

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB603

Hearing Date: Tuesday February 26, 2019
Committee On: Banking, Commerce and Insurance
Introducer: Lindstrom
One Liner: Change automatic teller machine fees

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Gragert, Howard, Kolterman, La Grone, Lindstrom,
McCollister, Quick, Williams

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Senator Brett Lindstrom
Patrick Dwyer

Representing:

Introducer
Mastercard

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

This bill would amend section 8-157.01 of the Nebraska Banking Act which governs automatic teller machines and point-of-sale terminals.

Subdivision (3)(a) of section 8-157.01 provides (i) all automatic teller machines shall be made available on a nondiscriminating basis for use by Nebraska customers of a user financial institution and (ii) all Nebraska automatic teller machine transactions initiated by Nebraska customers of a user financial institution shall be made on nondiscriminating basis. Subdivision (3)(b) then identifies six situations that are not deemed discrimination. The bill would amend two of them, as follows: The bill would amend subdivision (3)(b)(iii) to provide that it shall not be deemed discrimination if the automatic teller machine usage fees of an establishing financial institution that authorizes and directly or indirectly routes Nebraska automatic teller machine transactions to multiple switches differ solely "based" upon the "fees established by the switches" rather differ upon the "fact that the automatic teller machine usage fee schedules of such switches differ from one another." The bill also would repeal the provisions of subdivision (3)(b)(v) which provide that it shall not be deemed discrimination if "the manner in which an establishing financial institution authorizes and directly or indirectly routes Nebraska automatic teller machine transactions results in the same automatic teller machine usage fees for all user financial institutions for essentially the same service routed over the same switch." The bill would repeal the provisions of subdivision (3)(d)(ii) which provide that a switch "shall implement the same automatic teller machine usage fee for all user financial institutions for essentially the same service."

Existing definitions are as follows:

An "automatic teller machine" is defined as a machine established and located in the State of Nebraska, whether attended or unattended, which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, and from which electronic funds transfers may be initiated and at which banking transactions may be conducted.

"Automatic teller machine usage fee" is defined as any per transaction fee established by a switch or otherwise established on behalf of an establishing financial and collected from the user financial institution and paid to the establishing financial institution for the use of the automatic teller machine. An automatic teller machine usage fee shall not include switch fees.

"Essentially the same service" is defined as the same Nebraska automatic teller machine transaction offered by an establishing financial institution irrespective of the user financial institution, the Nebraska customer of which initiates the Nebraska automatic teller machine transaction.

"Establishing financial institution" is defined as any financial institution which has a main chartered office or approved branch located in the State of Nebraska that establishes or sponsors an automatic teller machine or any out-of-state financial institution that establishes or sponsors an automatic teller machine.

"Nebraska automatic teller machine transaction" is defined as a banking transaction which is (i) initiated at an automatic teller machine established in whole or in part or sponsored by an establishing financial institution, (ii) for an account of a Nebraska customer of a user financial institution, and (iii) processed through a switch regardless of whether it is routed directly or indirectly from an automatic teller machine.

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

"Switch fee" is defined as a fee established by a switch and assessed to a user financial institution or to an establishing financial institution other than an automatic teller machine usage fee.

"User financial institution" is defined as any financial institution which has a main chartered office or approved branch located in the State of Nebraska which avails itself of and provides its customers with automatic teller machine services.

Matt Williams, Chairperson