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**Capitol View
Commentary by J.L. Schmidt
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**How Much Power Is Too Much?**

Power corrupts and absolute power corrupts absolutely is a proverbial saying reportedly coined by the English nobleman Lord Acton in 1857.

How much power should be given to the Executive Branch of Nebraska state government is a topic for discussion by state lawmakers and political observers alike. Currently there are 18 code agencies, which answer to Governor Jim Pillen.

The Legislature is considering measures addressing the situation. Sen Steve Erdman of Bayard wants History Nebraska (formerly known as the State Historical Society) to become a code agency again. Another proposal would bring tourism back into the Department of Economic Development, a code agency.

Omaha Sen. Justin Wayne wants to take the Department of Corrections away from the Executive Branch and place it under the oversight of the Legislature. He said lawmakers currently have that authority under the state constitution. 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." So maybe we should take it back. Maybe we should create an independent board, like Arkansas.

Sen. Lynne Walz of Fremont wants the mega Department of Health and Human Services broken into three in 2025: Children and Family Services, Public Health and Healthcare. The first two, Children and Family Services and Public Health, would elevate existing divisions, while the Department of Healthcare would be composed of the three Divisions of Behavioral Health, Developmental Disabilities, and Medicaid and Long-Term Care.

Walz says the current consolidated department is fraught with problems such as a lack of response to mental health needs, financial mismanagement and underperformance and hundreds of millions in accounting errors. Those are the things she has noticed in her six years

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on the Legislature’s Health and Human Services Committee. The current system is just way too big.

Last fall the executive branch took away access by state inspectors general to prisons and the child welfare system after an opinion from state Attorney General Mike Hilgers, a former lawmaker. After much pushback from lawmakers and in some cases the general public, Pillen recently agreed to restore access to the Legislature's watchdogs tasked with investigating the systems.

Pillen signed a memo of understanding with representatives from the Legislature agreeing to restore much of the access to records and personnel. The memo took effect after a resolution was passed by the Legislature calling for a study of the oversight system and the two departments again began providing the watchdog offices with broad access to records, data sets, policies, audio and video recordings and interviews with employees, as well as access to physical facilities.

The memo is a stopgap solution set to expire at the end of the 2025 legislative session, giving lawmakers more than a year to study the Legislature's newly controversial oversight system instead of rushing to restore oversight in this year's 60-day legislative session, said Speaker of the Legislature John Arch of La Vista.

Omaha Sen. Machaela Cavanaugh accused the executive branch of purposefully keeping information hidden from the public and said the Legislature must have a means of holding the administration accountable. “Those who are imbued with power must have that power checked,” she said.

Sen. John Cavanaugh of Omaha said attorney general opinions do not have the power to change state law, and yet state departments treated Hilgers’ opinion as though it did. Sen. John Fredrickson of Omaha said those departments broke the law.

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"Simply rushing to fix the inspector general issues, I believe, is shortsighted and could lead to serious unintended consequences," Arch told the Legislature's Executive Board.

"It is simply not possible to do this work during a short session while also tackling the larger, more immediate issues currently before the Legislature," he said.

Plenty of ideas on the table. Maybe next year.

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*J.L. Schmidt has been covering Nebraska government and politics since 1979. He has been a registered Independent for 25 years.*