

March 4, 2022

Lawmakers adjourned on Thursday for a long, four-day weekend. The final committee hearings were conducted on Thursday afternoon. Upon returning next Tuesday, the Legislature will commence full days of floor debate. With the significant number of priority bills yet to receive consideration, evening sessions will begin earlier than usual this session.

Speaker of the Legislature Mike Hilgers (Lincoln) highlighted the tasks which lie ahead for the Legislature. With only 21 working days remaining in the 2022 legislative session, eight of which have been committed to debating the budget, only 13 working days are available to process priority bills. As of Thursday morning, 64 priority bills have yet to be debated on General File, 28 await Select File debate, and 15 priority bills have yet to advance from Committee.

OMNIBUS BANKING BILL ADVANCES TO SELECT FILE

The Legislature advanced LB 707 to Select File with a series of amendments supported by the NBA. The bill, introduced by Senator Matt Williams (Gothenburg), has been designated as a Committee Priority bill and, as originally introduced, would authorize the Department of Banking to examine bank subsidiaries and recognize that bank subsidiaries may be formed as a limited liability company. The bill would also adopt the annual state-chartered bank and savings and loan “wildcard.”

Prior to advancing the bill to Select File, the Legislature adopted the following series of amendments to LB 707, all of which are supported by the NBA:

LB 706 - REAL PROPERTY APPRAISER ACT: Introduced by Senator Williams, LB 706 would make “technical corrections” to the existing Real Property Appraiser Act to remain in compliance with the Appraiser Qualification Board’s Real Property Appraiser Qualification Criteria and to maintain compliance with Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

LB 738 - LIBOR TRANSITION: Introduced by Senator Eliot Bostar (Lincoln), LB 738 addresses the legal effects of the discontinuance of LIBOR on contracts, securities, or instruments and provides for the replacement, by operation of law, of the United States Dollar Libor as the benchmark index for any contract, security, or instrument, with a recommended benchmark replacement that is based off a Secured Overnight Financing Rate (SOFR).

The bill specifies that the benchmark replacement applies with respect to a contract, security, or instrument that either: 1) contains no fallback provisions setting forth a methodology or procedure for determining a benchmark replacement; or 2) contains fallback provisions that result in a benchmark replacement that: a) is not a recommended benchmark replacement; and b) is based in any way on any LIBOR value.

The measure provides that the selection or use of a recommended benchmark replacement as a benchmark replacement for a contract, security, or instrument: 1) constitutes a reasonable replacement for and a commercially substantial equivalent LIBOR and 2) does not: a) impair or affect certain rights and performance obligations under; b) constitute a breach of; or c) void or nullify; the contract, security or instrument. The bill further provides that a person is not liable for damages and is not subject to any claim for equitable relief, in

connection with: 1) the selection or use of a recommended benchmark replacement; or 2) the determination, implementation, or performance of benchmark replacement performing changes; with respect to any contract, security, or instrument.

LB 826 - PUBLIC FUNDS DEPOSIT SECURITY ACT: Senator Brett Lindstrom (Omaha) is the sponsor of LB 826, which would authorize the use of bonds or obligations of another state, or a political subdivision of another state, which are rated within the two highest classifications by at least one of the standard credit rating services to be used as collateral for public funds, with such classifications to include the underlying credit rating or enhanced credit rating, whichever is higher, with respect to bonds or obligations of a political subdivision of another state.

LB 846 - BANK DIRECTORS ANNUAL AUDIT: Introduced by Senator Julie Slama (Sterling), LB 846 would allow a bank's board of directors to submit its annual audit to the Department of Banking within 120 days after the completion of the audit or, for a periodic audit within 120 days after the end of the calendar year.

LB 993 - NEBRASKA FINANCIAL INNOVATION ACT: Senator Bostar is also the sponsor of legislation (LB 993) which would prohibit a digital asset depository from providing digital asset and cryptocurrency custody services unless the digital asset or cryptocurrency was 1) initially offered for public trade more than six months prior to the date of the custody services or 2) was created or issued by any bank, savings bank, savings and loan association, or building and loan association organized under the laws of this state or organized under the laws of the United States to do business in this State.

FORECASTING BOARD RAISES REVENUE PROJECTIONS

The Nebraska Economic Forecasting Advisory Board met on Monday, February 28, and determined that the State will bring in \$370 million more than expected in fiscal year 2021-2022 and another \$405 million in fiscal year 2022-2023. The Advisory Board projections created an opportunity to allow the Legislature additional flexibility to give money back to taxpayers in the form of tax cuts. With the revenue projection revisions, the State's Cash Reserve is expected to grow to \$1.7 billion over the next two years.

The extra anticipated revenue should provide momentum for pending efforts to reduce the maximum individual and corporate income tax rates (LB 939), fully exempt social security benefits from taxation (LB 825) and continue to fully fund property tax income tax credits (LB 723).

COMMITTEE HEARING ACTIVITY

The NBA presented testimony on the following bills during the past week:

LB 982 - TAXATION EDUCATION SAVINGS ACCOUNT ACT: Introduced by Senator Robert Hilke (Omaha), LB 982 would authorize the parent or legal guardian of a student attending an eligible school to establish an education savings account with a financial institution for the purpose of paying qualified education expenses of the designated beneficiary of the account. The bill would allow a contribution of up to \$2,000 per calendar year to an account with contributions to be made only in the form of cash and would allow contributions to be invested at the direction of the account owner in stocks, bonds, mutual funds, or certificates of deposit offered by the financial institution where the account is established. A tax deduction would be allowed, to the extent included in federal taxable income for contributions and any income, from interest earned on an account established under the Education Savings Account Act. **(NBA Position: Support)**

LB 1188 – UNIFORM PERSONAL DATA PROTECTION ACT: LB 1188, introduced by Senator Mike Flood (Norfolk), would govern how business entities collect, control, and process the personal and sensitive personal data of individuals. The bill would apply to the activities of a controller (a person that, alone or with others, determines the purpose and means of processing personal data), or processor (a person that processes

personal data on behalf of a controller) that conducts business in the state or produces products or provides services directed to residents of the state and: 1) during the calendar year maintains personal data about more than \$50,000 data subjects who are residents of the state, excluding data subjects whose data is collected or maintained solely to complete a payment transaction; 2) earns more than 50% of its gross annual revenue during a calendar year for maintaining personal data from data subjects as a controller or processor; 3) is a processor acting on behalf of a controller, the processor knows or has reason to know satisfies the personal data or gross annual revenue requirements; or 4) maintains personal data, unless it processes the personal data solely using compatible data practices. **(NBA Position: Oppose)**

OTHER BILLS OF INTEREST

The Revenue Committee has advanced LB 730 to General File on a vote of 6-0. Introduced by Senator Lindstrom and designated a priority bill by the Revenue Committee, LB 730 would authorize a non-refundable credit against income tax for an employer that employs a qualified apprentice or qualified trainee for at least seven months of the taxable year, with the credit to be equal to \$1,000 for each qualified apprentice or qualified trainee employed by the employer and limited to no more than four credits with respect to the same qualified apprentice or qualified trainee. Prior to advancing the bill to General File, the Revenue Committee proposed to amend the provisions of LB 701 into the bill. LB 701, introduced by Senator Williams, would extend the sunset for the Nebraska Job Creation and MainStreet Revitalization Act from December 31, 2022, to December 31, 2027, and would extend the sunset under the Nebraska Advantage Research and Development Act from December 31, 2022, to December 31, 2023. **(NBA Position: Support)**