

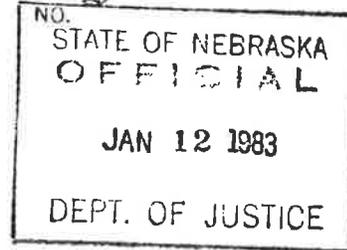
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

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

January 10, 1983

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Senator Steve Wiitala  
Nebraska State Legislature  
State Capitol  
Lincoln, Nebraska 68509

Dear Senator Wiitala:

This will acknowledge our receipt of your letter of January 5, 1983. In that letter you ask if a proposed legislative bill which you contemplate introducing this legislative session is constitutional. The same is hereinafter discussed.

We note that the proposed legislative bill described above would amend Neb.Rev.Stat. §85-902(2) (b) (iv) (Reissue 1981) and thus change the composition of the Nebraska Coordinating Commission for Postsecondary Education as follows:

, . . . one member from the a governing board of an independent college and university sector of this state appointed by the Governor from an association of independent, degree-granting, regionally accredited colleges and universities in Nebraska, with the advice of the independent colleges, and . . .

It is, of course, well settled law that a statute is open to construction only where the language used therein requires interpretation or may be reasonably considered ambiguous. The fact, alone, that a legislative act is open to the criticism that it is uncertain or indefinite in some of its provisions does not ipso facto render it unconstitutional. If, however, the uncertain or indefinite portion of a statute is essential to, or connected with, the statute as a whole, it may, of course, render the entire statute invalid. See, State ex rel. Holloran v. Hawes, 203 Neb. 405, 279 N.W.2d 96 (1979).

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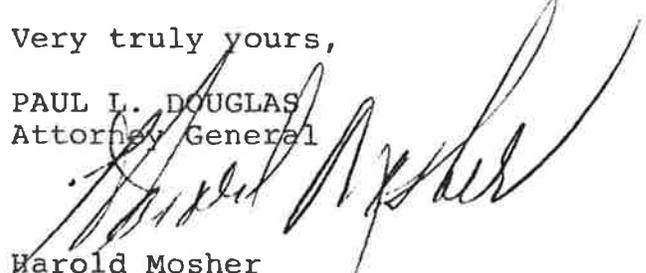
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Senator Steve Wiitala  
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Applying the above-stated legal principles to the above-quoted amendment to Neb.Rev.Stat. §85-902(2)(b)(iv) (Reissue 1981), we find that we are unable to discern the meaning to be subscribed to the words "association of independent, degree-granting, regionally accredited colleges and universities in Nebraska." Indeed, there could even be two or more of said associations in which case the question would be from which association could the Governor appoint the member. Moreover, the uncertain or indefinite meaning of the words "association of independent, degree-granting, regionally accredited colleges and universities in Nebraska" is connected with the statute as a whole for the reason that the member to be appointed from this group is one of twelve persons which comprise the membership of the Nebraska Coordinating Commission for Postsecondary Education. It is therefore our opinion that the proposed legislative bill described above is ambiguous and therefore a court would find it unconstitutional.

Very truly yours,

PAUL L. DOUGLAS  
Attorney General



Harold Mosher  
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HM:ejg

cc Mr. Patrick T. O'Donnell  
Clerk of the Legislature