

2003 Press Releases

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STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

For Immediate Release
June 30, 2003

Contact: Holley Bolen
Phone: 402-471-3888

State Files to Dismiss Lawsuit in Challenge
to Same-Sex Marriage Ban

LINCOLN, NE—Today the State of Nebraska filed a motion to dismiss a lawsuit filed by the ACLU. The ACLU and other advocacy groups have challenged Nebraska's constitutional amendment banning same-sex marriage.

The motion was filed this morning in the U.S. District Court. The filing argues that the plaintiffs lack standing because they have not been denied any rights or benefits, and therefore there is no controversy for the court to resolve. By law, a plaintiff must show that they have suffered injury before the court will hear a case.

"The lawsuit is premature," said Attorney General Jon Bruning. "The case does not yet meet the legal requirements established by the courts."



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Office of the Attorney General

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(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

FOR IMMEDIATE RELEASE
June 20, 2003

Contact: Holley Bolen
(402) 471-3888

D.C. CIRCUIT COURT RELEASES OPINION ON ARSENIC CASE

Lincoln, NE—The D.C. Circuit Court of Appeals today denied the State of Nebraska's constitutional challenge to the Environmental Protection Agency's rule regarding arsenic in drinking water. The current standard allows arsenic levels in drinking water of 50 parts per billion. The new standard would allow no more than 10 parts per billion of arsenic in tap water.

Attorney General Jon Bruning commented on the ruling saying, "I'm disappointed by the Court's decision, but I'm not surprised. We knew from the beginning that this would be an uphill battle, but since the rule will have such an enormous financial impact on Nebraska's rural communities, it was a battle we had to fight."

"This rule will needlessly cost Nebraska's smallest communities up to \$110 million dollars. We've had naturally occurring arsenic in our drinking water for generations without evidence of any problems," Bruning said.

The standard goes into effect in 2006, and may cost some of Nebraska's poorer communities as much \$1,700 per household, per year.



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LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

For Immediate Release:
June 20, 2003

Contact: Holley Bolen
(402) 471-3888

ATTORNEY GENERAL BRUNING WARNS **OF FRAUDULENT EMAIL**

LINCOLN, NE--The Attorney General's Office warns of a fraudulent email that was sent to many consumers throughout the country during the past several days. Consumer responses to the email might be used to gain access to the consumer's credit card information or other personal financial information. Consumers are warned not to respond to this email.

The email states that Best Buy's fraud department recently received an order using the consumer's personal credit card information. The email then goes on to state that Best Buy has some suspicions regarding the order and asks that the consumer click on a hypertext link to enter a special fraud department page where the consumer could verify or decline the order.

"It's important for consumers to be aware of these scams and be cautious whenever their personal or financial information is requested," said Bruning. "Never give personal information over the phone or Internet to an unknown person."

A few giveaways to this particular scam are that:

- The message did not issue from an "@bestbuy.com" address.
- The link embedded in the message does not take the user to a "special Fraud Department page" on Best Buy's site, but to a page hosted under a completely different domain name (such as digitalgamma.com or your-instant-credit-reporter.org)
- There is no such organization as the "National Credit Bureau."

Best Buy is aware of the problem and has taken measures to shut down the fraudulent website. To date, the Consumer Protection Division of the Nebraska Attorney General's Office has received no complaints regarding this scam. If you think you may have been a victim, please contact the Consumer Protection Division of the Attorney General's Office toll free at 1-800-727-6432 or visit us online at www.ago.state.ne.us.

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(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

Attorney General Jon Bruning
Guest Column: June 20, 2003
Contact: Holley Bolen (402) 471-3888

Although tax filing season has come and gone, the Attorney General's Office and the Internal Revenue Service continue to see new tax scams. The newest schemes target families of those serving in the Armed Forces and e-mail users. In both schemes, thieves represent themselves as IRS employees.

Family members of those serving in the Armed Services should be aware of a scam where a telephone caller, posing as an IRS employee, tells a family member that he or she is entitled to a \$4,000 refund because their relative is in the Armed Forces and then requests a credit card number to cover a \$42 fee for postage. The caller will provide an actual IRS toll-free number as the call back number in order to make the call seem legitimate. The thief then makes numerous unauthorized purchases using the victim's credit card number. Genuine IRS employees who call taxpayers do not ask for credit card numbers or request fees for payment of a refund.

In another scheme, victims receive an e-mail that appears to be from the IRS. The e-mail contains links to a non-IRS Internet Web page that asks for personal and financial information. This information is used to steal the respondent's identity. Thieves use the information to take over financial accounts, run up charges on existing credit cards, apply for loans, credit cards, services or benefits in the victim's name, or file fraudulent tax returns. The IRS will never request sensitive personal or financial data, except in very special circumstances, and certainly never by e-mail.

If you feel you have been a victim of a tax scam please contact the Consumer Protection Division of the Attorney General's office toll free at 1-800-727-4384.



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(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

For Immediate Release:
June 19, 2003

Contact: Holley Bolen
(402)471-3888

Bruning Announces Change in AMBER Alert Age Requirement from 15 to 17 Years of Age

AMBER Committee Votes Unanimously on Change

LINCOLN – Attorney General Jon Bruning announced today that the Nebraska AMBER Alert Committee voted unanimously to modify the age criteria for issuing an AMBER Alert from 15 to 17 years of age. The change was made based on recommendations from the United States Department of Justice and from the Nebraska State Patrol.

The United States Department of Justice issued recommendations in March stating that specific criteria must be established for participation in the national AMBER initiative, including maximum age requirements. Four of the six states surrounding Nebraska had set the age requirement at 17 or younger.

“This is an important step in protecting Nebraska’s children,” said Bruning. “Setting our age requirement at 17 brings Nebraska policy in line with federal recommendations and makes us more effective across statelines.”

The Committee met on Tuesday, June 17th and all of the 14 members present, voted to increase the age requirement to 17. The Attorney General’s Office is in the process of notifying law enforcement statewide of the new age criteria. The change will take effect July 1, 2003.



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TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

For Immediate Release:
June 18, 2003

Contact: Holley Bolen
(402) 471-3888

Bruning Travels to Israel to Meet with Top Government Officials

JERUSALEM – Attorney General Jon Bruning will meet with the President of Israel, members of Parliament and other top government and justice officials during a week long trip to Israel, despite the recent suicide bombings and visitor warnings.

“I am grateful for the chance to meet with Israeli officials and look forward to addressing many topics of interest for Nebraska and the United States,” said Attorney General Jon Bruning.

The American-Israel Friendship League will be sponsoring Bruning along with Attorneys General from Colorado, Montana, North Dakota and Utah for the trip which begins tomorrow and concludes June 28.

Other items on Bruning’s agenda include visiting the Golan Heights and Syrian border. This perspective will give the Attorneys General a better sense of the security situation. There will also be a political briefing on the status of the negotiations between Israeli and Palestinian representatives and an update on suicide bombings and homeland security issues.



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K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

**Attorney General Bruning and Director
Curtiss Announce Tenet Healthcare & Abbott
Lab Settlements**

For Immediate Release:
June 16, 2003

Contact: Holley Bolen
(402) 471-3888

LINCOLN – Attorney General Jon Bruning and Steve Curtiss, Director of Health and Human Services Finance and Support, announced today that negotiated settlements have been reached between the Nebraska Medicaid Program and Tenet Healthcare and Abbott Lab. Today is the deadline for states to submit their settlement agreement with Abbott. Nebraska Medicaid will be receiving \$51,745 from Tenet Healthcare and \$148,713 from Abbott Lab.

“It’s important to protect Nebraskans, especially those who are most vulnerable,” said Attorney General Jon Bruning. “Nebraska consumers can be proud of the results of these settlements.”

Steve Curtiss, Director of Health and Human Services, Finance and Support, commented, “

A negotiated settlement provides \$840,000 which will be distributed among 22 states. Each state will receive \$1,000 for each Tenet hospital located in that state. Nebraska has only one, Saint Joseph Hospital in Omaha. This action accounts for \$139,000 of the total settlement amount with the remaining \$701,000 being distributed on a proportional basis.

Tenet Healthcare originally approached the Department of Justice on its own to examine questionable billings for outpatient laboratory services. The Department of Justice investigation found only a limited amount of improper billings in certain hospitals and no systemic practice of improper billing.

Medicaid-related civil claims were made against Abbott Lab for false claims to Medicaid involving the marketing, leasing, sale and reimbursement of enteral nutrition, also known as tube feeding, products from January 1992 through the present. Abbott entered into an agreement in principle to pay the 50 states and the District of Columbia \$32,046,662 for the state share of damages and penalties.



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(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

FOR IMMEDIATE RELEASE
June 12, 2003

Contact: Holley Bolen
(402) 471-3888

**ATTORNEY GENERAL JON BRUNING
MONITORS ARGUMENT IN LOW-LEVEL RADIOACTIVE WASTE
CASE IN U. S. COURT OF APPEALS**

WASHINGTON, D.C.—Attorney General Jon Bruning traveled to St. Paul, Minnesota today to oversee arguments in the Low-Level Radioactive Waste case before the U.S. Eighth Circuit Court of Appeals. The State of Nebraska is appealing the \$151 million dollar judgment entered against the State last September by the United States District Court for the District of Nebraska.

The Attorney General's Office has been recused in the case since the Nelson Administration.

"The office is now in a position to take an active role in the litigation and I'm committed to protecting Nebraska interests and dollars. Our presence here is critical toward analyzing the course and effectiveness of the litigation strategy," said Bruning.

Lawyers for the State will argue:

The State was improperly denied a jury trial;

The Compact Commission paid none of its own money so it cannot recover money damages;

The license process should be completed. The license process was never completed because the Commission asked the Court to stop it;

The District Court applied the wrong legal standard for breach of the Compact;

The State did not act in bad faith.

Arguments are set for Thursday June 12th at 9 a.m. EST.



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(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

For Immediate Release:
June 11, 2003

Contact: Holley Bolen
(402) 471-3888

**Bruning Announces State Attorneys General Unanimously
Seek Supreme Court Review of Pledge of Allegiance Case**

(Oklahoma City, OK) –Nebraska Attorney General Jon Bruning announced today that the State of Nebraska will join the attorneys general of 49 other states in urging the United States Supreme Court to review an appellate court's decision on the Pledge of Allegiance.

The Ninth Circuit Court of Appeals held, in Newdow v. United States of America and Elk Grove Unified School District, that the Pledge of Allegiance violates the Establishment Clause of the First Amendment to the United States Constitution.

Bruning joined his colleagues in releasing the *amicus curiae*, or “friend of the court,” brief this morning during a news conference held in conjunction with the National Association of Attorneys General (NAAG) summer meeting in Oklahoma City. The brief argues that the boundaries of the Establishment Clause in public school settings were clearly understood to protect the Pledge.

“This is a national issue of historical importance,” Attorney General Bruning said. “We are asking the Supreme Court to take up this matter and uphold the constitutionality of the Pledge of Allegiance, protecting the right to voluntary participation in a patriotic exercise.”

Currently, 41 states, not including Nebraska, have laws in effect providing for daily recitation of the Pledge. Similar laws, recently enacted, will soon take effect in three states. All of the state statutes include a provision protecting the right of students to refrain from reciting the Pledge of Allegiance.

“I’d like to see a similar law passed in Nebraska to allow for voluntary participation in reciting the Pledge,” said Bruning.



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Office of the Attorney General

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LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

For Immediate Release:
June 6, 2003

Contact: Holley Bolen
(402) 471-3888

Attorney General Bruning's Meth and Child Protection Legislative Priorities Become Law

LINCOLN-- Attorney General Bruning announced today the success of his crime fighting legislative package. His legislative package, outlined in January, contains legislation to protect Nebraska's children from predators and from the dangers of meth. The package includes LB 188, a bill to provide funding for additional meth prosecutors for the State of Nebraska. While LB 188 did not pass, the money was included in the appropriations bill, providing the office with the funding to hire three new Attorneys.

"Meth related crimes are skyrocketing in our state in both rural and urban areas," said Bruning. "I appreciate the legislature's foresight and commitment to this effort and promise to make the fight against meth my highest priority."

Bruning also recognized the success of LB 438, a bill introduced by Sen. Chris Beutler that would create penalties for those who expose children to the ingredients used to manufacture methamphetamine.

In addition to announcing the success in the fight against meth, Bruning congratulated Sen. Mike Foley for his leadership on LB 294. The bill allows an unborn child to be considered a person in wrongful death cases for civil penalties. Bruning also recognized Sen. Ray Mossey for introducing LB 111 which increases the penalty for possession of child pornography.

"The leadership provided by Senators Mossey and Foley on these issues is critical to the protection of Nebraska children," said Bruning.



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LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
K STREET FAX (402) 471-4725

JON BRUNING
ATTORNEY GENERAL

Attorney General Bruning Announces Favorable Missouri River Ruling
in the Eighth Circuit Court of Appeals

For Immediate Release:
June 4, 2003

Contact: Holley Bolen
(402) 471-3888

Lincoln, NE-- Attorney General Jon Bruning announced today that the Eighth Circuit Court of Appeals has ruled in favor of Nebraska in the pending Missouri River litigation. The Court affirmed Nebraska's injunction issued last spring by the U.S. District Court of Nebraska. The injunction requires the United States Army Corps of Engineers to operate the Missouri River system consistent with the Master Manual. The Court specifically stated that the Nebraska injunction goes into effect again with the Court's decision.

"The Court's ruling is a significant victory for Nebraska in its ongoing fight to protect our interests along the Missouri River corridor," said Bruning.

The Court also overruled the U.S. District Court in South Dakota's denial of Nebraska's right to intervene in the lawsuit filed last year by South Dakota. Bruning personally argued before the Court in February this year that Nebraska had a right to be at the table.

"Today's ruling adopts the position presented to the Court and makes it clear that Nebraska has a right to intervene in all future lawsuits regarding the Missouri River System," said Bruning.

In addition to ruling in Nebraska's favor on its appeals, the Court also found that South Dakota and North Dakota were improperly allowed to stop releases from the Missouri River reservoirs and rejected the Corps position that it had unlimited discretion in operating the river flows.

The river flows are necessary to provide water supply for thermal power plants like Cooper Nuclear and Fort Calhoun plus municipalities like Omaha. Those interests, coupled with providing hydroelectric power for Nebraska's public power districts and recreation, total more than \$420 million in economic impact to Nebraska each year. They are now protected as long as Nebraska's injunction is in place.

The South Dakota and North Dakota claims rejected by the Court today asked the Court to reduce river flows passing through Nebraska.

"Today's ruling averts the possibility of higher consumer costs, lost economic benefits and further strain on Nebraska's already troubled economy," said Bruning.