

MIDWEST DIGEST

Video Game Illegal, But Will Be Legal

LINCOLN, Neb. (AP) — A judge has ruled that a barroom video game prevalent in Nebraska amounts to illegal gambling as currently configured.

But Tom Locher, the attorney representing Omaha-based Greater America Distributing Co., which distributes Bank Shot, said Tuesday the game will be reprogrammed to comply with the ruling.

That's because Lancaster County District Court Judge Steven Burns ruled on Tuesday that one of the three ways the game can be played is legal.

The judge said the games must be removed or reconfigured so they are legal by late Wednesday.

Attorney General Jon Bruning said he might appeal portions of the ruling that aspects of the game are legal.

Illegal gambling machines are those where the outcome predominantly is determined by chance.

Johnson Supports Nominee Kagan

SIOUX FALLS (AP) — Sen. Tim Johnson announced Tuesday that he supports Supreme Court nominee Elena Kagan.

The South Dakota Democrat met with Kagan last week. He says he was impressed with her intellect and independence.

President Barack Obama nominated Kagan, the U.S. solicitor general, to succeed retiring Justice John Paul Stevens. A Senate vote on her confirmation is expected by early August.

Sanford Health Unveils New Name

FARGO, N.D. (AP) — Sanford Health-MeritCare officially introduced the merged entity's new brand on Tuesday as Sanford Health.

Sanford Health President and CEO Kelby Krabbenhoft introduced the new brand to the entire health system during a simulcast address Tuesday morning.

Sioux Falls, S.D.-based Sanford and Fargo-based MeritCare merged last year.

The entire organization will bear the name Sanford Health in honor of Denny Sanford, the South Dakota businessman and philanthropist who made a \$400 million gift in 2007 to what was then known as Sioux Valley Health System in Sioux Falls.

Rounds Seeks Pres. Emergency

PIERRE (AP) — Gov. Mike Rounds says he asked President Barack Obama on Tuesday to declare a presidential emergency for three South Dakota counties and the Cheyenne River Indian Reservation.

Rounds says that would free up federal money to help Dewey, Perkins and Ziebach counties and the Cheyenne River Sioux Tribe recover from damage done in June by tornadoes, severe storms and flooding.

Rounds also requested individual assistance programs for Dewey and Ziebach counties and the Cheyenne River Indian Reservation.

Nebraska Jobless Rate Dips To 4.8

LINCOLN, Neb. (AP) — Nebraska's unemployment rate dropped to 4.8 percent in June, the same figure as a year ago.

In a news release issued Tuesday, the Nebraska Labor Department said the June rate was a tenth of a point under May's 4.9 percent.

The total number of people employed in the state dropped to a little more than 936,000 in June, compared with a little more than 940,000 in May.

The report says three sectors of the Nebraska economy added jobs last month: mining, logging and construction; leisure and hospitality; and professional and business services utilities.

Neb. Wheat Harvest Is 44 Percent Complete

LINCOLN, Neb. (AP) — The Nebraska wheat harvest has begun in earnest in the southwest part of the state and in the Panhandle.

The National Agricultural Statistics Service said Monday that 44 percent of the wheat crop has been brought in, slightly behind last year's pace at a comparable time.

The corn condition rated 63 percent good and 21 percent excellent. Soybean conditions rated 62 percent good, and 15 percent excellent.

Rainfall totals varied from an average of an inch-and-a-half in central Nebraska last week to less than a quarter-inch in the Panhandle. Temperatures hit the 100s in the southwest and the 90s in the rest of the state.

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Neb. Officials Agree Flag Mutilation Law Unlawful

BY NATE JENKINS
Associated Press Writer

LINCOLN, Neb. — Nebraska Attorney General Jon Bruning and other officials have agreed the state's flag-mutilation law is unconstitutional, siding with a Kansas-based church that stages protests outside funerals of military members.

The stance by Bruning and others, made Monday in a conference call with a federal judge, cleared the way for the judge to issue a permanent injunction preventing the state from enforcing the law.

A member of Westboro Baptist Church had filed a lawsuit challenging the constitutionality of Nebraska's flag law, which makes it illegal to intentionally cast "contempt or ridicule" upon an American or Nebraska flag by mutilating, defacing, defiling, burning or trampling it.

Even though a final judgment in the case is pending, Bruning and others' agreement that the law is unconstitutional essentially settles the issue and leaves the state without a flag-mutilation law.

"I'm disappointed they rolled over so easily," said Sarpy County Attorney Lee Polikov, who had charged a member of the church with flag mutilation. "They seemed to have neglected our concern in the fight."

Bruning said a U.S. Supreme Court ruling two decades ago clearly rendered Nebraska's law unconstitutional and it was just a matter of time before a lawsuit was filed that would result in the 1977 law being overturned.

"Any first-year law student understands Nebraska has to comply with rulings of the U.S. Supreme Court," Bruning said when told of Polikov's comments.

"I'm not going to waste the resources

of the state defending a law the Supreme Court has clearly said is unconstitutional," he added.

U.S. District Judge Richard Kopf, who issued the permanent injunction Monday, indicated his belief that the law was unconstitutional last week when he issued a temporary injunction preventing the state from enforcing the law against the church. Kopf said then that "the First Amendment trumps the citizenry's preference for patriotism."

Polikov said Kopf's decision interfered with state-court proceedings and the case should have been allowed to continue. But, he dropped the charges of flag-mutilation and contributing to the delinquency of a minor.

Church member Shirley Phelps-Roper still faces charges of child abuse and disturbing the peace related to her participation in a 2007 protest at a soldier's funeral in Bellevue.

Westboro members travel around the country protesting at soldiers' funerals because they believe U.S. troop deaths are punishment for the nation's tolerance of homosexuality. Members often trample on, wear and display the American flag upside-down as part of their protests.

Polikov said he was disappointed in what he called Kopf's interference in the case that started in state courts. Bruning said the judge's decision was consistent with accepted judicial practices and described Kopf as one of the most respected judges in the history of the state.

Judges do not comment on pending cases.

Church officials did not immediately respond to a message seeking comment.

Man Fights For Refund From Dana

BY ERIC OLSON
Associated Press Writer

OMAHA, Neb. — Ron Cresong is the kind of guy who pays his bills early, but this time it seems to have backfired.

On June 7, the 48-year-old from St. Louis paid \$10,290 to Dana College for his son's tuition for the upcoming school year. The only problem is there will be no such school year — at least not there.

Three weeks after his debit card was charged, the school closed due to debt, leaving Cresong in limbo without even a promise of a reimbursement.

"What's so frustrating is nobody will give me an answer," Cresong said Tuesday. "No one will come out and say you won't get your money back. It's almost like they want to just push it away, hope it goes away and then the story will blow over."

The closure of Dana College, a 600-student school in Blair

that had operated for 126 years, came after the Higher Learning Commission refused to transfer accreditation to a group of investors who planned to operate the college as a for-profit enterprise. Its debt at the time was \$11 million.

Cresong paid a portion of his son's tuition two months before it was due and 23 days before Dana officials announced the closure.

He is the only person known to have prepaid tuition for 2010-11 before Dana's closure, according to Mark Wagner of Cordes & Co. of Greenwood Village, Colo., the court-appointed receiver that will determine how Dana's financial assets will be distributed and in what order.

"He has a unique circumstance here, and that unique situation plays in his favor, to some degree," Wagner said.

Ideally, Wagner said, prepaid tuition would be held in a separate account from other revenue streams. That didn't happen in Cresong's case, Wagner said.

Cresong said he was under the impression he would get his money back a few days after the college closed, but a slew of phone calls later, he is still waiting.

He said Dana controller Rita McManigal told him on the phone the first week of July that she would send him a check. Cresong said he called back after he didn't get it — and after the receiver was appointed July 9. He was then told he would have to work with Wagner to get the money back.

Asked if she promised to send Cresong a refund before the receiver was appointed, McManigal said, "I have no comment on that."

Cresong said he has spoken with two attorneys about filing a claim against Dana, but he's hesitant because he doesn't want to risk spending more money and coming up empty.

Cresong said no one indicated the college was in trouble when he and his son, Chase, made a campus visit in March.

Study: Ethanol Pipeline Could Be Feasible

BY DIRK LAMMERS
Associated Press Writer

SIOUX FALLS — A dedicated ethanol pipeline could be profitable if the biofuel expands beyond its use as a 10-percent additive in standard cars, a new government study suggests.

A U.S. Department of Energy study released Monday said the nation would first have to boost its use of the alternative fuel either through greatly expanded use of E85, an 85-percent blend that runs in flexible fuel vehicles, or a transition to 15- and 20-percent blends in standard cars.

Assuming ethanol demand volume of 2.8 billion gallons a year and a project construction cost of \$4.25 billion, a pipeline would need to charge an average tariff of 11 cents more per gallon than if the fuel was moved by rail, barge or truck.

"Even at a lower pipeline construction cost (\$3.75 billion), significant financial incentives would be required to make the pipeline

profitable if ethanol blends remain capped at 10 percent and E85 demand is not significantly expanded," the study found.

The Energy Department was considering a hypothetical project, but top ethanol producer Poet is already looking at moving its product by pipe.

Sioux Falls-based Poet and Magellan Midstream Partners LP are studying the feasibility of a \$3.5 billion, 1,800-mile pipeline that would send ethanol from plants in Iowa, South Dakota, Minnesota, Illinois, Indiana and Ohio to distribution terminals in the northeastern United States.

The companies' analysis of their project concludes that it is economically viable with transportation rates about 15 percent lower than rail rates. The venture becomes more viable if flexible fuel vehicles that run on E85 become more popular and the Environmental Protection Agency allows higher concentrations of ethanol in gasoline.

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