

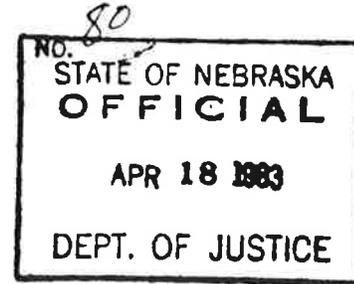
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

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

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April 15, 1983



Senator Clarence E. Jacobson  
Nebraska State Legislature  
Room 2105, State Capitol  
Lincoln, NE 68509

Dear Senator Jacobson:

This is in reply to your inquiry as to the constitutionality of LB 503, Eighty-Eighth Legislature, First Session.

This bill, among other things, authorizes the State of Nebraska to appropriate funds and make grants therefrom to private railroad companies for improvement of their roadbeds. A companion bill, LB 503A, appropriates money for this purpose.

Article XIII, section 3, of the Nebraska Constitution provides in part: "The credit of the state shall never be given or loaned in aid of any individual, association, or corporation." Chase v. County of Douglas, 195 Neb. 838, 241 N.W.2d 334 (1976).

The Supreme Court of Nebraska held a portion of a Nebraska statute unconstitutional which authorized governmental subdivisions to expend tax money to acquire real estate for the purpose of promoting industrial development. In speaking of the industrial development amendment to the Nebraska Constitution, which is Article XIII, section 3, the court stated: "Article XIII, section 3, remains in the Constitution and under its terms any loan of credit made by the state, by a county, or by a municipality to a private individual, association, or corporation is unconstitutional. State ex rel. Beck v. City of York, supra."

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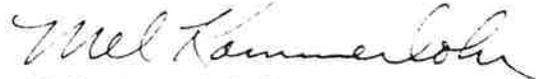
Since the above case of Chase v. County of Douglas, supra, the Supreme Court of Nebraska held that the Nebraska Mortgage Finance Fund did not violate this article of the Constitution on the ground that none of the funds involved in that case were state funds and the state was specifically exempted in the bonds from any obligation.

LB 503, however, clearly authorizes the use of state tax funds.

From the foregoing, it is our opinion that LB 503, if passed, would be in violation of Article VIII, section 3, of the Nebraska Constitution.

Very truly yours,

PAUL L. DOUGLAS  
Attorney General



Mel Kammerlohr  
Assistant Attorney General

MK/cmb/f3

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