

March 1, 2019

On the heels of the Appropriations Committee submitting its preliminary budget on Wednesday, the Nebraska Economic Advisory Forecasting Board predicted on Thursday that the state will collect \$110 million less than previously expected between now and June 2021. The Forecasting Board prediction will add an extra \$39 million to the existing budget shortfall of \$95 million.

NBA BILLS ADVANCE

The legislature took action during floor debate on Friday morning on the following bills on the NBA affirmative legislative agenda.

LB 55 – Multi Party Accounts/Loans to Minors/Co-Fiduciaries: The legislature has given final approval to LB 55. Containing provisions of legislation (LB 172) introduced on behalf of the NBA by Senator Patty Pansing Brooks (Lincoln), LB 55 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: Also receiving final approval is LB 121. 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.

LB 622 – Public Funds Pooled Collateral: Advancing to Final Reading on Friday morning was LB 622. Introduced by Senator Matt Williams (Gothenburg) would authorize the use of a single bank pooled collateral method to collateralize public funds in excess of the FDIC insured amounts. Under current law, banks holding public funds in excess of the amount insured by the FDIC are required to furnish securities for each political subdivision and state agency placing deposits in the bank. Under LB 622, a bank would be allowed to furnish securities based upon the aggregate amount of public deposits of all political subdivisions and state agencies with deposits in the bank.

Banks indicate that they tend to significantly “over-collateralize” public deposits under the current pledging system and being able to pledge to the aggregate amount of all public deposits should result in a bank being more efficient in pledging for public funds, freeing up assets for more productive uses in its community.

FLOOR ACTION ON BILLS OF INTEREST

The following bills of interest to the NBA received final approval from the legislature during the past week:

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

LB 77 – Real Property Appraiser Act: LB 77, introduced by Senator Williams, will 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.

LB 146 – Uniform Power of Attorney Act: Introduced by Senator Hansen, 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 earlier in the session, removing the NBA’s opposition to the bill.

LB 186 – Remote Electronic Notarial Acts: Senator Brett Lindstrom (Omaha) has introduced LB 186, which will 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), will adopt the annual bank and savings and loan “wildcard” provisions. The measure will 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 the Banking, Commerce and Insurance Committee on February 26 on the following bills.

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

Under current law, when a credit union applies to the Nebraska Department of Banking to amend its bylaws to expand its field of membership, the Director is only required to publish notice in a newspaper of general circulation in the county or counties in which the expansion is being sought. The mere filing of published notice does not provide sufficient notice for interested parties to challenge the expanded field of membership if warranted. LB 453 will bring greater transparency to this process. **(NBA Position – Support)**

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 union, 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. Under the bill, the Director would be required to find 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.

Mike Hall of American National Bank testified on behalf of the NBA in opposition to LB 407, suggesting that the bill would allow state-chartered credit unions to exercise powers that the legislature has previously refused to authorize, such as accepting public deposits and establishing a community charter. **(NBA Position – Oppose)**

The NBA also joined forces with a coalition of business interests in opposing the following bills that were heard by the Revenue Committee on March 1:

LB 507 – Tax Shifts for Property Tax Relief: LB 507, introduced by Senator Tom Bries (Albion), would expand the sales tax on services to include, among many other services, the following: labor for repair or maintenance services performed on motor vehicles; pet-related services; cleaning of tangible personal property; storage and moving services; investment advice; personal care services including haircare, nail services, spa services, and tattoo services; limousine, taxi, ridesharing and other transportation services; lawncare, gardening, and

landscaping services; parking services; legal services other than services performed for a for-profit business enterprise; accounting and tax preparation services, other than for a for-profit business enterprise; labor of a contractor for any major addition, remodeling, restoration, repair, or renovation of owner-occupied residential housing; and interior design services.

The bill would also eliminate several sales tax exemptions and impose a tax on soft drinks, candy, and bottled water. Net revenues resulting from the taxes imposed by the bill would be credited to the Property Tax Credit Cash Fund. **(NBA Position – Oppose)**

LB 508 – Tax Shifts for Property Tax Relief: LB 508, also introduced by Senator Briese, would impose the sales tax on certain services, eliminate sales tax exemptions and use the increased revenue for property tax relief. Among the services for which sales tax would be imposed, include the following: investment advice; hair care services; maintenance, painting, and repair services for single-family housing; limousine, taxi, and other transportation services; plumbing services; and lawn care, gardening, and landscaping services. The legislation would also impose a tax on soft drinks and candy. **(NBA Position – Oppose)**

LB 614 – Tax Shifts for Property Tax Relief: Senator Sue Crawford (Omaha) has sponsored LB 614 which would increase the alcohol tax and cigarette tax; impose sales and use taxes on candy, soft drinks and bottled water; increase the state's earned income tax credit; eliminate exemptions provided under the Personal Property Tax Relief Act; change provisions relating to certain extraordinary dividends and capital gains, certain S Corporation and limited liability company income and itemized deductions; provide for a property tax relief allowance and increase allocated income tax funds under the school aid formula. **(NBA Position – Oppose)**

UPCOMING HEARINGS

The NBA will appear before the Revenue Committee next Wednesday to express its support for the following legislation:

LB 720 – Economic Development-Business Incentives: Senator Mark Kolterman (Seward) has introduced legislation (LB 720) to establish the ImagiNE Nebraska Act, which would revise and improve Nebraska's business incentives. The bill is designed to attract more high-paying jobs and investment from business located in Nebraska, as well as out-of-state companies. The bill would replace the Nebraska Advantage Act, which is set to expire at the end of 2020. LB 720, which is co-sponsored by 22 senators, would: a) encourage better investments, better jobs, enhanced reporting and greater transparency; b) accelerate the distribution of incentives by simplifying the application process; c) increase the "new present value" of tax credits helping Nebraska to win more projects and career opportunities for residents; d) allow the state to build stronger relationships with businesses to encourage greater levels of investments.

PRIORITY BILL DESIGNATIONS

The following bills of interest to the banking industry have been designated as priority bills, which will enhance their likelihood of being considered as the session progresses.

SENATOR PRIORITY

LB 670 – Senator Linehan – Opportunity Scholarships Act

LB 720 – Senator Kolterman – Economic Development-Business Incentives