

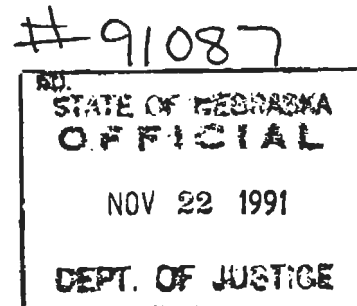


STATE OF NEBRASKA  
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**DON STENBERG**  
ATTORNEY GENERAL

November 21, 1991



Senator Stan Schellpeper  
1202 State Capitol  
Lincoln, NE 68509

Dear Senator Schellpeper:

This letter is in response to your earlier correspondence dealing with your simultaneous service on the State Board of Agriculture and in the Legislature. We agree with your statement that the State Board of Agriculture is not a State agency, and therefore, your simultaneous service does not create a problem with respect to the Supreme Court's decision in State ex rel Spire v. Conway, 238 Neb. 766, 472 N.W.2d 403 (1991).

In Conway, our State Supreme Court indicated that Senator Gerald Conway could not serve in the Legislature while simultaneously occupying a position as an assistant professor at Wayne State College. This holding was based upon Article II, §1 of our State Constitution. Obviously, Wayne State College and the Legislature are entities of State Government.

As you have correctly noted, our Supreme Court indicated in Crete Mills v. Nebraska State Board of Agriculture, 132 Neb. 244, 271 N.W. 684 (1937) that the State Board of Agriculture is not a State agency or part of the executive branch of State government. In addition, we have pointed this out in several opinions of this office. See Opinion of the Attorney General #47, March 27, 1985. Consequently, it is clear that the State Board of Agriculture is not an agency of the State of Nebraska.

Since the State Board of Agriculture is not a State agency, we do not believe that the Conway decision raises any impediment to your simultaneous service on the State Board and in the Legislature. Thank you for your earlier letter and analysis of this issue. We appreciate your cooperation with respect to this matter.

Sincerely,

Don Stenberg  
Attorney General