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ATTORNEY GENERAL

#05008

NO.
STATE OF NEBRASKA
OFFICIAL
MAY 12 2005
DEPT. OF JUSTICE

SUBJECT: Sale or Lease of the Hastings Correctional Center to a Private Contractor

REQUESTED BY: Carroll Burling, Senator
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Lynn A. Melson, Assistant Attorney General

You have requested our opinion whether current state statutes "allow the state to lease or sell HCC (Hastings Correctional Center) to a private contractor for purposes of incarceration." You note that it was recently announced that HCC will officially close on June 1, 2005 and the facility will then be vacant. It is our understanding that HCC was closed as a facility to house state inmates in 2002, but has been used pursuant to a contract with the federal government as a holding center for detained illegal immigrants.

The operation, leasing and construction of Nebraska prisons by private contractors is governed by the Private Prison Contracting Act. Neb. Rev. Stat. §§ 47-801 to 47-807 (2004). This Act, enacted in 2001, was intended to regulate all private prisons in Nebraska. Committee Records on LB 751, 97th Neb. Leg., 1st Sess. 2-4 (March 1, 2001). (LB 751 was later amended into LB 85). The Act authorizes the Department of Correctional Services (DCS) to provide for incarceration at facilities other than those operated by DCS, to contract

contract with DCS. In our view, after a determination by the Committee that the building is vacant, HCC could only be sold or leased to a private entity for purposes other than a private prison.

Sincerely,

JON BRINING
Attorney General

Lynn A. Melson
Assistant Attorney General

APPROVED:

Attorney General

9-303-24