

# Mowing Regulations To Be Reviewed

BY BOB MERCER  
State Capitol Bureau

PIERRE — The state Transportation Commission agreed Thursday to take another look at its regulations for mowing ditches along South Dakota highways.

The move is in response to one of the eight recommendations from the governor's work group on pheasant habitat.

The current state rule prohibits mowing of the right of way in Gregory, Lyman and Tripp counties before June 15 and in all counties east of the Missouri River before July 1.

The mowing rule is intended to help protect hen pheasants while they are nesting and pheasant chicks after they hatch.

"The governor has requested the



Berquist

commission revisit those rules," state Transportation Secretary Darin Berquist told the commissioners.

He noted that less than 10 percent of South Dakota's highway miles are on the state system. The state rule doesn't apply to county and

township roads.

Bob Benson of Winner, the commission's chairman, said the pheasant hatch came late this year.

He said allowing mowing to start June 15 was too early and July 1 might be better.

Benson also acknowledged that changing the date wouldn't affect most of the ditches throughout pheasant country.

"They mow those county roads

really early and get that cutting of nice green grass," he said.

Berquist outlined a possible course for the commission to take. He said the first step could be a general hearing for all sides to present information.

From there, the commission could decide whether to formally propose a rule change and go through the rule-making process, which would include an official public hearing.

Berquist said the commission could need up to six months to work through the issue. The commission hold a regular business meeting on the fourth Thursday morning of the month except December.

He said the commission also could consider a resolution of support if there is legislation in 2015 that would affect mowing along roads outside the commission's jurisdiction, such as county and township routes.

# Defense Lawyer Reacts To Pierre Teen Conviction

BY CARSON WALKER  
Associated Press

SIoux FALLS — The lawyer for a Pierre teenager convicted of killing a classmate and threatening another said Thursday that he should have had more time to prepare a defense for lesser charges than those the 18-year-old originally faced and that the issue will weigh heavily in his appeal.

Mike Butler, of Sioux Falls, represents Braiden McCahren, 18, who was found guilty Tuesday in Winner of killing 16-year-old Dalton Williams. McCahren, who

was 16 at the time, also was convicted of aggravated assault for pointing a shotgun at another classmate, identified only as T.Y. because he was a juvenile at the time, and pulling the trigger.

Jurors found McCahren not guilty of the more serious charge of first-degree, premeditated murder but guilty of second-degree murder. Butler said the prosecution asked to give jurors the option of that and other less serious charges just 90 minutes before closing arguments. That was within the law but likely not constitutional, he said, because it

violated McCahren's due process rights.

Because second-degree murder wasn't among the original charges McCahren faced, the defense was based on discrediting allegations that McCahren intended to kill his friend — the premeditated murder charge — and not on whether there was depravity of mind, the premise of a second-degree murder count, he said.

"It puts the case in an entirely different context," Butler said.

He said he'll also appeal on grounds the prosecution had the case moved to adult

court based on the more serious premeditation charge. It might have stayed in juvenile court had the charge been less than first-degree murder, Butler said.

Prosecutor Michael Moore said he was surprised by the suggestion the defense wasn't given enough time to prepare a second-degree murder defense. The issue of lesser charges was discussed at a preliminary hearing and is always an option for juries in South Dakota, he said.

"I think the whole thing about the lesser included is a bit disingenuous because we had conversations before," he said.

## South Dakota

# \$2M Cap On Employee Health Care Costs Lifted

BY KEVIN BURBACH  
Associated Press

PIERRE — South Dakota can no longer limit how much it pays out in health care coverage over the lifetime of state employees, but officials say for now that shouldn't raise costs.

Laurie Gill, the commissioner of the state's Bureau of Human Resources, briefed legislators this week on how changes mandated by the Affordable Care Act will affect the state's health plan.

The Affordable Care Act prohibits health care plans from capping the amount of benefits employees incur over a lifetime. South Dakota had capped lifetime expenses at \$2 million per individual, meaning any health care

costs incurred over that amount weren't covered.

The change means the state could end up paying out more, but Tom Steckel, the state's director of employee benefits, said in the past it's been rare for an employee to reach the \$2 million limit. Steckel said his office has been looking into how many workers surpassed the cap. So far, he said, he wasn't aware that any had reached it last year.

"Even in today's world, where medical inflation has been rampant and costs have increased rapidly, it's pretty infrequent to have someone reach that \$2 million threshold," he said.

But Steckel said it may not be that way forever.

As health care inflation continues to

rise much quicker than overall inflation, Steckel said, the probability that someone exceeds the limit becomes more likely.

Removing the caps could mean employees will pay more, said Eric Ollila, the executive director of the South Dakota Employees Organization, which lobbies for state workers.

Ollila said if the state ends up with higher overall costs, some of the financial burden could be shifted to state workers.

"Once the caps are gone, it just increases the liability of the members," he said.

The state's plan had been grandfathered in from changes mandated by the health care law until the end of fiscal year 2014, but Steckel that status ended as of July.

# USD Student Accused Of Videotaping Females In Shower

VERMILLION (AP) — University of South Dakota officials are defending their notification procedures after a student was accused of using a cellphone to videotape women in a dormitory shower in late August and charged days later in an off-campus rape.

Daniel Hammer, 18, of Texas, has left the school. He faces a felony rape charge and a misdemeanor count related to the alleged videotaping. Hammer posted \$70,000 bond after his Aug. 30 arrest and was released from jail

pending an Oct. 28 court appearance.

Court documents do not list Hammer's hometown in Texas, and USD spokeswoman Tena Haraldson said the school did not have that information. Hammer did not respond to an Associated Press message via Facebook seeking comment, and his attorney, Michael Butler of Sioux Falls, did not immediately return a telephone call.

Some students said they weren't notified about either alleged incident, while others said it took the university more than a week to

notify them of the alleged shower incident.

"There are definitely students upset about not being told right away," Braley Dodson, a senior media and journalism major, told the *Argus Leader* newspaper. "One student told me she wanted to go to the store right away and get a can of Mace. They didn't know if they had been videotaped and were afraid to shower."

Haraldson said Hammer was immediately banned from the dorms. She said it is not the university's practice to put out an alert after a

crime is reported unless officials believe some sort of danger still exists.

"He's innocent until proven guilty," she said. "There was no physical contact that happened in Mickelson (Hall) that takes it to the level of assault or the level of something that would certainly rise to a greater threat to the student body. We did remove him from the dorms. We did as much as we thought we could do."

The university is considering putting locks on dormitory bathrooms to limit access.

# Officials Battle Bullheads In Bear Butte Lake

STURGIS (AP) — A bullhead battle is brewing under Bear Butte Lake in western South Dakota.

The 215-acre reservoir east of Sturgis is known for bullheads, a catfish relative many anglers like to catch. Bullheads have overwhelmed the fishery in recent years as the lake has recovered from prolonged drought. The state Game, Fish and Parks Department since 2008 has stocked bullhead predators such as largemouth bass and northern pike to try to reduce bullhead numbers.

Officials also have netted and removed thousands of bullheads, but the agency still can't get a handle on the exploding population, department Fisheries Manager Gene Galinat told the *Rapid City Journal*.

"Bullheads can make it through some very tough conditions — they could have gotten a good spawn off and really gotten out of control before we got our predators in there," he said.

Because of the large numbers of bullheads, the majority of them are small in size.

"A lot of people like to fish for bullheads, but the problem when they get so overabundant is they experience real slow growth, or what people refer to as stunted," Galinat said. "They just don't get any size to them, and that's not what people want to harvest."

Mary Jo Erskine, of Sturgis, caught a bullhead right away after casting from a boat ramp on Tuesday morning. The fish was only about 6 inches long.

"It wasn't worth keeping," she said.

Galinat said state officials will continue efforts to contain bullheads in the hopes of achieving better size for all species in the lake.

"We'll never get rid of the bullheads. The question is how do we get a little better size on them," he said.

## Voters Approve Property Tax Opt-Out

KADOKA (AP) — Voters in Jackson County have approved a three-year, \$250,000 opt out of the state-imposed property-tax freeze.

The *Rapid City Journal* reports that the vote in Tuesday's special election was 186 in favor and 148 opposed.

The approval comes just three months after county voters rejected a \$400,000 opt out. The county has relied on a \$100,000 opt out for the past 10 years.

# BBB Warning: Schools Are Getting Fake Invoices

OMAHA, Neb. — Better Business Bureau (BBB) serving Nebraska, South Dakota, The Kansas Plains and Southwest Iowa is warning schools and school districts in our service area about possible fake invoices for educational supplies. In the past few weeks, there has been a rush of complaints filed against "Scholastic School Supply" claiming to have either a Nevada or New Jersey address. Both addresses have turned out to be mail drops.

BBB of Southern Nevada received its first complaint against "Scholastic School Supply" on August 20, 2014, and since then has received more than 70 complaints from schools across the country. So far there have been two from schools in Nebraska and one from a school in Kansas all stating that they received invoices for products they had not ordered.

The company's online BBB Business Review at [bbb.org/southern-nevada](http://bbb.org/southern-nevada) has also received more than 3,000 inquiries. An Alert is posted there so visitors, checking on this company, are able to confirm the suspicious nature of the invoice. The company maintains a mail drop in Sewell, New Jersey, as well as Las Vegas, and BBB New Jersey has received more than 20 complaints so far.

The bogus invoices have been for \$647.50 for the bulk purchase of "English-Language Arts Practice Books" or \$388.50 for math workbooks

(although the amounts and products could change at any time). Complainants say they cannot reach the company to inquire about the products or amounts allegedly owed, and all have denied ever doing business with the company previously.

"BBB urges schools not to pay the invoices but to send them to the local Postal Inspector and the Federal Trade Commission, as well as their state's attorney general or consumer protection agency," stated BBB President and CEO Jim Hegarty. So far, none of the complainants have sent money; however, BBB has no way of knowing if any schools have unwittingly paid the invoice, since they would not have filed a complaint.

To date, BBB has received complaints from schools in 27 states: Alabama, Arizona, California, Colorado, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Washington and Wisconsin. Due to BBB's process for handling complaints, which gives a business up to a month to respond, the complaints received to date are still considered pending.

Contact information available on the invoices was initially just going unanswered, but now email is bouncing

## NDSU Student's Death Ruled Homicide

MOORHEAD, Minn. (AP) — A Minnesota medical examiner on Thursday ruled the death of a North Dakota State University student who went missing last weekend a homicide.

The Ramsey County medical examiner's office said Thursday it had determined that Thomas Bearson, 18, of Sartell, Minnesota, died as the "result of homicidal violence."

Bearson's remains were found Tuesday outside an RV store in south Moorhead. He was last seen at a party early Saturday in Fargo, North Dakota. Police in Moorhead said Bearson was wearing a blue baseball cap, blue Sartell High School track and field shirt and khaki shorts.

It's unclear whether law enforcement authorities have identified a person of interest. Shortly after the body was found, Fargo Police Chief Keith Ternes said police weren't looking for any suspects. The investigation into Bearson's death is a collaboration between the Moorhead and Fargo police departments and the NDSU campus police.

Authorities are asking for the public's help to locate Bearson's cellphone and a shoe. Police described the missing items as a white Nike Air Jordan left-foot tennis shoe, size 9 1/2, and a silver iPhone 5.

Bearson, who was enrolled in the university's nursing program, was living in a residence hall on campus before his disappearance. He graduated earlier this year from Sartell High School, where he was a standout basketball player.

Sartell athletic director John Ross heard the news while at a school athletic event Thursday night when a reporter called, the *St. Cloud Times* reported.

"This is going to be tough on the kids," Ross told the newspaper.

People with information are asked to call the Red River Regional Dispatch Center.

## Seven Cases Of Rare Virus In S. Dakota

PIERRE (AP) — South Dakota health officials are confirming seven cases of a rare virus believed to be the cause of a severe respiratory illness that affects children.

Officials say the cases of enterovirus 68 have been identified west of the Missouri River. The germ is an uncommon strain of a common family of viruses that typically hit from summertime through autumn.

Officials earlier this month had asked federal epidemiologists to test specimens from individuals ranging in age from two weeks to 19 years.

The virus can cause mild cold-like symptoms including runny noses, coughing and wheezing. Health officials say this strain is particularly harsh and children with asthma and other health problems are particularly at risk.

There's no vaccine for the virus. Most children recover within a week with no lasting problems.

## AG: S.D. Will Get Drug Settlement Money

PIERRE (AP) — South Dakota will get a portion from a nationwide settlement with an Irish drugmaker over allegations that the company improperly promoted medications including the attention deficit disorder drugs Adderall XR.

Attorney General Marty Jackley says Shire Pharmaceuticals has agreed to pay \$56.5 million to settle the lawsuit brought by states and the federal government. The company admits no wrongdoing.

The lawsuit alleged the company told consumers several of its ADHD drugs would treat certain symptoms or disorders despite not having clinical data to back up those claims.

Shire was accused of illegally promoting the five drugs, which caused false claims to be submitted to Medicaid.

About \$100,000 of South Dakota's settlement portion will be retained by the federal government and the remaining \$60,000 will go back to the state's Medicaid program.

## Ex-Chief Of EB-5 May Be Subpoenaed

PIERRE (AP) — A South Dakota legislative committee looking into an embattled investment-for-green-card program could subpoena the former administrator of the program.

The Argus Leader reports the possible subpoena of Joop Bollen is receiving support from a small group of GOP lawmakers. Bollen has refused to testify before the Government Operations and Audit Committee about his handling of the EB-5 program.

Republican Rep. Steve Hickey says he doesn't "appreciate" Bollen not appearing before the panel. Hickey and the other GOP lawmakers supporting the subpoena aren't committee members.

Republicans in the panel rejected the possible subpoena this summer.

The committee this week reviewed written answers provided by Gov. Dennis Daugaard and former Gov. Mike Rounds about the program that's designed to lure investments from wealthy immigrants in exchange for a green card.

## Mammoth Center Expansion Begins

HOT SPRINGS (AP) — Construction is underway on an expanded learning center at the Mammoth Site in southwestern South Dakota.

The world-renowned site has been under exploration since 1974, when a construction crew dug up mammoth bones on the south side of Hot Springs. At least 60 mammoths have been found in the area.

Ground was broken Wednesday for the 5,800-square-foot center addition. It will feature a new entryway, gathering area, storage and two 53-seat theaters. The project will cost nearly \$1.4 million, with help from the federal government.

pany is allegedly violating any other laws, rules or regulations, we will take prompt appropriate action."

Schools and other organizations should remember the following tips to help avoid scams:

- Encourage your treasurer to watch for invoice scams.
- Make sure the invoice is coming from a valid source.
- Check out the company that is sending the invoice.
- Centralize purchasing and billing so that the person or persons paying the invoices know what was ordered and who the vendors are.

• Do a basic Internet search to see if other organizations have reported similar problems.

For More Information: To check on a business in your area or to report a scam, go to [www.bbbinc.org](http://www.bbbinc.org).

To find out more about scams, check out BBB Scam Stopper at [www.bbb.org/us](http://www.bbb.org/us).

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