

SD Death Penalty Repeal To Be Sought

PIERRE (AP) — A South Dakota lawmaker says he'll ask the Legislature to repeal the death penalty in the session that starts Tuesday in Pierre.

Rep. Steve Hickey is a Sioux Falls Republican who also is a pastor.

He previously supported capital punishment but says he changed his mind after reviewing the Bible and deciding that the death penalty does not deter people from committing horrible crimes, save money or improve public safety.

Hickey has said his bill would apply only to future cases.

He'll face long odds in a Legislature that has consistently supported the death penalty.

South Dakota Attorney General Marty Jackley will oppose repeal, arguing that the death penalty is appropriate for vile crimes and is used sparingly in the state.

Neb. Eyes Changes To School Breakfasts

LINCOLN, Neb. (AP) — More Nebraska students could be eating grab-and-go school breakfasts or breakfasts in the classroom under a new bill in the Legislature.

Sen. Bill Avery of Lincoln introduced legislation on Monday that would create a grant program to help schools expand participation in school breakfast programs.

Avery says 89 percent of schools have a standard breakfast program in place, but only 31 percent of students are using them. Avery wants to more than double that number. He says that children who eat breakfast perform better during the school day.

Avery says the problem with the current program is a lack of outreach to parents, and some students aren't attracted to traditional breakfasts.

The grants would be funded by corporations in the food industry.

Legislators Aim To Avoid Partisan Fights

PIERRE (AP) — South Dakota lawmakers cooperated last year to pass measures revamping the state's criminal justice system and its economic development programs. Republican and Democratic leaders hope they can once again avoid, or at least limit, bitter partisan fights in the legislative session that begins Tuesday.

House Democratic Leader Bernie Hunhoff says the two parties cooperate in the South Dakota Legislature because lawmakers want to avoid the dysfunctional atmosphere that has led to gridlock in Congress.

House Republican Leader David Lust notes that Republicans hold sizable majorities in both the House and Senate, so the GOP could ram things through the Legislature. But he says Republicans want to include minority Democrats in key discussions.

Senate leaders say the two parties may disagree on issues but try to respect each other.

Burwell Deaths Ruled Murder-Suicide

BURWELL, Neb. (AP) — The family of a Burwell man who authorities say killed himself and his daughter has scheduled a memorial service.

The Garden County attorney has ruled that 31-year-old Christopher Melling used a shotgun to kill his daughter, Amy Melling, at their home in Burwell. The little girl's body was buried on Sunday, which would have been her third birthday.

The memorial service for Christopher Melling is scheduled for Wednesday afternoon at the VFW in Gibbon.

The bodies were found last Tuesday after officers were sent to the Burwell house to check on the residents. Neighbors had reported their concerns after seeing no activity at the home. The deaths are believed to have occurred sometime between the night of Jan. 4 and Tuesday morning, Jan. 7.

South Dakota

Staff Now Permitted In Caucuses

BY BOB MERCER
 Capitol Bureau

PIERRE — The state Legislature's Executive Board made a major change Monday on the eve of the 2014 session of the Legislature that opens today. For the first time, the Republican and Democratic caucuses in the Senate and the House of Representatives can invite members of the Legislature's non-partisan professional staff into closed-door caucuses for confidential assistance.

The issue previously had split lawmakers, but the 15 members of the Executive Board voted unanimously in favor late Monday afternoon to accept a nine-point list of protocols drafted by Legislative Research Council senior counsel Reuben Bezpaletz.

The new policy reflects a less-experienced Legislature that has gradually taken shape under term limits that don't allow a lawmaker to seek a fifth consecutive two-year term in the same chamber.

The protocol calls for a caucus to formally make a request with the LRC director — currently interim head Fred Schoenfeld — who then will assign the staff person to the caucus to respond to questions within that staff member's expertise. A staff person won't be allowed to attend a caucus on a regular basis to address questions as they arise.

Questions deemed appropriate for

staff members to answer include constitutionality, legality, legislative precedent, procedure, interpretation of rules, style and form, statutory construction, research, availability of information, fiscal analysis and calculation, and discussion or preparation of amendments to pending legislation.

Off-limits will be questions about ethics, partisan strategy, subjective value judgments about pending legislation, and thought processes and purposes of sponsors of legislation.

Sen. Ryan Maher, R-Isabel, and Schoenfeld will explain the protocols to each of the four caucuses in the early days of the session. Maher is chairman of the Executive Board.

Staff members who participate in closed caucuses are prohibited from divulging information about their participation. They can express the same or similar information or opinions if they are called to other caucuses on the same topics but they can't divulge they participated in the other caucuses.

Likewise, legislators are prohibited from quoting or attributing any statement made in caucus by staff during floor debate or other legislative discussions.

The LRC director will keep a log of the date that each staff person was requested to attend a caucus. The reason for the request will be confidential. However, the log is open to inspection by each caucus.

Nebraska

Heineman Wants 'Good Time' Changes

BY GRANT SCHULTE
 Associated Press

LINCOLN, Neb. — Nebraska Gov. Dave Heineman and Attorney General Jon Bruning said Monday that they will propose legislation that would eliminate automatic "good time" credit for violent offenders in the state's prison system.

The Republican officials said during a news conference at the Capitol that they will submit the measure this year for consideration by the Legislature.

If passed, the law would require inmates convicted of murder, kidnapping, sexual assault, or one of at least seven other major crimes to maintain good behavior while incarcerated and to participate in rehabilitation programs. The bill is partly inspired by the case of Nikko Jenkins, who is accused of killing four people in the Omaha area after being released from prison.

"If the most violent offenders have to earn a sentence reduction, we're going to be better off as a state," Heineman said.

Monday's announcement followed a scathing report by the state ombuds-



Heineman

man's office that criticized the Department of Correctional Services for failing to heed several warning signs that Jenkins still posed a danger to society. Jenkins told corrections officials that he would kill people if released and

said he was willing to undergo mental health treatment, but he was instead referred to a prison social worker.

Despite the report, Heineman insisted Monday that Jenkins alone deserves blame for the killings.

"Nikko Jenkins killed those four individuals — not the courts, not the Omaha police department, not the Department of Correctional Services and not the people of Nebraska," Heineman said.

The state's good time system automatically gives inmate one day of credit for every day served, effectively cutting their prison sentences in half. Bruning said 31 other states have "earned time" requirements similar to what's proposed.

"Inmates should actively earn sentence reductions," he said. "This bill is

No staff member can be disciplined for good-faith participation in a caucus if it was in compliance with the protocols.

Bezpaletz said drafting the protocols was "an evolving process" as he received more information from legislators about their intentions. He acknowledged there will be some misapprehensions, but the protocols mean "there's no big fish hooks in this frog."

Sen. Corey Brown, R-Gettysburg, said the two-page list accomplishes his goal of allowing the LRC's expertise to be used in caucus meetings.

"These are pretty well drafted," said Brown, the Senate's president pro tem. "Nice job."

Sen. Larry Lucas, D-Mission, said he was opposed to using LRC staff in caucuses because of the potential for partisan political abuses. He said he's changed his mind after seeing the protocols.

"It will be pretty difficult for any abuse to occur," Lucas said. "I think, in the end, it can actually help us become better legislators."

The 2014 session opens at noon today and Gov. Dennis Daugaard is scheduled to deliver the annual State of the State speech to a joint assembly of the 105 lawmakers in the House chamber at 1 p.m.

Follow Bob Mercer on Twitter @pierre-mercier and on the blog at www.my605.com/pierrereview/.

Emerald Ash Borer Moves Closer To SD

SIOUX FALLS (AP) — An insect that could threaten one of South Dakota's most populous tree species moved even closer to the state in the past year.

The emerald ash borer last year was found in Union County in southwestern Iowa, as well as in Boulder, Colo. South Dakota State University forestry expert John Ball told the *Argus Leader* newspaper that he thinks the Asian beetle will be found in South Dakota within five years.

"All it takes is one person bringing in some firewood from an area currently infested, or even pallet wood that has the bark attached, and we have the infestation," he said. "Boulder is the best example that it's not a gradual spread."

The emerald ash borer was discovered in Michigan in 2002 and has since spread, killing tens of millions of trees in several states, including Minnesota. Beetle larvae destroy ash trees by tunneling under the bark.

Ball estimates that ash trees make up almost one-third of all the trees planted in South Dakota communities. They're also a common windbreak species in rural areas of the state, and they grow in abundance along creeks and rivers. Officials in Sioux Falls estimate that ash make up half of the trees along the city's roads and streets and at least one-fourth of city park trees. The city has been encouraging the planting of other species.

"We'd like to have (ash trees) down to 5 percent," said Duane Stall, forestry supervisor for the Department of Parks and Recreation.

Tim Tiahrt, owner of Dakota Tree Nursery in Renner, said he is moving away from growing ash trees for sale.

"We have been tapering it back over the last five years now," he said. "We are not planting any new ones, and what we have is almost gone."

However, ash trees still are in demand by people in need of landscape and shelter belt trees, Tiahrt said.

"It's a wonderful tree, a great tree for this area," he said.

Ash trees can be treated with a pesticide, though it costs about \$200 per tree. It also is too early for such measures, according to Ball.

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