

January 18, 2019

NEW BILL INTRODUCTIONS – HEARINGS TO COMMENCE

As of Friday, January 18, the eighth day of the 2019 legislative session, a total of 478 bills and four proposed constitutional amendments have been introduced. With two days left for bill introductions, the total number of bills this session may exceed the number introduced in recent years.

Committee hearings will begin on Tuesday, January 22 and continue through the latter part of March. Floor debate on bills advancing from committee to General File is expected to begin later next week.

GOVERNOR’S “STATE OF THE STATE” ADDRESS Property Tax Relief Prioritized

Governor Pete Ricketts presented the annual “State of the State” address on Tuesday, January 15, calling for property tax relief, limited spending growth, and reduced regulatory red tape.

The Governor will be proposing an additional \$51 million annually for the Property Tax Credit Cash Fund; establishing minimum funding of \$275 million annually for the Property Tax Credit Cash Fund; and imposing a 3 percent cap on increases in property taxes levied by local governments.

The Governor's current budget proposal would limit increases in spending to 3.1 percent. A majority of the proposed budget growth would result from funding increases for state aid to schools and Medicaid expansion. The budget also contains increased funding levels for higher education.

Citing the need to “grow” Nebraska, the Governor is promoting workforce development through funding for “talent scholarships” to direct college students to high-demand career fields and an additional \$1.25 million in funding for the Developing Youth Talent Initiative, which encourages middle school students to learn about the fields of manufacturing and information technology.

NBA AFFIRMATIVE LEGISLATIVE AGENDA

A number of bills authorized for introduction on behalf of the NBA by the Government Relations Committee and Board of Directors were introduced during the past week. Among the bills on the NBA Affirmative Legislative agenda, are the following:

LB 121 – Direct Borrowing By Cities and Villages: Senator Sue Crawford (Bellevue) has introduced legislation (LB 121) that would clarify provisions relating to direct borrowing from financial institutions by cities and villages to (a) allow installment loans to be repaid over a term not to exceed seven years; (b) extend the limitation on total amount of indebtedness from direct borrowing by a city of the second class to twenty percent of the municipal budget of the city; and (c) provide that the amount of any loan attributable in one year to the limitation on the total amount of outstanding indebtedness from direct borrowing is the total amount of the outstanding loan balance divided by the number of years over which the loan is to be repaid.

LB 172 – Multi Party Accounts/Loans to Minors/Co-Fiduciaries: A measure (LB 172) introduced by Senator Patty Pansing Brooks (Lincoln) will (a) authorize owners of multi-party accounts to designate specific percentages for account beneficiaries; (b) allow co-fiduciaries to act independently with respect to banking transactions; and (c) clarify that minors age 18 can enter into binding obligations relating to promissory notes, mortgages, trust deeds, security agreements, financing statements or other security instruments to grant a lien or security interest in real or personal property or fixtures.

LB 257 – Collateral Insurance/Loss Payees: Senator Mark Kolterman (Seward) is sponsoring a bill (LB 257) to provide additional protection to lenders named as “loss payees” under policies insuring the collateral for their loans. LB 257 would require insurers issuing checks for payment of damages to automobiles in excess of \$2,500 and to homes or commercial buildings in excess of \$7,500 to be made payable to the insured and to the loss payee or repair person.

LB 453 – Credit Union Field of Membership/Notification Requirements: Under legislation introduced by Senator Rob Clements (Elmwood), state-chartered credit unions would be required to provide notice to the state bankers associations when making application to amend their bylaws or articles of association for the purpose of expanding their field of membership.

OTHER BILLS OF INTEREST

A number of other bills affecting the banking industry have also been introduced during the first seven days of the 2019 legislative session, including the following:

GENERAL BANKING

LB 55 – Acquisition or Conveyance of Title to Real Property by Persons 18 Years of Age:

Introduced by Senator John Lowe (Kearney), LB 55 would recognize the ability of an 18-year old to acquire or convey title to real property.

LB 77 – Real Property Appraiser Act: LB 77, Introduced by Senator Matt Williams (Gothenburg), would create alternatives to the existing extensive education and experience requirements for real property appraisers, which are designed to reduce barriers-to-entry into the real property appraiser profession. The measure will be heard before the Banking, Commerce and Insurance Committee on Tuesday, January 22.

LB 145– Nebraska Uniform Power of Attorney Act: Senator Matt Hansen (Lincoln) has introduced legislation that would authorize an agent under a power of attorney that grants authority with respect to banks and other financial institutions to execute such powers of attorney as may be

required and necessary for interacting with the bank or other financial institution, provided the terms and conditions in the financial institution's power of attorney are similar to those in the power of attorney that grants authority, including the identification of the acting agent and the agent's successors.

LB 146 – Uniform Power of Attorney Act: Introduced by Senator Matt Hansen (Lincoln), LB 146 would reduce the time period for a person to either accept and acknowledge a power of attorney or request a certification, a translation, or opinion of counsel to no later than three (was seven) business days after presentation of the power of attorney for acceptance and would reduce the period of time for a person requesting a certification, a translation, or an opinion of counsel to no later than three (was five) business days after receipt of the certification, translation or an opinion of counsel. The bill would also expand the damages associated with the refusal to accept an acknowledged power of attorney for economic damages approximately caused by the refusal to comply with the instructions of the agent designated in the power of attorney; reasonable attorney fees and costs incurred by the prevailing party and prejudgment interest on actual damages from the date the person refused to accept the authority of the attorney in fact (under current law, only reasonable attorney fees and costs are allowed under these circumstances).

LB 186 - Remote Electronic Notarial Acts: Senator Brett Lindstrom has introduced LB 186, which would authorize the performance of an electronic notarial act if the signer of the electronic document is not in the physical presence of the electronic notary public at the time of notarization, provided the signer and electronic notary use video and audio conference technology meeting specified requirements and permitting the electronic notary to communicate and identify the signer at the time of the electronic notarial act.

LB 258 – Omnibus Banking Bill: Introduced by Senator Williams, LB 258 would adopt the annual bank and savings and loan "wildcard" provisions. The measure would also repeal the \$15 renewal fee for issuing an executive officer's or loan officer's license.

LB 318 – Petroleum Products Lien: Introduced by Senator John McCollister (Omaha), LB 318 would eliminate the requirement for enforcement proceedings relating to a petroleum products lien to be instituted within 90 days after the filing of the lien and allow such lien to be enforced in the manner and form provided for the enforcement of secured transactions under Uniform Commercial Code, Article 9.

LB 355 – Mortgage Loan Originators: Senator Andrew La Grone (Gretna) is the sponsor of LB 355, which would recognize the ability of individuals employed by a licensed mortgage banker, beginning November 24, 2019, who is a registered mortgage loan originator to have temporary authority to act as a mortgage loan originator in this state for a period of 120 days after submitting a mortgage loan originator application.

LB 407 – State Chartered Credit Union Powers: Senator Brett Lindstrom (Omaha) has introduced legislation (LB 407) that would authorize a well-capitalized Nebraska state-chartered credit unions, with approval of the Director of the Nebraska Department of Banking and Finance to engage in any activity that a credit union chartered in another state and operating one or more branches in Nebraska may be authorized to engage in, provided the Director finds that the exercise of the power and authority serves the convenience and advantage of the members of the credit union, and maintains the fairness of competition and parity between credit unions chartered under the Credit Union Act and credit unions chartered by any other state which operate one or more

branches in this state. The measure would also eliminate the requirement for published notice of a credit union application to establish a branch.

TAXATION

LB 50 – Income Taxation: Introduced by Senator Tony Vargas (Omaha), LB 50 would, effective for taxable years beginning on or after January 1, 2019, establish an additional individual income tax rate bracket of 7.84 percent for incomes over \$100,000 for single individuals and incomes over \$200,000 for married filing jointly. The measure would also impose an additional tax of 1 percent on that portion of the taxpayers Nebraska taxable income in excess of \$1 million and an additional tax of two percent on that portion of the taxpayers Nebraska taxable income in excess of \$2 million.

LB 182 – School District Local Option Income Surtax Act: Senator Kate Bolz (Lincoln) has introduced LB 182, that would authorize school districts to adopt a local option income surtax for property tax reduction, or building construction, remodeling and site acquisition. (Local option income surtax would be equal to the individual’s state income tax liability, less any amount of nonrefundable credits allowed to such individual under state law, multiplied by a rate determined by the school board, not to exceed 20 percent.) The legislation would require approval of a local option income surtax by a majority of the registered voters in the school district and would limit the duration of the local option income surtax to a period not to exceed five years.

LB 276 – Sub S and LLC Income Taxation: Senator John McCollister (Omaha) has introduced a measure (LB 276) that would repeal the S Corporation and LLC exclusion for pass-through income derived from other states. The measure would also include pass-through income from a S corporation or LLC for “fair compensation for services rendered to the corporation or LLC.”

LB 303 – Property Tax Credit Act: Senator Brett Lindstrom (Omaha) is the sponsor of legislation (LB 303) that would establish, for tax year 2019 and each tax year thereafter, the amount of relief granted under the Property Tax Credit Act in an amount not less than \$275 million.

LB 314 – Remote Sellers Sales Tax Collection Act: A comprehensive tax reform package (LB 314) has been introduced by Senator Brieser. The legislation would impose new and expanded taxes to provide approximately \$470 million in property tax relief and significantly increase funding for state aid to schools. Various state taxes would be increased by an estimated \$780 million.

The measure would a) increase the state sales tax from 5.5 percent to 6 percent; b) eliminate the tangible personal property tax exemption; c) eliminate itemized deductions; and d) increase alcohol and cigarette taxes.

In addition, the bill would also increase income tax collections by:

- Ending Nebraska’s S Corporation/LLC exclusion on out-of-state earnings;
- Repealing the state’s special capital gains and extraordinary dividends exclusion;
- Reinstating the alternative tax on high-income earners; and
- Adding a 7.84 percent surcharge on income over \$250,000 for individuals and \$500,000 for couples.

The following series of sales tax exemptions would be repealed:

- Candy, soft drinks, and bottled water;

- Tangible personal property repair (motor vehicles);
- Pet-related services;
- Real property remodeling, painting and repair and interior design for residential housing;
- Personal care services including hair care, massage, tanning, nail, spa and tattoo services;
- Storage and moving services;
- Parking fees;
- Clothing cleaning and repair;
- Travel agency services;
- Membership and admissions to zoos and aquariums;
- Dating and escort services;
- Taxi, limousine, and other transportation services;
- Lawn care, landscaping, and gardening;
- Tele-floral;
- Tour operators;
- Historic automobile museums;
- Swimming pool cleaning and maintenance;
- Music, dance, golf, and other recreational services;
- Ride-sharing services (Uber and Lyft); and
- Airbnb-type services

The measure will also terminate the New Markets Job Growth Investment Act and earmark new sales tax revenues from online retail sales to property tax relief.

LR 8CA - Annual Property Tax Increases: Senator Lou Ann Linehan (Elkhorn) has introduced a constitutional amendment (LR8CA), to limit the growth of local property taxes. Under the measure, the ability of schools, counties, cities, and other local governments to increase property taxes would be limited. Property tax increases could not be more than 3 percent greater than the amount raised the prior fiscal year.

GENERAL BUSINESS

LB 254 - Fair Chance Hiring Act: Introduced by Senator John McCollister (Omaha), the bill would prohibit public and private employers and employment agencies from asking an applicant to disclose, orally or in writing, information concerning the applicant's criminal record or history, including any inquiries on any employment application, until the employer or employment agency has determined the applicant meets the minimum employment qualifications. The legislation would apply to employers with 15 or more employees.

LB 305 - Healthy and Safe Families and Workplace Act: Introduced by Senator Sue Crawford, LB 305 would allow employees to accrue a minimum of one hour of paid sick time for every 30 hours worked, with a maximum 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.

LB 311 – Paid Family Medical Leave Insurance Act: Senator Sue Crawford also introduced LB 311 that would establish a statewide paid family medical leave insurance program similar to Nebraska's unemployment insurance system and managed by the state Department of Labor.

2019 STATE GOVERNMENT RELATIONS FORUM

You are encouraged to sign up for the annual NBA State Government Relations Forum which will be held on January 31, at the Cornhusker Marriott Hotel in Lincoln, with registration beginning at 11:00 a.m. A legislative briefing will be provided by NBA General Counsel, Bob Hallstrom. Governor Pete Ricketts, Director of the Department of Banking and Finance Mark Quandahl, and UNL President Hank Bounds will make presentations at the Forum.

The State Government Relations Forum presents an opportunity to meet personally with your state senator and to discuss issues of importance to the banking industry and to your institution and community. We look forward to seeing you on January 31.