

Frakes Vows To Restore Correction Dept.'s Reputation

BY GRANT SCHULTE
Associated Press

LINCOLN, Neb. — Nebraska's new corrections director promised Thursday to restore his department's tarnished reputation, relieve overcrowding and end what he described as a "fear-based culture" among its employees.

Scott Frakes, a former administrator in Washington state's prison system, told lawmakers he will work to ensure that Nebraska's department stays accountable to the public.

Frakes was appointed by Gov. Pete Ricketts to help fix high-profile problems in the Nebraska Department of Correctional Services. He started last week but still has to be confirmed by lawmakers.



Frakes

"The citizens of Nebraska need and deserve a corrections department that makes public safety its top priority," he said in testimony to the Legislature's Judiciary Committee.

Frakes replaces Michael Kenney, who announced his retirement earlier this month after nearly a year and half as director. The agency has faced criticism for miscalculating hundreds of prison sentences, overcrowding and the use of a re-entry furlough program that some senators say is illegal.

It also has come under fire for releasing inmate Nikko Jenkins without supervision, despite his pleas for a mental health commitment. Less than a month after returning to society, Jenkins killed four people in Omaha.

Frakes told lawmakers he has imposed a moratorium on new admissions to the furlough program, which was created unilaterally by the department's previous administrator under pressure to ease crowding. He said he ordered one of the current 35 participants back to prison after evaluating each case, and will only continue the program if it's reviewed as required under state law.

He pledged to work with lawmakers to ease prison crowding. The statewide inmate population was 5,221 as of December, more than 59 percent above the prisons' design capacity.

Several senators urged Frakes to continue firing administrators who were involved with Jenkins before he was released.

"It's going to take a Superman effort to put us back on a basis with the citizens where they trust what we're doing in corrections," said state Sen. Bob Krist, of Omaha.

Senators singled out Mark Weilage, a behavioral health administrator, and deputy director Larry Wayne, both of whom testified before the Legislature's prisons-investigation committee last year. Lawmakers concluded that both men bore responsibility for Jenkins' release.

Frakes said he plans to make more staffing changes, but he needs time to get a sense of the department's needs.

The miscalculated sentences have already cost several top officials their jobs.

Two department attorneys, George Green and Sharon Lindgren, retired in August under the threat of being fired, and state prison-records administrator Kyle Poppert resigned this week.

Initial Hearing On River-Basin Management Held

BY BOB MERCER
State Capitol Bureau

PIERRE — A state Senate panel took testimony Thursday about a proposal to divide South Dakota into nine river-basin units for dealing with water-level problems.

The Senate Agriculture and Natural Resources Committee didn't take action. Its chairman, Sen. Gary Cammack, R-Union Center, deferred the matter until Tuesday.

Cammack suggested the bill's prime sponsor, Sen. Jason Frerichs, D-Wilmot, work on additional amendments that would cover the majority of the concerns expressed during the hearing.

The legislation, Senate Bill 2, came from the Legislature's regional watershed task force that has met for three years.

Frerichs asked that the legislation be significantly amended. While the concept would remain, the basin councils wouldn't become operational yet.

Instead an oversight panel would conduct a pilot project with the local governments in the Vermillion River basin to develop a management plan that could serve as an example for other basin councils.

The amendment also asks that Class 1 municipalities be removed from the governing structure for each basin and existing county ordinances wouldn't be repealed.

Mike Elsen of Hecla testified in support of the concept. He said 2009 through 2011 was "really a struggle" for agricultural producers in his part of northeast South Dakota.

"As a rural farmer we are the minority but we have the most at stake and the most at risk," Elsen said. "This is kind of the start of something moving forward."

South Dakota already has conservation districts that deal primarily with land practices and water development districts that deal with regional projects.

Brad Preheim, manager for the Vermillion River water development district, spoke in favor of the river-basin concept.

"We feel like this is our last option," Preheim said. He recalled legislation from 17 years ago on drainage. He said then-Sen. Dennis Daugaard — now governor — was a co-sponsor.

Jay Gilbertson, manager for the East Dakota water development district, acknowledged the legislation isn't perfect. "This is something we very much would like to see happen," he said.

Former Rep. Kim Vanneman, R-Ideal, testified by telephone. She was a member of the task force for the three years. She described the amended bill "as a great step forward."

If the legislation died in the

committee, the work would be "for naught" and legislators would have to start over, Vanneman said.

Matt Sibley, a lobbyist for South Dakota Farmers Union, said the organization supports moving forward. "We feel this is definitely a good launching point for that," Sibley said.

Mike Held, a lobbyist for South Dakota Farm Bureau, repeated an old description of state water law as "a tangle." He recalled 1985 action by the Legislature that gave drainage jurisdiction to counties.

"That has been less than successful," Held said, noting that some counties have used the authority.

"In the interest of county governments and in the interest of landowners, we need to continue this discussion," Held said.

Task force member George Vandel of Pierre said the contentiousness of the situation "hit me" during the work.

Vandel said some people are concerned about the additional water coming into a drainage, including from field tilling, and producers are concerned about losing their authority to use tile to drain their fields.

"I think it would be a big mistake to remove these municipalities," Vandel said. "I don't know how you can remove 80 percent of the public from involvement in their watersheds."

"Some counties do a really good job. Some counties do nothing. That needs to be repaired," Vandel added.

Another task force member, Rep. Dennis Feickert, said county governments should be part of the discussion. Feickert, D-Aberdeen, is a former Brown County Commission member.

Matt McCaulley, lobbyist for the South Dakota Corn Growers, said the organization supports movement forward but doesn't support the specific legislation.

McCaulley noted that cities wouldn't be part of the basin councils under the latest version of the bill while county governments have been added.

"We just aren't there yet in having a foundation to build on," McCaulley said.

Gary Jaeger, Deuel County Commission member, said the concept is very good "but it's an overstep of the bureaucracy we don't need."

"Some of these counties have been working very diligently in this issue," he said. There are 17 counties active in drainage matters, according to Jaeger, who opposed the plan.

Reuben Parks, a Day County landowner, spoke against it. He said there would be new taxes and a new regulatory agency.

"The cost of Senate Bill 2 will become a major financial burden and a regulatory

nightmare for agriculture," Parks said, adding there will be costs too for litigation.

Parks said the pilot project should be performed before the basins are created.

Paul Fuller, a drainage-systems salesman for Westside Implement at Clark, said it is a good concept. "But there are a lot of vague issues," he said.

"That makes the people extremely reluctant to support something when they don't know what's going to happen," Fuller said as an opponent.

In his rebuttal, Frerichs said 588,000 acres of private ground are now under water.

"There is no taxing authority in this right now. We're not hiding the fact that is going to be needed in the future," Frerichs said.

Frerichs said legislation would be brought to the 2016 session that would establish the basin boundaries. He said there isn't any rule-making authority in the current version of the legislation.

Sen. Jim Peterson, D-Revillo, said Deuel and Grant counties "and some other counties as well" have drainage ordinances that are effective.

Peterson asked whether counties could opt out. Frerichs said the basin district could be dissolved by petition and a vote.

Peterson asked whether county commissioners could be involved in the basin district boards. Frerichs said they could be candidates.

Peterson next asked Frerichs whether it's legal to try to control water levels. Frerichs said he is "imagining ways" that can be used to coordinate efforts.

Jaeger returned to the witness table to answer questions. He said local officials want some local control. "Because we are the people on the ground," he said.

The biggest concern for county commissioners was the taxing power, Jaeger said, and another concern is liability.

Jaeger said he's serving his third term. "We're having very few mediation problems. The only one that went to court was one that didn't come through the (county) board," Jaeger said.

Sen. Bob Ewing, R-Spearfish, said the discussion needs to continue but he can't support the legislation as it's now written.

Sen. Mike Vehle, R-Mitchell, said Frerichs did "an excellent job" explaining the task force's work and the legislation.

"After two and a half years, now we're starting to get it," Vehle said. Now the challenge is sharing that understanding with the rest of the Legislature, he said.

Vehle, who served on the task force, said counties were granted the governing authority. Some use it and some don't, he said.

S.D. State Senate Approves Elder-Abuse Task Force

BY BOB MERCER
State Capitol Bureau

PIERRE — State senators agreed Thursday that a task force should be selected to study elderly abuse in South Dakota.

Sen. David Novstrup, R-Aberdeen, said Chief Justice David Gilbertson was asked and agreed to fund the work from the state Unified Judicial System budget.

The chief justice also will receive authority to make the most appointments to the task force, Novstrup said.

The chief justice would receive five slots to fill, the governor three, the Senate president pro tem three and the House speaker three.

"All three branches have a stake in it," Novstrup said. "We can also look outside of our borders to get their ideas."

He added, "This is a serious issue and we need to get in front of it."

The budget will have a maximum of \$15,000 and UJS employees will serve as the staff for the task force.

The chief justice, during his State of the Judiciary speech to the Legislature on Jan. 14, spoke about elder abuse and said he stands ready to work with others on it.

Senate Democratic leader Billie Sutton of Burke praised the effort Thursday. Sutton suggested someone from the banking sector, or a state banking regulator, should be on the task force.

Sutton said there are privacy restrictions that can affect and limit the information a bank can provide about activities happening within a person's account.

"I hope that's considered when this task force is being set," Sutton said.

Senate Republican leader Tim Rave of Baltic said he agreed with Sutton's remarks and thanked Chief Justice Gilbertson for agreeing to the funding.

The measure, Senate Bill 168, won approval 31-0. It now goes to the House of Representatives, where Rep. Timothy Johns, R-Lead, is the lead sponsor. Johns is a retired circuit judge.

Legislative Roundup

Attorney General Wins Senate's OK On Raffle Regulations

BY BOB MERCER
State Capitol Bureau

PIERRE — The South Dakota Senate gave final legislative approval Thursday to new consumer protections sought by state Attorney General Marty Jackley regarding the operation of charitable raffles, lotteries and bingo.

Senators agreed with amendments made by the House of Representatives that had Jackley's support. The measure, Senate Bill 18, next goes to Gov. Dennis Daugaard for his decision whether to sign it into law.

The proposal came in the wake of a Moody County land raffle that was conducted on behalf of Annette Bosworth, who was a candidate last year for the Republican nomination for U.S. Senate.

The land wasn't awarded. Bosworth currently faces state criminal charges related to some of the signatures on her candidacy petitions.

One of the new regulations in Jackley's legislation would set a time limit of 18 months to conduct a raffle.

There also would be steps for

how to proceed if the deadline wasn't met.

Violations would be considered a deceptive practice and become subject to prosecution.

• **YES AND NAYS:** State government boards and commissions soon could be required to record in their minutes how each member voted on any motion on which a roll-call vote is taken.

The state Senate gave final legislative approval 31-0 Thursday to the proposed requirement. The measure, House Bill 1091, previously won passage by the House of Representatives 69-0.

Next stop is the governor's desk for his decision whether it becomes law.

The South Dakota Newspaper Association supported it.

• **PUBLIC NOTICES:** The South Dakota Newspaper Association presented the only opposition Thursday to allowing cities, counties and school districts to publish official information such as meeting minutes on the Internet rather than in the local newspapers.

The House Local Government Committee agreed with SDNA executive director Dave Bordewyk and SDNA lobbyist Justin Smith, voting 11-2 to kill

the proposal brought by Rep. Steve Westra, R-Sioux Falls.

The legislation, House Bill 1167, had a lineup of Republicans as co-sponsors and some heavy hitters supporting it, including the South Dakota Municipal League, the Associated School Boards, the South Dakota Association of County Officials and the large-schools group.


• **NO SILK PURSE:** A swift end came Thursday to legislation that would have rewritten one part of state law regarding prohibitions against non-family corporate ownership and operation of hog confinement facilities.

Sen. Art Rusch, R-Vermillion, said his interest in avoiding legal costs led to the proposal. He said state government had to pay \$600,000 in losing a previous court fight.

Since performing his own legal analysis and submitting the legislation, the retired judge said he's conformed with the governor's staff, the state Department of Agriculture and various producer organizations.

Their recommendation: Further study. So Rusch asked for the committee to table — in other words, kill — his bill, SB 127.

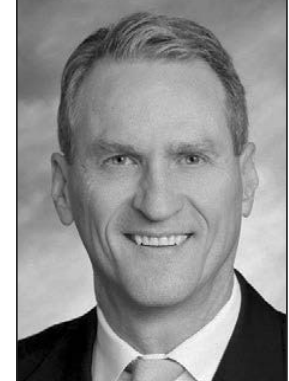
They did. "Thank you very much," Rusch told them. The legislation would have exempted hog facilities from the prohibitions.



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— Dennis Daugaard,
South Dakota Governor

House Bill 1167 would harm your right to know by eliminating the publication of government public notices in your local newspaper.

Tell your legislators in Pierre to vote “no” on HB 1167.



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