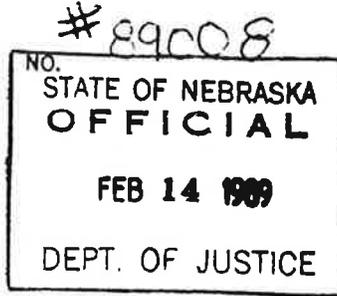


Linda Willard

DEPARTMENT OF JUSTICE

STATE OF NEBRASKA
TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: February 13, 1989

SUBJECT: Whether the Central Low-Level Radioactive Waste Compact Commission is a State entity - LB 763 (1989 Session)

REQUESTED BY: Senator Spencer W. Morrissey
District No. 1

WRITTEN BY: Robert M. Spire
Attorney General

Linda L. Willard
Assistant Attorney General

You have inquired whether the Central Low-Level Radioactive Waste Compact Commission (Commission) is a public body subject to the Nebraska Public Meetings Law, or an agency subject to the Administrative Procedure Act.

The Nebraska Public Meetings Law under Neb.Rev.Stat. §84-1408 et seq. (Reissue 1987) is applicable to all public bodies of the State. Public body is defined as;

- (a) governing bodies of all political subdivisions of the State of Nebraska,
- (b) governing bodies of all agencies, now or hereafter created by constitution, statutes, or otherwise pursuant to law, of the executive department of the State of Nebraska,

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- (c) all independent boards, commissions, bureaus, committees, counsels, subunits, Certificate of Need appeal panels, or any other bodies now or hereafter created by constitution, statute, or otherwise pursuant to law,
- (d) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence and,
- (e) advisory committees of the bodies referred to in subdivisions (a), (b), and (c) of this subdivision. . . .

The Administrative Procedures Act §84-901 et seq. (Reissue 1987) defines agency generally to mean "each board, commission, department, officer, division, or other administrative office or unit of the state government authorized by law to make rules and regulations, . . .

The Commission exists as the result of Nebraska's entry into a compact or agreement with four other states. As such it is not a political subdivision of this State. Nor can the Commission be defined as a governing body of a state agency or a study or advisory committee of the Executive Department of the State or any other body. Nor is the Commission a unit of state government as set out in the Administrative Procedures Act. While the Commission exists as an independent commission it was formed as a result of Nebraska's entry into a multi-state compact. Therefore, it is not created by constitution or statute nor was it created by an act of Nebraska law.

Therefore it is our conclusion that the Central Low-Level Radioactive Waste Commission is not included within either the Public Meetings Law or Administrative Procedures Act of the Nebraska Statutes.

Senator Spencer W. Morrissey
February 13, 1989
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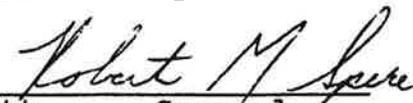
You have not asked but we would point out that, since this is an inter-state compact entered into by several states and ratified by Congress, we have very serious concerns whether action by the Nebraska Legislature could subject the Commission to the Administrative Procedures Act, the Public Meetings Law or other state legislation.

Sincerely yours,

ROBERT M. SPIRE
Attorney General


Linda L. Willard
Assistant Attorney General

Approved by:


Attorney General

cc: Patrick J. Donnell
Clerk of the Legislature

28-01-4