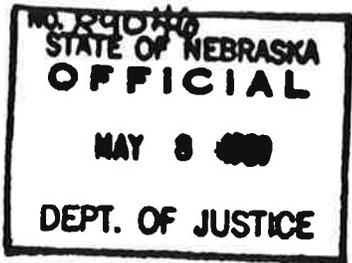


Linda Willard



DEPARTMENT OF JUSTICE  
STATE OF NEBRASKA  
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STATE CAPITOL • LINCOLN, NEBRASKA 68509

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

DATE: May 8, 1989  
SUBJECT: Constitutionality of LB 323 if amended by proposed amendment AM 1654  
REQUESTED BY: Senator David Landis  
Nebraska State Legislature  
WRITTEN BY: Robert M. Spire, Attorney General  
Marilyn B. Hutchinson, Assistant Attorney General

You have asked whether the text of LB 323 on final reading would be constitutional if amended by proposed amendment AM 1654. We have concluded it would be, as discussed below.

After LB 131 was enacted in 1986, expanding the scope of practice for optometrists and classifying licensees, we pointed out several constitutional problems in the areas of equal protection, privileges and immunities and delegation. See, Attorney General Opinion #86061 (August 8, 1986). Those problems were later corrected. See, Attorney General Opinion #87040 (March 25, 1987).

Now LB 323 is before you as additional amendments regarding the licensing of optometrists. It appears to have constitutional problems similar to those discussed in Attorney General Opinion #86061.

We have reviewed your proposed amendments to LB 323 in AM 1654. We have concluded that your proposed amendments adequately address the constitutional problems in the bill. Therefore, if LB 323 is amended, as you propose, we think it will be constitutional.

Sincerely yours,

ROBERT M. SPIRE  
Attorney General

Marilyn B. Hutchinson  
Assistant Attorney General

16-265-2  
cc: Patrick J. O'Donnell  
Clerk of the Legislature

APPROVED BY:  
  
Attorney General

- |                       |                       |                      |                     |                       |
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