

2023
108th Legislature - First Session
NBA Legislative Wrap-Up

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2023 NBA LEGISLATIVE UPDATE WRAP-UP EDITION

The first session of the 108th Nebraska Legislature is now history, as the Legislature adjourned *sine die* on June 1, 2023. As always, the Legislature dealt with a number of contentious issues in the waning days of the session. The next regular session is scheduled to convene in early January 2024.

Over 84 bills, amendments to those bills and amendments to other proposals were actively monitored by the NBA this session. We have summarized only the major bills of direct interest to the banking industry, according to subject. Most of the other numerous non-banking legislative measures were disposed of early in the session and were previously covered in the weekly *NBA Legislative Update* narratives or *Bill Summary* emails.

During this session, many of the bills on the NBA's Affirmative Legislative agenda or supported by the NBA were enacted into law. The Legislature also took no final action on any of the bills on which the NBA had established a position of opposition. The success of this session is in large part attributable to the excellent grassroots support provided by Nebraska bankers. When called upon to make contacts with legislators, Nebraska bankers responded promptly and effectively in communicating the NBA's position on issues of importance to the banking industry. Thank you to each and every Nebraska banker who took time to visit with their state senator during the 2023 Legislative Session.

This summary also includes the effective dates of the enacted legislation and any necessary compliance information.

Members of the NBA Government Relations Committee spent many hours reviewing potential legislation for introduction on behalf of the NBA and analyzed other legislation introduced each session. The Committee makes recommendations regarding positions to be established by the NBA on legislation of interest to the banking industry which are forwarded to the NBA Board of Directors for final action. A special thanks to Nick Vrba, RVR Bank, Fremont, who served as Chair of the NBA Government Relations Committee this year along with all of the members of the Government Relations Committee for their efforts on behalf of the banking industry. A listing of the 2022-2023 members of the Committee is included in this *NBA Legislative Update Wrap-Up* edition.

If you have any questions regarding any of the bills highlighted below, please feel free to contact the NBA. **This *NBA Legislative Update Wrap-Up Edition* has been prepared as a summary and it does not necessarily constitute a complete or definitive analysis of each bill discussed.** The NBA staff is prepared to provide you with further information or to send you copies of bills in which you are interested.

2022-2023 Government Relations Committee

Nicholas Vrba, Chair

RVR Bank, Fremont

Stephen Stull, NBA Chair

Nebraska Bank, Hickman

Lydell Woodbury, NBA Chair-Elect

First Nebraska Bank, Valley

Tyler Avery

Commercial State Bank, Nebraska City

Spencer Bergen

Union Bank & Trust Co., Lincoln

Chris Brewster

Cornerstone Bank, York

Anna Castner Wightman

First National of Nebraska, Inc., Omaha

Allen Chaffee

Cornhusker Bank, Omaha

Greg Dunlap

Horizon Bank, Waverly

Patrick Green

Wells Fargo & Company, Des Moines

Stacie Holden

U.S. Bank, N.A., Minneapolis

Amanda Hoover

Adams Bank & Trust, Ogallala

Matt McNamara

Five Points Bank, Grand Island

Christian Ott

First Nebraska Bank, Valley

Aaron Otten

Elkhorn Valley Bank & Trust, Norfolk

Stephen Postier

Henderson State Bank, York

Krista Prinz

Citizens State Bank, Wisner

Luke Rickertsen, BankPAC Chair

Flatwater Bank, Gothenburg

Tim Sladek

Waypoint Bank, Cozad

Ryan Steffensmeier

First Community Bank, Beemer

Kristi Thornton

West Gate Bank, Omaha

Andrew Witt

Dundee Bank, Omaha

The NBA legislative program is member driven. Members submit solutions for legislation during the interim and in response to solicitations by NBA. The Government Relations Committee meets at least four times over a biennium to consider those ideas, make recommendations to the NBA Board of Directors regarding bills to be sponsored on behalf of the NBA, and to determine positions to be taken by the NBA on legislation introduced before the Nebraska Legislature which affects the banking industry.

**NBA AFFIRMATIVE
LEGISLATIVE AGENDA**

A number of bills were requested to be introduced on behalf of the NBA during the 2023 Legislative Session. Actions taken on bills that were a part of the NBA’s Affirmative Legislative agenda were as follows:

LIFE INSURANCE ASSIGNMENT - NOTICE OF LAPSE OR TERMINATION

LB 69 – Sponsor: Senator Mike Jacobson

NBA POSITION: Support

BILL STATUS: In Committee

LB 69 would prohibit a policy of life insurance subject to an assignment from being terminated or lapsed by reason of default in payment of any premium unless a notice of pending lapse and termination of the policy has been provided by the insurer to any known assignee at least 30 days prior to the effective date of the lapse and termination. The bill would allow the notice of lapse and termination to be provided electronically by the insurer to any assignee who has requested notice. The bill would also authorize senior citizens to designate a third party to receive notices of cancellation, nonrenewal, and conditional renewal.

UCC ARTICLE 12

LB 94 – Sponsor: Senator Julie Slama

NBA POSITION: Support

BILL STATUS: Select File

LB 94 would adopt Uniform Commercial Code, Article 12 relating to controllable electronic records.

TRUST DEEDS-LOCATION OF TRUSTEE'S SALE

LB 207 – Sponsor: Senator Brad von Gillern

NBA POSITION: Support

BILL STATUS: Indefinitely Postponed (IPP) (Amended into LB 92)

EXECUTIVE OFFICER REPORTING REQUIREMENTS

LB 279 – Sponsor: Senator Kathleen Kauth

NBA POSITION: Support

BILL STATUS: Select File

LB 279 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, but would allow the Board of Directors of a bank, in its discretion, to obtain a credit report from a recognized credit agency, on an annual basis, for any or all of its executive officers.

SMALL ESTATE AFFIDAVIT-ENDORSEMENT OF CHECKS

LB 330 – Sponsor: Senator Wendy DeBoer

NBA POSITION: Support

BILL STATUS: IPP (Amended into LB 157)

BILLS SUPPORTED BY THE NBA

A number of bills on which the NBA took a “support” position were considered during the 2023 Legislative Session. Actions taken on the bills supported by the NBA were as follows:

OMNIBUS DEPARTMENT OF BANKING ACT

LB 92 – Sponsor: Senator Julie Slama

NBA POSITION: Support

BILL STATUS: Passed & Signed

LB 92 made a series of changes to banking laws, including the following:

A. Department Of Banking Conditional Orders

Authorizes the Director of the Department of Banking to prescribe conditions for banks, trust companies, credit unions, building and loan associations, savings and loan associations, digital asset depositories, and their holding companies, if any, as part of any written order, decision, or determination required to be made pursuant to the Nebraska Banking Act, Chapter 8, Article 3, the Credit Union Act, and the Nebraska Financial Innovation Act (Section 2).

B. Nebraska Financial Innovation Act

Makes technical corrections to the Nebraska Financial Innovation Act regarding digital asset depositories (Section 1, 3, 12, and 19–41).

C. Bank and Savings and Loan “Wild-Card”

Renews the annual Bank and Savings and Loan “wild card” provisions (Sections 9 and 11).

D. Trust Deeds – Location of Trustee’s Sale

Clarifies 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 one or more county offices are located within the county in which the property to be sold is situated. (Section 80).

(Effective Date: Issues contained in items A-D became effective on June 7, 2023)

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SMALL ESTATE AFFIDAVIT/ENDORSEMENT OF CHECKS

LB 157 – Sponsor: Senator Wendy DeBoer

NBA POSITION: Support

BILL STATUS: Passed & Signed

LB 157, a bill primarily designed to increase judge’s salaries, was amended to include provisions relating to small estate affidavits and the negotiation of checks made payable “to the estate of” by authorizing a financial institution to accept such a check endorsed by the successor named in a small estate affidavit. The bill clarifies existing law to avoid the need to have a new check issued by the drawer of the check under such circumstances (Section 8).

(Effective Date: June 7, 2023)

RURAL WORKFORCE HOUSING INVESTMENT ACT

LB 191 – Sponsor: Senator Steve Halloran

NBA POSITION: Support

BILL STATUS: Passed & Signed

LB 191, the Business and Labor Committee priority bill was amended to include provisions relating to the Rural Workforce Housing Investment Act that allow a nonprofit development organization to apply for more than one grant subject to limitation on the maximum amount of grant funds awarded to such nonprofit development organization over a two-year period to no more than \$5 million (Sections 19-21).

(Effective Date: September 2, 2023)

TAXATION - PARTNERSHIP RETURNS

LB 206 – Sponsor: Senator Brad von Gillern

NBA POSITION: Support

BILL STATUS: IPP (Amended into 754)

OMNIBUS DEPARTMENT OF BANKING BILL

LB 214 – Sponsor: Senator Julie Slama

NBA POSITION: Support

BILL STATUS: IPP (Amended into LB 92)

SCHOOL DISTRICT PROPERTY TAX LIMITATION ACT

LB 243 – Sponsor: Senator Tom Briese

NBA POSITION: Support

BILL STATUS: Passed

Portions of LB 243 prohibit a school district from making a property tax request for any year in excess of 3% more than its property tax request in the prior year, or the percentage increase in the Consumer Price Index except with approval of the majority of its school board or by a 60% majority of the registered voters in a Primary, General or Special Election. The bill excludes that portion of a political subdivision's property tax request that is needed to pay the principal and interest on approved bonds or which is derived from the real growth value for the political subdivision (Sections 1-8).

(Effective Date: January 1, 2024)

RURAL WORKFORCE HOUSING INVESTMENT ACT

LB 249 – Sponsor: Senator Tom Briese

NBA POSITION: Support

BILL STATUS: IPP (Amended into LB 191)

GRAIN DEALER ACT/GRAIN WAREHOUSE ACT

LB 264 – Sponsor: Agriculture Committee

NBA POSITION: Support

BILL STATUS: General File

LB 264 would require bonds held by grain dealers to be a minimum amount of \$35,000 and not more than \$1 million (the maximum was previously \$300,000) and bonds held by grain warehouses to be in a minimum amount of \$25,000 and not more than \$1 million (the maximum was previously \$500,000).

ITEMIZED DEDUCTIONS ON TAX RETURNS

LB 497 – Sponsor: Senator Lou Ann Linehan

NBA POSITION: Support

BILL STATUS: In Committee

LB 497 would, effective January 1, 2023, allow every individual who itemized deductions on his or her federal return to subtract from federal adjusted gross income, the greater of either the standard deduction; or the sum of a) federal itemize deductions except for the amount for state or local income taxes included in federal itemize deductions before any federal disallowance; and b) the total amount of state and local property taxes reported on the federal return before any federal disallowance or, less the amount of state and local property taxes actually included in federal itemize deductions.

RURAL WORKFORCE HOUSING INVESTMENT FUND APPROPRIATIONS

LB 504 – Sponsor: Senator Raymond Aguilar

NBA POSITION: Support

BILL STATUS: In Committee

LB 504 would transfer \$25 million in fiscal year 2023-24 and fiscal year 2024-25 to the Rural Workforce Housing Investment Fund. Would also transfer \$25 million dollars for fiscal year 2023-24 and fiscal year 2024-25 to the Affordable Housing Trust Fund.

ECONOMIC RECOVERY ACT

LB 531 – Sponsor: Senator Terrell McKinny

NBA POSITION: Support

BILL STATUS: Passed & Signed

LB 531 would address the distribution of ARPA funds to North and South Omaha under the Economic Recovery Act of 2022.

(Effective Date: June 7, 2023)

NEBRASKA UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT

LB 579 – Sponsor: Senator Wendy DeBoer

NBA POSITION: Support

BILL STATUS: In Committee

LB 579 would require a transfer on death deed to contain a WARNING that following the death of the transferor, the transferor’s insurance policy covering the property transferred is only effective for 60 days thereafter. The measure would also provide that upon a transfer of real estate pursuant to a recorded transfer on death deed, that the beneficiary of the transfer on death deed becomes the named insured under any policy insuring the property for a period of 60 calendar days immediately following the death of the insured.

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DEPARTMENT OF BANKING CONDITIONAL ORDERS

LB 669 – Sponsor: Senator Beau Ballard

NBA POSITION: Support

BILL STATUS: IPP (Amended into LB 92)

NEBRASKA FINANCIAL INNOVATION ACT

LB 674 – Sponsor: Senator Mike Jacobson

NBA POSITION: Support

BILL STATUS: IPP (Amended into LB 92)

RURAL WORKFORCE HOUSING - AFFORDABLE HOUSING

LB 741 – Sponsor: Senator Tony Vargas

NBA POSITION: Support

BILL STATUS: In Committee

LB 741 would appropriate \$25 million in fiscal year 2023-24 and 2024-25 to the Rural Workforce Housing Investment Fund and \$25 million in fiscal year 2023-24 and fiscal year 2024-25 to the Affordable Housing Trust Fund.

TAXATION - INDIVIDUAL AND CORPORATE INCOME TAX REDUCTIONS

LB 754 – Sponsor: Senator Lou Ann Linehan

NBA POSITION: Support

BILL STATUS: Passed & Signed

LB 754 will reduce the maximum individual and corporate income tax rate to 3.99% by tax year 2027. The bill also exempts 100% of Nebraskan’s Social Security income from state income tax beginning in tax year 2024.

LB 754 also establishes a “pass-through entity income tax work-around” to allow business entities (including subchapter S banks and bank holding companies) to pay the state income tax for its owners with the business entity to receive a federal deduction of the state income tax and thereby bypass the itemized deduction, state and local tax (SALT) limitation. The “pass-through entity tax work-around” are retroactive to taxable years beginning on or after January 1, 2018 (Sections 11 and 16).

(Effective Date: June 1, 2023)

FUNDING FOR HOUSING IN CITIES OF METROPOLITAN CLASS

LB 786 – Sponsor: Senator Terrell McKinny

NBA POSITION: Support

BILL STATUS: In Committee

LB 789 would appropriate \$50 million in fiscal year 2023-24 and \$50 million in fiscal year 2024-25 to the Department of Economic Development to contract with Nebraska Investment Finance Authority for development (provide, grant, or loan any form of capital or technical support to private or public entities) of housing units located within the city of the Metropolitan class.

FUNDING FOR HOUSING

LB 789 – Sponsor: Senator Justin Wayne

NBA POSITION: Support

BILL STATUS: In Committee

LB 789 would appropriate \$50 million in fiscal year 2023-24 and \$50 million in fiscal year 2024-25 to the Department of Economic Development for community and rural development to contract with the Nebraska Investment Finance Authority for innovative housing solutions.

TAXATION- CORPORATE INCOME TAX REDUCTIONS

LB 804 – Sponsor: Senator Brad von Gillern

NBA POSITION: Support

BILL STATUS: In Committee

LB 804 would reduce the maximum corporate income tax rate from 7.25% to 5.84% on January 1, 2023.

TAXATION – INDIVIDUAL INCOME TAX REDUCTION

LB 806 – Sponsor: Senator Brad von Gillern

NBA POSITION: Support

BILL STATUS: In Committee

LB 806 would reduce the maximum individual income tax rate from 6.84% to 5.84% on January 1, 2023.

BILLS OPPOSED BY THE NBA

A number of bills affecting the banking industry were indefinitely postponed during the course of the 2023 legislative session or will be “carried over” for further consideration during the 2024 legislative session. The NBA was “opposed” to the following bills:

PAID FAMILY AND MEDICAL LEAVE INSURANCE ACT

LB 57 – Sponsor: Senator Machaela Cavanaugh

NBA POSITION: Oppose

BILL STATUS: In Committee

LB 57 would establish a statewide paid family medical leave insurance program similar to Nebraska's unemployment insurance system, managed by the state Department of Labor. The bill would apply to all employers subject to the Employment Security Act (one or more employees), with self-employed individuals eligible to participate. The bill would also provide employees with benefits of up to two-thirds of the state average weekly wage for up to 12 weeks of leave or, for leave taken on an intermittent basis, 60 workdays during any benefit year and allow 12 weeks or 60 work days of paid leave if taken intermittently and would base the paid leave upon 90 percent of an individual's average weekly wage that is at or below 50 percent of the state average weekly wage and 50 percent of the individual's average weekly wage that is above 50 percent of the state average weekly wage, not to exceed 66 percent of the state average weekly wage.

PUBLIC FUNDS

LB 67 – Sponsor: Senator Julie Slama

NBA POSITION: Oppose & Seek Amendments

BILL STATUS: General File

LB 67 would require the state treasurer to ensure that money deposited by the state treasurer's office is not used by financial institutions for social or political causes or objectives.

TAXATION - CONSUMPTION TAX ACT

LB 79 – Sponsor: Senator Steve Erdman

NBA POSITION: Oppose

BILL STATUS: In Committee

LB 79 would eliminate all property, income, and corporate taxes and replace it with a tax on the use or consumption in the state of Nebraska of taxable property or services (excludes intangible property and services) at a rate of 7.5%. The legislation would impose the consumption tax on financial intermediation services, including explicitly and implicitly charged fees for financial intermediation services to be collected with the same frequency that statements are rendered by the financial institution, but not less frequently than quarterly.

POLITICAL SUBDIVISION INVESTMENT POOL

LB 268 – Sponsor: Senator Steve Halloran

NBA POSITION: Oppose

BILL STATUS: General File

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.

FAIR CHANCE HIRING ACT

LB 367 – Sponsor: Senator Danielle Conard

NBA POSITION: Oppose

BILL STATUS: In Committee

LB 367 would prohibit an employer from asking an applicant to disclose information concerning the applicant 's criminal record or history until after the applicant has received a conditional offer of employment from the employer. The legislation would only allow an employer to request information concerning the applicant's criminal record or history after making a conditional offer of employment if the applicant is applying for a position for which a) a criminal history record information check is required by federal or state law; or b) federal or state law specifically disqualifies an applicant with a criminal background even if the law allows for a waiver that would allow the applicant to be employed.

PUBLIC ENTITIES INVESTMENT TRUST ACT

LB 476 – Sponsor: Senator Justin Wayne

NBA POSITION: Oppose

BILL STATUS: Withdrawn

LB 476 would have authorized the creation of trusts to provide an investment pool into which all public entities (excluding the state of Nebraska and any agency thereof) may deposit funds. The measure would have authorized investments in a) obligations, including letters of credit, of any agency or instrumentality of the United States government, including bonds, debentures, or notes issued by the Federal Home Loan Bank system; b) direct obligations of the United States government or its agencies including collateralized mortgage obligations and obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation; c) certain direct obligations of the state, its agencies, and instrumentalities; d) certain obligations of other states, agencies, counties, cities, and political subdivisions; e) certain commercial paper; f) money market mutual funds whose shares are sold without fees, commissions, or other sales charges, that have a fixed net asset value of \$1, and are comprised of obligations of the United States, its agencies, or instrumentalities; g) certain fully collateralized repurchase agreements; h) certain overnight and time deposits made in state or national banks, capital stock financial institutions, or qualifying mutual financial institutions doing business in the state; or i) any other allowable investments permitted under state law.

PUBLIC FUNDS/CREDIT UNIONS

LB 483 – Sponsor: Senator Jane Raybould

NBA POSITION: Oppose

BILL STATUS: In Committee

LB 483 would authorize a state or federal credit union to hold public deposits of the state or any political subdivision of the state.

LOCAL GOVERNMENT INVESTMENT POOLS

LB 594 – Sponsor: Senator Brian Hardin

NBA POSITION: Oppose

BILL STATUS: Withdrawn

LB 594 would have authorized a local government investment pool created under the laws of the state, including the Interlocal Cooperation Act to allow for the purpose of investing the funds of two or more political subdivisions in commercial paper if the commercial paper a) has a stated maturity of 390 days or fewer from its date of issuance; and b) receives an investment quality rating of not less than A-1 or P-1, or an equivalent rating, by a nationally recognized investment rating firm.

CREDIT UNION ACT

LB 710 – Sponsor: Senator George Dungan

NBA POSITION: Oppose

BILL STATUS: In Committee

LB 710 would eliminate requirements for the Director of Banking to provide notices of an application for establishment of a branch of a credit union and remove discretion from the Director to hold a public hearing on amendments to the Credit Unions Association's bylaws which are brought before the Department. The bill would allow a credit union with a main chartered office-approved branch in the state, upon notification to the Department, to establish savings account programs in any elementary or secondary school, whether public or private, that has students who reside in the same city or village as the main chartered office or branch of the credit union, or, if the main office of the credit union is located in an unincorporated area of the county, at any school that have students who reside in the same unincorporated area. The bill would also expand the field of membership of a credit union to include persons or organizations within a geographically defined community, neighborhood, or rural district; authorize a credit union to conduct annual or special meetings by virtual conferencing platform; and authorize credit unions to invest in shares, stocks, or member units of financial technology companies in a total amount not exceeding 5% of the net worth of the credit union.

FAIR ACCESS TO FINANCIAL SERVICES ACT

LB 730 – Sponsor: Senator Rick Holdcroft

NBA POSITION: Oppose

BILL STATUS: In Committee

LB 730 would restrict financial institutions (banks, savings and loans, trust companies, credit unions, money transmitters, non-depository service providers and insurance companies) 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 a) 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 and b) denying any person a financial service offered by the financial institution when the effect of the denial is to prevent, limit, or otherwise disadvantage the person 1) from entering or competing in a market or business segment; or 2) in such a way that benefits another person or business activity in which the financial institution has a financial interest or 3) deny, in coordination with another person, any person a financial service the financial institution offers.

INVESTMENT NEUTRALITY IN PUBLIC FUNDS ACT

LB 743 – Sponsor: Senator Kathleen Kauth

NBA POSITION: Oppose

BILL STATUS: In Committee

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). The bill would also deem a fiduciary to have taken an action, or consider the factor, with a purpose to further social, political, or ideological interests based upon evidence indicating such a purpose any of the following: 1) eliminating, reducing, offsetting, or disclosing greenhouse gas emissions; 2) instituting or assessing corporate board, or employment, composition, compensation, or disclosure criteria that incorporates characteristics protected in the state under the Nebraska Fair Employment Practices Act; 3) divesting from, limiting investment in, or limiting the activities or investments, any company, for failing, or not committing, to meet environmental standards or disclosures; 4) access to abortion, sex or gender change, or transgender surgery; or 5) divesting from, limiting investment in, or limiting the activities or investments of, any company, for engaging in, facilitating, or supporting the manufacture, distribution, sale, or use of firearms.

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PROPOSED CONSTITUTIONAL AMENDMENT/CONSUMPTION TAX

LR 6CA – Sponsor: Senator Steve Erdman

NBA POSITION: Oppose

BILL STATUS: In Committee

LR 6CA would prohibit governmental entities from imposing any taxes other than retail consumption taxes and excise taxes.

PROPOSED CONSTITUTIONAL AMENDMENT/CONSUMPTION TAX

LR 7CA – Sponsor: Senator Steve Erdman

NBA POSITION: Oppose

BILL STATUS: In Committee

LR 7CA would require the state to impose a consumption tax or an excise tax on all new goods and services and to provide a tax exemption for grocery items.