

February 18, 2022

The balance of the legislative session will be dominated by decisions to be made regarding the expenditure of over \$1 billion in ARPA funds for one-time spending programs and bills designated as priorities by individual senators, committees and the Speaker of the Legislature. Each of the 49 senators are allowed to designate a personal priority bill, with each standing committee eligible to designate two priority bills that have been referred to the committee and the Speaker able to designate up to 25 Speaker priority bills.

The deadline for submitting requests for Speaker priority bill designation was February 17. Individual senators and committees must designate their priority bills by February 22, and the Speaker will select his list of 25 priorities bills on February 23.

OMNIBUS BANKING BILL ADVANCES – NBA BILLS ATTACHED

The Banking, Commerce and Insurance Committee has advanced LB 707 to General File with a series of amendments supported by the NBA. The bill, which has been designated as a Committee Priority bill, 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 General File, the Committee proposed 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 Matt Williams (Gothenburg), 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 (Auburn), LB 846 would allow a bank's board of directors to submit its annual audit to the Department of Banking within 120 days (currently 90 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 a) initially offered for public trade more than six months prior to the date of the custody services; b) created by a bank chartered in Nebraska; or c) created by a bank chartered by the United States.

INCOME TAX BILL DEBATED

LB 939 - INDIVIDUAL INCOME TAX RATES/CORPORATE INCOME TAX RATES: The long-awaited floor debate on LB 939 commenced Wednesday morning. Introduced by Senator Lou Ann Linehan (Omaha), LB 939 would reduce the maximum individual income tax rate on incomes over \$66,360 for joint returns from 6.84% to 6.34% in 2023; to 6.14% in 2024; and to 5.84% in 2025. Pursuant to a proposed Committee amendment, the provisions of LB 938 (Corporate Income Tax Rates) would be integrated into the bill. The amendment would reduce the maximum corporate income tax rate from 7.5% to 7% in 2023; to 6.5% in January 2024; to 6.14% in January 2025; and to 5.84% in January 2026. Debate on the measure is expected to extend into the middle part of next week. **(NBA Position: Support)**

COMMITTEE HEARING TESTIMONY

The NBA presented testimony on each of the following bills of interest to the banking industry during the past week:

Business and Labor:

LB 1069 - RURAL WORKFORCE HOUSING INVESTMENT ACT: Introduced and prioritized by Senator Williams, on behalf of the NBA, the bill would a) extend the definition of workforce housing to include owner-occupied housing units that cost not more than \$325,000 (currently \$275,000) and rental housing units that cost not more than \$250,000 (currently \$200,000); b) replace the \$2 million cumulative grant limitation with provisions allowing for the Department, in its discretion, to determine the cumulative amount of grants for any single grantee; c) reduce the matching requirement for grants from 100% to 50%; and d) extend the sunset date for provisions of the Act from July 1, 2022, to July 1, 2027. **(NBA Position: Support)**

Education:

LB 902 - NEBRASKA CAREER SCHOLARSHIP ACT: Introduced by Senator Ray Aguilar (Grand Island), LB 902 would authorize the board of trustees of the Nebraska State Colleges to award a Nebraska Career Scholarship not exceeding a maximum of \$15,000 per year to any eligible state college student who achieved a composite score on a standard college admission test equivalent to a score of at least 18 out of a maximum score

of 36 and who is enrolled in an eligible program of study (rangeland management, industrial technology, criminal justice, business administration, education, communication, or computer information systems). Under the measure each scholarship recipient would be required to register to obtain a Nebraska-based internship, apprenticeship, clinical position or employment in a major-related field prior to completion of the student's eligible program of study. The bill also provides similar scholarship and internship opportunities for University of Nebraska eligible students. **(NBA Position: Support)**

Appropriations:

LB 940 - RURAL WORKFORCE HOUSING: Introduced by Senator Matt Hansen (Lincoln), LB 940 would appropriate: \$50 million in ARPA funds to the Rural Workforce Housing Investment Fund; \$50 million in ARPA funds for the Middle-Income Workforce Housing Investment Fund; \$50 million for the Nebraska Investment Finance Authority for housing projects; and \$50 million for the Affordable Housing Trust Fund. **(NBA Position: Support)**

LB 1070 - RURAL WORKFORCE HOUSING FUNDING/INFRASTRUCTURE: Also introduced by Senator Williams, LB 1070 would appropriate \$20 million in ARPA funds to the Department of Economic Development to award grants for infrastructure related to rural workforce housing, authorize pursuant to the Rural Workforce Housing Investment Act. **(NBA Position: Support)**

LB 1252 - MIDDLE-INCOME WORKFORCE HOUSING INVESTMENT ACT: LB 1252, introduced by Senator Tony Vargas (Omaha), would appropriate \$20 million in ARPA funds to the Department of Economic Development to award grants for the development of middle-income housing and urban areas authorized by the Middle-Income Workforce Housing Investment Act. **(NBA Position: Support)**

Judiciary Committee:

LB 1132 - NEBRASKA UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT: LB 1132, introduced by Senator Adam Morfeld (Lincoln), 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 bill would also provide that upon a transfer of real estate pursuant to a recorded transfer on death deed, 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. **(NBA Position: Support)**

UPCOMING HEARINGS

The NBA will be presenting testimony on each of the following bills in the upcoming week:

LB 1167 - WORKFORCE DEVELOPMENT AND RETENTION: Introduced by Senator Mike Flood (Norfolk), LB 1167 would appropriate \$30 million in ARPA funds to the Department of Economic Development for enhancing and retaining Nebraska's workforce for the establishment of the internship grant program. The measure would also appropriate \$20 million to the Department of Labor to enhance and retain Nebraska's work force to establish a grant program to expand Nebraska's workforce. **(NBA Position: Support)**

LB 1187 - UNIFORM COMMERCIAL CODE - ARTICLE 12: Senator Flood has also introduced a measure (LB 1187) that would extend the operative date of the provisions of Uniform Commercial Code Article 12 (Controllable Electronic Records) from July 1, 2022, to July 1, 2023. **(NBA Position: Support)**

LB 1225 - REPEAL BANK FRANCHISE TAX: Senator Justin Wayne (Omaha), has introduced a measure (LB 1225), which would eliminate the bank franchise tax and require financial institutions to pay the corporate income tax for taxable years beginning in 2023. **(NBA Position: Oppose)**

CONSENT CALENDAR ACTIVITY

The Legislature has implemented a process to allow non-controversial bills (bills advancing with no dissenting votes and no opposition testimony) that are placed on the “consent calendar” agenda only 15 minutes of debate before being taken to vote. These “consent calendar” bills, which also may not have any fiscal impact or be amended with unrelated or substantive changes, have been scheduled on the first day of the legislative week, during the past few weeks, with five to seven bills being advanced in relatively short order under this procedure.