**For Release Wednesday, April 17, 2024**

**Capitol View
Commentary by J.L. Schmidt
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**Six Words Seem to be a Legislative Curse**

"I believe I have the votes."

Those six words have become the curse of the Nebraska Legislature.

The buzzkill. The harbinger of failure.

Senator Kathleen Kauth of Omaha learned that on Day 56 of the 60-day session when her Sports and Spaces Act did little more than use up four hours of time when an attempt to end the opponent's filibuster fell two votes short. The measure fell off the agenda for good this year.

Likewise, a last-ditch attempt to return Nebraska presidential elections to a winner-take-all like 48 other states was admittedly going to be short of support after an attempt to amend the language to another bill.

Both of those measures had been stalled in committee, at least since last year, by committee chairs who were convinced there wasn’t enough support to get them out of committee let alone through three rounds of rigorous debate by 49 senators.

And then there's Governor Jim Pillen's attempt to raise the state sales tax by a penny to pay for property tax relief. Again, the sponsor admits the votes aren't there.

Hope springs eternal. But in the nation’s only nonpartisan one-house Legislature, reality abounds. The math seems easy. There are 35 Republicans, 13 Democrats and one independent. Bills take 25 votes to advance, 30 if they deal with appropriations. It takes 33 votes to end a filibuster after four hours of debate.

There are a handful of Republicans who are willing to abandon the party ship and vote their convictions. Sometimes measures that are being forced on Nebraskans by a national party committee or some other special interest groups don’t fare well. And rightfully so. Nebraska problems deserve Nebraska solutions, thank you very much.

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Republican Senators Merv Riepe of Ralston and Tom Brandt of Plymouth did not vote at the end of four hours of debate, dooming the Kauth bill which would have required public, private and parochial schools to enact policies classifying communal bathrooms and locker rooms and sports teams either as male or female. It also allowed schools to create mixed sports teams.

Backers of the bill admitted there were few transgender students in Nebraska’s K-12 schools, but they said the bill was proactive in creating protections for female athletes. Riepe and Brandt said they felt local schools and the Nebraska School Activities Association were better suited to handle the issue of transgender youths in schools and sports.

NSAA has already enacted a policy that allows its member schools to evaluate whether or not a transgender student can participate in sports. Riepe gave fellow senators a copy of the policy.

Meanwhile, Pillen has acknowledged the political reality facing Republicans' decades-old push to award all five of the state's Electoral College votes to the presidential winner of the statewide popular vote.  He was one of several state GOP leaders who said it was likely too late to make the change in time for the 2024 presidential election. Only Nebraska and Maine allocate electoral votes based on which candidate wins each congressional district.

Pillen also said he would entertain pausing or extending a planned decrease in state income taxes to help fund his property tax reduction plan. That plan (LB388) was placed in limbo when sponsors pledged to remove a controversial 1-cent hike in state sales taxes — a major component of the plan — to help finance a $1 billion shift from local property taxes.

That started a search for a new source of funding to finance the proposal and sparked speculation that pausing the gradual income tax reductions might be the solution since it would provide a similar amount of revenue.

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Revenue Committee Chair Sen. Lou Ann Linehan of Elkhorn is the chief sponsor of the measure. She pledged that she wouldn’t bring the bill back unless she could get agreement on how to replace the lost revenue.

Pillen has warned that a special session might be necessary to get Nebraskans the property tax relief he has promised. He said it might take until Christmas to do that.

To his credit, I haven’t heard him say, “I believe I have the votes.”

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*J.L. Schmidt has been covering Nebraska government and politics since 1979. He has been a registered Independent for 25 years.*