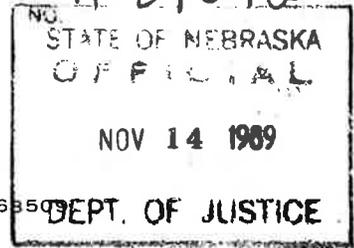


Linda Willard

89072



DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

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

DEPT. OF JUSTICE

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

DATE: November 14, 1989

SUBJECT: Scope of Governor's Special Session Call -
 Revenue Committee Amendments to LB 7

REQUESTED BY: Senator Jerome Warner
 Nebraska State Legislature

WRITTEN BY: Robert M. Spire, Attorney General
 L. Jay Bartel, Assistant Attorney General

You have requested our opinion regarding whether certain Revenue Committee Amendments to LB 7 are outside the scope of the Governor's call for the current special session. In its original form, LB 7 proposed to enact a separate classification and exemption from property taxation for railroad rolling stock. The two committee amendments you refer to would add to the bill the following: (1) Provisions which would remove the sales tax exemption for railroad rolling stock; and (2) An increase in the corporate income tax rate.

Article IV, Section 8 of the Nebraska Constitution, provides:

The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they were called together.

In a recent opinion, this office discussed the guiding principles articulated by the Nebraska Supreme Court in Arrow Club, Inc. v. Nebraska Liquor Control Commission, 177 Neb. 686, 131 N.W.2d 134 (1964), regarding the limitation on the power of the Legislature to act at a special session under this constitutional provision. Attorney General Opinion No. 89069, November 9, 1989. In this opinion, we noted that the court in Arrow Club, supra, stated that: "[t]he Legislature while in special session may enact legislation relating to, germane to, and having a natural connection with the purpose for which it was convened." 177 Neb. at 690, 131 N.W.2d at 137 (Emphasis added).

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Senator Jerome Warner
November 14, 1989
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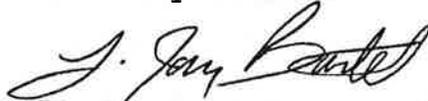
The Governor's Proclamation outlines four subjects for the Legislature's consideration during the current special session:

1. Amend Chapter 77, Article 1, of the Nebraska Revised Statutes to redefine the real terms real property, personal property and tangible property;
2. Amend the statutory provisions for refunds and injunctions of property taxes in Chapter 77, Article 17, of the Nebraska Revised Statutes;
3. To enact legislation to extend to railroad rolling stock the same tax treatment already granted by §306(1)(d) of the Federal 4-R Act and federal court interpretations of that Act; and
4. Adopt a penalty for the failure to pay property taxes in a timely manner.

In light of the foregoing, it is our opinion that neither of the proposed committee amendments referred to above are sufficiently related to or germane to the subjects stated in the Proclamation to constitute valid legislative business during the current special session. It should be noted that our supreme court, as evidenced by the decision in Arrow Club, supra, has adopted a rather restrictive view in assessing whether legislation enacted in special session falls within the scope of the Governor's call. In our view, the proposed amendments to remove the sales tax exemption for railroad rolling stock and to increase the corporate income tax rate are not within the scope of the Governor's call.

Very truly yours,

ROBERT M. SPIRE
Attorney General



L. Jay Bartel
Assistant Attorney General

7-277-2

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

APPROVED BY:



Attorney General