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**Capitol View  
Commentary by J.L. Schmidt  
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**Special Session Talk Abounds at the Capitol**

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| |  | | --- | | In 2021, the last special session of the Nebraska Legislature lasted 13 days and cost the state $105,436. Do the math, that’s $8,076.92 per day.  Then ask yourself, is a winner-take-all election measure, which would bring Nebraska into the same fold as 48 other states, worth the money. For that matter, is a so-called solution to the state’s property tax problems worth it?  They’re bantering the words “special session” around like it’s nothing short of expected. Gov. Jim Pillen says he will call a special session this year if legislative leaders say they have the votes to support a measure that would award all five of Nebraska’s Electoral College votes to the statewide winner of the presidential popular vote and avoid the apparent embarrassment of Barack Obama and Joe Biden each getting one electoral vote in their previous respective presidential elections. After all, Nebraska is a red state, right?    After an Omaha rally led by national talk show host and populist pundit Charlie Kirk, attended by more than 700 presumed conservatives, Pillen spokeswoman Laura Strimple said “the Governor looks forward to partnering with legislative leaders to move winner-take-all forward in a special session when there is sufficient support in the Legislature to pass it.” Further, she said, Pillen “is an enthusiastic supporter of winner-take-all, has been from the start, and will sign it into law the moment the Legislature puts it on his desk.”  Similar bills made it to then-Governor Ben Nelson’s desk twice and were both vetoed. Nelson was the last Democrat governor in Nebraska.  Nebraska currently gives two votes to the popular vote winner and then one vote to the winner of each of the three Congressional districts. That system has allowed the Democrats to claim the Second District  **For Release Wednesday, April 24, 2024 – Page 2**  vote twice.  Apparently, the plan being discussed would seek to suspend the Legislature’s rules that allow for a minority-led filibuster. It takes 30 votes to suspend legislative rules. Doing so would mean winner-take-all could pass with 25 votes and Pillen’s signature. But getting the 30 votes to suspend could be a hurdle even with 35 registered Republicans in the officially nonpartisan Legislature. On occasion, personal conviction wins out over party- line.  Likewise, Pillen has said he would call lawmakers back into session to hammer out an acceptable property tax measure after his attempt to finance cuts with a one-cent sales tax hike failed during the waning days of the regular session. That would have to happen in a separate special session since such gatherings are limited to one topic.  Two special sessions would be far from a record for the nation’s only one-house legislature. During the 92nd Legislature (1991-92), I covered four special sessions, several which were ordered by opinions of the Nebraska Supreme Court. On July 10, 1991, the court held that the state property tax system violates the Nebraska Constitution and suggested that the system also may violate the equal protection clause of the Fourteenth Amendment to the United States Constitution. In MAPCO Ammonia Pipeline, Inc. v. State Board of Equalization & Assessment, the court declared most of the personal property exemptions unconstitutional and severely restricted the legislature's ability to classify and exempt property under the present constitution.    The property tax system violated the state Constitution. Let that sink in. Bottom line, this struggle with property taxes is NOT a new problem. But it is one that should be resolved.  Three special sessions followed in 1992 to deal with: redistricting by making Madison County a single legislative district; determining the governance of the School of Technical Agriculture in Curtis; exempting farm equipment from the state sales and use tax.  **For Release Wednesday, April 24, 2024 – Page 3**  Gives one new perspective on the surviving parts of the Pillen plan (LB388) that made it to the final stage of floor debate. The sales tax rate did not increase from 5.5 percent to 6.5 percent to bring in additional revenue to reduce property taxes paid to fund local government. The Institution on Taxation and Economic Policy modeled the proposal and declared that for all but Nebraska’s top earners, the sales tax increase would on average be greater than any property tax cut they may receive.  Whew, we dodged a bullet there.  **So, there’s no tax rate increase, but the bill does remove existing exemptions on pop and candy, lottery ticket sales, dry cleaning and pet related services. It raises taxes on cigarettes and vaping products and creates a new tax structure on digital advertising services, hemp and CBD products and skill games.**  **Also new to the game are revenue caps which impact cities and counties and are similar to those placed on local school districts a year ago.**  **If any of that is deemed justiciable and taken to the courts, two special sessions may not be enough.**  --30-  *J.L. Schmidt has been covering Nebraska government and politics since 1979. He has been a registered Independent for 25 years.* | |  | |  | | | |