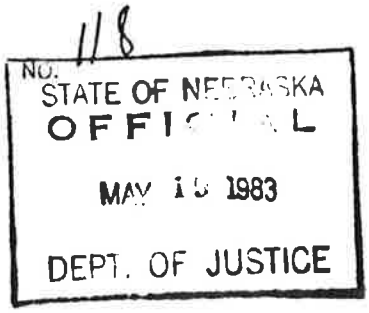
DEPARTMENT OF JUSTICE
STATE OF NEBRASKA
TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

PAUL L. DOUGLAS
Attorney General
GERALD S. VITAMVAS
Deputy Attorney General
JOHN R. THOMPSON
Deputy Attorney General

May 19, 1983



Senator William E. Nichol
Nebraska State Legislature
State Capitol
Lincoln, NE 68509

Dear Senator Nichol:

This is in response to your request of May 13, 1983, which pertains to LB 126 of the Eighty-Eighth Legislature, First Session (1983). That legislative bill is an act to provide a work-study program for certain students at certain postsecondary educational institutions. Section 5 of LB 126 requires the Nebraska Coordinating Commission for Postsecondary Education to allocate any appropriation made to implement this legislative bill as follows:

> The commission shall allocate the appropriation for the program among all eligible postsecondary institutions as defined in subdivision (4) of section 2 of this act in the ratio that the total full-time enrollment of Nebraska residents in each eligible individual institution multiplied by the average cost of attendance, as defined by 34 CFR section 675, for the various institutional budget categories, of a single dependent resident at the eligible postsecondary institution, bears to the sum of all eligible individuals multiplied by the average cost of attendance at their respective eligible institutions.

You have inquired, if basing the above-quoted allocations upon the average cost of attendance as defined by 34 C.F.R. §675, violates any provisions of the Nebraska Constitution.

Assistants
Bernard L. Packett
Mel Kammerlohr
Harold I. Mosner
Ralph H. Gillan
Terry R. Schaaf
Marilyn B. Hutchinson
Patrick T. O'Brien
J. Kirk Brown
Royce N. Harper
Sharon M. Lindgren
Ruth Anne E. Galter
G. Roderic Anderson
Dale A. Comer
Shanler D. Cronk
Martel J. Bundy
Mark D. Starr
Dale D. Brodkey
Frank J. Hutfless
Linda L. Willard
Robert M. Soshnik

The latest edition of Title 34 of the Code of Federal Regulations that we have access to was revised as of July 1, 1982. There is no section 675 published therein. Thus, unless there is a later edition of Title 34 of the Code of Federal Regulations which contains a section 675, it would appear that the citation thereto in Section 5 of LB 126 renders this section ambiguous. Consequently, it would also appear that there is no legal way in which the Nebraska Coordinating Commission for Postsecondary Education could allocate any appropriation made to implement this legislative bill in the event it became law.

Very truly yours,

PAUL L. DOUGLAS
Attorney General

Harold Mosher
Assistant Attorney General

HM/cmb/4

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