

May 14, 2021

The race to the finish line has begun in earnest as the Speaker of the Legislature announced on Thursday his intention to adjourn *sine die* on Thursday, May 27. Any controversial bills that may be subject to a potential Gubernatorial veto will need to advance from Select File by the “close of business” next Tuesday to be passed in time to allow for motions on the final day of the session to override any Gubernatorial vetoes.

Lawmakers spent the majority of the session on Wednesday debating a bill (Legislative Bill 474) to legalize medical cannabis. When the smoke had cleared, a motion to invoke cloture, which would end debate and force a vote on the bill and any pending amendments, failed on a vote of 31-18, with 33 votes needed for adoption.

BUSINESS LIABILITY PROTECTION BILL SURFACES

The long-awaited COVID-19 business liability protection legislation (LB 139) was advanced to the floor of the Legislature by the Judiciary Committee and given first round approval during the past week. Introduced by Senator Tom Briese (Albion), LB 139 would provide a “safe harbor” from potential lawsuits alleging that a protected individual or organization negligently exposed an individual to COVID-19 infection. Under the bill, civil lawsuits would be prohibited as long as the protected individual or organization was acting in compliance with “federal public health guidance” (written or oral guidance related to COVID-19 issued by the Centers for Disease Control; the Centers for Medicare and Medicaid services; or the Federal Occupational Safety and Health Administration).

The “safe harbor” protections in the bill as originally introduced, were narrowed by adoption of a Judiciary Committee amendment which removed provisions which would have prevented civil lawsuits unless an individual a) was diagnosed with a case of COVID-19 requiring in-patient hospitalization or resulting in death; and b) could prove, by clear and convincing evidence, that the condition occurred through gross negligence or willful misconduct.

PAID SICK LEAVE PROPOSAL FAILS TO ADVANCE

Lawmakers debated and rejected a proposal on Monday evening that would allow employees to accrue a minimum of one hour of paid sick time for every 30 hours worked, with a minimum of 40 hours of paid sick time accrued in a calendar year.

Under the measure, employees would be entitled to use accrued paid sick time beginning on the 60th calendar day following commencement of employment. Paid sick leave would be authorized for (a) an employee’s mental or physical illness, injury, or health condition; (b) an employee’s need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;

(c) an employee's need for preventative medical care; (d) care of a family member with a mental or physical illness, injury, or health condition; (e) care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; (f) care of a family member who needs preventative medical care; or (g) absence necessary due to domestic abuse, domestic assault, sexual assault, or stalking. **(NBA Position – Opposed)**

During General File debate, two amendment proposed by Senator Tony Vargas (Omaha), sponsor of the bill, were defeated. The first amendment would have provided for application of the bill to employers with 50 or more employees (provisions of the original bill applied to four or more employees). The amendment failed on a 19-16 vote, with 25 votes needed for adoption. The second amendment offered by Senator Vargas would have changed the leave time from paid to unpaid and was also rejected by lawmakers on an 18-14 vote. LB 258 failed to advance from General File on the following 17-20 vote:

Yes: Senators Blood, Bostar, Cavanaugh, J., Cavanaugh, M., DeBoer, Hansen, M., Hunt, Lathrop, McCollister, McDonnell, McKinney, Morfeld, Pansing Brooks, Vargas, Walz, Wayne, and Wishart.

No: Senators Albrecht, Arch, Brandt, Brewer, Clements, Dorn, Erdman, Flood, Geist, Gragert, Hansen, B., Hilgers, Hilkemann, Lindstrom, Lowe, Moser, Murman, Sanders, Slama, and Williams.

Excused – Not Voting: Senators Aguilar, Bostelman, Briese, Day, Friesen, Groene, Halloran, Hughes, Kolterman, Linehan, Pahls, and Stinner

TAX AND SPENDING BILLS CLOSER TO PASSAGE

The following series of tax relief and spending measures supported by the NBA were advanced to Final Reading during the past week.

LB 18 – ImagiNE Nebraska Act: Introduced by Senator Mark Kolterman (Seward) and designated as a priority bill by Senator John Stinner (Scottsbluff), LB 18 would provide that equivalent employees include hours paid to employees who were employed in Nebraska and subject to the Nebraska income tax on compensation received from the employer (previously limited to employees who were residents of the state).

LB 388 – Nebraska Broadband Bridge Act: Introduced by Senator Curt Friesen (Henderson) and designated as a priority bill by Speaker Mike Hilgers (Lincoln), LB 388 would appropriate \$20 million annually, beginning with fiscal year 2021-22 to facilitate and fund the development of broadband networks in unserved and underserved areas. The bill would create grants to be used for development costs for a qualifying project and require matching funds from political subdivisions making application for a grant, equal to 50 percent of the total development costs.

LB 432 – Corporate Income Tax Parity: LB 432, as originally introduced, would have created parity between the highest marginal individual income tax rate of 6.84 percent in the top marginal corporate income tax rate by reducing the tax rate on corporate income in excess of \$100,000 from 7.81 percent to 6.84 percent beginning January 1, 2022. During Select File debate, LB 432 was amended to phase in a smaller income tax rate cut for the next two years.

As amended, LB 432 would cut the state's top corporate income tax rate to 7.5 percent for tax years beginning on or after January 1, 2022, with the rate falling to 7.25 percent for tax years beginning on or after January 1, 2023. The amendment further states the intent of the legislature to further reduce the rate to 7 percent for tax years beginning on or after January 1, 2024 and to 6.84 percent for all tax years thereafter. Subsequent reductions to carry out the "legislative intent" will require affirmative legislative action in the future.

LB 452 – Financial Literacy Act: Introduced by Senator Terrell McKinney (Omaha) and designated as a Speaker's priority bill, LB 452 would require each school district, in consultation with the state Department of Education, to develop, for incorporation into all phases of the curriculum of grades K-8, a financial literacy program (knowledge and skills regarding budget and financial record keeping, taxes, establishing, building, maintaining and monitoring credit; debt; savings; risk management; insurance; and investment strategies). The bill would require each school district to present evidence annually to the state Department of Education, that financial literacy is being taught to students in accordance with the requirements of the Act.

Prior to advancing the bill to Final Reading, an amendment was adopted delaying implementation of the bill to the 2023-24 school year and requiring each student to complete at least one five-credit high school course in personal finance or financial literacy prior to graduation.

LB 682 – New Markets Job Growth Investment Act: Introduced by Senator Lou Ann Linehan (Omaha) and designated as a priority bill by the Speaker of the Legislature, LB 682 would provide additional utilization of federal dollars being appropriated to the United States Treasury Federal Program; provide additional transparency and extend the "sunset" date on new applications from December 31, 2022 to December 31, 2029.