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**Capitol View**

***Commentary by J.L. Schmidt***

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**I Like the Idea of the Legislature Running the State Prison System**

Omaha Senator Justin Wayne, chair of the Judiciary Committee, has offered a bill that would put Nebraska's Legislature in charge of the state's prison system, which is currently under the purview of the executive branch.

Given the way things have been going with the Department of Correctional Services, especially the selection of a site for a new prison in northeast Lincoln that was changed to an allegedly more acceptable site at the last minute, I like Wayne’s proposal.

If made law, it would put senators in charge of the "general management, control and government" of the Department of Correctional Services, giving the Legislature hiring power over the department's director. Wayne said the power to make such a change is already prescribed to lawmakers in Nebraska's Constitution, which grants the Legislature the power to manage "all state charitable, mental, reformatory and penal institutions."

Wayne told reporters the Legislature has control over corrections and maybe the Legislature should take it back. He’s looking at creating an independent board like the one in Arkansas. He said lawmakers will be exploring those options this year and hopefully can have the proper oversight that's needed in Corrections.

Lawmakers had approved funding for a new facility to replace the aging Nebraska State Penitentiary in southeast Lincoln. Unbeknownst to anyone in the neighborhood, Governor Jim Pillen made an offer on land in northeast Lincoln that was near an elementary school and a game preserve in an area of very expensive homes.

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After neighborhood protests, the site was moved to an area north of Interstate 80 and east of the city dump. There has been some concern expressed about that site which is surrounded by farmland.

Then came an August decision by Attorney General Mike Hilgers to eliminate prison facility and document access to the Office of the Inspectors General, the Legislature's watchdog responsible for investigating the state's prison and child welfare systems. Hilgers, a former state senator, published a nonbinding decision that the offices were unconstitutional. Wayne’s proposal could rectify that situation.

For Wayne, the problems go back some time. He pointed to the 2015 revelation that the department, using a flawed formula to calculate sentences, had taken at least 750 years off the collective sentences of more than 200 inmates. Not to mention the on-going problem with tainted water at the women’s prison in York, plumbing problems at the state penitentiary, unrest at the Tecumseh prison and an on-going shortage of staff at all prisons.

"At the end of the day, we've been having problems with Corrections. So maybe we should let somebody else run it," he said, adding that he's considering designating the bill as his personal priority this session, which would increase the likelihood it will be debated on the floor and possibly enacted.

Wayne has also offered a bill that would put the Department of Correctional Services in charge of all of Nebraska's county jails — a move that, coupled with his effort to put the department under the Legislature's control, would give lawmakers oversight of every jail and prison inmate in the state.

Sen. Loren Lippincott of Central City has offered a bill that would allow for the state to carry out the death penalty by forcing death row inmates to breathe pure nitrogen gas. Omaha Sen. Megan Hunt offered an amendment to that bill which would give the state two options for enforcing the death penalty: lethal injection, currently allowed by state law, or by a firing squad made up of "all members of the Legislature, who shall use firearms to shoot the convicted person."

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Sen. Terrell McKinney of Omaha offered a bill that would allow two members of the Legislature to attend state executions — and require the head of the state's prison system to "continuously witness the execution process" from the moment a death row inmate enters the execution chamber until the inmate is declared dead or the execution is halted.

If the state is going to continue to kill its citizens, these moves make sense.

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*J.L. Schmidt has been covering Nebraska government and politics since 1979. He has been a registered Independent for more than 20 years.*