

May 7, 2021

## **SESSION WINDING DOWN**

As the 2021 Legislative Session begins to wind down, lawmakers continue to tackle major, contentious issues. Among the high-profile issues addressed by the Legislature during the past week, were the following:

- LB 131 - Provides \$5 million in grant funding to municipalities that incurred extensive natural gas expenses resulting from the extreme cold spell in February;
- LB 132 - Creates a committee to study public school finance;
- LB 241 - Provides COVID-19 protections for meat processing workers;
- LB 454 - Provides extra school aid for rural school districts that currently receive little, if any “equalization” aid (failed to advance);
- LB 566 - Funding to assist nonprofits complete capital construction projects interrupted by the pandemic;
- LR 11CA - Replaces many existing taxes with a new “consumption” tax on the use or consumption of taxable property or services (failed to advance).

On tap in the upcoming week is second round debate on a series of tax relief and spending measures. Major decisions lie ahead as the estimated cost of pending bills with fiscal impacts exceeds the \$245 million available for such measures.

## **DIGITAL ASSET BILL COMPROMISE ADVANCES**

Following extensive negotiations with interested parties and adoption of significant amendments by the Banking, Commerce and Insurance Committee, the Committee advanced an amended version of LB 649 to General File. Representatives of the NBA had presented testimony in late February expressing opposition to LB 649 by the banking industry, which would authorize a new type of financial institution known as a digital asset depository institution (DADI). Sponsored by Senator Mike Flood (Norfolk), LB 649, as originally introduced, would have allowed crypto currency businesses obtaining a DADI charter from the Department of Banking and Finance to take uninsured US dollar deposits from consumers, convert them to digital assets, conduct payments, connect consumers to lending and investment platforms, and provide custody services for digital assets.

The primary basis for opposition to LB 649 by the NBA related to (a) the ability of DADI’s to accept deposits of US currency and to make loans of US currency; (b) provisions that would allow a DADI to use the word “bank” in its name and in describing its business activities; and (c) providing

an “unlevel playing field” for a new entity (DADI) that is not subject to the same regulations as traditional banks.

In dropping its opposition to the bill and assuming a “neutral” stance on LB 649, the NBA Board of Directors considered amendments to LB 649 that (a) prohibit a DADI from accepting deposits of US currency or making loans of US currency; (b) require any use of the word “bank” by a DADI in its name or in any description of its business activities to be coupled with the term “digital asset”; (c) authorize traditional banks to conduct the same digital asset business services as a DADI through a department of the bank; (d) require significant consumer protection disclosures to be given to consumers prior to opening a digital asset account; (e) establish limited Community Reinvestment Act requirements for a DADI; and (f) require significant disclosures regarding the lack of FDIC insurance coverage for digital asset accounts and disclosures regarding the risk, volatility and exposure to loss associated with investments in digital assets to be provided in all advertisements and promotions of digital asset business services, including advertisements and promotions on the DADI’s website.

General File debate on LB 649 is expected to commence early next week.

## **PROPERTY TAX REQUEST ACT ADVANCES**

**LB 644 – Property Tax Request Act:** The Legislature has advanced LB 644 to Final Reading. Under LB 644, introduced and designated as a priority bill by Senator Ben Hansen (Blair), certain political subdivisions (counties, cities, school districts and community colleges) would be required to hold a joint public hearing prior to increasing the property tax requests. The political subdivisions will be required to provide notice of the hearing to taxpayers by postcard, the hearing would be open to public testimony, and the agenda would include only the property tax request proposals. Prior to advancing to the Final Reading, an amendment was adopted to require the joint public hearing to be conducted only if the political subdivisions are seeking to increase the property tax request by more than an “allowable growth percentage,” equal to 2 percent plus the political subdivision's real growth percentage. **(NBA Position – Support)**

## **CONSUMPTION TAX PROPOSAL NIXED**

**LR 11CA – Consumption Tax:** LR 11CA introduced and designated as a priority bill by Senator Steve Erdman (Bayard) fell two votes short of advancing to Select File during the past week. The proposed Constitutional Amendment would overhaul the state system of taxation by repealing the state’s corporate, income and property taxes, and replacing them with a new consumption tax levied on the purchase of services and new goods. **(NBA Position – Oppose)**

## **TAX AND SPENDING MEASURES ON DECK**

Second round debate on a number of tax relief and spending measures supported by the NBA will be debated in the upcoming 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:** As amended, LB 432 introduced and designated as a priority by the Revenue Committee would create parity between the highest marginal individual income tax rate of 6.84 percent and 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. Nebraska’s corporate income tax currently has two brackets. The first \$100,000 of taxable income is taxed at 5.58 percent, with all taxable income in excess of \$100,000 taxed at a marginal rate of 7.81 percent.

**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.