-54.
160. See supra note 148 and accompanying text.
161. L.B. 351, 95th Leg., 1st Sess., 1997 Neb. Laws ___.
162. L.B. 351, supra note 161.
163. Id. at § 3.
164. Id. at § 4.
165. Id.
166. Id. at § 3.
3. Restriction on Entry: An out-of-state bank may only enter Nebraska via interstate acquisition or merger by purchasing a bank in Nebraska which has been in existence for at least five years.\textsuperscript{167}

4. Prohibit \textit{de novo} Interstate Branching \& Interstate Branch Acquisitions: An out-of-state bank cannot simply open a branch in Nebraska or simply acquire an existing branch; rather, it must acquire a bank and its branches, if any.\textsuperscript{168}

5. Application of Existing Deposit Limitation: Extends the existing 14\% deposit limitation to interstate mergers and acquisitions.\textsuperscript{169}

6. Department of Banking Jurisdiction and Cooperative Agreements: Authorizes the Nebraska Department of Banking and Finance to share resources and enter into cooperative agreements with other states for the regulation and supervision of interstate branches.\textsuperscript{170}

V. \textbf{SUMMARY OF CURRENT NEBRASKA BANK STRUCTURE LAWS (1997)}

Current Nebraska bank structure laws allow for a bank located in a Class IV county (population of less than 100,000) to have up to six branches with full banking powers.\textsuperscript{171} In effect, these \textit{"de novo branches"}, or detached branches, must generally be located within the city where the main bank is located.\textsuperscript{172} A bank located in a Class II county (population of at least 200,000 and less than 300,000) may maintain up to twelve branches.\textsuperscript{173} However, the branching authority of banks located in the zoning jurisdiction of a primary class city (i.e., Lincoln) and banks located in an unincorporated city or area within a Class II county is limited to nine branches. A bank located in a Class I (population of 300,000 or more) or a Class III (population of at least 100,000 but less than 200,000) county may maintain an unlimited number of branches within and between such counties.\textsuperscript{174}

If an institution is declared to be subject to the \textit{"Failing Bank Act"}, a bank may absorb such institution and convert it to a branch bank which will not otherwise count against the limit on branches.\textsuperscript{175} A bank or bank holding company may also acquire or merge with an existing financial institution anywhere within the state and either re-

\textsuperscript{167}. \textit{Id.} at §§ 4-5.
\textsuperscript{168}. See \textit{id.}
\textsuperscript{169}. \textit{Id.} at § 6.
\textsuperscript{170}. \textit{Id.} at § 7.
\textsuperscript{172}. L.B. 1275 § 3, \textit{supra} note 171, at 1539.
\textsuperscript{173}. L.B. 56, 95th Leg., 1st Sess., § 1, 1997 Neb. Laws ___.
\textsuperscript{174}. \textit{Id.}
\textsuperscript{175}. \textit{Id.} § 4 at 1542.
tain such institution as a subsidiary of the bank holding company or convert such acquired institution into a branch bank.\textsuperscript{176} Also, a bank may acquire a detached branch of another financial institution in Nebraska if "(a) [t]he acquired detached branch has been established, maintained, and operated for more than eighteen months; and (b) [t]he acquired detached branch is converted to a detached branch bank of the acquiring bank."\textsuperscript{177} This limited "branch acquisition" authority will not serve to count against the number of locations a bank is otherwise permitted by law.\textsuperscript{178} In addition, a bank may acquire the detached branches of another bank in Nebraska or an "eligible savings association" previously acquired by another bank which has been converted into a detached branch.\textsuperscript{179} Again, this limited "branch acquisition" authority will not count against the number of locations a bank is otherwise permitted by law.\textsuperscript{180}

\textit{De novo} "extra-municipal" branching is not permitted, except in the following limited cases: (1) where a community has lost its only financial institution due to closure; or (2)(a) where the bank is in the zoning jurisdiction of a primary class city, branches may be within the corporate limits of such city if the bank existed at such location before April 5, 1996 or (b) where a bank is in an unincorporated city or area in a county with a primary class city (Lincoln is currently the only primary class city in Nebraska), if the bank existed at such location before April 5, 1996.\textsuperscript{181} If an acquired bank or financial institution has branches, the acquiring bank may exercise further \textit{de novo} branching rights held, but not exercised, prior to acquisition by the acquired bank or financial institution subject to the restrictions of the class of county in which the main bank or financial institution is located and the restriction that the acquired institution was deemed to have been permitted to establish and maintain detached branches solely to the extent permitted to state chartered financial institutions under section 8-157(2) or under section 8-345.02 at the time of establishment of a new detached branch.\textsuperscript{182}

A bank holding company is limited to holding up to 14\% of the total deposits held by banks and savings and loans in the state.\textsuperscript{183} These deposit limits do not apply to bank holding companies acquiring other institutions under the Failing Bank Act between the dates of

\begin{footnotes}
\footnote{176}{Id. §§ 1-3 at 1538-41.}  
\footnote{177}{Id. § 3 at 1540.}  
\footnote{178}{Id.}  
\footnote{179}{Id. at 1540-41.}  
\footnote{180}{Id. at 1541.}  
\footnote{182}{Id.}  
\footnote{183}{See L.B. 384 §§ 1-27, supra note 102, at 588-97.}  
\end{footnotes}
March 8, 1984, and July 1, 1987, or under the Failing Bank Act, the RTC or the FDIC between the dates of April 7, 1990, and January 1, 1994.\(^{184}\) Limited purpose credit card banks, operated by out-of-state bank holding companies, are allowed to be newly established.\(^{185}\) An out-of-state bank holding company, grandfathered in 1963 with the passage of the Nebraska Bank Holding Company Act, operates in Nebraska.\(^{186}\) Commencing September 29, 1995, an out-of-state bank holding company may acquire a bank or banks in Nebraska only if the bank or banks to be acquired have been chartered for five years or more and provided that the bank or banks so owned or controlled in Nebraska do not have deposits in an amount greater than 14% of the total deposits in all banks in Nebraska “plus the total deposits, savings accounts, passbook accounts, and shares in savings and loan associations and building and loan associations in Nebraska. . . .”\(^{187}\)

Beginning on June 1, 1997, bank holding companies may merge existing bank subsidiaries into one bank and mergers between banks with different home states may occur in which one bank survives and operates the other bank as an interstate branch. These interstate branching activities will be limited to the acquisition bank which has been in existence for at least five years, prior to becoming an interstate branch of the acquiring bank. Nebraska law will require the acquisition of an entire bank charter and will not permit the acquisition of existing branches without the acquisition of a charter, nor permit \textit{de novo} branching.

VI. LOOKING AHEAD

During the 1997 Legislative Session, in addition to LB 56 and LB 351 (described above), there are two separate bills proposing changes to Nebraska bank structure laws.\(^{188}\) Each of the bills was introduced by Senator David Landis of Lincoln who is the Chairman of the Nebraska Legislature’s Banking, Commerce & Insurance Committee.\(^{189}\)

First, LB 136 would amend section 8-157 to authorize each bank in Nebraska to establish a mobile branch that could transact business within the community or area in which the bank is currently authorized to establish branches.\(^{190}\) Second, LB 137 was introduced on be-
half of the Nebraska Department of Banking and Finance.191 The bill would propose the following changes to Nebraska bank structure laws:

1. Branch Acquisitions — Would clarify that the establishment of branches following an acquisition are not subject to limitations regarding either the location or the number of branches which may be established under Nebraska law.192

2. Branch Applications — Would remove the necessity for a public hearing on a branch application unless an objection is filed.193

The bill further requires the Department of Banking to publish notice of the branch application in a newspaper within the county where the branch is to be located and to give notice by certified mail to all financial institutions in the county in which the branch is to be located.194

It is self-evident that despite the passage of the Riegle-Neal Act and its subsequent implementation by state legislative action, Nebraska bank structure laws will remain subject to legislative scrutiny and regulation.

193. Id.
194. Id.