



STATE OF KANSAS

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April 8, 1986

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ATTORNEY GENERAL OPINION NO. 86- 52

The Honorable Robert J. Vancrum
State Representative, Twenty-Ninth District
Room 115-S, State Capitol
Topeka, Kansas 66612

Re: Constitution of the State of Kansas--Legislative--
Organization and Sessions

Synopsis: Article 2, Section 8 of the Kansas Constitution provides a specific means by which the regular session in an even-numbered year may be extended, i.e. "by an affirmative vote of two-thirds of the members elected to each house." In our opinion, extending the session in any other manner would be unconstitutional, and therefore any legislative action taken after the close of the regular session would be subject to attack as being invalid.

A valid resolution to extend the regular session which limits the subject matter to be considered in the extended session would be ineffective for all practical purposes. Cited herein: Kan. Const., Art. 2, §8.

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Dear Representative Vancrum:

You have requested our opinion regarding the constitutional limitation on the length of the legislative session. Specifically, you question whether legislative action, taken after the constitutionally prescribed deadline for the

session, is valid. Secondly, you question whether a valid resolution to extend the session may limit the topics of consideration in that extended session.

Article 2, Section 8 of the Kansas Constitution provides, in part:

"The legislature shall meet in regular session annually commencing on the second Monday in January, and all sessions shall be held at the state capital. The duration of regular sessions held in even-numbered years shall not exceed ninety calendar days. Such sessions may be extended beyond ninety calendar days by an affirmative vote of two-thirds of the members elected to each house."
(Emphasis added.)

In the case of the present session, the second Monday in January was January 13. The 90th and last day will fall on April 12, as Legislative Research has advised this office that weekends are to be included in the count. Thus, April 12, 1986 will be the last day of the regular session.

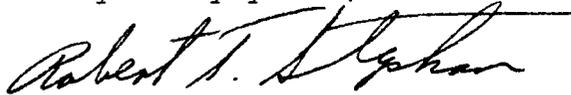
The regular session may, however, be extended by a two-thirds vote of the members of both houses. In that the constitution has provided a specific way in which a session may be extended, it is our opinion that any other method of extending the session would be unconstitutional. For example, we are advised that clock-stopping procedures have in the past been employed to avoid the need for a resolution extending the session, especially when one house has completed their work and the other has not. In this situation, if no resolution has been adopted by two-thirds vote of the members of both houses, the mandate of the constitution has not been complied with and the session has not been legally extended.

Given the constitutional provisions involved, clock-stopping and similar procedures would probably be subject to a successful attack, i.e. the session was not extended, so the legislature had no power to take whatever action occurred after the expiration of the 90th day. Even a motion to extend the session, otherwise adopted with all formalities by a two-thirds vote of the members of both houses, would be vulnerable if made or completed after 12:00 midnight of the 90th calendar day of the 1986 Legislative Session. A

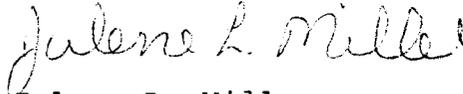
resolution to extend the session must be completed within the regular session or a legally extended session.

Finally, given that any extension must be by a concurrent resolution, we find no constitutional or statutory reason why the resolution could not contain limitations on the subject matter to be discussed. However, it is not clear what the effectiveness of such a limitation would be. The constitution does not grant the legislature authority to limit the subject matter to be considered in an extended session, it merely provides for an extension of the regular session. Since the constitution does not limit legislative power in this situation, a self-imposed limitation would probably not effectively limit that power. In our opinion, the only effective limitation on legislative power must emanate from the constitution, not the legislature itself.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

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