

February 15, 2019

With almost one-third of the 2019 Legislative Session completed, lawmakers continue to process legislative bills with remarkable speed. Thus far, just over 100 bills have been advanced from committee with 14 bills awaiting action on Final Reading, 23 bills resting on Select File, another 30 bills having received first round approval and 13 bills on General File.

The initial selection of priority bills has commenced with bills relating to medical marijuana (LB 110) and economic development incentives (LB720), among the early designations. The deadline for designating individual senator and committee priority bills is March 19, with requests for Speaker priority bills to be made by March 14. Committee hearings will be completed on March 28, with full-day floor debate to commence on April 2.

## **NBA BILLS ADVANCE**

The following bills on the NBA Affirmative Legislative Agenda were advanced to Final Reading during the past week.

**LB 55 – Multi Party Accounts/Loans to Minors/Co-Fiduciaries:** A measure, LB 55, incorporating provisions of legislation (LB 172) introduced on behalf of the NBA 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 (i) promissory notes, (ii) effective financing statements, (iii) 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, and (iv) acquiring or conveying title to real property.

**LB 121 – Direct Borrowing By Cities and Villages:** Introduced by Senator Sue Crawford (Bellevue), LB 121 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 20 percent of the municipal budget of the city; (c) provide that the amount of any loan attributable in any 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; and (d) measure the

permissible amount of the loan on the date the ordinance or resolution approving the direct borrowing is approved.

Restrictions under current law limiting the amount of direct borrowing by a city or village to a specified percentage (10 percent for cities and 20 percent for villages) of a single year's budget year has served to limit the ability of cities and villages to obtain loans that are to be repaid over a number of years. LB 121 will provide greater flexibility to allow banks to meet the direct borrowing needs of cities and villages.

## **BILLS SUPPORTED BY NBA MOVE ON**

Advancing to Final Reading were the following bills that are supported by the NBA.

**LB 70 – Uniform Voidable Transactions Act:** Legislation (LB 70), introduced by Senator Matt Hansen (Lincoln), would adopt the Uniform Voidable Transactions Act and repeal the Uniform Fraudulent Transfer 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.

## **NBA COMMITTEE ACTIVITY**

The NBA presented testimony before various committees during the past week on the following measures of interest to the banking industry:

### ***Banking, Commerce and Insurance Committee (February 12)***

**LB 257 – Collateral Insurance/Loss Payee:** Introduced by Senator Mark Kolterman (Seward), LB 257 would provide additional protection to lenders named as “loss payees” under policies insuring the collateral for their loans. The bill 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.

In recent years, many insurance companies have employed practices of issuing checks for insurance claims relating to damages to automobiles and buildings (residential or commercial) directly to the insured disregarding the provisions for loss payees under policies. The amounts of claim checks issued in this fashion have risen to \$7,500 - \$10,000, in some instances.

Mike Hall of American National Bank presented compelling testimony to the Banking, Commerce and Insurance Committee in support of the legislation, highlighting the significance of the problem and indicating that insurers should abide by their contractual obligation to protect loss payees under the terms of insurance policies. Insurance industry representatives opposed the bill, suggesting that lenders do not promptly endorse joint payee checks, which adversely impacts their insureds.

Members of the Banking, Commerce and Insurance Committee received numerous calls and letters from NBA members in support of LB 257. **(NBA Affirmative Legislation)**

**LB 145 – Nebraska Uniform Power of Attorney Act:** Introduced by Senator Matt Hansen (Lincoln), LB 145 would authorize an agent under a power of attorney granting 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 granting authority, including the identification of the acting agent and the agent’s successors. **(NBA Position – Support)**

*Revenue Committee (February 13)*

**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.”

Mike Hall once again represented the NBA on LB 276, noting the significance of exiting law to banks organized as S Corporations which conduct business in multiple states and the need to maintain parity between Nebraska’s taxation of C-Corps, S-Corps and LLCs with multi-state operations.

Many thanks to the bankers who wrote letters of opposition in response to the NBA Action Alert. **(NBA Position – Oppose)**

*Revenue Committee (February 14)*

**LB 314 – Tax Shifts to Provide Property Tax Relief:** The Revenue Committee heard over six hours of testimony on a comprehensive tax reform package, (LB 314), introduced by Senator Tom Briese (Albion), that would impose new and expanded taxes to provide approximately \$470 million in property tax relief and 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; (e) repeal a number of sales tax exemptions; and (f) extend the sales tax to a series of new services.

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.

**(NBA Position – Oppose)**

**LB 497 – State Aid to Schools – Tax Shifts to Fund Property Tax Relief:** Introduced by Senator Curt Friesen (Henderson), LB 497 would guarantee every public school to receive state support equal to 50 percent of its basic education funding needs; increase cigarette and alcohol taxes; eliminate certain sales tax exemptions; extend sales tax to certain services; eliminate the tangible personal property tax exemption; and transfer \$150 million from the General Fund to the state's Cash Reserve Fund. **(NBA Position – Oppose)**

## **OTHER FLOOR ACTION**

**LB 146 – Uniform Power of Attorney Act:** Introduced by Senator Matt Hansen (Lincoln), LB 146 would expand the damages associated with the refusal to accept an acknowledged power of attorney to include economic damages proximately 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).

The NBA had expressed opposition to the bill in its original form, however, an amendment proposed by the NBA limiting the potential for expanded damages to transactions relating to securities accounts was adopted in the process of advancing LB 146 to Final Reading, removing the NBA's opposition to the bill.