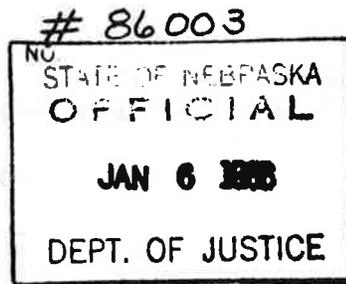


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

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



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

DATE: January 3, 1986

SUBJECT: Effect of LB 662 referendum on LB 54

REQUESTED BY: Senator Harold F. Sieck
Nebraska State Legislature

WRITTEN BY: Robert M. Spire, Attorney General
John Boehm, Assistant Attorney General

This is in response to your letter of December 11, 1985. In that letter you are concerned about the constitutionality of LB 54 in view of the current referendum concerning LB 662. You note that LB 54 would provide that property taxes will supply 50 per cent of the financing for public schools with your proposed income tax providing the remaining 50 per cent. This would, in effect, alter the provision of LB 662 which provides that "the Legislature hereby establishes that after fiscal year 1986-87, no more than forty-five per cent of the total operational costs of the public school system shall be derived from taxes on real property. . . ."

In our previous opinions on the subject of the referendum and LB 662, we have stated that "After the referendum has been invoked and until the voters have acted thereunder, the subject-matter of the referred bill is withdrawn from further consideration of the Legislature. It can neither amend nor repeal the act during that period." See opinions No. 121, July 25, 1985, and No. 130, September 17, 1985. To the extent that LB 54 would amend LB 662 as indicated above, it would be in violation of the Constitution as an interference with the people's constitutionally guaranteed right of referendum.

You have also asked whether the use of a state income tax to finance public education as provided in your bill, LB 54, would violate any state statutes. In view of our above response, we do not believe it is necessary to respond to this question at this time. In any event such a request is simply too broad for an appropriate response from this office. See our opinion No.

L. Jay Bartel
John M. Boehm
Dale D. Brockey
Martel J. Bundy
Janie C. Castaneda

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Laura L. Freppel
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William L. Howland
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Sharon M. Lindgren
Charles E. Lowe
Harold I. Mosher
Bernard L. Packett

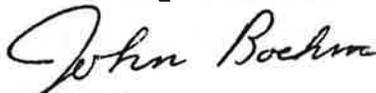
Terry R. Schaaf
LeRoy W. Sievers
Mark D. Starr
John R. Thompson
Linda L. Willard

Senator Harold F. Sieck
January 3, 1986
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157, dated December 20, 1985. We would, however, be glad to respond to your "specific" concerns in this regard.

Sincerely,

ROBERT M. SPIRE
Attorney General

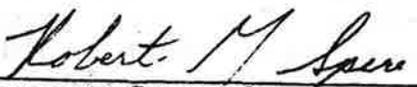


John Boehm
Assistant Attorney General

JB/bae

cc: Patrick J. O'Donnell
Clerk of the Legislature

APPROVED:



Attorney General