

**Tax Refund Program May Be Headed To Vote**

SIoux FALLS (AP) — South Dakota Democrats say they've submitted nearly 23,000 petition signatures in support of a public vote on a program to refund construction taxes on large industrial projects.

The Republican-controlled Legislature passed the bill earlier this year at the urging of Republican Gov. Dennis Daugaard. It will provide refunds on projects that cost at least \$5 million.

The governor's office says the goal is to promote business expansion and increase the property tax base to benefit local schools. Democrats say the money would better spent on education.

Backers of a referendum need about 16,000 valid signatures to bring the matter to a public vote in November.

**3rd Suspect Arrested In Death Of Omaha Man**

OMAHA, Neb. (AP) — A third suspect in the shooting death of an Omaha man has been arrested in Iowa.

Police say Omar Martinez was found in a Council Bluffs hotel Monday.

KETV says Martinez faces charges of second-degree murder and use of a weapon to commit a felony in connection with the death of Blaise Benschoter.

Benschoter was found wounded Thursday in an apartment and died a short time later at a hospital.

Twenty-year-old Sean Collins and 38-year-old Donald Bridgford have also been arrested and charged with second-degree murder.

Police say they're still looking for a fourth man, 48-year-old, Donald Krisor, 48, in connection with the case.

**S.D. Retirement System Recovers Its Losses**

PIERRE (AP) — Officials say investment earnings have boosted the South Dakota Retirement System's assets by about 22 percent for the state budget year that ends this week.

That means the retirement system has recovered all its losses from the economic downturn.

Rob Wylie, the system's executive director, says the public pension fund is either fully funded or close to being fully funded as of June 30, the annual date for measuring the system's financial condition. That means the system's assets are 100 percent of the value of all potential future benefits to be paid to retirees.

State Investment Officer Matt Clark told state lawmakers Monday that his agency hit a home run coming out of the financial crisis.

The report to a legislative committee confirms earnings predictions Clark made several months ago.

**Report: Fischer To Challenge Nelson In Neb.**

WASHINGTON (AP) — A state senator from Nebraska ranching country will jump into the Republican primary race to challenge Democrat Ben Nelson for his U.S. Senate seat, a former congressman said Monday.

State Sen. Deb Fischer will announce her candidacy Tuesday during a kickoff event at Anthony's Steakhouse in Omaha, said former U.S. Rep. John McCollister, who plans to endorse the Valentine Republican.

McCollister said he spoke with Fischer over the weekend about her announcement. The former congressman likened Fischer to the late U.S. Rep. Virginia Smith, a Nebraska Republican who served from 1975 to 1991, because of her relationship-building skills and respect among fellow lawmakers.

"Washington right now is filled up to here with back-biting," McCollister said. "You're never going to get anything done that way. And women candidates, Nancy Pelosi notwithstanding, are able to get things done better than men. I looked at (Fischer's) record — who she is and what she's done. People like her, in Valentine, stick to what they believe."

**SOUTH DAKOTA**

**Abortion Law Injunction Sought**

BY DIRK LAMMERS  
Associated Press

SIoux FALLS — Planned Parenthood on Monday asked a federal judge for a preliminary injunction to prevent a new South Dakota abortion law from taking effect while it's being challenged in court.

Chief Judge Karen Schreier took arguments from the organization and the state under advisement and said she would issue a written ruling later.

The law, which would take effect Friday, requires women seeking abortions to face a three-day waiting period and undergo counseling at pregnancy help centers that discourage abortion.

Mimi Liu, an attorney for Planned Parenthood, argued that it violates a woman's constitutional right to abortion established under the 1973 Roe v. Wade ruling.

"It will force women out of state, and prevent others all together from accessing an abortion," Liu said.

Supporters of the measure say the Planned Parenthood clinic in Sioux Falls gives women little information or counseling before they un-

dergo abortions. They say the bill would help make sure women are not being coerced into abortions by boyfriends or relatives.

Deputy Attorney General John Guhin argued that Planned Parenthood hasn't presented any evidence that the law would further restrict a woman's access to abortion, and he said the state's goal of preventing coercion is reasonable.

"What South Dakota is doing is perfectly acceptable," Guhin said.

Planned Parenthood, which operates South Dakota's only abortion clinic in Sioux Falls, filed the lawsuit on May 27.

South Dakota's law says an abortion can only be scheduled by a doctor who has personally met with a woman and determined she is voluntarily seeking an abortion. The procedure can't be done until at least 72 hours after that first consultation, establishing the longest waiting period in the nation.

Before getting an abortion, a woman also will have to consult with a pregnancy help center to get information about services available to help her give birth and keep a child. The state will publish a list of pregnancy help centers, all of which seek to persuade women to give birth.

About half the nation's states, including

South Dakota, now have 24-hour waiting periods. No other state requires women to visit pregnancy crisis centers before getting abortions.

Liu said requiring women to go to a pregnancy help center and talk about such intimate details violates First Amendment protections against compelled speech.

But Patricia DeVaney, an assistant attorney general also arguing for the state, said the law is "a regulation of conduct, not speech."

DeVaney said it does not require women to disclose any personal circumstances, only the facts that she is pregnant and seeking an abortion.

Judge Schreier challenged that assessment, noting that the law requires woman to consult at a pregnancy help center and have a private interview to discuss her circumstances.

"Then why does it use the word 'must' and 'shall'?" she asked.

Schreier also challenged the law's definition of coercion, which in the statute says exists "if the pregnant mother has a desire to carry her unborn child and give birth, but is induced, influenced, or persuaded to submit to an abortion by another person or persons against her desire."

**NRC Chairman: Neb. Nuke Plants Remain Safe**

BY JOSH FUNK AND NELSON LAMPE  
Associated Press

OMAHA, Neb. — The nation's top nuclear power regulator said Monday that both of Nebraska's nuclear power plants have remained safe as they battle floodwaters from the bloated Missouri River.

Nuclear Regulatory Commission Chairman Gregory Jaczko visited both Fort Calhoun and Cooper nuclear power plants in eastern Nebraska this week to see how the utilities that run them are coping with the flooding. Both plants sit on the river.

The Omaha Public Power District's Fort Calhoun is the subject of more public concern because the floodwaters are closer to that plant. Nebraska Public Power District's Cooper plant

is more elevated.

Jaczko's visit to Fort Calhoun Monday came one day after an 8-foot-tall, water-filled temporary berm protecting the plant collapsed early Sunday. Vendor workers were at the plant Monday to determine whether the 2,000 foot berm can be repaired.

"We don't believe the plant is posing an immediate threat to the health and safety of the public," Jaczko said.

Omaha Public Power District spokesman Jeff Hanson said pumps at Fort Calhoun were handling the problem and that "everything is secure and safe." The plant, about 20 miles north of Omaha, has been closed for refueling since April. Hanson said the berm's collapse didn't affect the shutdown or the spent fuel pool cooling.

Missouri River floodwater seeped into the tur-

bine building at a nuclear power plant near Omaha on Monday, but plant officials said the seepage was expected and posed no safety risk because the building contains no nuclear material.

Jaczko said the Army Corps of Engineers doesn't expect the river to rise enough to cause additional significant problems at either of the nuclear plants in Nebraska.

"Bottom line, it looks like the levels are going to be at a place where the plant should be able to deal with it," Jaczko said.

Flooding remains a concern all along the Missouri because of massive amounts of water the U.S. Army Corps of Engineers has released from upstream reservoirs. The river is expected to rise as much as 5 to 7 feet above flood stage in much of Nebraska and Iowa and as much as 10 feet over flood stage in parts of Missouri.

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**Prison Guard's Widow Urges More Safety**

PIERRE (AP) — The widow of a slain prison guard urged South Dakota lawmakers Monday to take steps to make sure such a tragedy never happens again.

"You have to make the guards safe," a tearful Lynette Johnson of Sioux Falls told a legislative committee. "This is all on your heads to make sure this doesn't happen again."

Her husband, Ronald Johnson, 63, was killed April 12 at the South Dakota State Penitentiary in Sioux Falls in what authorities have described as a failed escape attempt by two inmates. Rodney Berget and Eric Robert have been charged with first-degree murder, and prosecutors have said they will seek the death penalty in the case.

Lynette Johnson spoke to the Legislature's Executive Board after state prison officials said staff morale is high and the prison has completed nearly all the security improvements identified in a review after the killing.

She said the safety of prison staff is threatened because the penitentiary is understaffed, the result of inadequate funding.

Lynette Johnson said state prison officials make it sound like everything is wonderful at the penitentiary.

"Do you believe them?" she asked the committee.

"Yes I do," Rep. Charles Turbiville, R-Deadwood, the committee's chairman said. "Obviously, they are working to do their very best."

Authorities have said Berget and Robert attacked Johnson as he worked alone on his birthday in a part of the prison where inmates work on upholstery, signs, custom furniture and other projects. They said Robert put on Johnson's brown pants, hat and lightweight jacket before approaching the prison's west gate with his head down, pushing a cart with two boxes wrapped in packing tape. Berget was hidden inside one of the boxes.

Investigators said the escape attempt was stopped at the gate when a guard became suspicious because Robert did not swipe an electronic ID card.

Berget was serving life sentences for attempted murder and kidnapping. Robert was serving an 80-year sentence for kidnapping.

About a month after the slaying, prison officials announced they had added officers to three areas of the prison, were installing additional security cameras and would further restrict inmate movement. They also strengthened perimeter fencing, improved lighting and required staff to carry body alarm "panic buttons."

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