

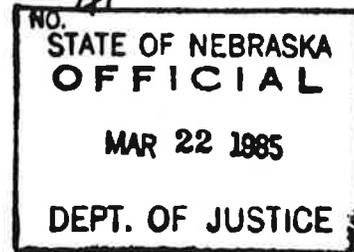
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

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

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

March 22, 1985



Senator David Landis
Nebraska State Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Senator:

This is in response to your letter of March 16, 1985, concerning the constitutionality of your subcommittee's proposed amendment to LB 271. Specifically, you ask for our opinion on section 13 of the amendment which provides as follows:

If the total value of agricultural and horticultural land in any county decreases, as a result of implementation of a new agricultural land valuation manual, by more than ten per cent in any one taxable year, the county shall be required to implement a ten per cent decrease each year until the full amount of the decrease is reflected in the values of agricultural land. This section shall apply for taxable years beginning on or after January 1, 1987.

The result of this proposal would mean that such property would be subject to a tax levy in a year in which its total value had been decreased by more than ten percent without a true determination of its actual value for that year. It was this same result which led the court to conclude that the former biennial valuation statute, Neb.Rev.Stat. §77-1301(1) (Reissue 1981) was unconstitutional and a violation of the Nebraska Constitution, Article VIII, Section 1, in Xerox Corp. v. Karnes,

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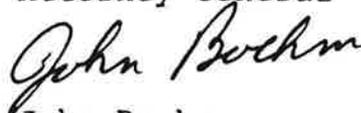
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217 Neb. 728 at 733, ___ N.W.2d ___ (1984). This provision of your proposed amendment would be subject to the same challenge and the result would undoubtedly be the same.

Sincerely,

ROBERT M. SPIRE
Attorney General



John Boehm
Assistant Attorney General

JB:ejg

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