

February 10, 2023

Friday marked the 26th day of the long, 90-day 2023 Legislative Session and the end of two-a-day Committee hearings. When lawmakers convene next Monday morning, floor debate will commence on the initial bills that have advanced from Committee to General File.

FLOOR DEBATE TO COMMENCE

A number of bills on the NBA Affirmative Legislative agenda got out of the chute early and should be debated on the floor of the Legislature early next week, including the following:

LB 94 – UCC ARTICLE 12: Introduced by Senator Julie Slama (Dunbar), LB 94 would adopt Uniform Commercial Code, Article 12, relating to controllable electronic records. **(NBA Position: Support)**

LB 207 – TRUST DEEDS-LOCATION OF TRUSTEE’S SALE: Senator Brad von Gillern (Omaha) is the sponsor of LB 207, which would clarify that the sale of property pursuant to a power of sale under a trust deed may be conducted on the premises, at the county courthouse, or in any public building in which county offices are located within the county in which the property to be sold is situated. **(NBA Position: Support)**

LB 279 – EXECUTIVE OFFICER REPORTING REQUIREMENTS: Senator Kathleen Kauth (Omaha) introduced LB 279, which would eliminate the requirement for executive officers to make annual reports regarding the amount of loans or indebtedness on which he or she is a borrower, cosigner, or guarantor, the security therefor, and the purpose for which the proceeds have been or are to be used. **(NBA Position: Support)**

In response to concerns expressed by the Nebraska Department of Banking and Finance, an amendment was agreed to by the NBA and adopted by the Committee to allow the Board of Directors to retain the flexibility to obtain a credit report for its executive officers on an annual basis.

UPCOMING HEARINGS

The following bills, opposed by the NBA, will be heard before the Banking, Commerce and Insurance Committee on February 13:

ACTION NEEDED – OPPOSE LB 730 and LB 743!

LB 730 - FAIR ACCESS TO FINANCIAL SERVICES ACT: Introduced by Senator Rick Holdcroft (Bellevue), LB 730 would restrict financial institutions from limiting access to financial services (financial product or service) for any reason other than objective financial criteria. The bill would prohibit a financial institution from denying any person a financial service offered by the financial institution unless justified by such person’s documented failure to meet quantitative, impartial and risk-based financial standards established in advance by the financial institution. **(NBA Position: Oppose)**

LB 743 - INVESTMENT NEUTRALITY IN PUBLIC FUNDS ACT: Also introduced by Senator Kauth, LB 743 would require any investment manager, fiduciary, governing body or financial institution in making and supervising investments of any public fund to discharge its duties solely in the financial interest of the beneficiaries for the exclusive purposes of a) providing financial benefit to the beneficiaries, and b) defraying reasonable expenses related to administration of the benefits.

The bill would require a fiduciary to take into account only financial (having a material effect on the financial risk of the financial return of an investment) factors when discharging its duties with respect to investments of public funds (financial does not include any action taken, or factor considered, by a fiduciary with any purpose whatsoever to further social, political, or ideological interests). **(NBA Position: Oppose)**

A “Background Paper” setting forth additional information and “talking points” on LB 730 and LB 743 accompanies this *NBA Legislative Update* for your assistance in contacting members of the Banking, Commerce, and Insurance Committee to encourage opposition to the measures.

COMMITTEE HEARING ACTIVITY

The NBA presented testimony before a number of Committees during the past week, including the following:

Government, Military & Veterans Affairs Committee - February 7

LB 116 - BEGINNING FARMER TAX CREDIT ACT: Introduced by Senator Tom Brandt (Plymouth), LB 116 would increase the net worth requirements for individuals to be qualified as a beginning farmer or livestock producer under the Beginning Farmer Tax Credit Act from \$200,000 to \$1 million (pension, retirement, or other types of deferred benefit accounts owned by the beginning farmer or livestock producer, including such accounts owned by a spouse or dependent would be excluded from the determination of a qualified beginning farmer’s or livestock producer’s net worth). **(NBA Position: Support)**

Government, Military & Veterans Affairs Committee - February 9

LB 268 - POLITICAL SUBDIVISION INVESTMENT POOL: Introduced by Senator Steve Halloran (Hastings), LB 268 would authorize any political subdivision vested with taxing authority including quasi-public entities, joint public agencies created pursuant to the Joint Public Agency Act and joint entities created pursuant to the Interlocal Cooperation Act located in Nebraska to participate in a trust or investment pool established within the office of the State Treasurer. **(NBA Position: Oppose)**

A big thanks to the many bankers who contacted members of the Government, Military, and Veterans Affairs Committee to express opposition to LB 268. Senator Halloran in his opening remarks indicated that he was asking the Committee to hold the bill and take no action this session.

BACKGROUND PAPER

ENVIRONMENTAL, SOCIAL, AND GOVERNANCE

ISSUE: ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (LB 730 / LB 743)

NBA POSITION: OPPOSE

BACKGROUND:

The following bills, opposed by the NBA, have been introduced which would require adherence to anti-Environmental, Social, Governance (ESG) policies for financial institutions in Nebraska.

LB 730 (Introducer – Senator Rick Holdcroft, Bellevue) would restrict financial institutions from limiting access to financial services (financial product or service) for any reason other than objective financial criteria. The bill would prohibit a financial institution from denying any person a financial service offered by the financial institution unless justified by such person’s documented failure to meet quantitative, impartial, and risk-based financial standards established in advance by the financial institution.

LB 743 (Introducer – Senator Kathleen Kauth, Omaha) would require any investment manager, fiduciary, governing body or financial institution in making and supervising investments of any public fund to discharge its duties solely in the financial interest of the beneficiaries for the exclusive purposes of a) providing financial benefit to the beneficiaries, and b) defraying reasonable expenses related to administration of the benefits.

The bill would require a fiduciary to take into account only financial (having a material effect on the financial risk of the financial return of an investment) factors when discharging its duties with respect to investments of public funds (financial does not include any action taken, or factor considered, by a fiduciary with any purpose whatsoever to further social, political, or ideological interests).

ARGUMENTS IN OPPOSITION TO LB 730 / LB 743

1. Banks should be free to lend to, invest in, and generally do business with any entity or activity that is legal, without government interference.
2. Banks should be free not to lend, invest, or otherwise engage so long as they do not violate statutory, regulatory, fair lending or other anti-discrimination laws.
3. The free-market approach to banking industry regulation has produced the strongest and most resilient financial system in the world. Efforts by policymakers from all sides of the political spectrum to intervene in the intermediation of capital risks undermine that system.
4. Nebraska banks make decisions every day based on their business interests. These business decisions are made with the primary goal of return on investment. Environmental, social and governance risks should not be considered separate categories of risk, as they are already embedded in the risks banks currently assess, monitor, and mitigate.
5. When policymakers use banks to impose unrelated policy goals, bank customers and communities get caught in the middle, and end up the losers.

Please contact the members of the Banking, Commerce and Insurance Committee set forth below to encourage them to **OPPOSE LB 730 and LB 743**.

Julie Slama (District 1), chairperson jslama@leg.ne.gov	(402) 471-2733
Ray Aguilar (District 35) raguilar@leg.ne.gov	(402) 471-2617
Beau Ballard (District 21) bballard@leg.ne.gov	(402) 471-2673
Eliot Bostar (District 29) ebostar@leg.ne.gov	(402) 471-2734
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Mike Jacobson (District 42) mjacobson@leg.ne.gov	(402) 471-2729
Kathleen Kauth (District 31) kkauth@leg.ne.gov	(402) 471-2327
Brad von Gillern (District 4) bvongillern@leg.ne.gov	(402) 471-2621
