

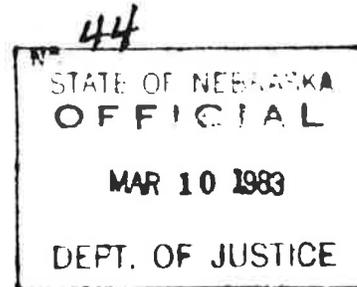
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

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March 9, 1983



Senator Calvin F. Carsten  
Nebraska State Legislature  
State Capitol  
Lincoln, Nebraska 68509

Dear Senator Carsten:

You have pointed out that LB 59 would set the state income tax rate for 1983 at 20 percent. Your question is whether, assuming that the increased income tax rate would result in the total receipts from sales and use taxes not being "as nearly as possible equal" to the total individual income tax receipts, the State Board of Equalization and Assessment would be forced to increase the state sales tax rate to achieve this equality.

We believe your question is answered in the negative by Neb.Rev.Stat. §77-2715.01(1)(e) (Supp. 1982), which provides:

The rates of the sales and income taxes shall be fixed so that the total sales and use taxes levied will as nearly as possible equal the total individual income tax levied for the calendar year for which the rates so fixed will be effective except when a change in the sales and use tax rate or individual income tax rate would be required solely to meet the provisions of this subdivision. The board shall set the rates in such a manner that total sales and use tax revenue should not exceed total individual income tax revenue in any particular year.

(Emphasis supplied.)

It appears to us that this language specifically covers the situation where a change in the tax rates is made by the Legislature. If the state board had made the change in the income tax rate at its November meeting, it would have been

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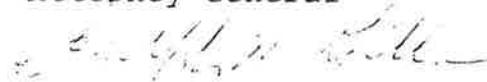
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required to meet the "as nearly as possible equal" standard. Where, however, the change is made by the Legislature, it would seem that the only reason for changing the sales and use tax rate would be to "meet the provisions of" subdivision (1)(e), and that subdivision specifically says that the change is not required in that situation.

Very truly yours,

PAUL L. DOUGLAS  
Attorney General



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