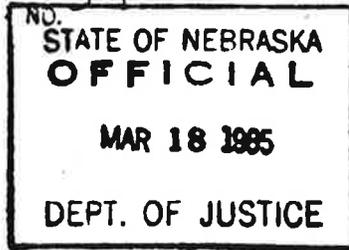


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

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



March 18, 1985

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

Senator Howard Lamb
Nebraska State Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Senator Lamb:

You have asked if the Standing Committee Amendment #2 which pertains to section 15 of LB 662 of the Eighty-ninth Legislature, First Session (1985) is constitutional.

That amendment, after the underscored period, inserts on page 1, line 19, of LB 662 the following:

If such school district divides and the various portions join more than one district pursuant to this act, such elementary school attendance site shall not be closed unless a majority of the voters who, on the date of the election provided in this section, reside in the portion of such district, as the boundaries of such district existed prior to the reorganization, which contains such elementary school attendance site, vote to close such site.

We have extensively researched this matter and have discovered no case law which is directly in point. On the other hand, it appears to us that this amendment, if it were to become operative law, would grant certain voters of a school district (those who reside in the portion of such district as it existed prior to the reorganization) greater voting rights than others who reside in the same district. Thus, it could be argued that the above quoted amendment is not in conformity with the legal concept of one elector one vote.

L. Jay Bartel
John M. Boehm
Dale D. Brodkey
J. Kirk Brown
Mertel J. Bundy
Dale A. Comer

Timothy E. Davis
Lynne R. Fritz
Ruth Anne E. Gelter
Jill Gradwohl
Calvin D. Hansen
Royce N. Harper

Marilyn B. Hutchinson
Mel Kammerlohr
Sharon M. Lindgren
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Patrick T. O'Brien

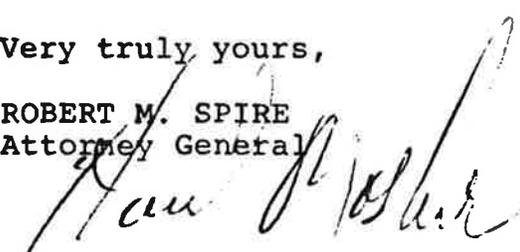
Bernard L. Packett
Terry R. Schaaf
LeRoy W. Sievers
Mark D. Starr
John R. Thompson
Linda L. Willard

Senator Howard Lamb
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While we cannot say that this amendment is unconstitutional, we can say that the constitutionality of this amendment, in our opinion, would be very difficult, if not impossible, to defend.

Very truly yours,

ROBERT M. SPIRE
Attorney General



Harold Mosher
Assistant Attorney General

HM:ejg

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