



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 89- 24

The Honorable Kerry Patrick
State Representative, Twenty-Eighth District
State Capitol, Room 280-W
Topeka, Kansas 66612

The Honorable Bruce Larkin
State Representative, Sixty-Second District
State Capitol, Room 273-W
Topeka, Kansas 66612

Re: Constitution of the State of Kansas--Legislative--
Subject and Title of Bills

Synopsis: 1989 Senate Bill No. 24 does not violate article 2,
section 16 of the Kansas Constitution which
prohibits a bill from containing more than one
subject. Cited herein: K.S.A. 1988 Supp. 72-7067;
K.S.A. 72-7068; K.S.A. 79-4904; Kan. Const.,
Art. 2, §16; L. 1988, ch. 17, §6; L. 1988, ch. 31,
§2.

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Dear Representatives Patrick and Larkin:

You have each requested our opinion regarding whether 1989
Senate Bill No. 24 contains more than one subject in violation
of article 2, section 16 of the Kansas Constitution.

Senate Bill No. 24 is entitled "An Act providing tax relief
for Kansas taxpayers;" It amends specified provisions
of the income tax act, the homestead property tax refund act
and the school district equalization act. Section 5 is a new

provision which allows taxpayers with a household income not exceeding \$35,000 an alternative to applying for the homestead property tax refund in 1989 and/or 1990. Homestead property tax refunds are paid out of state appropriations to the Department of Revenue. K.S.A. 79-4504; L. 1988, ch. 17, §6; L. 1988, ch. 31, §2; 1989 House Bill No. 2029, §2. The amendment to the school district equalization act, section 6, concerns only the amount of income tax revenue to be distributed to school districts. The school district income tax fund is administered by the Secretary of Revenue (K.S.A. 1988 Supp. 72-7067; K.S.A. 72-7068) and distributions are made from an appropriation to the Department of Revenue. See, e.g., L. 1988, ch. 34, §3; 1989 Senate Bill No. 28, 2; The Governor's Report on the State of Kansas Budget, Fiscal Year 1990, vol. 2., p. 208. Thus, there is a common thread among the sections of the bill in that they all deal with taxation, administrative functions of the Department of Revenue, and credits to and payments from the state general fund, the overall purpose being the provision of tax relief.

The purpose of the single-subject clause is set forth in Garter Enterprises, Inc. v. City of Kansas City, 219 Kan. 620, 622 (1976) as

"the prevention of a matter of legislative merit from being tied to an unworthy matter, the prevention of hodge-podge or log-rolling legislation, the prevention of surreptitious legislation, and the lessening of improper influences which may result from intermixing objects of legislation in the same act which have no relation to each other."

"Its intent and purpose was to prevent the union in the same act of subjects wholly incongruous with, independent of and disconnected with the real subject of the legislation as reflected in the title of the act." State, ex rel., v. Board of Education, 173 Kan. 780, 785 (1953).

The court has consistently held that

"this constitutional requirement is not to be enforced in any narrow or technical spirit. It was introduced to prevent a certain abuse, and it should be construed

so as to guard against that abuse, and not to embarrass or obstruct needed legislation." Philpin v. McCarty, 24 Kan. *393 (1880). See also Miller v. Miller, 113 Kan. 22, 24 (1923); State v. Reves, 233 Kan. 972, 980 (1983).

Indeed, the clause itself states that "[t]he provisions of this section shall be liberally construed to effectuate the acts of the legislature." Kan. Const., Art. 2, §16. The Reves case, supra is illustrative of the court's policy of allowing broad deference to the legislature's combination of provisions and that article 2, section 16 should not be used to strike down an enactment unless its invalidity is manifest. See Attorney General Opinion No. 88-74.

In Attorney General Opinion No. 83-78 we were asked to look at a legislative enactment which contained, among other things, provisions imposing both an income tax and a privilege or occupational tax. We concluded that the enactment did not violate the article 2, section 16 single-subject provision. Similarly, we concluded in Attorney General Opinion No. 83-44 that

"the inclusion of reasonable provisions in a tax bill which direct the manner in which the proceeds of the tax are to be handled when collected and the purposes for which those proceeds are to be used is not in violation of Article 2, Section 16. The use of tax proceeds is as integral a part of a tax law as is the object or rate of the tax. After all, taxes are imposed to provide the funds with which to accomplish some public purpose or purposes. Thus, in our judgment, reasonable specifications as to the purposes for which the proceeds of a tax are to be used do not add an unrelated matter to the bill pursuant to which the tax is imposed, and such specification of purpose would not violate the one subject in a bill requirement of Article 2, Section 16." (Emphasis supplied).

Thus, while Senate Bill No. 24 provides for more than one method of relieving the tax burden, in view of the rules of

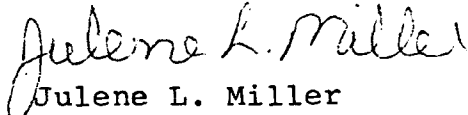
Representative Kerry Patrick
Representative Bruce Larkin
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construction outlined above, the general rule that legislation is presumed constitutional with all doubts resolved in favor of its constitutionality, and the fact that the several sections of 1989 Senate Bill No. 24 are part of an overall plan to revise the state's taxing scheme, it is our opinion that this bill is not violative of article 2, section 16 of the Kansas Constitution.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

RTS:JLM:jm