

May 21, 2021

The last full week of the 2021 Legislative Session featured extended debate on bills designed to provide protections for meatpacking workers (LB 241); funding for children with developmental disabilities (LB 376); and distribution of education lottery dollars (LB 529), with each of these measures failing to advance. The Legislature effectively completed its substantive work on Friday and will reconvene next Thursday, if necessary, to consider overrides of any gubernatorial vetoes.

### **NBA SUPPORTED BILLS CROSS FINISH LINE**

The following bills, all supported by the NBA, were given final approval by the Legislature 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 will 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 will 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 will 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 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. During Select File debate, LB 432 was amended to phase in a smaller income tax rate cut for the next two years.

LB 432 will 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 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.

**LB 452 – Financial Literacy Act:** Introduced by Senator Terrell McKinney (Omaha) and designated as a Speaker's priority bill, LB 452 will 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.

The legislation will be effective for the 2023-24 school year and will require each student to complete at least one five-credit high school course in personal finance or financial literacy prior to graduation.

**LB 644 – Property Tax Request Act:** 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) will 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. The joint public hearing will only be required to be conducted 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.

**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 will 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.

## **BUSINESS LIABILITY PROTECTIONS ADOPTED**

COVID-19 business liability protection legislation (LB 139) was given final approval by the Legislature on Thursday. 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 an amendment adopted on General File 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.

## **DIGITAL ASSET BILL PASSES**

The Legislature has given final approval to LB 649, which will authorize a new type of financial institution, known as a digital asset depository institution (DADI), which may provide digital asset business services to its customers.

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.

Amendments to the bill adopted during General File debate (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.

The NBA had also expressed concerns that the banking industry would be required to subsidize the “start-up” costs incurred by the Department of Banking and Finance to “ramp up” its staff in assuming its new regulatory obligations to supervise and examine DADIs. Amendments to LB 649 and passage of an Appropriations bill (LB 649A) relieved these concerns by authorizing the transfer of \$712,489 in 2021 and \$397,089 in 2022 from the Securities Act Cash Fund to the Financial Institution Cash Fund in 2022.