

## EARLY EDUCATIONAL FUNDING EFFORTS

### Pre-Territorial Schools and Funding: 1700-1853

During the 1700s, while colonial life up and down the eastern seaboard began to flourish, only a few courageous explorers ventured onto the lands west of the Mississippi River. Adventurous French traders came up the Mississippi and Missouri Rivers to trade with the Indians while Spanish military expeditions probed the Southwest. One Spanish expedition reached as far as Nebraska. Under the leadership of General Don Pedro de Villasur, the expedition reached the Platte River Valley where many were massacred by Pawnee Indians. For the remainder of the century, only a few explorers traversed the vast lands between the Missouri River and the Rocky Mountains.

The government of the newly formed Confederation decided to develop a plan so that new settlers could acquire land titles and guarantees of ownership to the land west of the Appalachian Mountains. The Land Ordinance of 1785 defined the terms of this agreement (see Appendix A for complete listing of Nebraska School Finance Chronology). It created a systematic method to divide the land into regions. Government surveyors split the land into townships

that were 6 miles square and divided into 36 sections. This new legislation brought needed order to land selection for new settlers. The impact of this legislation was significant because the act stated that the income from Section 16 was reserved for school support. This landmark decision linked the federal government to school finance.

Two years later, The Northwest Ordinance was passed. This document defined how the Northwest Territory was to be governed. Article 3 stated that education was an important concept in new territories. "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, and the means of education shall forever be encouraged."<sup>115</sup> Together, The Land Ordinance Act and The Northwest Ordinance of 1787 earmarked the beginning of federal involvement in education. Both public school finance and governance would be forever joined.

By the turn of the century, the region west of the Mississippi remained unexplored by Europeans. In 1803 the

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<sup>115</sup> D. C. THOMPSON, R. C. WOOD & D. S. HONEYMAN, FISCAL LEADERSHIP FOR SCHOOLS: CONCEPTS AND PRACTICES (Longman, 1994), 96.

United States purchased the Louisiana Territory stretching from the Mississippi to the Rockies and from the Gulf of Mexico to Canada. The amount of unfamiliar land within this purchase was enormous. President Thomas Jefferson assigned a U.S. army expedition led by Lewis and Clark to explore the area. Soon traders began seeking their fortunes in the area and by 1807 Manuel de Lisa, a noted Cuban trader, settled on the plains of Nebraska. The impressions reported back to the government in Washington about this new land were not flattering. Stephen H. Long wrote about his findings after he traveled in the area in 1819.

In regard to this extensive section of country, I do not hesitate in giving the opinion that it is almost wholly unfit for cultivation, and of course uninhabitable by a people depending upon agriculture for their subsistence. Although tracts of fertile land considerably extensive are occasionally to be met with, yet the scarcity of wood and water, almost uniformly prevalent will prove an insuperable obstacle in the way of settling the country.<sup>116</sup>

General Atkinson was in command of approximately 1,000 soldiers; his mission was to establish a string of forts along the northern border of the United States to protect the fur trading business and control hostile Indian tribes.

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<sup>116</sup> R. G. THWAITES, EARLY WESTERN TRAVELS (Vols. XIV, Arthur H. Clark Co., Cleveland, 1904, 20).

Major Long was to survey the region.<sup>117</sup> In 1819, Atkinson reached an area on the Missouri River near Council Bluffs and formed a temporary camp. Orders were later received to establish a military post at this location. Thus, Fort Atkinson was founded. It was on the grounds of this fort that Nebraska's first school was established. Beggs<sup>118</sup> documented that the school was established in February of 1820 but was short lived due to scurvy that killed many of the inhabitants of the post. A second attempt at schooling was made in February of 1822. Funding issues were clarified. The teacher was to receive \$.15 per day from regimental funds and an additional monthly fee paid by officers. This second fee was a per capita fee totaling fifty cents per child. Beggs<sup>119</sup> elaborated further that funds necessary to support this regimental school were not federal or governmental funds. The teacher's

"base pay was \$8.00 per month; the additional \$.15 daily came from the regimental exchequer, which was built up gradually by the sale of

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<sup>117</sup> W. K. Beggs, *Frontier education in Nebraska* (1939) (unpublished Ph.D. dissertation, University of Nebraska, Lincoln).

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

products from the farm at the post, and the equipment used, other than the building, was furnished from the same source."<sup>120</sup>

Fort Atkinson's usefulness had served its purpose by the middle of 1824. The garrison was moved to a new location on the Missouri River and named Fort Leavenworth. The Indians set fire to the original site leaving only building foundations and gravestones marking the location of Nebraska's first settlement.

A second trading post was established near Bellevue in 1812.<sup>121</sup> This location, further south along the Missouri River than Fort Atkinson, became the stopping point for many en route to the west. Bellevue was the first permanent settlement in Nebraska and as the settlement grew, so did the need for institutions to support the governance of the area. Two types of settlers were attracted to this area, each with a unique lifestyle. Traders came to the area to make deals with the Indians; fairness was not an issue. The Indians often were left with little at the end of the deal. Guns and liquor were used as trade items. Beggs

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<sup>120</sup> Id, 7.

<sup>121</sup> R. I. VEXLER & W. F. SWINDLER, EDS., CHRONOLOGY AND DOCUMENTARY HANDBOOK OF THE STATE OF NEBRASKA (Oceanea Publications, 1978).

stated, "the white man's fire-water reduced a great many tribes to beggary, and his 'thunder stick' made others into formidable guerrilla bands which roamed the plains terrorizing the settlements, and keeping alive a bitter racial hatred."<sup>122</sup> The second type of settler, missionaries, arrived with a very different purpose and lifestyle. Helping people, healing the sick, disseminating knowledge, and teaching doctrine was their lifestyle. The contrast between the two types of settlers was obvious.

Moses Merrill, a Baptist missionary, was sent to Bellevue and was assigned to the Otoe tribe. He started a school in a log cabin seven days after his arrival to the area. The struggle to keep the Indian school open was fierce. Other missionaries, notably Samuel Allis and John Dunbar, representatives from the Presbyterian Mission Board, were assigned to the Pawnees and established schools for them. Their struggles are told in letters and diaries. Father DeSmet, a Catholic missionary, came to the area as well. Beggs<sup>123</sup> further described the actions of the government employees in the settlements -- the blacksmiths,

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<sup>122</sup> Id, 12.

<sup>123</sup> Id.

farmers, and Indian agents. During the 1840s, a "whispering campaign" by government employees was being waged against the Indians and the missionary work. The campaign suggested that the white workers did not want the Indians to be educated or Christianized. Their rationale supported the belief that as long as the Indians remained ignorant, it would be easy to deal with them. Nevertheless, the missionary work went on and Christian schools, though limited in number, continued to serve students.

During the later part of 1846 and early 1847, Nebraska's role as a highway to the West became increasingly evident. Mormons traveled through Nebraska and wintered in Florence. They were destined for Utah, but travel often ceased during winter months due to unpredictable weather. Siampos<sup>124</sup> documents children's school attendance grew during these winters. In 1847, the Presbyterians established a mission for the Omaha Indians located in Bellevue. Mr. and Mrs. Edward McKinney operated the school always making room for the migrant pioneer families. Some of those headed to Utah or California remained in Nebraska for a variety of reasons. Many of those that remained in Nebraska became

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<sup>124</sup> H. SIAMPOS, EARLY EDUCATION IN NEBRASKA, *Nebraska History*, 1948: 29(2), 113-133.

permanent settlers. These settlers and their children were to form the basis for a permanent public school system.

By the early 1850s the only remaining unorganized territory was "the great American desert" between Missouri and the Rockies. Territorial status would soon follow and laws of governance would be established.

### Summary

Nebraska's pre-territorial years saw little development in defining the operation or goals of schools. Some strides, however, were made toward school funding. Most of the schools that existed in Nebraska at this time were either missionary schools for Indians funded by charitable contributions or schools on military posts, funded by per capita assessment.

The groundwork for funding public education, although not yet practiced, had its foundations in two significant concepts: 1) The belief that the government has a responsibility to oversee the education of children and 2) the belief that land should be used to finance education. These two concepts have their origins in The Land Ordinance Act and The Northwest Ordinance. In the future territorial



law would broaden the concepts for funding public schools  
in the Nebraska territory.

## Territorial Government

### and School Funding Laws: 1854-1867

Ownership of the land between the settled Missouri Territory and Oregon was in dispute. Both England and the United States claimed ownership to Oregon. The Hudson Bay fur-trading posts were owned by the English while the frontiersmen carried the United States flag staking claim to the Pacific Northwest. In a report written in 1843, Lieutenant John C. Fremont gave the Platte River the Otoe Indian name "Nebraska." In a 1844 report, then Secretary of War, William Wilkins, used the Nebraska name for legislation for the soon to be organized territory.<sup>125</sup>

For a territorial government to be established, population requirements were necessary. Wilkins realized that Nebraska did not have enough inhabitants but encouraged the organization of the territory anyway to establish military posts from the Missouri River to the Rocky Mountains. On December 17, 1844, a bill was introduced in Congress by Representative Stephen Douglas from Illinois suggesting that the Nebraska Territory be established and

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<sup>125</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931, 230).

that the laws of Iowa be extended to Nebraska until a territorial legislature could meet and formalize laws.<sup>126</sup> Douglas' bill came out of committee on January 7 but died silently as other issues occupied the minds of the congressmen. A second effort for territorial status was introduced by Douglas, now a senator from Illinois. On March 15, 1848, the second Nebraska bill for territorial status came out of the Committee on Territories, but no action or debate came forth. Congressional discussions were changing. Thoughts about a transcontinental railroad were replacing ideas about military outposts along the Platte River. Railroad and military issues were debated in Congress for quite sometime but did not lead to territorial status for Nebraska.

A third effort to organize the Nebraska Territory was introduced by W.P. Hall of Missouri with a bill to organize the Territory of Platte on December 12, 1852. Again the bill was referred to the Territorial Committee. W.A. Richardson of Illinois, a personal friend of Douglas, was now chair of the Committee on Territories. This bill differed from previous proposals; there was no mention of

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<sup>126</sup> Id, 231.

Iowa's laws being used until Nebraska's territorial law was written. Slavery was not mentioned either. As debate proceeded on this bill, Indian rights, slavery and railroad issues were hotly debated topics. The bill was tabled by a 23 to 17 vote on March 4, 1853.<sup>127</sup>

The bill was reintroduced on December 14 by Senator Dodge of Iowa. Senator Douglas from Illinois brought the proposal out of committee suggesting that the new territory could determine the issue of slavery itself when it was admitted as a state. Political discussions followed but on January 23, 1854, Douglas introduced the Kansas-Nebraska bill establishing two territories and declaring the Missouri Compromise invalid. Political issues of slavery, railroads and popular sovereignty were fiercely debated in both legislative houses for several months. On May 26, 1854, the Kansas-Nebraska Act was passed by both congressional houses. Four days later, on May 30, 1854, President Pierce signed the bill and the Nebraska Territory was born. With the passing of the Kansas-Nebraska Act each territory was now free to frame a constitution and regulate government in

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<sup>127</sup> Id, 233.

their own way. The only reference to public education in the Kansas-Nebraska Act was found in Section 16.<sup>128</sup>

and be it further enacted, That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bring the same into market, sections number sixteen and thirty-six in each Township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.<sup>129</sup>

Douglas was a noted leader in the efforts to establish the Nebraska Territory. Sheldon<sup>130</sup> suggested that Douglas was not interested in the territory itself but used this as an opportunity to promote himself and gain exposure as a future presidential candidate. Regardless of Douglas' intent, the new territories would be open to slavery by the principle of popular sovereignty. Early territorial legislation would follow. Public schools and methods for funding them would soon be regulated by both constitutional law and statutes.

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<sup>128</sup> W. K. Beggs, Frontier education in Nebraska (1939) (unpublished Ph.D. dissertation, University of Nebraska (Lincoln)), 43.

<sup>129</sup> An Act To Organize The Territories of Nebraska and Kansas Laws, Resolution and Memorials passed at the Regular Session of The First General Assembly of the Territory of Nebraska, Sherman & Strickland, Territorial Printers, Omaha City, N.T., 1855, 30.

<sup>130</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931).

Although territorial status was now granted, the Nebraska Territory remained primitive in economic, political and legal thinking compared to the more established eastern states. Approximately 60,000 Indians still occupied and roamed the territory. The land expanse of the territory was large, approximately 355,000 square miles, and there were said to be 10,000,000 buffalo along with many deer, elk, antelope, and wild sheep. The white population was estimated at 1,000 people with approximately 50 of them living in the oldest and largest settlement of Bellevue. The remainder of the white population was located at Fort Kearney, Fort Laramie, and other military camps.<sup>131</sup>

The first territorial government leaders were U.S. officials and white settlers. President Pierce appointed Francis Burt (see Appendix B for complete listing of Nebraska Governors), a senator from North Carolina, as the first governor and Thomas Cuming from Michigan as the Secretary of State. Burt's rein as governor lasted only two days. While traveling to the territory he became ill and died shortly after his arrival in Bellevue. Secretary of State Cuming became the acting Governor. The newly

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<sup>131</sup> Id, 240.

appointed territory officials were all Democrats whose allegiance to President Pierce and party politics was expected.

The Kansas-Nebraska Act established the criteria for the first legislature. Sections 1-18 of this act became the territorial constitution. An upper house called the Council was to have 13 members and the lower house or House of Representatives was to have 26 members. The counties north of the Platte River received more representation than those south of the Platte even though population data did not support this. Governor Cuming gerrymandered the north and south regions based on square miles of the region, not population.<sup>132</sup> From the beginning, Cuming was maneuvering to have Omaha become the capitol of the state and seat of the legislature.

The first General Assembly of the Territory of Nebraska convened at Omaha City on January 16, 1855. In the inaugural address to the first Nebraska General Assembly, Acting Governor Cuming spoke of fostering and protecting education. He valued education as a way to

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<sup>132</sup> Id, 250.

assist in directing individual destiny.<sup>133</sup> Mark W. Izard, an Arkansas native, was appointed by President Pierce to become the new governor of the territory after Burt's death. Originally appointed to the U.S. Marshall position in the territory, he was sworn into office as Territorial Governor in Washington on December 23, 1854. He journeyed back to the territory as quickly as possible and addressed the Territorial Legislature on February 20, 1855. He suggested that the Iowa code of law be adopted until a permanent system could be devised for the Nebraska Territory. Izard's recommendation met no resistance. Beggs questioned this adoption. "It has been generally assumed that the first school law was a part of this adoption, but although it may have been patterned after the Iowa law, it certainly was not a copy."<sup>134</sup> He searched "the Iowa Statutes up to and including 1855, but found nothing that would lead to the belief that the Nebraska law was a copy. In some respects its language resembles the revised Iowa law of 1849."<sup>135</sup>

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<sup>133</sup> W. K. Beggs, *Frontier education in Nebraska* (1939) (unpublished Ph.D. dissertation, University of Nebraska (Lincoln)), 43.

<sup>134</sup> *Id.*, 44.

<sup>135</sup> *Id.*, 44.



The first Session Laws of Nebraska reference adopting parts of the Iowa Code. Specifically,

Sec. 1 Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That the following chapters of the code of Iowa, passed at the session of the General Assembly of the State of Iowa in 1850 and 1851, and approved the 5th of February, 1851; be and they are hereby, adopted and declared to be in force as law in the Territory of Nebraska, so far as the same are applicable, and not inconsistent, with any laws passed at the present session, or with the Organic Law of said Territory, to wit...<sup>136</sup>

Common school law was not listed as an adopted chapter of Iowa law.

On March 16, 1855, the Common Schools Act was passed by the Territorial Legislature.<sup>137</sup> This legislation became the foundation for school governance and tax law. The position of Territorial Librarian was combined with the position of Superintendent of Public Instruction (see Appendix C for a complete listing of Superintendents of Public Instruction). The position was secretarial in nature; the Superintendent of Public Instruction provided county officials with the necessary forms for record keeping

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<sup>136</sup> Laws, Resolutions and Memorials, passed at the Regular Session of the First General Assembly of the Territory of Nebraska, Sherman & Strickland, Territorial Printers, Omaha City, N.T., 1855, 55.

<sup>137</sup> 1855 Neb. Laws, *Joint Resolutions and Memorials*, 212-221.

and used these records for developing comprehensive reports regarding school receipts and disbursements. These reports document the early school finance status in the Nebraska Territory. Additionally, as established by law, the Superintendent of Public Instruction was required to submit a report to the territorial legislature at the beginning of each session regarding school funding. Section 1 of the Common Schools Act stated that a salary of \$200 was to be paid to the Superintendent of Public Instruction.<sup>138</sup>

The newly developed code of law supported the establishment of a county government organizational model. As counties were formed, officials were elected to serve the county. A county superintendent was to be chosen by popular election as part of this process. Section 17 of the Common Schools Act reported that it was the duty of the county superintendent...

On the first day of March annually he shall apportion the county school tax, and all money in his lands appropriated for the support of schools among the several districts of his county, in proportion to the number of persons reported to him by the respective district secretaries, and shall record a statement thereof in his office.<sup>139</sup>

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<sup>138</sup> Id, 89.

<sup>139</sup> Id, 214.

The county superintendent was also to notify the president of each school district regarding the amount of money entitled to the district from the apportionment. The tax was defined in Section 18. The levied tax was to be "not less than three mills to the dollar."<sup>140</sup>

The first formula for disbursement of the apportionment was simple. Funding was based on student population in the district. This per capita funding model allocated a specific amount of dollars to each district based on the number of students enrolled in the district.

The Common Schools Act (1855) established another taxing measure. Section 29 gave powers to the qualified electors of each district. The fifth power related to the ability of the electors to tax.

Fifth...To lay such tax on the taxable property of the district as the meeting shall deem sufficient to purchase or lease a suitable site for a school house or school houses, and to build rent or purchase a school house or school houses, and to keep in repair and furnish the same with the necessary fuel and appendages, and for procuring libraries for the schools, books, and stationery for the use of the board and district meeting, and to defray all other contingent expenses of the district. Provided, however, that said tax shall not exceed one and one half cent on all taxable property aforesaid in any one year.<sup>141</sup>

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<sup>140</sup> Id, 214.

<sup>141</sup> Id, 216.

Section 30 described the purpose of the district tax. At the district meeting, the various financial needs of the district were to be defined and the amount to be raised for each need was to be identified. The total financial need, more commonly referred to as the aggregate amount, was to be assessed.<sup>142</sup>

If a district elected to establish a school with advanced grades, section 31 defined additional compensation for teacher salaries. This additional funding was to be paid by "private subscription in such proportionate parts as the board of directors may determine."<sup>143</sup>

Section 44 clarified that it was the district secretary's job to secure a transcript of the previous assessment roll of the county, add new or omitted taxable property and assess the value of the property. For taxing purposes, the names of those taxed was to be posted in three or more places in the district. The amount due was to be listed across from each individual's name. The tax list was

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<sup>142</sup> Id, 216.

<sup>143</sup> Id, 216.

to be posted a minimum of thirty days prior to the collection of the tax.<sup>144</sup>

If the tax payer neglected or refused to pay the district tax, Section 45 established procedures. The secretary was to "proceed to collect the same by distress and sale of goods and chattels found within the district."<sup>145</sup> If a land owner failed to pay the county tax, it was to be reported to the county tax collector and a similar process for delinquent tax payment was in place.<sup>146</sup> Funds that were collected by the county collector were to be issued to the president of each district when requested. Additional policies were defined in the law for each district secretary stipulating the components of a district report. This report was due to the county superintendent and pertained to specific demographic information from the district. If the district secretary failed to file the report, a ten dollar penalty was assessed.<sup>147</sup>

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<sup>144</sup> Id, 218.

<sup>145</sup> Id, 218.

<sup>146</sup> Id, 218.

<sup>147</sup> Id, 219.

Section 56 of The Common Schools Act (1955) explained the various district funds.

The monies for the payment of teachers shall be called the 'teachers fund,' and the treasurer shall keep the same district, and keep separate accounts with them, and no warrant for money shall be paid by the treasurer which does not specify the fund on which it is drawn, and the specific use to which it is applied: the school house fund shall consist only of taxes collected in the district, and all other school monies belonging to the district shall go to the teachers fund and shall be applied to no other use, except to pay wages of school teachers in the district.<sup>148</sup>

Each district treasurer was to apply to the county superintendent to receive the apportionment for his district. The treasurer applied for the funds after the district president was notified on March 1 regarding the apportioned sum.<sup>149</sup>

The Common Schools Law (1855) also addressed admission of pupils from other districts. Section 56 emphasized that it was necessary to have both districts agree on this enrollment option, and that it was the responsibility of the parents or guardians to pay a portion of the contingent expenses and an amount contributed by voluntary subscription

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<sup>148</sup> Id, 219.

<sup>149</sup> Id, 219.

determined by the respective boards.<sup>150</sup> Admission of students to alternative school districts was clearly stipulated in the first school law of the Nebraska Territory.

The taxing procedure for common schools was articulated in Section 65 of the Common Schools Act (1855). It was the county superintendent's job.

...at the time of levying the tax for county purposes cause to be levied a tax for the support of schools within the county of not less than three mills to the dollar and not more than five on the assessed value of all taxable property real and personal within the county, which shall be collected by the county collector at the same time and in the same manner as state and county taxes are collected - except that it shall be receivable only in cash.<sup>151</sup>

Section 71 stated that fines for breaches of the penal code and money raised from the sale of water craft, lost goods, and estrays would be paid to the county superintendent and apportioned to school districts.<sup>152</sup> Section 72 clarified further that the dollars from breaching the penal laws were

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<sup>150</sup> Id.

<sup>151</sup> Id, 220.

<sup>152</sup> Id, 221.

to be kept and apportioned separately from all the other school funds.<sup>153</sup>

The Common Schools Act (1855) established property tax as a method for funding schools. This legislation was adopted during the first territorial legislative session held in Omaha. Thus, property tax and funding schools were to be linked forever in Nebraska.

During the second session of the legislature, the state superintendent failed to make a report at the beginning of the session, a duty defined in law. Governor Izard remarked that the "law had been 'successful to some extent.'"<sup>154</sup> The governor suggested the development of an additional territorial fund to add to the proceeds from fines and that it be raised by a general tax over the territory. School lands might be another way to establish income for schools, however, territories did not have possession of the school land funds. Governor Izard encouraged the legislature to focus on persuading Congress to release the school lands to the territory. His request fell on deaf ears. The first

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<sup>153</sup> Id, 221.

<sup>154</sup> W. K. Beggs, *Frontier education in Nebraska* (1939) (unpublished Ph.D. dissertation, University of Nebraska (Lincoln)), 51.



School Report was made on January 5, 1857 by Harvey Anderson, Superintendent of Public Instruction.<sup>155</sup> The report discussed what should be done in schools rather than what had actually been done. Beggs<sup>156</sup> suggested that there was a growing concern about the public school system, its ineffectiveness and the need for better laws.

In 1858, Governor Richardson was appointed to succeed Governor Izard. Slavery, movement of the capitol from Omaha and school funding were addressed during this legislative session. The original Common Schools Act (1855) was repealed on November 11, 1858<sup>157</sup> and new funding legislation enacted. Siampos<sup>158</sup> suggested that although the schools initially got off to good starts during 1855, the ensuing panic of 1857 was followed by a depression forcing the abandonment of many of the schools. Wildcat banking schemes caused too much money to be in circulation and currency was inflated which in turn created a false sense of wealth.

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<sup>155</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 239.

<sup>156</sup> W. K. Beggs, Frontier education in Nebraska (1939) (unpublished Ph.D. dissertation, University of Nebraska (Lincoln)).

<sup>157</sup> 1858 Laws, *Joint Resolutions and Memorials*, 568.

<sup>158</sup> H. Siampos, Early Education in Nebraska. *Nebraska History*, 1948: 29(2), 113-133.

A major change occurred in school organization during the legislative session of 1858. Led by Robert W. Furnas, legislator, Chair of the Education Committee (see Appendix D for complete list of Education Committee Chairs) and school board member from Brownville, new school laws were written. The new law was copied, with a few revisions, from the Ohio Statute books.<sup>159</sup> The single school district model of organization was changed to accommodate a township/district model. Section 21 of the law clarified the duties of the township board of education. Each township board was to estimate the amount of money needed for township school purposes excluding teacher salaries. The amount was not to exceed 2 mills and was to be used after territorial funds were exhausted.<sup>160</sup> Beggs<sup>161</sup> contended that the adoption of this model was unfortunate. The Nebraska prairie population did not compare to the more heavily populated areas of Ohio. The system was cumbersome and not well suited for the young

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<sup>159</sup> W. K. Beggs, *Frontier Education in Nebraska* (1939) (unpublished Ph.D. dissertation, University of Nebraska (Lincoln)), 71.

<sup>160</sup> 1858 Laws, *Joint Resolutions and Memorials*, 562.

<sup>161</sup> W. K. Beggs, *Frontier Education in Nebraska* (1939) (unpublished Ph.D. dissertation, University of Nebraska (Lincoln)).

territory. No regulations regarding township government existed so a new layer of bureaucracy was created.

The county treasurer, still in charge of collecting the school tax, had his salary changed from a given fee to a percentage of the tax collected. The new salary was to equal one percent of the amount of tax collected.<sup>162</sup>

Gatekeepers for the collected funds changed from the county superintendent to township treasurers. The territorial treasurer (see Appendix E for complete list of Treasurers) annually apportioned common school funds based on the numbers of unmarried white youth between the ages of 5 and 21.<sup>163</sup> The Territorial Commissioner of Common Schools was to receive all the money from the townships and with the direction of the territorial treasurer, return the money back to the townships.

Section 60 of the code discussed the Territorial School Fund. The purpose of the fund was to provide a free education to the youth in the territory. The fund was to consist of the annual levy and an assessment of two mills "upon the dollar valuation on the grand list of the taxable

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<sup>162</sup> 1858 Laws, *Joint Resolutions and Memorials*, 562.

<sup>163</sup> *Id.*, 560.

property of the territory" - levied and assessed - collected like territorial taxes and distributed to the organized counties in proportion to the number of students.<sup>164</sup>

Although counties received varying amounts of dollars, the intent of the distribution formula was to equally fund schools based on the number of students listed in county census data, not by those in attendance at school.

Additional funds were to be added to the coffers from breaches of the penal code.<sup>165</sup> These funds were to be used for teacher salaries; if funds were exhausted, the townships assessed a special levy to make up any deficit.

The disbursement of taxes under the new Territorial School Fund was vague. Legislation was unclear about where tax money was to be stored leaving the commissioner questioning allocations.<sup>166</sup> Were township boards and county boards both necessary? Local control was at the heart of Furnas' school funding law but in practice were the two boards able to function effectively? Perhaps

...one of the governing bodies was superfluous.  
If such a delicate balance of power was necessary

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<sup>164</sup> Id, 567.

<sup>165</sup> Id, 467.

<sup>166</sup> W. K. Beggs, *Frontier education in Nebraska* (1939) (unpublished Ph.D. dissertation, University of Nebraska (Lincoln)), 77.

it seems unfortunate that the parent board was not given jurisdiction over a much larger unit. If this had been done it is conceivable that our modern system might have inherited a basic superstructure of county units much more efficient than the present district arrangement."<sup>167</sup>

School facilities were to be furnished by townships.

Annual meetings were held by township boards. Estimates of expenses for the upcoming school year were identified and itemized for each district. With the approval of the budget estimate by the people at the meeting, a mill levy was determined by the county clerk and this fee was added to the tax roll. These funds were collected by the county treasurer and then returned to the township when requested by the board.

The first schools were often housed in log cabins. A "regular" school building was 32 feet long, 22 feet wide and 12 feet high. The rough log sides were topped with a sod roof. Buildings cost approximately \$1,000. They were often built larger than necessary and served as community gathering sites. Teacher salaries were meager. Men earned about \$30 per month and women earned about \$26.<sup>168</sup>

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<sup>167</sup> Id, 76.

<sup>168</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931).

Governor Richardson's term ended in December, 1858.

Samuel Black, a Pennsylvania native, was appointed as the new governor; he was a lawyer, political orator and son of a clergyman. J. Sterling Morton, Secretary of the legislature, served as Acting Governor until Black arrived in the territory in May, 1859. During his inaugural speech Black congratulated the legislature on their development of both the civil and criminal codes but encouraged a special committee to review the code and make any necessary revisions. Governor Black was in favor of making real estate the chief source of revenue for the state.<sup>169</sup>

The demographics of the territory changed during the first five years of government. A report completed in 1859 showed that there were 4,767 school age children in the territory yet only 1,210 attended school. Although schools were functioning in some parts of the territory, seven fairly populated counties showed no records of schools.<sup>170</sup> Some counties had grown dramatically. In 1855, there were eight organized counties with legislative representation and in 1858 there were 23 represented counties and twelve

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<sup>169</sup> Id, 291.

<sup>170</sup> H. Siampos, Early Education in Nebraska, *Nebraska History*, 1948: 29(2), 118.

additional counties that met survey requirement as prescribed by law. A total of 35 counties were on the territorial map at this time<sup>171</sup>.

During the next legislative session the Civil War, Indian issues and politics captured legislative debate. Governor Black still wanted to make real estate tax the chief basis of revenue for the territory. One simple tax could raise all the needed money. A special exemption for those with livestock was encouraged since ranchers needed to own more real estate for their livelihood.<sup>172</sup> This thinking was progressive for the time.

Indian problems were on the rise. Battle Creek became the site of an Indian surrender when PE-TA-LE-SH-RU, a Pawnee Chief, wrapped himself up in an American flag and walked from his camp along the Elkhorn River toward soldiers who were approaching. The Pawnee Indian War of 1859 resulted in a minor scuffle with the unconditional surrender of the Indians. School funding issues were not important when survival was foremost.

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<sup>171</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 291.

<sup>172</sup> Id.

The first attempt at statehood was initiated during the 6th Territorial Legislative Session. On January 11, 1860, the legislature authorized a special election to determine if a constitutional convention should be convened. Census data projected the population of the territory at 28,841. An election was set for March 5, 1860, but the idea of statehood was defeated. In Washington, Congress voted to approve a free homestead bill which President Buchanan vetoed. Although only 5 years old, Nebraska territorial law was evolving to meet the unique needs of the people.

During the 8th Territorial Legislative Session, tax equalization efforts were discussed. School leadership at the state level changed again in January 1861. The reorganization effort under Furnas created the position of Commissioner of Education; his duty was to monitor school funding. These duties were now placed in the hands of the Territorial Auditor. Governor Alvin Saunders discussed the value of free schools and the need for a permanent school fund. He indicated that the territorial tax situation was not in very good shape because of unpaid taxes in 1859 and 1860. The 9th Legislative Session further defined school funding laws. The School Commissioner's duties, treasurer's



duties and auditor's duties were defined in law.<sup>173</sup> Also approved was a new funding mechanism for schools in Dakota County. In this less populated area, additional dollars were needed for schools so the legislature approved diverting \$.25 from the County Road Fund for schools in this county. This act was approved on February 2, 1864.<sup>174</sup>

The Auditor's report for 1864 tells the story of corrupt and mismanaged school funds.

In several of the counties, school and other Territorial funds have been collected by officers, and either not reported or embezzled; in one of these counties, the loss thus sustained to the school fund amounts to \$1,006, and in two other counties, in each to the sum of \$600. Unless some means be soon provided by law for the recovery of the funds thus withheld, it may be entirely lost.<sup>175</sup>

William Harvey, Territorial Auditor (for complete listing of Auditors see Appendix F), begged the legislature to take action in 1865 but his pleas fell on deaf ears.

The statutes were revised in 1866 during the 11th Session of the Territorial Legislature. In the new statute books chapter XLVIII dealt with school law. Section 48

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<sup>173</sup> 1864 Laws, *Joint Resolutions and Memorials*, 922.

<sup>174</sup> *Id.*, 932.

<sup>175</sup> *Journal of the House*, 9th Session, 1864, 26.

of the code addressed the Territorial School Fund. It clarified the purpose of the school fund stating that it was to provide a free education to all the white youth in the territory. It would

...consist of such sum as will be produced by the annual levy and assessment of two mills upon the dollar valuation on the grand list of the taxable property of the territory and is hereby levied and assessed, annually in addition to the revenues required for general purposes, the said two mills upon the dollar evaluation.<sup>176</sup>

It also stated that "colored persons shall be exempt from taxation for school purposes."<sup>177</sup> As town populations increased and city status was earned, legislation for building schools was also defined in the legal code. The "school house fund" tax was placed on all taxable property and the rate could not exceed 10 mills on the dollar in any one year.<sup>178</sup> Legislation was approved on February 12, 1866 to have the city treasurer of Nebraska City execute a bond for \$20,000 for a school.<sup>179</sup> Bellevue's Board of Education was authorized to levy a tax not exceeding 10 mills for

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<sup>176</sup> 1866 Laws, *Joint Resolutions and Memorials*, 118.

<sup>177</sup> *Id.*, 118.

<sup>178</sup> *Id.*, 252.

<sup>179</sup> *Id.*, 254.

building but the board decided a 5 mill assessment would suffice.<sup>180</sup> In Lancaster County the issue of building a school house was addressed too; a different procedure was noted. A vote was to be submitted to the qualified electors of this sub-district and they would decide if the \$1,500 bond was to be raised.<sup>181</sup> This appeared to be the first school bond issue described in the law, a practice that remains in place today.

By 1867 school finance law was disorganized and in disarray. The irregularities in taxing and funding for schools were so profound that the territorial treasurer complained:

The remaining subject of which it is my duty to call your attention is the condition of the school fund, and I regret to state that on account of the imperfection of the law providing for its disbursement, it is entirely out of my power to furnish any information in regard to it. The apportionment is regularly made by the treasurer as required by law; but this seems a mere form. As the law authorizes the County Treasurers to count, it follows that nothing is ever paid into the Treasury. The County Treasurers make no report to the Territorial officers of the disbursement of the fund, and therefore, so far as official information goes, the whole of the school fund for years past may yet be in the hands of the County Treasurers. The law requires them

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<sup>180</sup> Id, 257.

<sup>181</sup> Id, 261.

to make report in detail to the Auditor, but either no occasion for the report occurs, or it is found impracticable to make it -- at all events, no reports are received.<sup>182</sup>

### Summary

Territorial legislators developed laws to establish schools and methods to finance them. A Common Schools Act was passed in 1855 to establish a code of law for schools. Levy limitations were set on real and personal property. Fines were to be used to fund schools too. A Territorial School Fund was established to distribute tax collections in proportion to student numbers in each county (see Appendix G for Total State and Local Tax Levies in Nebraska and Appendix H for Nebraska Public School Statistics). By 1867 the system was disorganized, corrupt and mismanaged. It was too late for the territorial legislature to make changes. Statehood, a new constitution and new laws would change school funding.

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<sup>182</sup> *Journal of the House*, 12th Session, 1867, 30-31.

## Nebraska Becomes a State: 1867

### Early Attempts at Statehood

Nebraska's initial attempt at statehood was meager and half-hearted. The first vote was on March 5, 1860. There were 4,467 votes cast; 2,373 voted against the issues, 279 more than voted in favor of statehood. The territory was young and embryonic. This initial defeat would not keep the political leaders from raising the issue of statehood.

In January, 1864 the territorial legislature petitioned Congress for admission as a state and the Enabling Act of 1864 was passed. A Constitutional Convention was set for July 4. Although predominately a Republican state, the writers of the constitution persuaded a Democrat to introduce the new written document to the legislature. *The Constitutional History of Nebraska* suggests that the constitution was "railroaded" through the legislature.<sup>183</sup> It took only four days to approve the constitution. No written document was ever prepared or presented for the legislative body to read and review. Although it is not clear who actually authored the first constitution, the founders

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<sup>183</sup> R. D. MIEWALD & P. J. LONGO, *THE NEBRASKA STATE CONSTITUTION: A REFERENCE GUIDE* (Westport, CT: Greenwood Press, 1993, 6).

"were not going to be beaten again by those voters who feared the expense of state government. The watchword of Nebraska government became 'cheap,'" a tradition that still remains.<sup>184</sup>

Winter<sup>185</sup> stated very little innovation appeared in the final draft of the constitution; the new government structure was derived directly from the territorial model. If there was little change from the territorial constitution, ratification would be easier. An election date was set for June 2, 1866. The constitution was approved by exactly 100 votes. There were cries of impropriety by the Democrats but the Republican pro-statehood leaders took charge and notified Congress that the Constitution was approved. Therefore, Nebraska had met the conditions set forth in the Enabling Act of 1864 to become a state.

On the national scene, post-Civil War politics were waging. Congress voted in favor of admitting Nebraska to the union but President Andrew Johnson used a pocket veto to delay statehood. Congress initiated another vote for

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<sup>184</sup> BRECKENRIDGE, NEBRASKA GOVERNMENT AND POLITICS, 1984, 6.

<sup>185</sup> Winter, In NEBRASKA GOVERNMENT AND POLITICS (Breckenridge, Ed., 1984), 18.

statehood but a second veto was handed to Nebraska because black males did not have voting rights. Congress overrode the second presidential veto and allowed Nebraska to deal with the issue of black suffrage. Territorial Governor Saunders called the legislature together on February 20, 1867. Legislators agreed to eliminate constitutional language that denied voting rights because of race or color. The President was notified of Nebraska's constitutional changes and statehood was proclaimed on March 1, 1867.

The transition from territorial status to statehood was not smooth. Questions continued about the legitimacy of the Constitution of 1866. The legitimacy issue had to be put aside. There was only one written constitution. It had been approved by the voters of the Nebraska Territory in 1866. Legitimate or not, it was the law of the new state and stood until another constitution could be written.

Governor David Butler presided as the first governor of the state of Nebraska. In his inaugural address to the legislature, he made recommendations about possible legislative action. On his targeted list were free schools and taxes, selection and management of state lands that were

gifts from the federal government and the creation of  
counties.<sup>186</sup>

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<sup>186</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 386.



**Scandal, Impeachment**  
**and A New Constitution: 1867-1879**

The 1866 Constitution was suspect. There were questions about the constitution's legitimacy. Who were the founding fathers? Were they merely some self-appointed individuals who drafted the document in a lawyer's office?<sup>187</sup> What did the voters really approve? The early government proceeded as if the constitution was valid but an attempt to draft another constitution would be forthcoming.

A favorable vote by the people for a constitutional convention passed in 1869. The convention was held in Lincoln in 1870. The legislature modeled a new constitution after that of Illinois. Great detail went into writing the constitution but when put to a vote of the people, the constitution was rejected. Railroad issues, taxation on church property, moving the capitol to Lincoln and high salaries for state employees helped to seal the vote of rejection.

As Butler campaigned for a third term in 1870, there was talk of impeachment. The governor had collected

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<sup>187</sup> R. D. MIEWALD & P. J. LONGO, THE NEBRASKA STATE CONSTITUTION: A REFERENCE GUIDE (Westport, CT: Greenwood Press, 1993, 6).

approximately \$17,000 from the U.S. Government. This sum represented 5% of the total fee collected for the sale of public lands that had been set aside for school purposes. This money was never deposited in the state treasury and apparently was borrowed by the governor for mortgages for over two thousand acres of land in Pawnee County and some additional land in Lancaster County. The legislature moved forward with an investigation and then agreed to file articles of impeachment against the governor. There were eleven articles filed. He was accused of not depositing federal dollars into the state treasury, mixing state money with personal funds, using state money to make deals with architects and political leaders, selling lots in Lincoln that belonged to the state and lying while in office.

On March 9, 1871, Butler denied the allegations in the articles and stated that he had not committed a misdemeanor in office. The legislature did not accept Butler's response to the allegations and an impeachment trial began on March 14 in the state senate. The trial was full of political maneuvers as Butler was defended by John Redick and T.M. Marquett, successful lawyers. Experience Estabrook was the

chief counsel for the state. Near the end of the trial, Butler stated,

"I am ready and willing (in order that this subject of dissension may be disposed of), to deposit in the state treasury the full amount of said loan, with interest from the 25th day of May, 1869, the date of the arrival of the fund in Lincoln in charge of the deputy state treasurer; and I ask the passage of an act providing for the cancellation of the securities."<sup>188</sup>

Butler requested that the plea be taken in the spirit that it was made and that harmony might again prevail in the leadership of the state government. On June 1 the Senate found Governor Butler guilty of having misappropriated the school funds. The Senate failed to convict him on any of the additional articles. The state auditor, "Honest John" Gillespie was also impeached.

Following the impeachment of Butler, William James, Lieutenant Governor, became acting governor until Robert Furnas was elected in 1873. Furnas, also a Republican, was well known as an editor, soldier of the Civil War and early pioneer. During his tenure, Nebraska's population grew rapidly. Approximately 75,000 settlers migrated in 1872 and an equal amount migrated in 1873. Nebraska's population was

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<sup>188</sup> A. E. SHELDON, NEBRASKA, THE LAND AND THE PEOPLE (Chicago, IL: Lewis Publishing Company, 1931, 444).

about 300,000 by 1875. During this era the idea of moving the capitol from Omaha to Lincoln continued to be hotly debated. Another discussion centered around making Kearney the capitol of the United States.

The Legislature of 1872 authorized a new compilation of the statutes. Guy A. Brown was appointed commissioner to compile the statutes. A request was made to have the General Statutes annotated too. Annotated statutes reference Nebraska's case law. The statutes looked different when compiled. Brown used a format similar to that of Kansas. He divided the statutes into 48 chapters and in each chapter there were sections as subtopics.<sup>189</sup>

Governor Furnas also recognized the need for new taxes and wanted to address the problems with the tax collection system. In the *1872 Laws, Joint Resolutions and Memorials*, Section 3 under Regulation and Support of Public Schools noted that

the monies raised for school purposes shall constitute a separate fund, to be called the school fund, and a separate and distinct account thereof shall be kept by the treasurer of said

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<sup>189</sup> P. HILL, NEBRASKA LEGAL RESEARCH & REFERENCE MANUAL (St. Paul, MN: Mason Publishing Co., 1983, 961).

Nebraska city; and the moneys of this fund shall not be appropriated or diverted to any other purpose whatsoever.<sup>190</sup>

Section 4 clarified that taxes levied upon all taxable property of the city were not to exceed 10 mills in any one year. The school tax was to be collected in the same manner as the other city taxes. This amendment was approved on January 15, 1872.

As Nebraska's population grew changes occurred in the organization of schools. City school districts were being formed and were to be named after the city. The law allowed corporate property taxation for schools within first class cities.<sup>191</sup> The treasurer of the city had a dual role; by statute he was ordered to be "ex-officio" treasurer of the Board of Education.<sup>192</sup> Section 27 discussed a limit on taxable property. The aggregate school tax could not exceed one percent of all the taxable property in the district in one year.<sup>193</sup> Additionally, taxes needed to be paid in money.<sup>194</sup> This eliminated the practice of trading cows,

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<sup>190</sup> 1872 Neb. Laws, *Joint Resolutions and Memorials*, 638.

<sup>191</sup> *Id.*, 698.

<sup>192</sup> *Id.*, Sec. 15, 699.

<sup>193</sup> *Id.*, 200.

<sup>194</sup> *Id.*, Sec. 29, 701.

labor, or other services instead of paying cash.

With Governor Butler's impeachment still fresh in the minds of the legislators, an act was approved on February 18, 1873. Money from the United States government, known as "five percent funds," was to be credited to the Permanent School Fund.<sup>195</sup> It was the governor's job to deposit the money into the state treasury. It was hoped that this new law would eliminate using school funds for personal gain.

Another chapter of the law was entitled A System of Public Instruction. Twice a year in May and December, the state treasurer was to make an exhibit of the money that belonged to the State School Fund. Apportioning this money was to be as follows: one quarter was to go to the several county school districts and the remaining three quarters was to be apportioned "to several districts in his county 'pro rata' according to enumeration of scholars."<sup>196</sup> Attendance requirements were attached to the funding law. School bond issues were noted in the law books. Dakota County ran a \$10,000 bond, as did Syracuse School. Pawnee County ran

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<sup>195</sup> Id, 706.

<sup>196</sup> Id, Sec. 5, 728.

bonds for \$8,000 to \$15,000.<sup>197</sup> Plattsmouth County applied for a separate school fund and developed the Common Council of Plattsmouth City. A tax was ordered not to exceed 10 mills and was to be collected and paid out as other city taxes.<sup>198</sup> School District #2, Saline County was also issuing bonds.<sup>199</sup>

The young state of Nebraska continued to struggle. Another financial panic occurred in 1873. Jay Cooke & Company, a bond and investment house, failed on Wall Street. Nebraska banks had strong links to this company. The company was heavily invested in bonds used to develop projects in the West including the Northern Pacific Railroad. With the closing of this company, runs were made on many Nebraska banks which resulted in an economic depression lasting six years. Farm prices crashed and product sales were at a standstill.

In 1873, the legislature again passed a resolution to hold a constitutional convention. The voters overwhelmingly supported this issue. A constitutional convention was

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<sup>197</sup> Id, 799.

<sup>198</sup> Id, Sec. 3, 817.

<sup>199</sup> Id, 820.

scheduled for Lincoln. Again charged with rewriting the 1866 Constitution, the framers modeled their writing after the Illinois Constitution.

There were many similarities between Illinois and Nebraska - the land, the people and the economic institutions. There were changes in the 1875 Constitution impacting school finance laws. The first change provided for the administration of state school lands. A second change established a Board of Commissioners made up of the governor, secretary of state, treasurer, attorney general and commissioner of public lands and buildings to manage all lands and funds set apart for education purposes. A third change was reflected in the revenue and finance article, Article IX of the Constitution. Section 1 verified that the Legislature would provide revenue by levying a tax by valuation. Both individuals and corporations were to pay taxes in proportion to property or franchise value. The idea of corporate taxation was new to Nebraska law. In addition to property, a tax would be levied on "tax peddlers, auctioneers, brokers, hawkers, commission merchants, showmen, jugglers, innkeepers, liquor dealers, toll bridges, ferries, insurance, telegraph and express



interests or business and vendors of patents."<sup>200</sup> Tax limitations were developed too. Section 5 of the revenue and finance article limited the taxable amount. "County authorities shall never assess taxes the aggregate of which shall exceed \$1.50 per \$100 valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county."<sup>201</sup> It was hoped that by establishing this taxing limitation, county debt would less likely occur.

Under Section 5 of the education article, money collected from liquor licenses and other state fines would be paid to the counties and be used exclusively for the support of common schools. Section 6 stated specifically that "The Legislature shall provide for the free instruction in the common schools of this State of all persons between the ages of 5 and 21 years."<sup>202</sup> Section 7 further clarified that

"provisions shall be made by general law for an equitable distribution of the income of the fund set apart for the support of the common schools among the several school districts of the State,

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<sup>200</sup> Const. 1875, Article IX, Sec. 1.

<sup>201</sup> Id, Sec. 5.

<sup>202</sup> Id, Sec. 6.

and no appropriation shall be made from said fund to any district for the year in which school is not maintained at least three months."<sup>203</sup>

Section 9 stated that all funds belonging to the State for educational purposes were not to be transferred to any other fund for other uses. This section guaranteed that money from the school lands would be held in a trust and not be allowed to be transferred to any other governmental fund.

Amending The Constitution of 1875 was going to be difficult (see Appendix I for Vote on Constitutional Amendments). In order to change the constitution, an amendment had to be approved by the legislature. Next it had to be approved by the voters in an election. A simple majority vote was not sufficient to pass the amendment. In order to approve an amendment, a majority of all those voting in the election was needed to pass the amendment. In other words, if people chose not to vote on the amendment, it was identical to a no vote. For example, if 3,000 people voted in the election and 1,300 voted in favor of an amendment and 700 voted against it, the amendment failed. For the amendment to be successful, 1,500 people would have

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<sup>203</sup> Id, Sec. 7.

to cast a vote in favor of the amendment. Breckenridge<sup>204</sup> felt that the delegates to the constitutional convention were not aware that the design of the amendment process was going to stifle constitutional change so significantly. From 1875 to 1906, 23 amendments were proposed but only one amendment received an adequate number of votes to pass according to constitutional design.

#### Voting on the Constitution of 1875

The new draft of the constitution was referred to the voters on October 12, 1875. It was approved by a vote of 30,322 to 5,474. This was a significant event. The primitive Constitution of 1866 was outdated and Nebraskans wanted change. The Constitution of 1875 became the model for legal decision making within the state. This fundamental law, according to Breckenridge, allowed Nebraska to achieve some degree of political maturity and prepared the state to enter the mainstream of American politics.<sup>205</sup>

School governance and finance laws were clearly

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<sup>204</sup> Breckenridge, Nebraska Government and Politics, 1984, 6.

<sup>205</sup> R. D. MIEWALD & P. J. LONGO, THE NEBRASKA STATE CONSTITUTION: A REFERENCE GUIDE (Westport, CT: Greenwood Press, 1993, 6).

articulated in the new constitution. Written as Article VII in the original document, the provision of free public education to the state's children became an important principle even though four years earlier the people voted against the constitutional proposal providing free schools. The constitution also provided for a State Superintendent of Public Instruction. It was hoped that educational leadership and decision making would become more focused with a State Superintendent.

#### Grasshopper Invasion in 1874

The invasion of the grasshoppers occurred in 1874. Farmer's crops were devastated. Left with no income for their labors, many farmers left Nebraska and headed back East. As a result of the hard times, taxes were often not paid. With fewer tax dollars in the coffers, state and local government felt the impact. Education still remained a priority. In 1873, 538 schools existed. The 2 mill state tax levy for schools raised about \$240,000.<sup>206</sup>

The governorship changed again in 1875. The election of 1874 witnessed the development of new political parties.

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<sup>206</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 505.

Corruption, scandal, financial strife, political discontent and general distress were evident in Nebraska. These conditions existed nationally too and resulted in new memberships in the Grange and Good Templars. There was great distrust surrounding the traditional Republican and Democratic parties. The issues of the Civil War continued to be strong. Two new political parties were born in Nebraska. The People's Independent Party and the Prohibition Party selected candidates to run for governor. Republican Garber won the nomination.

#### Governor Garber's Tenure: 1875-1879

Under Governor Garber, some additional changes were made in the school tax laws. Section 31 of the school law was amended allowing any district to impose a tax on the taxable property of the district in any amount not exceeding 25 mills on the dollar on the assessed valuation of the property of the district.<sup>207</sup> In February, 1875, the legislature approved the establishment of a sinking fund. This fund was to be used for construction and debt service on school buildings.

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<sup>207</sup> 1875 Neb. Laws, *Joint Resolutions and Memorials*, 116.

Prior to the Constitutional Convention in May, 1875, the 11th Session of the Legislature changed the rate of state school tax. In Section 30 it was stipulated that the rate of state school tax "shall not be less than one-half mill nor more than one mill on the dollar valuation."<sup>208</sup> The law also addressed a new category of schools. Schools in cities of First Class had been previously described. Now, public schools in cities of Second Class had taxation laws specifically defined. The law continued to list those districts that were issuing bonds and applying for bonds. Seward, Richardson County, Falls City, Humboldt and Hall County were all listed.<sup>209</sup> Unlike schools requesting bonds, School District #1, Saunders County, requested relief on the payment of a bond they had previously received. This law as approved in February of 1875.<sup>210</sup> A new school district was approved as well, District #87, Lancaster County.

School lands and funds continued to be an area for legislative change. A law passed during the 14th Legislative Session which gave relief to the purchasers of

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<sup>208</sup> Id, 854.

<sup>209</sup> Id, 893, 903, 904.

<sup>210</sup> Id, 912.

school lands. The legal code had a section dealing with foreclosure and collection of securities of the Permanent School Fund. It allowed the state treasurer to initiate a suit for foreclosure and collection for all persons indebted to the fund.<sup>211</sup> With the financial strife of the time, the legislators amended the law. Section one stated that in order to surrender portions of school land or retain other portions, a written document had to be given to the State of Nebraska. County treasurers would receive credit for the lands. Financial times were hard and investors were faced with the inability to pay what they owed on their new land purchases.<sup>212</sup> In another section of this law, an extension was granted for payment of school lands fees to January 1, 1890, provided the owner could show that permanent improvements had been made on the land. This law was repealed during the next legislative session allowing the purchaser to surrender portions of the land if unable to meet payment deadlines. A joint resolution passed giving the attorney general power to collect or sue those indebted for money loaned out of the Permanent School Fund during

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<sup>211</sup> Id, 979.

<sup>212</sup> Id, 980.

1870 and 1871.<sup>213</sup>

By the time for the 15th Legislative Session in 1879, there were 32 organized counties in the state and there were 2,690 school districts. The district school funds amounted to nearly one million dollars.<sup>214</sup> The procedures for disbursement of school funds were more clearly understood by the state officials and therefore, mismanagement of school funds did not occur as readily (see Appendix J for Nebraska Commissioners of Public Lands and Buildings).

#### Summary

Thirteen years had passed since Nebraska was declared a state. Many legislative changes altered school finance and tax laws. Congress passed the Enabling Act of 1866 which moved Nebraska one step closer to statehood. The 11th Territorial Legislature passed a joint resolution calling for a constitution to be submitted to the people. Hastily drafted, it provided a bare framework of government with few officials and meager expenses. On June 2, 1866 the voters ratified the Constitution by 100 votes and submitted the

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<sup>213</sup> Id, 463.

<sup>214</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 560.



Constitution to Congress for statehood. Twice vetoed by U.S. President Andrew Johnson, Nebraska's fundamental law was adopted and statehood declared on March 1, 1867.

David Butler became the first governor but was impeached because he misappropriated funds from the school lands fund. School funding continued to struggle during the early years of statehood. The state tax levy of 2 mills for the school fund raised dollars for teacher salaries and was apportioned by enumeration. Restraints were put into place to credit the "five percent funds" to the states Permanent School Fund to prevent this problem from occurring again. State school fund apportionment was defined by the law. A formula defined the distribution: one quarter of the total was to be distributed to each county district; the remaining three quarters was to be apportioned 'pro rata' by the number of scholars.

With the approval of The Constitution of 1875, the school land funds would be better managed. A Board of Commissioners would oversee the lands, not one individual. Nebraska's constitution was modeled after that of Illinois. The addition of corporate property tax along with individual property tax brought increased dollars to state government.

Schools in first and second class cities existed as well as rural schools. Funding was established at 2 mills, a carryover from Territorial Law. Following the Panic in 1873, the state school tax was lowered from 2 mills to not less than one half mill and no more than one mill. School taxes began to respond to the economic times.

Revenue and taxation figures were compared by Sheldon (see Chart A).

Chart A

<u>Taxation</u>	<u>1870</u>	<u>1880</u>
State	\$262,505	\$355,464
County	753,022	1,522,229
Town and other divisions	11,800	235,575
School District	-----	679,211
<b>Totals</b>	<b>\$1,027,327</b>	<b>\$2,792,480</b>
<u>Debt</u>	<u>1870</u>	<u>1880</u>
State	\$1,563,330	\$499,267
County	206,034	4,576,069
Town	72,400	-----
Precinct	-----	397,500
School District	-----	827,641
City and Town	-----	704,672
<b>Totals</b>	<b>\$1,841,764</b>	<b>\$7,425,757</b>

Sheldon, 574.

Sheldon attributed increases in government and public debt "to the expense of creating civilized communities in vacant lands. They show the spirit of time -- pressing forward beyond present income and mortgaging the future to secure

benefits for the present."<sup>215</sup>

The decade of the 1870s witnessed the expansion of higher education in the state and accompanying funding laws. Peru State College was established in 1867 while the University of Nebraska gained its charter in 1871. Doane College, founded in 1872 in Crete, and Hastings College, established in 1882, added a dimension of privately funded liberal arts colleges to the state's post secondary educational institutions.

The Common Schools movement that targeted morality, economic productivity, democracy, loyalty to social reform, justice and equality began to flourish in Nebraska.<sup>216</sup> Immigrants continued to flock to the United States and Nebraska's population grew steadily during the decade.

In these years was created the Soul of Nebraska - characteristic mind, vision and form of action. Soil and sun and wind, hardship and conflict, spirit, institutions, debates and experiences shaped the type of man who still lives upon these prairies. The blending of different racial stocks, begun then, still goes on. But the Nebraska type was created in the 70s....The soul of Nebraska remains in dominant feature the product of the pioneer 70s.<sup>217</sup>

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<sup>215</sup> Id, 574.

<sup>216</sup> D. C. THOMPSON, R. C. WOOD & D. S. HONEYMAN, FISCAL LEADERSHIP FOR SCHOOLS, CONCEPTS AND PRACTICES (New York: Longman, 1994), 80.

<sup>217</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 579.

The approval of the Constitution of 1875 was very significant. Nebraska now had a strong constitutional basis for education. Schools were growing in number and supported by property tax dollars.

## Progress and Prosperity: 1880-1890

### Introduction

Major revisions to Nebraska's statutes occurred in 1881. Woosley and Wheaton, both members of the Lincoln bar, undertook annotating the statutes as a commercial venture. The legislature authorized Guy Brown to compile the statutes passing a bill on February 26, 1881. The new statutes would become the law of the state. Brown was previously appointed to complete this task in 1872, but the process was not finished and as a result, The Revised Statutes of 1873 were never enacted into law.<sup>218</sup> Thus, 1881 became a significant date for Nebraska law. The source of all school funding statutes and accompanying tax law refer back to The Compiled Statutes of 1881.

There was a revival in business during the 1880s. Railroad construction flourished, business opportunities increased, higher prices were noted, and more pioneers sought homesteads. The spirit of "Manifest Destiny" continued to sweep the land. More farmers were moving into the Midlands developing the vacant lands.

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<sup>218</sup> P. F. HILL, NEBRASKA LEGAL RESEARCH & REFERENCE MANUAL (St. Paul, MN: Mason Publishing Co., 1983, 63).

The 16th Legislative Session: 1881

Governor Nance delivered his inaugural message to the 16th Legislative Session on January 5, 1881. He spoke of the unfortunate decision that the last legislature had made with regard to reducing the tax mill for general purposes from 4 mills to 2 mills. Nance believed that if the mill levy had been kept at 4, the state financial position would be very strong. He suggested that each person pay a tax in proportion to the value of his property and business. The legislative report on schools noted that although there were 142,343 persons eligible to attend school, the average number of students attending was 92,549. The state per capita distribution was \$5.93.

The legislature approved an act to amend Section 75 of Chapter 71 of the system of revenue. The amended legislation, approved on March 2, 1881, adjusted the rate of state taxes. Nance had been troubled with the 2 mill levy. The state treasury was not growing. The legislature increased the tax levy to 5 mills per \$100 valuation and the rate of the state school tax was not to be less than .5 mill, nor more than 1.5 mills.<sup>219</sup> The sinking fund tax rate

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<sup>219</sup> 1881 Neb. Laws, *Joint Resolutions and Memorials*, 320.

was set for not more than .75 mills.

Subdivision XI entitled School Funds was amended. Section 28 clarified that funds for schools were to be separated from other tax collection dollars by the treasurer and used only for school purposes.<sup>220</sup> This legislation was to help prevent misappropriation of the school tax dollars.

Sheldon remarked that the political campaign of 1882 was the most significant to date in the state of Nebraska. The Republican State Convention almost dissolved in a riot. There was extreme conflict between the railroad corporations and the farming districts. Interest increased in controlling the state treasury. It was rumored that state money was often used to benefit certain banks and politicians. Control of the state treasury meant the ability to use these funds. The ballot for treasurer took five votes before Loran Clark of Albion had enough votes to secure the Republican nomination. His slim 13 vote margin brought about cries of fraud from those not connected with the Union Pacific Railroad.<sup>221</sup>

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<sup>220</sup> Id, 387 (This act repealed General Statutes 961, 982, 484, 488, 1875, 208).

<sup>221</sup> A. E. SHELDON, NEBRASKA, THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 607.

Another new party, the Anti-Monopolist Party, posted candidates for the 1882 election. The Anti-Monopolists recruited heavily from the Democratic Party. When the votes were counted, the combined votes from both the Democratic Party and the Anti-Monopolist Party were greater than the Republican vote. Nevertheless, J.W. Dawes, was elected governor, representing the Republican Party. The Democrats looked to future elections with greater promise. The unrest in the Republican party was evident and the Democrats felt that within time, political change was probable.

A constitutional amendment for women's suffrage was on the ballot for the 1882 election. Although victorious in eleven Nebraska counties, the issue went down in defeat by an almost two to one margin.<sup>222</sup>

#### The 18th Legislative Session: 1883

In his inaugural address Governor Dawes confirmed the state's affairs as satisfactory. The educational progress of the state was commendable, however, textbook costs burdened public school parents. He was optimistic that the legislature could remedy this problem.

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<sup>222</sup> Id, 608-609.



Compulsory education laws were being passed in many states. Most Nebraskans opposed this concept. Some labeled the movement as an invasion of the home while others warned legislators to keep their hands off this issue.

The 18th session of the legislature began on January 2, 1883. An amendment to the revenue law passed on October 1, 1883. Section 105 of the law discussed delinquent taxes and how they should be handled. The law added a penalty of 5% if the tax was unpaid by January 1. A 10% penalty was added if the funds were paid even later.<sup>223</sup> Several lawsuits were filed over this issue.<sup>224</sup>

An amendment to section 4 of Section 11 allowed admission of nonresident pupils to a school establishing tuition rates.<sup>225</sup> An increase in the aggregate school tax total advanced to 2%.<sup>226</sup>

Chapter LXXIII amendments addressed bond changes for purchasing or building schools. Sections 4 and 5 increased bonds to 5% of assessed valuation.<sup>227</sup>

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<sup>223</sup> 1883 Neb. Laws, *Joint Resolutions and Memorials*, 279.

<sup>224</sup> 2 Neb, 432; 4 Neb, 145; 5 Neb, 108, 282, 363; 8 Neb, 59, 123, 185.

<sup>225</sup> *Id.*, 293.

<sup>226</sup> *Id.*, 300.

<sup>227</sup> *Id.*, 302.

An act to provide for the selection and confirmation of indemnity school lands due the State of Nebraska was approved on February 21, 1883. Chapter LXXVI initiated a listing of all lands claimed by the state as indemnity school lands. A description of these lands was due to the state. A \$4,000 appropriation from the state General Fund was used to carry out this task.<sup>228</sup>

School lands became attractive parcels of land to speculators. The lands given to Nebraska as a gift from the federal government for the support of common schools were appraised as low as \$.50 per acre. If the land was leased for 20 years, rental costs could be as little as \$.03 or \$.04 per acre.<sup>229</sup> As cattlemen tried to lease or farm this land, they had to pay large sums of money to syndicate owners. The syndicates demanded a higher price to lease the land. It was alleged that Governor Dawes, along with Glen Kendall, Commissioner of Public Lands and A.C. Bleasdale, Clerk of Keith County, and some other speculators joined together to obtain possession of 130 sections of

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<sup>228</sup> Id, 318-319.

<sup>229</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 608-609.

unsold school lands in Keith County. A story broke in the *Omaha Herald* in August, 1884, reporting the conspiracy theory. The article alleged that Governor Dawes, the controlling member of the Board of Commissioners of the Educational Lands and Funds, headed the board's illegal activities. It took an injunction from Judge Hamer to bring these illegal actions to an end.<sup>230</sup>

Dawes wanted to run for reelection. He prepared a careful statement about the school land transactions and released it for publication across the state. The statement cleared Dawes from any acts of corruption in the eyes of his Republican friends. The Democrats would remember this issue.

J. Sterling Morton ran against Dawes in the 1884 election. Morton's friend, C.H. Gere, alleged Morton attempted to steal a large tract of saline lands. The charges were fabricated but Morton went down in defeat as a result of the scandal. Gere, at the close of the campaign, published a signed article in the *State Journal* exonerating J. Sterling Morton of any dishonesty in the saline land transactions and stated that the Republican campaign

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<sup>230</sup> Id, 622-623.

committee decided to investigate his past. The Republicans concocted a fraudulent story to challenge Morton's integrity. Gere's confession of dirty campaign tactics remains a landmark tale in the history of Nebraska's politics.<sup>231</sup>

#### 19th Legislative Session: 1885

In his message to the legislature in 1885, Governor Dawes reported on the financial status of the state. Finances again were in satisfactory condition. There was state debt in both grasshopper bonds and state funding bonds, but there had been a sizable gain in the valuation of property by approximately \$13,000,000 which would fill state coffers with almost \$1,000,000. Dawes' hope was that the legislature could work on a better system of tax collection.

The 1885 legislature repealed the 5% penalty on delinquent taxes that had been added in 1883. Delinquent tax dates and interest fees were again amended in 1885. Rather than January 1, the legislature now moved the due date for unpaid taxes to the first day of February; on the first day of May, unpaid taxes on real property were delinquent and a 10% interest was due.<sup>232</sup>

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<sup>231</sup> Id, 624.

<sup>232</sup> Id, 309.

Chapter 81 of the 1885 Sessions Laws amended section 17 of sub-division 14 of the public instruction laws. This new legislation was important because it mandated accountability for First Class cities. The auditor was to examine the records and check the accounts and report them to the city council.<sup>233</sup> It was hoped that increased accountability would decrease fraud.

Chapter 82 of *The Laws of 1885* amended section 17 of chapter 79 sub-division 15 of the *Compiled Statutes of 1881*, entitled "School District Bonds." In essence this law provided procedural language for bonds. When the principal and interest had been paid in full and there were no further obligations, the county clerk, notified the county treasurer to transfer all the funds remaining in the account to the appropriate school district.<sup>234</sup>

Another act repealed taxation on school lands. Article 3 of Chapter 80, was an effort to streamline the tax collecting process.<sup>235</sup>

An appropriations act was passed in February 24, 1885;

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<sup>233</sup> Id, 330-331.

<sup>234</sup> Id, 331-332.

<sup>235</sup> Id, 335-352.

this law authorized the state treasurer to transfer \$13,531 and \$22,100 from the interest on Surplus Investment Fund to the State Sinking Fund.<sup>236</sup> Additional laws transferred money from the State Bond Fund to the State Sinking Fund<sup>237</sup> and money from the interest charged county treasurers fund, to the state sinking fund.<sup>238</sup>

Chapter 91 called for an act to provide for the sale and leasing of the saline lands in Nebraska. \$50,000 was appropriated from the Saline Fund for this purpose.

The act was approved on March 5, 1885.<sup>239</sup>

A committee was formed in 1885 to investigate school land practices. The majority report suggested that there were no problems while the minority legislative report was critical of the Board of Public Lands and Building for letting speculators gain control. Another law passed limiting school land holdings to 640 acres. The purpose of this law was to avoid having one individual own thousands of acres of school lands.

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<sup>236</sup> Id, 352.

<sup>237</sup> Id, Chapter 87, 353.

<sup>238</sup> Id, 352.

<sup>239</sup> Id, 360-369.

### Nebraska Statehood: 20 Years Old

A new Republican governor was elected in 1887.

Governor John M. Thayer was from Grand Island. Nebraska, now 20 years old, had a larger government. There were 77 organized counties in the state and the prohibition movement was stirring great controversy. The liquor outlaws staged attacks against those in the temperance movement and vice versa. Rev. G.C. Haddock, a minister claiming temperance and speaking out against the saloons, was assassinated in 1866. The battle lines were clearly drawn by the people. The Prohibition Party nominated H. W. Hardy, a former Lincoln Mayor, to run for governor. In addition to the prohibition issue, this party supported woman's suffrage and was against joining with any other political parties.<sup>240</sup> There were over 8,000 votes cast for Hardy but the Republican candidate Thayer captured almost 76,000 votes.

### 20th Legislative Session: 1887

Dawes departing message during the 1887 legislative session reported on the financial status of the state. The financial status was healthy; the state's debt had

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<sup>240</sup> A. E. SHELDON, NEBRASKA, THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 637.

decreased due to the payment of \$50,000 of matured relief bonds that were paid from the Sinking Fund. Much of this debt occurred prior to 1875. The assessed valuation of the state had grown another \$20,000,000 and resulted in a very small decrease in the levy. The law governing the assessment of property continued to raise questions about uniformity of taxation. Governor Dawes requested that the legislature search for a remedy for the current taxing inequities.

Chapter 78 of the 1887 Session Laws required attendance of all persons between the ages of 8 and 14 years at some public or private school in the state of Nebraska. Excused absences for nonattendance included illness, poverty, inability or proficiency. Violations of the act were subject to a fine ranging from \$10 to \$50 for each offense. A judge was to impose the fine and the money collected was to be placed in the General School Fund. This act was approved on March 31, 1887.<sup>241</sup>

Another act was approved on April 4, 1887 which prevented the state from holding negotiable bonds as part of the Permanent School Fund. This was theft

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<sup>241</sup> 1887 Neb. Laws, *Joint Resolutions and Memorials*, 614.



protection. The law required that the bond be stamped and signed by the state treasurer noting it was not negotiable.<sup>242</sup> Additionally, Chapter 80 amended sections of the school lands law. Payment fees for the land were altered. Prairie lands were to be paid at least one-tenth in cash; other lands were to be paid one-half in cash. Notes were to be given by the purchaser for the unpaid principal of all lands that were due in 20 years. The interest on the unpaid principal was to be 6%. This act was approved on April 4, 1887.<sup>243</sup>

21st Legislative Session: 1889

The Republican Party renominated Thayer for governor in 1888. McShane was nominated by the Democratic Party but the Republicans won again by over 18,000 votes. In Thayer's message to the 1889 legislature, state finances continued to be in good shape. The assessed valuation of the state was rising allowing levy reductions in 1887 to 8.5 mills and 7.5 mills for 1888. A large increase in the state income came from payments by the United States treasury for the sale of public lands during the past two years. Financially, the

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<sup>242</sup> Id, 614-615.

<sup>243</sup> Id, 615-620.

state had gained remarkable wealth. Increased corporate registrations meant additional tax dollars. The state provided \$4,057,274.66 for public education. A \$1,000,000 increase was noted from the previous year. There was rapid growth in both town and city grade schools and approximately 73% of the children attended school at this time.<sup>244</sup> Thayer reported that the assessment of property was approximately one-tenth of its actual market value. Because of this, the rate of taxation seemed very high compared to taxes of other states. Thayer encouraged an amendment to secure a truer valuation of property.<sup>245</sup>

In 1889 Section 13, Subdivision 2 of Chapter 79 of the Compiled Statutes was amended. If a district failed to set a levy or direct how the funds were to be spent, a school tax still needed to be collected. This language in the law forced school tax collection. If dollars remained in the school fund because no salary was paid, the surplus dollars could be moved to another district fund.<sup>246</sup> Another change in the law was made with the same act amending section 19,

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<sup>244</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 656.

<sup>245</sup> *Id.*, 657.

<sup>246</sup> 1886 Neb. Laws, *Joint Resolutions and Memorials*, Sec. 6, 544.

subdivision 4 stating that it was the duty of the director of the district to furnish a statement of the aggregate assessed valuation of all property in the district and the amount of taxes that would be collected for the use of the district. This was to be available for the annual meeting of the district.<sup>247</sup> Increased accountability was the issue here.

Another act amended section 30 of Chapter 80 of the Compiled Statutes stating that the school lands sold under the provisions of this act would not be taxed until the right to a deed was absolute. Special assessments for sidewalks, grading, curbing, sewerage and other municipal improvements would be added for the school lands.<sup>248</sup>

The public schools marched forward during the decade of the 1880s. Chart B demonstrates the increases during this decade.

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<sup>247</sup> Id, Sec. 13, 548.

<sup>248</sup> Id, 557.

Chart B

	<u>1880</u>	<u>1890</u>
Number of districts	3,132	6,243
Number of school houses	2,701	5,937
Children, 5-21	142,348	332,243
Children enrolled	92,549	240,300
Graded schools	70	250
Men teachers	1,670	2,861
Women teachers	2,430	7,694
Total wages	\$549,200	\$2,076,790
Value school property	\$2,064,786	\$6,613,464

Sheldon, 668

### Summary

The decade of the 1880s witnessed the state operating under a revenue system which taxed property to match public expenditures. The precinct assessor was responsible for listing the property to be taxed. There were no county assessors, but the county board could adjust or equalize values and the state board of equalization had the right to equalize values among the counties. The tax system lent itself to one of favor and influence. The local assessor, who was elected by the people, was often pressured by his constituents, to lower the value of property. As a result, a disparity existed between the true value of property and the assessed valuation. The 1890 census data demonstrates the issue. For example, Omaha was assessed with a true value of \$99,984,575 and the assessed value was listed as

\$16,315,640. A similar assessed true value of Lincoln was defined as \$39,458,784 while the assessed book value by the state documented Lincoln as \$4,631,534.<sup>249</sup>

School funding laws raised taxes for schools significantly during the 1880 to 1890 decade. School lands were sold at a rapid pace and nonresident tuition laws were initiated. The number of school houses almost doubled from 1880 to 1890.

The total revenue raised by the general property tax for all state and local expenses for 1890 was over 8 million dollars. School taxes raised for the year were listed as \$2,346,081. In addition to the property tax for schools, saloon license money was a major source of school revenue. In 1890 approximately \$339,500 was raised from the liquor license and fine money. The advocates of the license tax suggested that

"it would be impossible to support the schools without the liquor license money and on the other hand the radical anti-saloon element called this money 'blood money' and urged the iniquity of educating little children from the degradation of men around a saloon bar." (sic)<sup>250</sup>

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<sup>249</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 669.

<sup>250</sup> Id, 669.

## A New Century Approaches: 1890-1900

### Introduction

As Nebraskans moved into the 1890-1900 decade, both political and social reform would impact government and finance in the state. The seeds of change had been planted during the 1880s with discontent in the Republican Party and high taxation. Farmers observed the antics and political games of slick city politicians. Business and corporate interests were booming in the state while the farmers remained quiet on the political front.

A new political party was to gain prominence in Nebraska. The Farmers Alliance, initially started in Illinois in 1879 and brought to Nebraska in 1880, would gain popular support. The Grange began to lose support to the more aggressive Farmers Alliance. The Farmers Alliance adopted a constitution and by-laws in 1887 and called for a convention in May of 1890. The Alliance changed their name to the People's Independent party. Their new platform called for reforming the financial system, using silver and gold instead of notes, abolishing the land monopolies and improving the management of the railroad.

"We demand that our state and national system of taxation shall be adjusted, that our laboring interests will be fostered and wealth bear its just burdens, instead of our farmers, laborers, merchants, and mechanics being compelled to pay, as at present, by far the largest portion of public expense."<sup>251</sup>

John Powers was nominated as the People's Independent candidate for governor. James Boyd ran on the Democratic ticket, L.D. Richards on the Republican slate and B.L. Paine represented the Prohibition Party. The Republicans were aware of their fate in the election as Church Howe, a prominent Republican stated, "The old ship is leaking and men are wanted to man the pumps."<sup>252</sup>

The campaign of 1890 was lively and colorful. The summer prior to the campaign brought hot winds, drought and crop failure to the farmers in the state. As the campaigns were underway, the farmers were more engaged in political campaigning for the new party than they had ever been. One farmer was quoted as saying, "We farmers raised no crops, so we'll just raise hell." The political mud slinging continued in the press too. C.H. Gere, editor of the

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<sup>251</sup> Id, 673 (Taken from the Declaration of Principles and Popular Call for a People's Independent State Convention).

<sup>252</sup> Id, 684.

*Lincoln Daily State Journal* used his pen to author his sentiments on the campaign. A staunch Republican party man, Gere referred to the involvement of the farmers in the campaign as "hogs in the parlor."<sup>253</sup> As voting day came, another scandal erupted. Douglas County held their vote secret until all other counties reported. In Douglas County the vote was overwhelmingly in favor of Boyd. He had captured approximately 18,000 votes to Powers 1,100. As the votes were tallied from all counties, James Boyd, the Democratic candidate, won by a margin of 1200 votes. The cries of fraud rang loud and clear.

Along with the elections of 1890, the prohibition campaign was a political force. Sheldon reflected

It was an accident that the campaign for a prohibition constitutional amendment and the first campaign for the new party came together in the campaign of 1890, and was, in fact, a disadvantage for both of them. If there had been no prohibition amendment pending it is altogether likely that the People's Independent ticket would have been elected. On the other hand if the new party movement had not been under way the prohibition amendment would have come nearer to winning.<sup>254</sup>

The Republican Party was divided on the issue of prohibition

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<sup>253</sup> Id, 690.

<sup>254</sup> Id, 687.



but the Democratic Party solidly opposed the amendment. The Democrats controlled Omaha and many of the city managers were friends with liquor dealers. The party boldly declared that it opposed prohibition in its platform while Republican candidate Richards remained silent on the issue. It is thought that because he refused to declare his position on the issue, he lost votes from both pro and con prohibition voters. Great debates were held on the issue, newspapers favored one side or the other, and reports claim that on election day prohibition workers at the polls were beaten and driven away. According to Sheldon, "a reign of terror prevailed through a large part of the city."<sup>255</sup> Boyd was a man who had helped build the first railroad in the state and many projects in Omaha. He developed the first packing-house and also built Omaha's opera house. As the new governor, Boyd would be a friend to big business and to the liquor interests.

#### 22nd Legislative Session: 1891

As the legislature convened in January of 1891 the Republicans were in the minority in the House with 25 Democrats, 24 Independents and only 21 Republicans.

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<sup>255</sup> Id, 691.

The Senate seats were filled with 7 Republicans, 8 Democrats and 18 Independents.<sup>256</sup> The old governor did not want to give up his seat to the newly elected Democrat and there was turmoil in the first days of the session. The constitutional procedure for canvassing the votes for state officers was questioned and delayed Boyd's inauguration. Another issue questioned Boyd's citizenship and thus his right to the governorship. Finally, Thayer turned over his office to Boyd.

Thayer's address as outgoing governor highlighted the 1890 Census Report stating that the valuation of Nebraska property was less than one third the true valuation and that the revenue laws should be revised. He also reported that the school system, both common and higher education, had shown remarkable growth. There were still many volatile issues and he offered advice on both railroad regulation and sugar beet bounty.<sup>257</sup>

Governor Boyd spoke the following day to a hostile legislature. In an effort to gain some support he invited the legislature to appoint a committee to investigate state

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<sup>256</sup> Id, 696.

<sup>257</sup> Id, 703.

government and its branches in hopes of reducing taxes. He also spoke in favor of hosting a constitutional convention. He pleaded for harmony and cooperation between the legislature and the executive branch.

The joint houses managed to pass a number of educational revisions during the legislative session. A joint resolution was proposed, House Roll No. 7 (1891), to submit to the voters in 1892, an amendment to the Constitution of 1875. The purpose of the amendment was to provide investments of the Permanent Educational Fund of Nebraska. The amendment was not approved by the voters.

House Roll No. 480 (1891) was passed which called for the appointment of a deputy for the State Superintendent of Public Instruction. The deputy salary was \$1,500 and duties were to be assigned by the state superintendent.<sup>258</sup> There were over 6,000 school districts in existence in Nebraska in 1889-1890.<sup>259</sup> Administrative support was needed. Another act changed the purchasing of textbooks. House Roll No. 272 (1891) called for cheaper text-books and for district ownership of the texts. This law clearly stipulated that

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<sup>258</sup> Id, Chapter 44, 316.

<sup>259</sup> Nebraska Blue Book, 1992-93, 918.

districts of First and Second class schools were to purchase all textbooks and that contracts were to be established with the publishers. The textbook publishers had to provide bond to the state and also file a sworn statement noting that the cost of the text was the lowest price in the U.S. House Roll No. 403 (1891), amended section 25 of Article 1 of Chapter 80 of the Compiled Statutes of 1887. This amendment stated that when any state warrant was issued to the state treasurer and funds were depleted, the state treasurer was to draw the allocation from any fund belonging to the Permanent School Fund. The warrant was held as an investment of the Permanent School Fund.<sup>260</sup>

The laws addressing the school tax levy in metropolitan cities changed frequently during the 1890s. The aggregate school tax was not to exceed 2%. First Class cities, those with over 25,000 people, had a maximum school tax of 15 mills. Another law, House Roll No. 108 (1891), amended the Saline Lands Law to allow appraisal and sale of this land; it also placed money accruing from the operation of this act into the Permanent School Fund.<sup>261</sup>

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<sup>260</sup> Id, 340.

<sup>261</sup> Id, 159.

A new spirit evolved in the legislature after its rocky start. According to Sheldon "some notable landmarks in the history of Nebraska were erected during this session, and at this date are approved by all political parties, although enacted in the midst of many violent struggles."<sup>262</sup> One of the landmark acts passed during the 1891 Legislative Session established a legal day's work to be 8 hours. Although this was overturned by the Supreme Court, it set the stage for future labor laws. Governor Boyd also managed to reduce the cost of the legislative session considerably. In 1889 the costs were listed at \$190,000. The 1890 session cost only \$129,000.

A major railroad bill was passed in the House and Senate. Entitled the Newberry Bill (1891), it lowered railroad rates, something that the Independent Party wanted to accomplish. Boyd was optimistic that the bill would be defeated in the Senate but despite the political maneuvers of those opposing the bill, Boyd had to veto the bill. As a staunch railroad man, he voted his allegiance, and did not take the advice of many of his advisors who suggested

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<sup>262</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 704.

signing it and letting the courts determine the fate of the bill. There were efforts to defeat the bill in both houses but they failed. Boyd's actions would cost him the governorship.

Political campaigning continued to flourish during the 1890s. The Republican Party nominated and elected Lorenzo Crouse as Governor in 1892. He ran against J. Sterling Morton, the Democratic nominee and C.H. Van Wyck who ran on the People's Independent ticket. It was said that Morton's purpose for running was to split votes away from Wyck so that Crouse could win.

The governor's race was almost overshadowed by the congressional race for the First District in 1892. Williams Jennings Bryan and Allen W. Field were great orators. Bryan won the congressional seat by approximately 100 votes. Two constitutional amendments were on the ballot; one proposed an elective railroad commission and the other was to permit Permanent School Fund money to be loaned to individuals. Although both passed with a majority of those voting on the amendment, neither became law because of constitutional requirements.

The political make up of the legislature was such

that no party had a majority. Crop failures and poor economic conditions weakened Governor Boyd's position. In his departing message to the legislature he reported on the poor financial conditions of the state. A deficiency of \$750,000 had developed.<sup>263</sup> By law, the tax levy assessed was only 5 mills and because of the hard times, less than 90% of the taxes were paid. Boyd suggested three options to reduce state deficits: 1) compel the assessors to list all property at full value, 2) raise the levy made by the State Board of Equalization or 3) cut the expenses of government. Crouse echoed the identical concerns during his message.<sup>264</sup> He explained that the corruption in management of the state institutions was partially to blame for the problem and felt that regulation of railroad rates was another key factor. The Newberry Railroad Bill Rate (1892), similar to the one Boyd vetoed in 1891, now passed. This bill fixed railroad rate schedules.

A business depression began in Europe in 1890 and would impact all markets worldwide. The U.S. currency system was questioned and bank failures were again increasing. Another

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<sup>263</sup> Id, 724.

<sup>264</sup> Id, 724-725.

depression was starting. States neighboring Nebraska were admitted to the Union including North and South Dakota, Montana and Wyoming. They added political strength to Nebraska's farming and mining interests in Congress. A deal was made with the Republicans who wanted to increase tariff rates. They agreed to vote for the McKinley Tariff Act if the high-tariff members voted for a "cheap money" bill. As a result of this deal, the Sherman Silver Purchase Act was passed. This act was meant to increase the amount of money in circulation as a benefit to farmers, small businesses and wage earners.

A new national party was born as the farmers felt that Wall Street owned the country. The Populist Party surfaced when the Republican and Democratic farmers decided to forget their differences and formed another third party. In 1892 a convention was held in Omaha where the platform was designed and the party nominated James Weaver of Iowa to run for the presidency, however, Grover Cleveland was elected as president. The new Populist party made an impressive showing in the presidential election and added to the discontent of the two traditional political parties.



23rd Legislative Session: 1893

School law changed little in 1893. An act was approved on April 8, 1893 that was identified as House Roll No. 34. This act allowed children of school age to attend a school in another district if the school house in the neighboring district was within a mile and a half. The state apportionment for this child was to be collected by the educating district from the resident district. The law also clarified that it was the teacher's responsibility to keep records of these students.<sup>265</sup>

Another bill indirectly affecting education, Senate File No. 6 (1893), regulated railroads and required them to put in transfer switches so that cars could be put onto additional tracks while waiting to unload cargo. The cost of the switches was to be handled by both railroad lines but a fine between \$50 and \$500 a day for failure to build or maintain the switches was part of the bill. Any fines were to be credited to the General School Fund of the State.<sup>266</sup>

The Saline Lands leasing law was again amended. The money that accrued from the operation of this fund was to be

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<sup>265</sup> 1893 Neb. Laws, *Joint Resolutions and Memorials*, 157.

<sup>266</sup> *Id.*, 144.

placed in the Permanent School Fund of the State.<sup>267</sup>

The 1893 legislature uncovered tremendous fraud in managing the state's business. Five legislative investigating committees worked to uncover the financial scandals. It was reported that \$1,000,000 of the Permanent School Fund had not been invested. Rumors circulated that this money had been loaned to people and never recovered. In the same year bank fraud was uncovered in Lincoln and a dry winter and summer yielded a disastrous corn crop. According to Sheldon, thousands of Western homesteaders deserted their claims and headed to the cities of Eastern Nebraska looking for odd jobs.<sup>268</sup> Taxes, interest, and mortgages were left unpaid resulting in foreclosures. The depression during the 1890s touched many more people than the two earlier depressions.

The state of Nebraska gained national recognition during the decade of the 90s. The election of Senator William V. Allen, the rise of William J. Bryan, and the Populist Convention in Omaha brought Nebraska's name to the

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<sup>267</sup> Id, 159.

<sup>268</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 739.

forefront. Governorship elections were forthcoming. The Republicans nominated Colonel Thomas Majors and the Populist Party selected Judge Silas Holcomb. Majors had been denounced by the keenest politician in the state, Edward Rosewater. Rosewater later appeared at the Democratic Convention and actively encouraged the Democrats to nominate Holcomb as their candidate. Holcomb was selected and became a Populist Democrat candidate. The dual party title was described as "fusion." Fusion triggered many newspaper articles during the campaign of 1894. The Republican press championed Colonel Majors and tried to capitalize on the fusion idea as being "pop folly."<sup>269</sup> The campaign was hard fought and different from any previous elections. Holcomb was victorious and Nebraska had its first Fusion party governor.

#### The 24th Legislative Session: 1895

The legislature of 1895 refined and added to the school tax laws. Senate File No. 356 (1895), provided for the education of children confined in the poor houses. The payment for the educational expenses of these children was to come from the general fund of the county and paid to the

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<sup>269</sup> Id, 750.

treasurer of the school district. The law further stated that the county was not liable for more than its proportionate share of the expenses for textbooks, fuel and the teacher's wage.<sup>270</sup>

The "near school law" (1895) needed obvious changes. The language in the first act was too loosely written. The new act specified that the children had to live with a parent or guardian in the resident district and that it was up to the parent or guardian to notify the county superintendent of each district affected. A signed form needed to be completed and witnessed by a legal voter and taxpayer of each district. The form notified the director of the district to transfer the children to the adjoining district for the next school year. The students were to be counted in the "nearer district," not the district of residence. The county superintendent needed to notify the county clerk of the transfer; it was then the clerk's duty to have the parents or guardians pay the tax rate for that district, not the resident district.<sup>271</sup>

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<sup>270</sup> 1895 Neb. Laws, *Joint Resolutions and Memorials*, 198.

<sup>271</sup> *Id.*, 225-226.

An act was written to provide for free attendance at public high schools deemed to be properly equipped. The teachers, appliances and course of study in these schools had to meet a standard. The law clarified that any person of school age residing outside the district, but who was a resident of the state, and whose education could not be furthered in the resident district, could attend the nearest high school that met the requirements. County superintendents needed to certify that the student completed the common school course. High schools could deny a student access if they needed to construct or rent additional buildings. Section 2 of the law further elaborated that it would be the duty of the state department to determine which schools met the requirements. An attendance fee was calculated based on \$.50 for each week's attendance. The resident district paid tuition to the district where the pupil attended. It was the duty of the school board of each district where pupils attended under these provisions, to report the number of students to the state superintendent who informed the county board of the number of pupils. Section 4 elaborated on the taxes stating that the county board should levy annually a sufficient tax to meet the

expenses contemplated by the provisions of this act and that the tax was not to exceed 1 mill on the dollar of assessed valuation of the county for the preceding year.<sup>272</sup>

Chapter 63 of *The Laws of 1895*, discussed the apportionment of the fines, penalty and license money. In cities and villages, if more than one school district was within the corporate limits, in whole or in part, the money from the fines was apportioned based on the number of persons of school age residing in each district according to the last school census.<sup>273</sup>

Of greater note was a joint resolution that was approved on March 29, 1895 that called for an amendment to Section 9 of Article 8 of the Constitution providing for the investment of the Permanent Educational Funds of the State. The resolution would allow the board of commissioners to sell the securities belonging to the Permanent School Fund and invest the proceeds arising from the sale in securities that had a higher interest rate. This could be done whenever an opportunity for a better investment presented itself. It also suggested that when warrants were issued in

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<sup>272</sup> Id, 227-228.

<sup>273</sup> Id, 232.

conjunction with an appropriation by the legislature and secured by the levy of a tax for its payment and presented to the state treasurer for payment, if there was no money in the proper fund, the board of commissioners could direct the state treasurer to pay the amount from monies belonging to the Permanent School Fund. The warrant would then become an investment of the Permanent School Fund.<sup>274</sup> The Constitutional amendment failed in the 1896 election.<sup>275</sup>

The Democratic party continued to lose ground to the Populists. The Republican Party was still able to win elections as the Populists and Democrats remained split. The Prohibition Party was declining too but most of its members were joining the Populist movement.

In the spring of 1896 the American people had four major political concerns: 1) crop prices were at an all time low, 2) major bank failures were frequent, 3) business failures flourished, and 4) there was overwhelming unemployment. Cleveland's administration was beginning to crumble and the free coinage of silver was a major issue in the rallying cry against Cleveland. W.J. Bryan was one

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<sup>274</sup> Id, 436-437.

<sup>275</sup> Nebraska Blue Book, 1992-93, 218.

of the national leaders promoting this change.

The 25th Legislative Session: 1897

School funding laws continued to be refined in 1897.

The neighboring or adjacent school attendance law was modified. The change clarified that no taxes on real estate were to be transferred except taxes on the same quarter section of land on which the parents or guardians lived.<sup>276</sup> Tightening this law prohibited entire sections of land to be moved into cheaper taxing districts.

Chapter 70, Senate File No. 208 (1897), amended Section 24, Chapter 79, Subdivision 14 of the Compiled Statutes of 1895, to provide for the exclusion of school bond taxes in the computation of aggregate school taxes. The aggregate school tax, exclusive of school bond taxes, was not to exceed 25 mills -- previously listed as 2% in metropolitan cities. In cities of the First Class, the school tax of 15 mills remained the same.<sup>277</sup>

Another new law appeared dealing with school districts that were no longer populated. Chapter 62, Senate File No. 199 (1897), provided for the disposition of dismembered

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<sup>276</sup> 1897 Neb. Laws, *Joint Resolutions and Memorials*, 309-310.

<sup>277</sup> *Id.*, 316-317.



school district properties finalizing financial affairs of these districts. The claim "closing a district" was defined to mean that for a continuous period of one year, a district had less than two legal voters residing in the district. The county superintendent could annex the district to one or more adjoining districts if petitions were signed by a majority of the legal voters in the adjoining district. The county superintendent took possession of all school property that belonged to the old district. If there were funds left in the hands of the county treasurer, the county superintendent paid any debt. If no funds were available, the superintendent, by order of the court, advertised and sold the school property at public auction. Proceeds went to the county treasurer. If debt still remained, the board of county commissioners determined the rate of taxation necessary to pay the debt. A report of all transactions by the county superintendent needed to be filed noting all property and money received during these transactions.<sup>278</sup>

A major change took place in the School Lands and Funds law. Sheldon introduced House Roll No. 124 (1897), an act to amend Chapter 80, Compiled Statutes of 1895, to prevent

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<sup>278</sup> 1895 Neb. Laws, *Joint Resolutions and Memorials*, 308-309.

further sale of school lands. There was to be no change to lands that had been previously sold.<sup>279</sup> School districts could still purchase the land from the state in a 40 acre tract paying \$7 per acre. The land could also be purchased by a church or used for cemetery purposes. Cemetery or church lot parcels were to be 10 acres.<sup>280</sup> The investment of the principal of the Permanent School Fund was to be invested or loaned for U.S. securities or registered county bonds. Approximately 90% of the school lands given to the state from the federal government at the time of statehood had been sold. Sheldon was concerned that if the school lands continued to disappear, a permanent source of income for schools would also disappear.

In 1897, section 5-8, free attendance at public high schools was declared unconstitutional with the decision of a lawsuit. Board of Education of Aurora v. Moses, April 21, 1897 created this decision.<sup>281</sup> In Section 8, independent taxing districts known as the adjunct districts, were encouraged. The common school districts or parts of

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<sup>279</sup> Id, 318.

<sup>280</sup> Id, sec. 26-28, 327.

<sup>281</sup> CS, 1897, 990.

districts included in the adjunct district were to be voting precincts of the adjunct districts. It was the duty of the moderator of the district to have a vote regarding the establishment of an adjunct district. If a majority favored the establishment of the district, the county superintendent certified the fact to the county clerk and the county board levied a tax not to exceed 2 mills on the dollar of assessed valuation of the adjunct district. The collected tax was to be placed in a special fund to pay tuition of nonresident pupils.

Section 2 of subdivision 14, Chapter 79 of the Compiled Statutes of Nebraska of 1897 was amended to allow free school for nonresidents of a specific district who were allowed to attend a specific school without charge.<sup>282</sup>

Section 4 of subdivision 5, Chapter 79 of the Compiled Statutes of Nebraska of 1897 was amended. Case law amended the law in this situation - State of Nebraska, ex. rel. Eli Vale, v School District of City of Superior, et al. The board of education could admit nonresident pupils and determine the rates of tuition of these pupils and collect it in advance. No tuition was to be charged if the child

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<sup>282</sup> Id, 440.

was allowed by law to attend without a charge.<sup>283</sup>

The 26th Legislative Session: 1899

The 26th legislative session began on January 3 of 1899. William Poynter was the governor. A number of important school funding bills passed during this session. Chapter 60, House Roll No. 189 (1899) amended Section 11, subdivision 2. The school levy for small rural schools continued to be decided by the voters at an annual meeting and a 25 mill limit was in place. New stipulations were included in the code. If a district had 4 children of school age or less, the levy was not to exceed \$400 in any year. If the district had more than 4 and less than 16 children of school age, an extra levy of \$50 per child could be charged in addition to the \$400.<sup>284</sup>

Chapter 62, Senate File No. 41 (1899), amended the nonresident act. If pupils wanted to attend a high school which met special qualifications, the trustees classified and graded the entering scholars. They could now recommend placement in a school or department "as they deemed expedient." The trustees continued to determine the

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<sup>283</sup> 55 NEB, 317.

<sup>284</sup> 1899 Neb. Laws, *Joint Resolutions and Memorials*, 288-299.

tuition rates paid by nonresidents.

Approved April 1, 1899, Chapter 63, Senate File No. 161 was introduced by the Committee on Education. This act provided for the proportional distribution to each district in the county, funds paid into the county treasury of any county which maintained free high schools for nonresident pupils.<sup>285</sup>

A compulsory education law was approved in 1899. Chapter 67 (1899) required all persons between the ages of 8 and 14 to attend some public, private or parochial school or schools in the state of Nebraska. Failure to comply with this law subjected individuals to a fine. The fines ranged from \$10 to \$50 and were imposed by a court. The collected fines would be placed in the General School Funds like other fines and penalties. This was approved March 31, 1899.<sup>286</sup>

Chapter 69, Senate File No. 189 (1899), provided for the registration, leasing, selling and general management of the educational lands of Nebraska. This bill reflected the language changes in the School Land law which were necessary due to policy changes in selling this land. It repealed

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<sup>285</sup> Id, 293-294.

<sup>286</sup> Id, 297-298.

## Chapter 80 of the Compiled Statutes of 1897.

### Summary

Prior to the turn of the century, 1890-1900, Nebraska's commitment to education for all children became clear. With the passing of the compulsory school attendance law in 1891, the government mandated the importance of school. The politicians and legislators understood the importance of basic skills. This new attendance law would help to insure that the citizens of Nebraska would have the necessary skills to keep Nebraska productive. School funding measures continued to be refined. Taxes for schools continued to depend on local decisions regarding levy amounts. During each legislative session changes were made adjusting mill levies. Caps or lids were usually part of the law. As more children began attending school, more legislation appeared regarding funding the various kinds of schools including rural schools, metropolitan schools, K-8 schools and high schools. Laws regulated adjunct districts, nearer school districts, tuition fees and nonresident tuition. Financing the local school was not a simple matter.

Addison E. Sheldon, a House Representative legislator from Chadron, introduced a significant piece of legislation

in 1897 prohibiting the sale of school lands. A new leasing system for school lands was initiated. Sheldon also promoted a resolution to investigate former State Treasurer Bartley as \$500,000 was missing from the state treasury. There had been speculation about mishandling of funds as well as deeds to the school lands. Bartley was found guilty of mishandling the funds and sentenced to 20 years in jail. The land continued to be leased to farmers or purchased for church or cemetery use.

Politics during this decade saw perhaps the greatest involvement from citizens across the state. Railroad men had their special political interests and often opposed the farmers. The Battle of Wounded Knee, occurring on December 29, 1890, was the last armed battle where the army massacred Lakotas. The Indian spirit had been crushed by the army. Land that they had previously claimed without written title, no longer belonged to them.

As Nebraska prepared for a new century, the horizon looked bright. School finance legislation had made some positive strides since statehood in 1867. With a strong reliance on local taxation, questionable property values and over 6,000 school districts, Nebraska's school system

remained unique.

City schools appeared to be more consistently regulated than rural schools. At the end of the century, Nebraska claimed 6,708 school districts with only 448 of those districts identified as K-12 districts. The K-8 rural school was the predominate school district model.

Decisions impacting school law and in some instances, school funding issues, often cost politicians or appointed officials their job. Nebraska's first governor, David Butler, was impeached in 1870. The articles of impeachment claimed he had absconded with over \$17,000 of School Land Funds from the U.S. government that never got deposited into the Nebraska treasury. In 1884, Governor Dawes and Glen Kendall, Commissioner of Public Lands, were accused of selling school lands to an "inside group" of politicians. It was alleged that J. Sterling Morton stole saline lands but this was later found to be untrue and more accurately labeled as dirty politics. During the 1890's cries of mismanagement of the state institutions was heard. In 1897, State Treasurer Bartley was sent to jail for mishandling School Funds. The School Land Funds proved to be a definite source of money for dishonest politicians.



Early school finance leaders included Territorial Governor Izard who encouraged the adoption of the Common School Act in 1855, Robert Furnas, Chair of the Education Committee in 1858, who recommended Nebraska adopt the Ohio model for school districts incorporating a township system, and Territorial Governor Saunders who in 1861 wanted to establish a Permanent School Fund. In 1866 a state tax for this fund was enacted at 2 mills. Governor Furnas, very active as a local board of education member in Nebraska City, proposed that the School Land Funds, known as the "five percent funds" be placed in the Permanent School Fund for the state. Addison E. Sheldon is credited with saving the School Lands. His 1897 bill prevented further sale of these lands.

Chart C depicts changes in school data from 1890 to 1900. Although student population declined, a significant increase was noted in the value of school property. The chart also notes the increase of K-12 school districts, a trend that would be encouraged in the next century through changes in legislation.

Chart C

	<u>1890</u>	<u>1900</u>
Number of districts	6,243	6,708
Number of school houses	5,937	6,733
K-12 Districts	250	448
Number of counties	89	90
Number of children, 5-21	377,791	376,477
Children enrolled	240,300	288,227
Number of teachers	10,555	9,463
Value of School Property	\$6,613,464	\$9,591,134
Receipts	\$3,639,116	\$4,410,400
Expenditures	\$3,499,300	\$4,403,222
Indebtedness	\$2,648,244	\$3,373,691
State Apportionment from Endowments	\$ 586,270	\$ 693,205

\*Nebraska Blue Book<sup>287</sup>

<sup>287</sup> Nebraska Blue Book, (1992-93), 918-920.

## A New Century Begins: 1900-1919

### Introduction

As Nebraska stepped into the 20th century the frontier, as it had been previously known, faded. New opportunities and ventures were on the horizon. The people and culture changed dramatically during the first two decades of the 1900s. The population shifted from the farming communities to Omaha and Lincoln. Prohibition, agricultural manufacturing, new crops including winter wheat, and improved farm equipment increased family farm sizes and impacted life in Nebraska. The University of Nebraska Agriculture College played a major role as county agent and encouraged farmers to become more scientific in their work. Economically farms began to prosper.

Ultraconservatism led the way to a more progressive political view. William Jennings Bryan and Governor George Sheldon, "perhaps the most liberal chief executive in the history of the state,"<sup>288</sup> assisted in this change. Nationally, President Wilson's ideas paralleled thoughts that many Nebraskans had been thinking for years. Prohibition and women's suffrage spurred citizen debate.

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<sup>288</sup> J. C. OLSON & R. C. NAUGLE, HISTORY OF NEBRASKA (Lincoln, NE: University of Nebraska Press, 1997), 274.

Both the Nebraska Constitution and the legal code continued to be reviewed and the biennial legislature made necessary revisions. In 1914, the European nations were dealing with the assassination of Franz Ferdinand, heir to the Austrian throne. Questions started being asked about the United States involvement in this conflict leaving a huge war cloud hovering on the horizon.

The early 20th Century lawmakers continued to tinker with tax levies and school funding mechanisms involving tuition, state aid appropriations, and Nebraska's educational lands. Charles Dietrich followed Governor Poynter into office. Even though the farmers were making economic gains and the bonded debt had been paid off, Nebraska still had over a million dollars of outstanding warrants. Legislative appropriations were still greater than the state's income as assessors had reduced valuations during hard times. The governorship changed three times from 1901 to 1907. Charles Dietrich resigned on May 1, 1901 to become a United States senator and Ezra Savage, the lieutenant governor replaced him. Savage was criticized for pardoning former State Treasurer Joseph Bartley who absconded with nearly one-half million dollars from the

state's treasury. It appeared that graft and corruption were still part of the political scene.

Fowler was the State Superintendent at the beginning of the decade. He studied Nebraska's school system and was confident that the schools in the cities were run well but the rural schools were not functioning on the same caliber. He made some recommendations. Nebraska had over 6,000 school districts. He voiced the need for school district consolidation. A second recommendation was the centralization of schools. Placing school sites in a central location made sense. His third recommendation was a system of transportation for public school children. To implement these ideas, Fowler proposed 32 amendments to the laws.<sup>289</sup> Some of his ideas were noted in the 1901 legislative session.

The 27th Legislative Session: 1901

Chapter 62, House Roll No. 221 (1901) was introduced by Fowler. When a transfer was made, the children were to continue to have school privileges in the adjoining district until their parents or guardians notified, in writing, the county superintendent to be "against transferred", meaning

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<sup>289</sup> JENSEN, G., DEVELOPMENT OF NEBRASKA EDUCATION, 1854-1967 (Lincoln: Nebraska Dept. of Education, 1968), 21.

returned to the district of their residence. If this occurred, the county superintendent was to notify the county clerk of the retransfer, and the real estate of the parent/guardian was to be taxed in the resident district.<sup>290</sup>

Chapter 63, House Roll No. 54 (1901), was also introduced by Fowler. This act provided free attendance at public high schools of non-resident pupils. Thus students in districts without high schools or who for certain reasons needed to change high schools, could attend a school of their choice. Costs were borne by the taxing district responsible for the students' education.

Chapter 64, House Roll No. 227 (1901), was introduced by Hawxby. It provided for the organization, government and maintenance of rural high schools. The law allowed for adjoining districts in any county to join together to form one high school district and maintain it.<sup>291</sup> The county superintendent was delegated to give the new district a name and the districts, once united, could not withdraw their consent. If other common districts wanted to unite with

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<sup>290</sup> Id, 435-436.

<sup>291</sup> CS, 1897, 441.

this district and all voters agreed, the district could expand. The trustees of this high school district would determine the rate of tuition to be paid by non-resident pupils.<sup>292</sup> Additionally, the expense of maintaining the high school was the responsibility of several school districts that united for that purpose, in proportion to their assessed valuation. The trustees were responsible for preparing an estimate of the dollars required for the maintenance of the high school and project the number of mills that would need to be levied in each of the districts to meet its share of the cost.<sup>293</sup> This bill was approved on April 1, 1901.

Chapter 65, House Roll No. 322 (1901), provided for the proportional distribution of all funds paid into the county treasury for the maintenance of free high schools for nonresident pupils.<sup>294</sup> The money was to be divided proportionately to the number of nonresident pupils and the length of their instruction. The district furnishing the free instruction was to share in the distribution of funds

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<sup>292</sup> Id, 443.

<sup>293</sup> Id, 444.

<sup>294</sup> Id, 445.

in the same proportion as the districts of the county making the distribution.<sup>295</sup>

Mockett introduced Lincoln's Charter Bill<sup>296</sup> which established Lincoln as a First Class city, one whose population ranged between 40,000 and 100,000. He also introduced an act amending the aggregate school tax, exclusive of school bond taxes, stating that in no one year should the tax exceed 25 mills and that in First Class cities, the school tax was not to exceed 20 mills.<sup>297</sup>

Governor Savage lost his political credibility when he paroled and later pardoned Bartley, the former state treasurer who had absconded with school funds. Savage made recommendations to reduce government, eliminate bureaus, increase the term of legislators to four years, and recommended a new revenue law which would assess all property at cash value. His recommendations were economically sound.<sup>298</sup>

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<sup>295</sup> Id, 446.

<sup>296</sup> Id, Chapter 16, 71.

<sup>297</sup> Id, Chapter 69, 452.

<sup>298</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 797.



The 28th Legislative Session: 1903

In 1903, John Mickey moved into the governorship bringing Republican party ties. A new revenue bill was prepared and approved as both parties knew that if changes were not made, state bankruptcy might result. Chapter 73 (1903) outlined five acts relating to revenue including: a general revenue bill, delinquent taxes or scavenger bill, state levy, taxes that were delinquent for five years and legalizing invalid foreclosure.<sup>299</sup> Section 28 of the act clarified personal property stating that all money, bonds, credits and stocks needed to be listed and assessed in the school district where the owner resides.<sup>300</sup> The Revenue Committee introduced another act amending Section 75, Article 1 of Chapter 77, Compiled Statutes of Nebraska, 1901, which stated that the general state tax needed to be sufficient to raise the amount necessary to meet the appropriations made by the legislature and was not to exceed 7 mills on the dollar. The rate of the state school tax was not to be less than .5 mill, nor more than 1.5 mills on the

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<sup>299</sup> 1903 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 73, 392-396.

<sup>300</sup> *Id.*, 394.

dollar.<sup>301</sup> It was hoped that the new revenue bills would help increase state income and actually develop a surplus in a few years.

Other school tax bills were altered in 1903 too. The aggregate school tax in First Class cities was still not to exceed 25 mills; the tax levy needed to yield a revenue of \$150,000 per year.<sup>302</sup> The change in this bill demonstrated a shift from using a mill levy to generating a specific tax revenue defined in dollar amounts. Another act amended school tax law for districts with a limited number of students. If the district had 4 or less children of school age, rather than a 25 mill levy, the levy was not to exceed the sum of \$400 in any one year. If the district had more than four but less than sixteen, the levy was \$400 plus an additional \$50 for each child. No uniform calendar year existed so depending on the number of pupils, the term of the school year varied. Schools were not to receive funds if they failed to meet the day requirements established in statute which also differed according to student

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<sup>301</sup> Id, 480.

<sup>302</sup> Id, Chapter 94.

population.<sup>303</sup>

Superintendent Fowler pressed for legislation to establish another normal school within the state. Teachers were in demand. Chapter 90 (1903) was an act introduced by C.J. Warner by the request of Fowler, to create Kearney Normal School.<sup>304</sup> Another act which was introduced by J.H. Riggs, known as the Riggs City School District bill (1903), provided for the incorporation of school districts in first class cities that had less than 40,000 inhabitants but more than 25,000. The aggregate school tax levy for this size district was not to exceed 15 mills.<sup>305</sup> The School Lands and Funds laws were amended by legislation introduced by Jennings by request. A change was made so that movable improvements that were on the land could be sold at public auction. The proceeds from the sale were to go to the holder of the delinquent contract only after auction costs and delinquent interest or rental had been paid.<sup>306</sup>

House Roll No. 292 (1903), proposed to authorize and

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<sup>303</sup> Id, Chapter 85, 535-536.

<sup>304</sup> Id, Chapter 90, 540.

<sup>305</sup> Id, Chapter 98, 567.

<sup>306</sup> Id, Chapter 100, 572.

empower counties, precincts, townships or town, cities, villages and school districts to compromise their indebtedness and issue bonds to help pay the debt. If the school board was unable to pay in full its indebtedness and one-third of the resident free-holders of the school district petitioned to compromise the indebtedness, negotiations with the owner of the indebtedness were scheduled. It was hoped that a discount could be offered or a compromise reached.<sup>307</sup> If petitioned by two-thirds of the resident free-holders of the school district, the school board had the authority to issue coupon bonds of the school district, and after registering them, deliver them to the owners of the indebtedness. Section 4 further clarified the bond timeline stating they were payable in 20 years. The interest rate was 6%. If issuing a bond under this provision, a record had to be kept.

#### The 29th Legislative Session: 1905

Minor school funding laws were approved during the 1905 legislative session. One bill authorized the county superintendent, if no action was taken at an annual school meeting, to form an itemized estimate of the school costs

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<sup>307</sup> 1903 Neb. Laws, *Joint Resolutions and Memorials*, 63.

and give it to the county clerk before levying taxes.<sup>308</sup>

Kyd introduced an act which stated that the voters at the annual school meeting would determine the amount of money required for school maintenance during the coming school year and that amount would be levied. Stipulations remained in place regarding the numbers of students and dollars per child but the act stated that levy should not exceed \$2.50 on \$100.00 valuation as assessed and equalized.<sup>309</sup>

Proportionate distribution of all funds paid into the treasury of any county for the maintenance of free high schools for non-resident pupils set a weekly fee at \$.75 for each non-resident pupil.<sup>310</sup> Chapter 144 (1905), introduced by Wilson amended the educational land law. It clarified that lease land owners who had contracts prior to May 26, 1879, were bona fide and able to renew contracts or "perfect their title" under the terms that were in force when they obtained the contract. The amendments to section 9870 stated that no lands were to be sold for less than \$7.00 per acre and that if land was sold, it was necessary to pay for

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<sup>308</sup> 1905 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 143, 581.

<sup>309</sup> *Id.*, Chapter 131, 554.

<sup>310</sup> *Id.*, Chapter 133, 555.

appraiser bills including mileage.<sup>311</sup>

The 30th Legislative Session: 1907

The 1907 biennium legislative session was the most significant to date making important and permanent changes to the Nebraska's legal code. Significant changes in legislation included a statewide primary, a child labor act, an anti-discrimination act and the creation of a board of pardons. In the area of school funding legislation, landmark legislation was written. Newly elected Republican Governor George Sheldon was responsible for a bill in the 1905 legislative session that reduced state debt by adding a special one mill levy for that purpose. With his leadership and a legislature that was willing to work together, a great deal was accomplished during the 1907 sessions.

A significant school funding act was approved on April 10, 1907, that altered the requirements for state dollars to support weak schools. The bill was introduced by Doran, Henry, Hill, Metzger and Wilson and had several components. It was the first piece of legislation to be listed under the heading of state aid to schools. Section 1 clarified that

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<sup>311</sup> Id, Chapter 144, 582-585.

there shall be paid to each district by the state treasurer such an amount as is necessary to enable such district to maintain seven months of school with a legally qualified teacher at a salary of not less than thirty dollars a month. Provided, that no state aid shall be given any public school district unless it has voted the maximum tax levy authorized by section 5437, Chapter 79, Compiled Statutes of Nebraska for 1905 (Wheeler), (C.A.S. 11039) and until the accounts of such district are audited and approved by the county superintendent of the proper county. No district shall receive in any one year any state aid under the provisions of this act in excess of one hundred twenty dollars, which amount so paid shall be applied<sup>312</sup> exclusively to the payment of teachers' wages.

Section 2 of the act labeled "state aid" elaborated on the procedures and timelines for granting the aid. The county superintendent was to certify, under oath, to the state Superintendent of Public Instruction, the number of school districts that were entitled for the aid. This was to be completed on or before the second Monday in June. The state Superintendent of Public Instruction was to certify the amounts of state aid due to the counties and refer the data to the state auditor who drew warrants on the state treasurer. The county treasurer received the allocation and credited it to the proper districts in the county. The money from this appropriation could only be used to pay

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<sup>312</sup> 1907 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 119, 199.

teachers. Section 3 of the act discussed appropriation measures. A \$50,000 allocation from the state treasury funded this law. If the allocation was insufficient to fund the needs of all districts entitled to funding, the money was to be divided pro rata among the districts in proportion to the aggregate number of days the pupils attended in each district.<sup>313</sup> In conjunction with the passage of this law, King authored legislation which repealed Section 11156 of Cobbey's Annotated Statutes of Nebraska for the year 1903.<sup>314</sup> This repealed the "2 Mill State Tax Levy" for school purposes that had been on the books since the Territorial Government. This bill eliminated a taxing source that played a major role in early school funding in Nebraska.<sup>315</sup>

Schools in metropolitan cities increased tax funding too. Chapter 6 (1907) increased the gross sum for taxation in cities. The sum was not to exceed \$900,000 for general purposes and provided an additional sum up to \$250,000.<sup>316</sup> Clarke's bill, Chapter 118 (1907), provided for an equitable

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<sup>313</sup> Id, Chapter 119, 399-400.

<sup>314</sup> C.S. Chapter 79, Sub. XI, Sec. 1.

<sup>315</sup> 1907 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 125, 419.

<sup>316</sup> Id, Chapter 6, 59.



division of taxation for school purposes in joint school districts. If a property was owned in two districts, the levy should be fractional and correspond to the amount of property in each district.<sup>317</sup>

An increasing number of Nebraskans were interested in furthering their education. This in turn created more interest and desire for attaining a high school diploma. Legislation continued to be drafted to establish guidelines for the variety of high schools that were in existence. King's High School Bill broadened the opportunity for gaining a high school education. It legislated four years of free public high school for all youth of the state whose parents or guardians lived in public school districts that did not currently maintain a high school curriculum. It stipulated that students leaving 8th grade to go on to high school had to be enrolled in a course of study that was approved by the State Superintendent of Public Instruction. Tuition charges would support non-resident attendance at these public high schools. The charge of \$.75 per week was to be paid by the pupil's resident district. Admission into the free high school was through an application process

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<sup>317</sup> Id, Chapter 118, 393.

where parents applied in writing to the county superintendent expressing interest. It was the duty of the county superintendent to give each school district an estimate of the amount needed for free high school education for that district and the taxable amount was to be levied upon all the taxable property of the district. When collected, the tax was to be known as the "Free High School Fund." The county treasurer paid each district earning funds. Additionally, the county clerk was granted the privilege to levy the necessary tax on the district even if it was not voted on by the school district. If no students attended in a given year, no tax would be levied for that year.<sup>318</sup>

Another 1907 bill established a county system for developing high schools. Introduced by Senator Charles Epperson from Fairfield, this bill furthered the free high school education law and provided a course of study in these schools that followed the Nebraska High School Manual. Included in course work were manual training, domestic science and the elements of agriculture for students in 9th and 10th grade. In 11th and 12th grades normal training and

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<sup>318</sup> Id, Chapter 121, 402-406.

the theory and practice of agriculture were to be taught. Section 13 of the act defined tuition in the county high schools stating that they would be free to all pupils residing in the county where the school was located but if more pupils were accepted, tuition would be charged to non-residents.<sup>319</sup>

A federal bill was approved by Congress on June 30, 1906 which added funding to schools. Shubert's Forest Reserve Fund Bill, Chapter 143 (1907), reflected the federal law stating that the Forest Reserve Funds annually paid into the state treasury by the United States Government were to be distributed among the counties where forest ground was established, based on the number of acres of forest reserve in each county. The apportionment of the reserve fund was to be distributed in the following manner: one-fifth of the sum to the county public road fund, one-fifth to the county school districts and the remaining three-fifths divided among the school districts in the county pro rata according to the number of students in attendance. Additionally, the act stipulated that to be eligible for funds, yearly

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<sup>319</sup> Id, Chapter 122, 408-411.

attendance requirements for months in session had to be met.<sup>320</sup>

The 30th Nebraska Legislature accomplished a great deal. The *Omaha Bee*, a Republican newspaper, commented "...the list of important bills enacted into law included many which anyone would rank as epoch-making..."<sup>321</sup> The *World Herald*, touting Democratic opinion, agreed that the legislature was remarkable too.

'A good working majority of its members in both houses have shown an earnest desire to carry out platform pledges and have striven zealously for what they believed to be the best interests of the state...The result has been to lift Nebraska, in a single winter, from almost the bottom of the list of states that were under the corporation thumb to a place high in rank among the states that are reasonably free from undue corporation influence.'<sup>322</sup>

Although Governor Sheldon was credited with effective leadership and sometimes labeled as the reform governor, he received his share of criticism too. His tenure in the governorship was short. He ran for a second term but was defeated by Ashton Shallenberger. The 1909 Legislative

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<sup>320</sup> Id, Chapter 143, 453.

<sup>321</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 826.

<sup>322</sup> Id, 826.

Session would be under the leadership of a Democrat and one whose party also gained control of the legislature. The state revenue system still was not operating efficiently. Citizens were able to find loopholes in the system to avoid paying personal property tax. Future legislation would address these concerns.

#### The 31st Legislative Session: 1909

Chapter 119 (1909), an act introduced by Bushee, Carr, Chase, Harrington, Henry, Moore and Swan amended the state aid law for weak districts. The original seven months regulation was reduced to five. It also clarified that no district formed after the passage of the act containing less than twenty sections of land would receive any state aid under this act. If more than one rural school was maintained by the district, the aid would supplement each school provided instruction was by a legally qualified teacher. The appropriation for state aid increased by \$25,000 making the total appropriation for weak schools \$75,000. Section 4 defined apportionment and determination. The county superintendent determined the amount of money to be apportioned to each district based on a simple formula of income minus expenses. The estimated income was to be

calculated by totaling all the money belonging to the district in both the district and county treasuries plus 25 mills times the assessed value of the district, plus the estimated apportionment of state school funds. The estimated expenditures for the current school year were not to include the amount necessary to maintain school for five months. The estimate was not to exceed \$275, an increase of \$120.<sup>323</sup> This legislation was the beginning of formula based state aid. It should be noted that the required time in school decreased from seven to five months while the amount of funding increased.

Another restrictive finance law was passed during this biennium. Chapter 118 (1909) limited the tax for building schools. The voters determined the number of mills needed to build but the levy could not exceed 10 mills on the dollar of assessed valuation. A new fund, the school building fund, was established to support this levy.<sup>324</sup>

Chapter 129, introduced by Clark by request, amended the investment laws dealing with school funds. Investment possibilities now included registered county and school

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<sup>323</sup> 1909 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 199, 458-460.

<sup>324</sup> *Id.*, Chapter 118, 456.

district bonds as well as drainage districts bonds organized under the new drainage laws of the state.<sup>325</sup>

The 32nd Legislative Session: 1911

The 32nd session of the legislature was held in 1911 with Chester Aldrich serving as governor. A Republican governor was back in power yet Democrats ruled both legislative houses. In his outgoing legislative message, Governor Shallenberger was pleased to announce that there was no state debt. The new revenue bill was working.<sup>326</sup>

School funding bills were approved during this session which made minor changes to tax levies. An act introduced by Kohl, amended Section 24, Subdivision 14, Chapter 79 of the Compiled Statutes of Nebraska for 1909, which fixed a limit of 35 mills on the aggregate levy for school taxes in incorporated cities and villages.<sup>327</sup> The county high school law was amended to establish a government format and to require County Boards to levy a tax for the maintenance and support of the county high schools. The Board of each county high school recommended the tax levy but, exclusive

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<sup>325</sup> 1909 Neb. Laws, *Joint Resolutions and Memorials*, 474.

<sup>326</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 852.

<sup>327</sup> 1911 Neb. Laws, *Joint Resolutions and Memorials*, 425-426.

of paying the principal and interest on bonds, the levy was not to exceed 5 mills.<sup>328</sup>

The schools in South Omaha adjusted their aggregate school tax; it was not to exceed 18 mills.<sup>329</sup> An appropriation bill was approved totaling \$75,000 to be used for K-8 "weak" schools that needed additional dollars to maintain at least five months of school.<sup>330</sup> An amendment changed Section 37 of Chapter 80 of the Compiled Statutes of Nebraska for 1909, which dealt with the Permanent School Fund. According to the official statement of the state treasurer, Nebraska had made investments in trust funds of other states totaling over \$4,000,000. The intent of this bill was to change this practice and keep Nebraska dollars within the state.<sup>331</sup>

By 1910, Nebraska had amended school funding laws but little change occurred. According to Dudley,

Nebraska education in 1910 differed little from what it had been in 1890. Poor facilities, a few old textbooks, and young, inexperienced teachers

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<sup>328</sup> Id, 414-415.

<sup>329</sup> Id, C124, 430.

<sup>330</sup> Id, C212, 595-596.

<sup>331</sup> Id, 433.



were still the rule rather than the exception. Most students discontinued their education at eighth grade if they could hold a permanent job. The few who went to high school still found the classical curriculum the most accepted and often the only course of study available.<sup>332</sup>

The 1911 Legislature put an end to privately published versions of the Nebraska code. A committee was established to revise, consolidate and compile the general laws.<sup>333</sup> The new code had five sections and was formatted as follows: Part I - constitutions and related organic acts; Part II - general laws in 74 chapters; Part III - civil code; Part IV - criminal code; and Part V - index, special acts and resolutions. The new code was to be the property of the state, printed and sold by the state.<sup>334</sup> The 1913 Revised Statutes of the State of Nebraska became more user friendly with these changes.

A significant constitutional amendment was proposed supporting initiatives and referendums during the 1911 legislative session. Approved by the voters in 1912, the people gave themselves power to propose laws and amendments

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<sup>332</sup> DUDLEY, R. E., NEBRASKA PUBLIC SCHOOL EDUCATION 1890-1910 (Nebraska History, 1973), 97.

<sup>333</sup> 1911 Neb. Laws, *Joint Resolutions and Memorials*, C 166, 540.

<sup>334</sup> P. HILL, NEBRASKA LEGAL RESEARCH & REFERENCE MANUAL (Mason Publishing Co., 1983), 68.

to the Nebraska Constitution. A second part of this amendment allowed the electors to enact or reject laws at the polls independent of the legislature. This provision would play a crucial role in Nebraska's future.

On the national level a new taxing system was being considered. A federal income tax system was adopted. This progressive tax was based on a graduated scale, the greater the income, the greater the tax.

#### The 33rd Legislative Session: 1913

Democrat John Morehead became governor in 1913.

School funding laws continued to be amended and rewritten. Most of the changes to the statutes during this session merely changed language and reduced section requirements for district formation from twenty sections of land to twelve. Section 11551x1 of Cobbey's Annotated Statutes of the State of Nebraska for 1911 (C.S., Chapter 79 Subdivision 2, 14a, 14d) changed the calculation of the apportioned amount. The estimated expenditures of the district were identified by the county superintendent and the estimated income from all sources was subtracted. The income was the sum of all money belonging to the district that was on hand in the district as well as the county treasury, plus the maximum amount

raised by taxation, and the estimated apportionment of state school funds. If the district did not qualify for state money from the State School Fund, then the apportionment was not to be considered in estimating the income for the current year. The estimate was to be based on seven months of school and was not to exceed \$385, an increase from \$275. This apportionment calculation was more simplistic than the 1909 law that based the formula on the assessed value. The total amount of state aid to schools was apportioned at \$75,000. An additional \$15,000 appropriation for state aid went to schools maintaining departments of agriculture, manual training and home economics.<sup>335</sup>

Many states were beginning to develop supplemental taxing systems to broaden the base of support. A special commission was established by Governor Morehead in 1913 to investigate revenue and taxation in Nebraska. The report was to be prepared and shared with the legislature in 1915. Intangible property taxes, one of many taxing concerns, continued to be debated by Nebraskans and the legislature. The report stated:

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<sup>335</sup> 1913 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 8, 67-68.

The most fruitful experience during recent years in dealing with intangibles has been in the direction of classifying property according to its economic character and subjecting each class to a suitable rate...The criticisms against taxation by valuation are largely removed by such classification. Not all experiments in this direction commend themselves equally, but any of them offers a better mode of treating intangibles than that of the general property tax.<sup>336</sup>

The Report of the Special Commission on Revenue and Taxation made some excellent recommendations including: abolishing precinct assessors and using only county assessors; using true value of property as the basis for taxation; separating the value of real estate from the improvements on real estate and using a lower tax rate for improvements; taxing corporations in various classes on gross earning; taxing intangibles at a lower rate; exempting \$200 of household goods; and implementing a state income tax.<sup>337</sup> The report was an important document for future tax law for Nebraska. Schmidt questioned, "it is appropriate, therefore, to inquire whether the commission erred in recommending classification or the legislature is

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<sup>336</sup> E. B. SCHMIDT, AN APPRAISAL OF THE NEBRASKA TAX SYSTEM (University of Nebraska, Lincoln, 1941, 88).

<sup>337</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 896.

responsible by failing to establish the particular machinery which had been recommended."<sup>338</sup>

House Roll No. 92 (1913), defined in Chapter 18, was a joint resolution to amend Section 1, Article 9 of the Nebraska Constitution. It proposed uniformity of taxation to any given class and a graduated and progressive tax on income, privileges and occupations. This was approved for the November ballot of 1914. Although the issue won by approximately 6,000 votes, the amendment failed due to the constitutional clause stating that constitutional amendments must receive fifty percent of the total votes cast in the election.

Chapter 57, House Roll No. 262 (1913), amended Section 11545 of Cobbeys' Annotated Statutes for 1911, (C.S., Chapter 79, subdivision 2, Section 14) clarified that school should be taught for nine months in the school year when supported by a levy of 15 mills and supplemented by the district apportionment from the State School Fund. An eight month school session was okay if the district was supported by a levy of 20 mills.<sup>339</sup>

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<sup>338</sup> E. B. SCHMIDT, AN APPRAISAL OF THE NEBRASKA TAX SYSTEM (University of Nebraska, Lincoln, 1941, 88).

<sup>339</sup> 1913 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 57, 168-189.

Governor Morehead also sanctioned a Revision Commission for school law. A resolution was adopted on January 27, 1913, to revise and update the school laws. A report was issued on December 1, 1914. A recommendation from this commission considered adopting a "county unit" school system. This idea did not win popular support. Local schools were what Nebraskans wanted.<sup>340</sup>

#### 34th Legislative Session: 1915

The funding laws continued to be amended during the 1915 Legislative Session. Chapter 116 (1915), stated that small schools with less than 20 pupils be open at least four months in order to receive funding.<sup>341</sup> Rural high school tuition rates were to be established by trustees based on an estimate of need. The voters had an opportunity to accept or reject the levy amount. A second part of this amendment awarded money allotments to rural schools for teaching agriculture classes and home economics.<sup>342</sup> Another act increased the amount of funding that schools districts were supposed to pay from resident school districts for

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<sup>340</sup> SHELDON, A. E., NEBRASKA, THE LAND AND THE PEOPLE (Chicago, IL: Lewis Publishing Co., 1931), 896.

<sup>341</sup> 1915 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 116, 266.

<sup>342</sup> *Id.*, Chapter 118, 272-273.

attendance at rural high schools increasing the amount to \$1.00 per week.<sup>343</sup>

Consolidation issues were beginning to be discussed by the legislature. Nebraska had over 7,000 school districts. House Roll No. 742 (1915) was an act to provide for the equitable adjustment of the boundaries of school districts, to provide for the consolidation of certain districts and to provide for state aid for consolidated districts if they too met the requirements for teaching agriculture and home economics. Based on the number of rooms, and land sections in the district, state aid could be as much as \$250 with an additional fee of \$300. Money was not going to serve as an incentive for change.<sup>344</sup>

Apportionment methods were altered with Chapter 122, House Roll No. 405 (1915) which amended section 6930 and 6931. Section 231 (6930) states that one-fourth of the whole amount of the State School Fund was to be divided equally among the districts of the state that were entitled to receive this money. The distribution was to go to the counties according to the number of districts reported by

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<sup>343</sup> Id, Chapter 119, 274.

<sup>344</sup> Id, Chapter 121, 276-280.

the county superintendent. The remaining three fourths of the money was to be apportioned to the counties according to a pro rata enumeration of the pupils in each county. It was the duty of the state superintendent to certify the amount of money to be apportioned to the county superintendent and to the state auditor who would draw the warrant from the state treasurer.<sup>345</sup> Section 232 (6931) clarified further that the county superintendent was to put this money with the funds collected from fines and licenses and that total sum was to be distributed to the districts in the county pro rata according to the average daily attendance.<sup>346</sup>

Another 1915 act addressed changes for the aggregate school tax for cities having over 1,500 residents. Amending section 6971 (Article XXII, Section 272), Chapter 71, Revised Statutes of Nebraska for 1913, this act stated that the levy was not to exceed 35 mills. If a district wanted to exceed the 35 mill levy they merely needed to propose a mill levy between 36 and 45 mills. Patrons of the district needed to be aware of the increase and pending vote at least 20 days before the election. Notification also needed to be

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<sup>345</sup> Id, Chapter 122, 280-281.

<sup>346</sup> Id, Chapter 122, 282.



published in a district newspaper. For the levy to increase over 35 mills, 60% of the voters had to be in favor of the increase.<sup>347</sup> A similar act was approved for Omaha, the only school in the Metropolitan City class. Amending Section 7028 of the Revised Statutes of Nebraska 1913, this act stated that the new tax limit was 25 mills on the dollar upon all the taxable property of the district. The revision in this bill changed the limit of the levy from 2% to 25 mills.<sup>348</sup>

#### The 35th Legislative Session: 1917

The 35th session of the legislature began on January 2, 1917. Keith Neville, newly elected Democratic governor, addressed the legislature. A prohibition amendment had been passed in November, 1916 and was to take effect in May, 1917. Neville felt obligated to support this legislation stating "it is of the utmost importance that a sufficient sum be appropriated to insure that the authorities be not hampered by lack of funds in making the prohibitory laws effective."<sup>349</sup> Nebraska's fiscal management had been strong

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<sup>347</sup> Id, Chapter 124, 284.

<sup>348</sup> Id, Chapter 126, 287.

<sup>349</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 913.

and receipts outnumbered expenditures. School lands under lease had been reappraised which added over \$465,000 to the Temporary School Fund. This legislative session was the longest recorded session to date in Nebraska. Additionally, the largest number of legislative acts were passed in this session although, according to the *Omaha Bee*, "Aside from the appropriation bills and prohibition law, very little of state-wide importance was undertaken in the way of legislation." <sup>350</sup>

There were 13 acts that amended or changed state aid, tax limitations, appropriations or levy limitations. The most significant act was defined in Chapter 127, House Roll No. 12 (1917), amending Section 6931 of the Revised Statutes of Nebraska for 1913, relating to apportionment of State School Funds to counties and districts as amended by Section 1, Chapter 122, Session Laws for 1915. The apportionment of the school funds was simplified. The county superintendent apportioned the certified amount from the state superintendent equally to each district. To the balance of the distribution, the county treasurer added fines and license fees; this sum total was to be distributed pro rata

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<sup>350</sup> Id, 915.

according to the enumeration of pupils.<sup>351</sup>

A new investment source for the Permanent Educational Funds was approved in Chapter 113, House Roll No. 30 (1917), which amended Section 5846, Revised Statutes of 1913. Organized under an act of Congress on June 28, 1916, the act provided for the investing of School Land Funds in bonds of the Federal Land Bank for irrigation districts.

School consolidation issues continued to be stressed during the 1915 biennium. In cities having more than 40,000 and less than 100,000 inhabitants, combined with adjacent territory, the aggregate school tax was not to exceed 35 mills, provided that for a period of not to exceed four years, beginning with 1917, an additional levy, not to exceed 8 mills, could be added. The additional levy was to be used exclusively for the construction or equipment of new school buildings, or for the purchase of new sites. Also, during the next four years, an additional levy of two mills could be used for remodeling and modernizing school buildings.<sup>352</sup> Chapter 229, House Roll No. 586 (1917), was an act to provide for redistricting for schools organized under

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<sup>351</sup> 1917 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 127, 308.

<sup>352</sup> *Id.*, Chapter 225, 555.

Articles 1 to XXI, Chapter 71, Revised Statutes of Nebraska, 1913. If new districts were formed, and approved by the voters, the county board was to determine a levy for school purposes that was to be not less than 10 nor more than 15 mills on the assessed valuation. This levy was to be apportioned by the county superintendent to the various school districts according to the number of teachers employed. If an additional levy was needed, the district could vote on it.<sup>353</sup> Funding continued to be tied to length of the school term. Chapter 119, House Roll No. 368 (1917) clarified that if a district had less than 20 pupils that the term should not be less than four months but if it had between 20 and 75 pupils, eight months was required and if more than 75 pupils, then the school term needed to be nine months.<sup>354</sup> Levy rates changed too. In district schools, if there were more than 150 pupils, the mill levy increased from 35 to 45 mills.<sup>355</sup>

Rural high school tuition for non-resident pupils increased to \$1.50 per week per child. In addition to the

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<sup>353</sup> Id, Chapter 229, 566.

<sup>354</sup> Id, Chapter 119, 295.

<sup>355</sup> Id, Chapter 121, 297.

increased rate per pupil, if the resident district was unable to support the tuition needed and had established their tax at the maximum levy and combined it with the state apportionment and was still unable to meet their obligation, the district would not be liable for the tuition.<sup>356</sup> Tax levies in the metropolitan school districts increased too. The aggregate school tax was not to exceed 35 mills on the dollar which was an increase of 10 mills.<sup>357</sup> Another act established guidelines if district property was not taxed for county high schools. If a high school only went to 9th grade, three quarters of the proportional share of the county high school tax was to be levied on the property in the district. If the school went to 10th grade, one half of the district's proportionate share was to be levied. In districts maintaining a high school to 11th grade, one-fourth of the proportionate share was to be levied. If the county had a four-year high school, the district was to be exempt from all tax for county high school purposes and was classified in a different category.<sup>358</sup>

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<sup>356</sup> Id, Chapter 123, 302.

<sup>357</sup> Id, Chapter 130, 312.

<sup>358</sup> Id, Chapter 125, 305-306.

Introduced by the Education Committee and amending Section 6971, Revised Statutes of 1913 as amended by Chapter 124, Laws of Nebraska 1915, the aggregate school tax was increased to 45 mills, up another 10 mills, for school districts in cities over 1,500.<sup>359</sup> The mill levy increased in cities from 40,000 to 100,000 too. The levy was not to be less than 10 mills nor more than 15 mills on the assessed valuation but if additional funds were needed, the district was to vote on the additional levy.<sup>360</sup>

The 36th Special Legislative Session: 1918

The economy of the state prospered during the war years. Schools continued to increase in number as did mill levies to support them. A variety of systems were in place especially for high schools. A special session of the legislature was summoned on March 26, 1918. Governor Neville addressed war time measures.

The 37th Legislative Session: 1919

The political climate was ripe for change. The Democrats were replaced by Republicans in both the legislature and the governorship. With prohibition

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<sup>359</sup> Id, Chapter 129, 310.

<sup>360</sup> Id, Chapter 229, 566.

enforced, over 5,000 prosecutions were recorded for liquor law violations and fines totaled over \$142,366. This money went into the Temporary School Fund. Prohibition did bring increased revenue into the state coffers. The inaugural address of Republican Governor McKelvie encouraged tax changes and consolidation of rural schools. War sentiments, foreign language in the schools and The Civil Administrative Code were other key legislative issues.

Amendments for school tax limits were also approved. Tax levy limits increased dramatically during this legislative session. For school districts in cities over 1,500 the aggregate school tax was not to exceed "such sum or rate as shall be necessary to raise the sum provided for by the estimate returned, provided such levy shall in no event exceed 100 mills."<sup>361</sup> The previous limit had been 45 mills in 1917. In school districts with more than 150 pupils, the raise was similar. The act stated that the levy was not to exceed 35 mills on the dollar of assessed valuation, yet a levy not to exceed 100 mills could be submitted provided that a levy election passes documenting

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<sup>361</sup> 1919 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 143, 232-233.

this amount and was approved by 60% of the voters.<sup>362</sup> In metropolitan cities, the aggregate school tax was not to exceed 50 mills.<sup>363</sup>

School consolidation was encouraged. The Education Committee introduced legislation to provide for consolidated high school districts, addressing organization and operating procedures. Flexibility was given with regard to organizational timelines clarifying that a consolidated district could be formed at any time during the year.<sup>364</sup> The free public high school laws were amended too. In addition to requiring a competency test at the end of eighth grade,<sup>365</sup> the tuition fee for nonresident pupils was \$1.50 per week. Also addressed in this act was information regarding students whose parents moved to another district during the school year. In the best interest of the students, they were permitted to continue to attend school for the balance of the school year in the current school and not pay tuition.<sup>366</sup>

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<sup>362</sup> Id, Chapter 148, 330-331.

<sup>363</sup> Id, Chapter 147, 329.

<sup>364</sup> Id, Chapter 243, 1010-1011.

<sup>365</sup> Id, Chapter 152, 340-341.

<sup>366</sup> Id, Chapter 153, 343-344.



### Summary

Although a great number of laws were passed during the first two decades of the 20th century, school funding continued to be based on property. Major changes to the school laws during this 20 year era occurred. The "2 Mill Tax" was repealed in 1906. This levy was initiated during the Territorial Legislature to provide state funding for schools on a per capita basis. Legislation was passed in 1907, House Roll No. 356, providing state dollars to "weak schools." State money was given to a school district if it was unable to meet its obligation of holding classes for at least 7 months provided it was taxing at the maximum levy. The amount was not to exceed \$125 and was to support teachers wages. It was later termed "state aid to weak schools act." Another 1907 act, the Free High Tuition law, allowed graduates of K-8 schools to attend high schools of choice. Tuition was financed by a tax levy. A School Revision Committee was established in 1913 to revise the school code and make recommendations. A proposal to adopt a county unit system of school organization was suggested by the Revision Committee but the legislature did not adopt the idea.

School finance leadership throughout this era included governors, Nebraska Superintendents of Public Instruction and legislators. Superintendent Fowler's vision at the onset of this era encouraged school consolidation and centralization. Six other superintendents were in office during this tenure including McBrien (1905-1909), Bishop (1909-1911), Crabtree (1911) who resigned in office, Delzell (1911-1915), Thomas (1915-1917) and Clemmons (1917-1920). In addition to Fowler, Governor George Sheldon encouraged significant changes including the first state aid bill, HR356 (1907) which provided funding for "weak" school districts. Senator Charles Epperson introduced legislation in 1907 to establish the county high school system. Governor Morehead supported several school funding bills and was labeled as progressive. At the end of this era Governor McKelvie pushed for tax changes and consolidation of rural schools.

Chart D

	<u>1900</u>	<u>1920</u>
Number of districts	6,708	7,264
Number of school houses	6,733	7,655
K-12 Districts	448	749
Number of counties	90	93
Number of children, 5-21	377,791	392,592
Children enrolled	288,227	311,821
Number of teachers	9,463	13,789
Value of School Property	9,591,134	42,145,280
Receipts	4,410,400	20,062,926
Expenditures	4,403,222	19,563,064
Indebtedness	3,373,691	15,070,715
State Apportionment from Endowments	693,205	985,579

\*Nebraska Blue Book <sup>367</sup>

An upcoming Constitutional Convention was fast approaching. Amendments to the 1875 Nebraska Constitution would be forthcoming and coupled with other legislation, school finance in Nebraska would continue to evolve.

<sup>367</sup> Nebraska Blue Book, (1992-93), 918-920.

## Adapting to Change: 1920-1930

### Introduction

As a world war ended, adjustments to peace time were necessary. Inflation was widespread in Nebraska and there was a desire for more efficient, streamlined government. The support for government, schools and other state services continued. Dissatisfaction with the constitution and its procedural defects needed to be addressed. Taxation policies were questioned. New classifications of property tax might remedy some of the concerns. Perhaps taxation could be more widespread and be placed on other sources. The automobile would change Nebraska and the nation forever. Other modern gadgets to improve communication would be available during this decade. The economic highs during the wartime economy would change dramatically toward the end of this decade. Land, one of Nebraska's greatest assets, would have its value decreased almost fifty percent by the end of the decade. Coupled with the stock market crash in 1929, the drop in farm prices would greatly impact the economy of Nebraska and the revenue for schools.

A Constitutional Convention, under the leadership of Arthur Weaver, convened on December 2, 1919. Forty-one

amendments were to be voted on at a special election in September, 1920. An important proposal addressed changing the amendment process. If a constitutional amendment was to be approved, an affirmative vote equal to 35 percent of the total vote cast was needed. Thus, Nebraska's Constitution could be amended more easily. Another proposal provided for uniform and proportional taxes on tangible property and franchises; it also permitted classification of other property and taxes other than property taxes. The forestry exemption was also to be revised. Another significant amendment placed the county tax limit at \$.50 on \$100 actual valuation. The change to actual valuation rather than assessed value would change tax levies.

Additional proposals included creating the office of Tax Commissioner along with a Board of Equalization. Another amendment provided for the distribution of the Temporary School Fund. School lands were not to be sold unless a public auction was held and state aid was prohibited to sectarian institutions. All 41 proposed amendments were adopted. Government and school funding would change due to the passing of these amendments.

The 40th Legislative Session: 1921

The 40th session of the legislature began in 1921. School funding laws continued to be amended with many changes similar to those in previous years relating to levy limits, nonresident tuition and apportionment of school funds. A significant change occurred with Chapter 82, House Roll No. 529 (1921), which amended 6906 Section 207, Chapter 71 of the Revised Statutes of Nebraska for 1913. The State Superintendent, after making the apportionment in December from the School Fund, was to distribute additional money to all counties where school land was located that had not been sold or leased. The additional sum was to equal the money that would be raised by taxation if the school land were to be taxed. The most recent appraised value of the school land was considered as its actual value.<sup>368</sup>

Tuition for nonresident pupils attending approved high schools increased to \$3.00 per week. The cost of tuition had doubled.<sup>369</sup> Chapter 64, House Roll No. 177 (1921), addressed the status of children whose parents were engaged in public service for the State of Nebraska and had been

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<sup>368</sup> 1921 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 82, 296-297.

<sup>369</sup> *Id.*, Chapter 50, 221.

removed from their school district of legal residence.

These students were able to attend both elementary schools and high schools without tuition or fees in the district to which they had been temporarily placed as a result of their parents move.<sup>370</sup>

School lands legislation was altered during this biennium as well. Two House Roll acts were approved; House Roll No. 466 (1921) clarified procedures for appraisal of school lands and House Roll No. 474 (1921) stated that city lots and all isolated tracts of land containing less than 40 acres, when meeting certain restrictions, were to be sold at public auction. The proceeds of the sale were to be deposited with the state treasurer in the Permanent School Fund.<sup>371</sup>

For schools to receive state aid, the previous seven month requirement increased to a nine month requirement. This legislation was introduced by the Committee on Child Welfare. It amended Section 6745 of the Revised Statutes of Nebraska for 1913, as amended by Chapter 116 of Session Laws of Nebraska for 1915, as amended by Chapter 119 of Session

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<sup>370</sup> Id, Chapter 64, 250-251.

<sup>371</sup> Id, Chapter 81, 294-295.

Laws of Nebraska 1917, and to amend Section 6749 and 6751 of the Revised Statutes of Nebraska for 1913. Again the state aid issued in compliance with this act insured that schools met the extended timelines. The nine month requirement related to schools where there were 10 or more children enrolled and in schools where there were less than 10 pupils, the month requirement was dropped to 6. A levy of 40 mills also had to be in place. Restrictions were also placed on estimated expenditures; if 10 pupils were in the district the expenditures were not to exceed \$1,000; if there were 5 to 10 pupils, \$700; and if less than 5, not more than \$125 per child.<sup>372</sup>

Chapter 66, Senate File No. 220 (1921), amended Article II and VI, Chapter 71, Revised Statutes of Nebraska for 1913 stating that the aggregate amount of school tax levied was not to exceed 100 mills on the dollar of assessed valuation. Section 1 clarified that the aggregate school tax levied for general school purposes in school districts was 35 mills; a levy exceeding 100 mills could be made after submitting the proposition of the increased levy to voters at an election or special meeting called for this purpose. In order for

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<sup>372</sup> Id, Chapter 55, 236-239.



the increase to be approved, 60% of the votes had to support the increase. Section 5 of this act discussed valuations and how they were based. All mill levies and percentages of assessed valuation were based on one-fifth valuations. This was a change as previous valuations were based on 12% of the assessed valuation.<sup>373</sup>

Omaha school tax limits were altered similarly. Section 7028 of the Revised Statutes of Nebraska for 1913 was amended stating that the aggregate school tax was not to exceed 13 mills on the dollar upon the actual value or 65 mills on the dollar upon one-fifth of the actual value of all the taxable property of the district.<sup>374</sup> Lincoln's aggregate school tax, for all purposes and including all funds, was not to exceed \$1,200,000 in any year. The act further clarified that if additional funds were needed that an election could be organized.<sup>375</sup>

#### The 42nd Legislative Session: 1923

The elections of 1922 brought more Republicans into the state house but they failed to garner all open offices.

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<sup>373</sup> Id, Chapter 66, 253-256.

<sup>374</sup> Id, Chapter 72, 270-271.

<sup>375</sup> Id, Chapter 83, 298-299.

Charles Bryan, a Democrat and brother to Williams Jennings Bryan, was elected governor. During his inaugural address he recommended repealing the intangible property tax and adding both a state income tax and an inheritance tax. McKelvie supported adding a gasoline tax but Bryan was opposed to this. School funding legislation during this biennium was very limited. The levy for county high schools, exclusive of the levy paying for the principal and interest of bonds, was not to exceed 3 mills on the actual valuation of the taxable property within the county.<sup>376</sup> Sale of educational lands to irrigation districts was addressed in Chapter 61, House Roll No. 256 (1923), amending Section 5191 of the Compiled Statutes of Nebraska 1922. Land for reservoir sites was not to be sold for less than \$7.00 per acre nor less than the appraised value.<sup>377</sup> Another act introduced pipeline legislation to school lands. If a company wanted to transport or convey crude oil or the like across or through the state crossing school lands, the area land was to be appraised and a fixed amount was to be paid by the company. The fixed amount was to be determined by

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<sup>376</sup> 1923 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 59, 182-183.

<sup>377</sup> *Id.*, Chapter 61, 188-189.

the Board of Commissioners for the Educational Lands and Funds (see Appendix I for listing of Commissioners). The fee was to be paid to the treasurer of the county where the lands were located.<sup>378</sup>

Clinton Bunn was selected as the compiler of the laws. The dual numbering system that had been used in the previous law codes was dropped. The laws now were divided into sections and there were over 10,000.<sup>379</sup>

#### The 43rd Legislative Session: 1925

Although Governor Bryan had reduced state taxes 13%<sup>380</sup> during his tenure in office, reelection to his post was not guaranteed. Governor Adam McMullen, a Republican, replaced Bryan in 1925. School finance legislation began to change. Numerous bills were brought before both houses of the legislature. The aggregate school tax for schools organized under Articles 3 and 6, Chapter 63 of the Compiled Statutes of Nebraska for 1922, changed to 8 mills; the previous mill levy was 35. This change reflects the method by which land

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<sup>378</sup> 1922 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 173, 410-411.

<sup>379</sup> P. F. HILL, *NEBRASKA LEGAL RESEARCH & REFERENCE MANUAL* (St. Paul, MN: Mason Publishing Co., 1983), 68.

<sup>380</sup> A. E. SHELDON, *NEBRASKA: THE LAND AND THE PEOPLE* (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 1014.

was valued. In previous legislation, land was taxed and one-fifth of its actual value, thus raising the mill levy to 35. The new 8 mill levy was based on actual land value. A reduction from 100 mills to 20 mills was noted in the language for special proposals provided they were passed by the voters.<sup>381</sup>

The Free High School Tuition Law was amended. Chapter 178, House Roll No. 107 (1925), again noted that the actual valuation of the taxable property was to be used for the assessment of the Free High School Tuition Fund. The weekly rate per pupil remained at \$3.00 but the method of taxation for this fund was simplified. The county board levied a tax on all the taxable property in the county to pay for the high school tuition. The county board was to exclude from the levy all the actual valuation on all the taxable property in any school district which maintained its own four year high school; it excluded from the levy 75 percent of the actual valuation if a district had an approved three year high school; it excluded one-half of the actual valuation if there was a one or two year high school in existence. If the county board failed to make the levy,

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<sup>381</sup> 1925 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 169, 443-444.

it became the duty of the county superintendent.

This appeared to simplify previous tax legislation and repealed Sections 6386, 6387, 6388, 6389 and 6390, Compiled Statutes of Nebraska 1922.<sup>382</sup>

Another significant change in the law repealed section 6414-6420 relating to agriculture, manual training and home economics in high schools. High schools that offered these courses received funding for this curriculum; additional funding for these courses was eliminated with the repeal of this legislation.

The 44th Legislative Session: 1927

McMullen was reelected as governor in 1927 amid major concerns over the state's economy. A deficit appeared. According to Sheldon, "The deficit in state finances which had been denied and denounced, derided and lied about for four years now came to light."<sup>383</sup> The amount of the deficit was approximately \$2,000,000. State Treasurer Robinson, a Republican, blamed political manipulations of those aspiring for state offices, particularly that of the governorship.

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<sup>382</sup> Id, Chapter 178, 465-466.

<sup>383</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 1031.

His statement was issued on January 3, 1927.

"When a political campaign is foreseen, the party in power has invariably made a reduction in the state levy, which has resulted in grave embarrassment to the state. This practice began in 1922. In 1924 the levy was cut to 1.87 mills. This resulted in a loss of over a million dollars to the general fund, and there was no justification for it from a business standpoint... The levy for 1925 was approximately sufficient, but in 1926, with the campaign in progress, the levy was reduced to 1.58 mills, which will fall short a million dollars of meeting the state's liabilities."<sup>384</sup>

Governor McMullen's inaugural message was delivered on January 6, 1927. Nebraska's progress was measurable and growth had been noted in a number of areas. Nebraska's agricultural economy had declined somewhat but not to the degree that it had in surrounding states. Overall, McMullen suggested that the state's economy was sound. He clarified that although there was no bonded indebtedness, there was an overdraft in the general fund. He felt that the cause of the overdraft was due to insufficient tax assessments which created a budget shortfall. He also blamed the revenue system timeline which began spending tax dollars on July 1 while tax receipts were not due until December 1.

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<sup>384</sup> Id, 1031.

Discussion of the deficit continued in the legislature. To resolve the conflict, a committee was appointed to investigate the state deficit issues under all recent governors including McKelvie, Bryan and McMullen. They submitted a report on April 6, 1927 finding that the "deficits had originated in the failure of the State Board of Equalization to perform a very simple mathematical task, to make the state levy large enough to pay the appropriations."<sup>385</sup>

Probably no more severe indictment of politics and politicians in state finance has ever been written than the report of this bipartisan committee. Without passion or prejudice the report pointed out the failure of high state officers to perform a simple duty and thereby preserve the state's credit and balance its budget.<sup>386</sup>

Only minor changes were made to school funding legislation during this legislative session. Chapter 87, House Roll No. 277 (1927), amended Section 6286, Compiled Statutes of Nebraska for 1922. This act guaranteed that no district would be deprived of its proportionate share of the state school funds provided the district approved an 8 mill general fund levy. If that sum was insufficient to maintain

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<sup>385</sup> Id, 1033.

<sup>386</sup> Id, 1034.

school for a term of nine months, the district would still be granted state appropriation dollars. Another change clarified nonresident tuition amending Section 6325, Compiled Statutes of Nebraska for 1922. For this classification of student, the tuition was not to exceed \$1.00 per week for nonresident grade school pupils in rural schools.<sup>387</sup>

The governor's race in 1928 pitted Arthur Weaver, a Republican, against Charles Bryan, a Democrat and former governor. Weaver was elected along with a strong Republican vote for Republican President Herbert Hoover. The legislature convened in the new state capitol building in Lincoln on January 1, 1929. McMullen's departing address highlighted his accomplishments while in office. Four areas had seen change: state finances, improved roads, the administrative code of law, and improved banking laws. The budget deficit had been investigated and explained satisfactorily. McMullen further clarified that the total tax-dollar that covers all tax levies, both state and local, for the year 1928, divided as follows:

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<sup>387</sup> 1927 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 88, 257-258.



Chart E

Schools	\$ .47
County	.20
City and Village	.18
Township	.03
State	.12
	<u>\$1.00</u> <sup>388</sup>

The Legislature of 1929 looked at new issues and debated old ones. Banking continued as an issue along with highways, taxation on intangibles, hydroelectric power, and the civil code. Laws regulating the sale of machine guns were passed since these were the primary weapons used by bank robbers. Defining "bootlegger" and prescribing a punishment for a bootlegger also became part of the legislative session.

School finance law amendments continued to pass. Chapter 87, House Roll No. 103 (1929), altered the attendance requirement regarding compulsory education changing monthly mandates to a specific number of days. The required seven month time frame was now adjusted to 130 days. The eight month requirement was altered to 145 days and the nine month attendance requirement changed to 160 days. This bill amended 6508a of the Compiled Statutes

<sup>388</sup> A. E. SHELDON, NEBRASKA: THE LAND AND THE PEOPLE (Vols. I-III, The Lewis Publishing Co., Chicago, 1931), 1050.

of Nebraska for 1922.<sup>389</sup>

Summary

Nebraska's post World War I economic prosperity continued to flourish in the early 1920s. A school consolidation bill was approved in 1919 but little impact was observed during the upcoming decade. Mill levies were altered throughout the decade for the different types of schools. Tuition fees for nonresidents increased to \$3.00 a week doubling the previous amount. Tax values shifted from assessed value to actual value causing levy amounts to change dramatically. Free High Tuition funding was altered during each biennium. State appropriations for manual training, agriculture and home economics were repealed. Legislation was introduced to tax pipeline companies who wished to transport their product over school lands. This appeared to be a new source of revenue.

Nebraska recognized its responsibility to provide support for "weak" schools. It is not clear whether the state was more concerned over adjusting the term requirements in order to receive this support or to provide financial and educational equity. School finance

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<sup>389</sup> 1929 Neb. Laws, *Joint Resolutions and Memorials*, Chapter 87, 340-341.

law revisions continued throughout this decade. The stock market crash of 1929 would impact Nebraska's economy leaving the legislature to adjust school finance laws during the decade of the 1930s.

Chart F

	1920	1930
Number of districts	7,264	7,244
Number of school houses	7,655	7,565
K-12 Districts	749	940
Number of counties	93	93
Number of children, 5-21	392,592	423,602
Children enrolled	311,821	325,216
Number of teachers	13,789	14,400
Value of School Property	42,145,280	85,303,692
Receipts	20,062,926	27,733,859
Expenditures	19,563,064	27,853,95
Indebtedness	15,070,715	35,121,274
State Apportionment from Endowments	985,579	1,025,162

\*Nebraska Blue Book<sup>390</sup>

<sup>390</sup> Nebraska Blue Book, (1992-93), 918-920.

Depression, Relief, Recovery,  
A Unicameral and War: 1930-1940

Introduction

The stock market crash of 1929 and accompanying depression impacted Nebraska's economy. Although few Nebraskans lost large individual fortunes, the collapse of farm prices caused an unstable economy. Weather conditions in the early 1930s further depressed the agricultural economy. Rainfall was slim. Often referred to as "the dust bowl," the winds blew the top soil relentlessly across the plains. Crop prices were the lowest in the state's history in 1932.

Everywhere the story was the same. As the authors of *Nebraska: A Guide to the Cornhusker State*, themselves victims of the depression put it,

"The condition of the farmers affected Nebraska merchants, lumber dealers, realtors, school teachers, laborers, and artisans. Housewives stocked their pantry shelves with the simplest essentials; construction lagged; school administrators curtailed their programs as tax receipts went down; day laborers, formerly sure of a place on Nebraska farms and in Nebraska industries, began the long trek of the unemployed."<sup>391</sup>

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<sup>391</sup> J. C. OLSON, & R. C. NAUGLE, HISTORY OF NEBRASKA (Lincoln, NE: Univ. of Nebraska Press, 1997), 312-313.

Republicans were in power when the depression era began. It was natural that they were blamed for the economic problems both in the state and nation. Franklin Roosevelt, a Democrat, ran against Hoover and won. Nebraskans looked to Roosevelt and his "New Deal" politics for solutions and assistance. A Federal Land Bank was established which assisted in providing loans to needy farmers during the early 1930s and helped establish new farms by the mid 1930s. The Agricultural Adjustment Act of 1933 was designed to improve farm prices by controlling production. The Social Security Act of 1935 enacted measures to provide assistance to older citizens as well as aid to dependent and crippled children.

In Nebraska, a 1934 petition initiative (see Appendix K for Votes on Initiated and Referred Measures) called for a unicameral, single house legislative model. In addition to saving money for taxpayers, since fewer legislators would be needed, the unicameral idea was thought to be a more efficient form of government. School finance laws would continue to be amended during this decade.

The session laws and compiled statutes had changed in format. In 1929, a new edition of the compiled statutes was

ordered. The biggest change in the code was the adoption of a numbering system patented by C.D. Yetter in 1926. It is this legal system that continues to be used in Nebraska's code today. During this decade, the compiled statutes format also changed. Each new supplement added the new amendments and laws to the previous law.

#### The 47th Legislative Session: 1931

The 47th Legislative Session, with Charles Bryan as governor, amended school finance laws in 1931. Chapter 146, House Roll No. 224 (1931), amended Section 79-2721, Compiled Statutes of Nebraska, 1929. This amendment changed the timeline for the annual levy estimates that the board of education prepared for schools in metropolitan cities. The estimate was now to be made in June rather than January.<sup>392</sup>

A new act was introduced by Mabel Gillespie of Sarpy County, the first woman noted to introduce school funding legislation. This act required the State of Nebraska to pay the tuition for children attending school in the state when their parents were engaged in military service while living within Nebraska. Enrollment in the military, specifically the branches of the U.S. Army, Navy or Marine Corps

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<sup>392</sup> 1931 Neb. Laws, C 146, 400.

qualified. Section 2 of the law stated that the school district could charge tuition of \$1.00 per week for a grade school child and \$3.00 per week if the child was in high school. It was the duty of the treasurer of the district board to file a claim with the state superintendent noting the age, date of enrollment and total number of weeks that each child attended as well as the amount of tuition due. The tuition fee was to be paid by the state.<sup>393</sup>

Another act further defined the age of students eligible to attend school. House Roll No. 76 (1931) clarified that children could be counted or "enumerated" if they were five years old on September 1. If children were not five years old by this date, the district could deny entrance to school. State apportionment, as provided in 79-2002, Compiled Statutes of Nebraska, 1929, was to be made only on the basis of those children that reached the age of five on or before September 1. It was also to exclude children who turned 21 years of age on or before this date.<sup>394</sup>

A bill allowing students to earn the necessary

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<sup>393</sup> Id, C 150, 407-408.

<sup>394</sup> Id, C 139, 385-386.

15 units or 30 credit points as required for entrance by the University of Nebraska, Lincoln, and extend their high school time beyond four years was approved. The county superintendent could grant consent if additional time was needed by a student and the student would receive free high school tuition during this time.<sup>395</sup>

Debt was widespread during the depression and schools struggled too. An act was introduced which allowed rural high schools to issue bonds to the extent of 6% of the aggregate assessed valuation of its several school districts to raise money and pay off debt.<sup>396</sup> Another similar bill, Chapter 143, House Roll No. 180 (1931), targeted schools in cities of 1,000 or more. The aggregate school tax was not to exceed 20 mills. The Board of Education could borrow money to the amount of 70% of the unexpended balance of the current existing levy. The Board could also issue promissory notes with an interest rate not to exceed 6% and maturing not more than one year from the issue date. The total of registered notes and warrants was not to exceed 100% of the unexpended balance of the current existing

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<sup>395</sup> Id, C 140, 387-388.

<sup>396</sup> Id, C 142, 390.



levy.<sup>397</sup>

Legislators passed a bill for Lincoln schools amending Section 79-2621, Compiled Statutes of Nebraska 1929, regarding the aggregate school tax stating that for all purposes, including all funds, the tax was not to exceed 15 mills on the dollar of actual value of all taxable property in the district. The mill levy could be increased two mills but was not to exceed 17 mills. In order to exceed 17 mills, the board needed to approve it by a two-third majority. This change put Lincoln's funding mechanism back into mills from the previous 1,200,000 dollar amount. The bill was not signed by the governor. It was permitted to become law without his signature.<sup>398</sup>

The 49th Legislative Session: 1933

School revenue bills continued to be amended during the 49th Legislative Session. Bryan continued as Nebraska's governor during the 1933 session. School funding legislation addressed tuition appropriations to school districts when parents served in the military, allocation of delinquent tax dollars, change in length of school terms

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<sup>397</sup> Id, C 143, 392.

<sup>398</sup> Id, C 144, 395.

and reduction in tuition rates.

Appropriations were made by county for tuition that was payable to school districts for children of soldiers and sailors. Douglas County received the largest allocation with \$5,710.60. Sarpy County was granted \$1,892.40 and Dawes County had \$1,650.30 appropriated.<sup>399</sup>

A new revenue act, Chapter 132, House Roll No. 580 (1933), established a format for revenue that was received from interest on delinquent county, city, village or school district taxes. Revenue derived from interest on the delinquent tax was to be used to credit funds that were lost due to bank failures.<sup>400</sup> Chapter 134, Senate File No. 17 (1933), provided for the payment of taxes and interest on delinquent taxes.<sup>401</sup> A related bill, Chapter 135, House Roll No. 345 (1933), defined how the delinquent tax dollars were to be allocated. First, they were to be used to pay any unpaid obligations lawfully incurred for the fiscal year for which the tax was levied. Second, money could be placed in a sinking fund to be used to pay the interest and principal

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<sup>399</sup> 1933 Neb. Laws, 124.

<sup>400</sup> Id, C 132, 509.

<sup>401</sup> Id, C 134, 513-514.

of bonded indebtedness of the school. Third, delinquent tax dollars could be added to the general fund. The third option was permissible only if the first two choices were not necessary.<sup>402</sup>

Chapter 138, Senate File No. 124 (1933), amended Section 79-218, Compiled Statutes of Nebraska, 1929, changing the length of terms in district schools and establishing a maximum levy of 7 mills. School was to be open for a minimum of six months if it had less than 10 pupils between the ages of 7 and 16. If there were more than 10 pupils, school had to be in session for nine months. This bill also simplified the types of Class I schools and funding.<sup>403</sup>

High school tuition rates were reduced. Previously set at \$3.00 per week, the tuition fee was lowered to \$2.25 per week. Chapter 139, House Roll No. 113 (1933), amended Section 79-902, Compiled Statutes of Nebraska, 1929.<sup>404</sup>

The Board of Educational Lands and Funds amended investment procedures. Amending Section 79-202, Compiled

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<sup>402</sup> Id, C 135, 515.

<sup>403</sup> Id, C 138, 545.

<sup>404</sup> Id, C 139, 547.

Statutes of Nebraska, 1931, and Section 46-164, Compiled Statutes of Nebraska, 1929, the board could order the investment of the principal of the fund derived from the sale of the educational lands. Dollars could now be invested in United States securities, Nebraska securities, registered county bonds of the state or state registered school district bonds. Municipal bonds for cities and villages within the state were also approved investments. To invest in city or village bonds, no bonded indebtedness was permitted, or if there was bonded indebtedness by the city or village, no default payment of interest or principal, for a period of ten years prior to the date of the investments was allowed.<sup>405</sup> This legislation encouraged investments within the state resulting in more revenue staying within state boundaries.

A Petition Initiative Establishes A Unicameral: 1934

Through the petition initiative process, two initiatives were placed on the November, 1934 ballot. One initiative authorized pari-mutuel betting; the other initiative supported a unicameral form of government, an idea that had been discussed on several occasions earlier

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<sup>405</sup> Id, C 141, 551-553.

in the century. Maybe a unicameral model of government would be more economical than a bicameral system especially with Nebraskans struggling with drought, depression and a poor economy. Supported by Nebraska's U.S. Senator George Norris, this innovative form of state government was thought to bring a cost reduction of government and provide more access to government officials.

...most state legislatures had too many members, thus frustrating the personal efforts of individual legislators. They were forced to cede many of their individual rights as lawmakers to committees, they found it difficult to offer amendments to bills, and their opportunity to debate freely was severely curtailed...Norris also was convinced that corruption was more likely in a two-house legislature since it would be easier for unscrupulous legislators to cover their tracks.<sup>406</sup>

Unicameralism was placed on the ballot along with the authorization of pari-mutuel betting and a federal amendment to repeal Prohibition. All three issues sparked voter interest. Historians question whether Unicameralism itself would have passed had it not been accompanied by the other two issues. All three issues passed. Prohibition was repealed; pari-mutuel betting was established at horse races; and Nebraska adopted a new model of government

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<sup>406</sup> E. MIEWALD, NEBRASKA GOVERNMENT & POLITICS (Univ. of Nebraska Press, 1984), 59.

with the creation of a single legislative house called a Unicameral.

The 50th Legislative Session: 1935

Democrat Robert Cochran replaced Brayn as governor in 1935. Under a unicameral form of government, additional changes in school finance legislation occurred. School finances suffered during the depression. Relief to school districts during 1935 and 1936 was introduced in Chapter 177, House Roll No. 381 (1935). If a district made the maximum financial effort and maintained the normal term, an appropriation from the state government was possible. It was to be allocated by the Superintendent of Public Instruction and averaged over a three-year period using the basis of 1932-33, 33-34 and 34-35. The state appropriation total was \$100,000. It was hoped that the federal government would match or increase this funding amount. Districts were eligible for this funding if there were families with children of school age in the district with parents working for the federal government. If the U.S. Government failed to support this funding, the appropriation was to revert back to the state General Fund.<sup>407</sup>

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<sup>407</sup> 1935 Neb. Laws, C 177, 652-653.

Major revisions and rewriting of the School Lands and Funds legislation occurred during the 1935 session. Amending Section 72-201, 72-203, 72-205, 72-206, 72-207, 72-210, 72-214, 72-217, 72-218, 72-219, 72-220, 72-222, 72-223, 72-235, 72-236, and 33-106 Compiled Statutes of Nebraska 1929 and Section 72-204, 72-211 and 72-221 Compiled Statutes Supplement of 1933, Chapter 163, Senate File No. 58 (1935), added an office for School Lands and Funds to the capitol building. It shifted the commissioners duties to a board.<sup>408</sup> A constitutional amendment was placed on the November 1936 ballot to abolish the office of Land Commissioner.

Gratuities were prohibited to non-resident high school students by Chapter 167, House Roll No. 105 (1935). This act clarified that if government officials were found guilty of transporting a non-resident high school student at public expense to a nearer school offering high school courses or using school district money for room or house rent for this student, a misdemeanor charge would be filed. If convicted, a fine of \$50 for each offense could be levied. There were exceptions to this act. It did not apply to any high

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<sup>408</sup> Id, C 163, 593-611.

schools with a State Normal School training or to a County High School. One would conclude from this legislation that school monies were being diverted for personal gain.<sup>409</sup>

Nebraska had over 7,200 school districts in the mid 1930s. Chapter 168, House Roll No. 144 (1935), provided legislation to use district money to pay for transportation to another district if the school had less than five children. It also established attendance and levy requirements. If a district had more than ten pupils, nine months of school was still expected and the levy was to be 7 mills on the dollar actual valuation when supplemented by the district apportionment from the state school fund.<sup>410</sup>

A special annual levy for a sinking fund was proposed during this biennium. The sinking fund levy could be used to build new school buildings, or provide additions to existing buildings. Section 1 of the act stated that the maximum annual tax was not to exceed 3 mills on the dollar and the term was not to exceed 10 years. Section 2 stated that in all rural school districts the proposition was to be

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<sup>409</sup> Id, C 167, 618-619.

<sup>410</sup> Id, C 168, 619-621.



submitted in the same manner as other special tax levies and 60% of the votes cast must be in favor of the tax.

If passed, the fund was to be kept by the county treasurer and was to be separate from other district dollars.

Recommendations were made to invest the sinking fund dollars into government bonds or with the Board of Educational Lands and Funds. The act further stated that buildings were not to be erected until 70% of the costs had been collected and paid into the treasury.<sup>411</sup>

The first unicameral legislative session was held in 1937. The session laws reflect a change. Bill numbers accompanied with "Senate File" or "House No." disappeared. The new format used "LB," standing for "legislative bill," and attached an identification number for each act. This system would become the format for identifying legislation for the remainder of the 20th century. Legislative bills were recorded in the session law books which continued to use a chapter format.

#### The 52nd Legislative Session: 1937

Minor changes occurred to school finance during the 1937 legislative session. County high schools capped the

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<sup>411</sup> Id, C 170, 624-625.

tax levy at 3.3 mills upon each dollar of the actual valuation. Legislative Bill 212 (1937) amended section 79-1003, Compiled Statutes of Nebraska for 1933.<sup>412</sup> The tax levy in schools in metropolitan cities was altered as well. Legislative Bill 314 stated that the aggregate school tax levy for general operations was not to exceed 10.25 mills on the dollar of actual valuation. If additional money for the purpose of funding and servicing existing bonded indebtedness was needed, it was not to exceed 4 mills. An additional levy of .75 mills could be levied in a year for "The Building Fund."<sup>413</sup> Tuition rates for children of soldiers, sailors and marines continued to change. Legislative Bill 502 (1937), introduced by Fred Carstens of Cass County by Request, set the appropriation sum at \$15,000. This appropriation was to provide relief for Nebraska school districts and was to come from the State's General Fund for the biennium ending June 30, 1939. Section 2 of this bill clarified that the school could also charge tuition for these pupils if they were in grade school and

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<sup>412</sup> 1937 Neb. Laws, C 182, 720-721.

<sup>413</sup> Id, C 183, 722-724.

\$2.25 per week if they were enrolled in any high school.<sup>414</sup>

The 53rd Legislative Session: 1939

The 53rd Legislative Session continued to deal with financial problems and fiscal issues of schools. Cochran remained as governor during this session. Legislative Bill 130 (1939) targeted fiscal management of schools in cities whose population was more than 150,000. A reduced levy was expected if the city had a constituted and functioning health district. If there were no health services, the mill levy was not to exceed 36; if a health district was in place, the levy was not to exceed 35.7 mills. This bill demonstrated the expanding social needs of cities and attempted to not duplicate services and taxation. This bill amended Section 14-514, Compiled Statutes Supplement of 1937.<sup>415</sup>

Legislative Bill 214 (1939) was introduced by Richard Johnson of Dodge to fix and determine the basis of arriving at the actual value of property subject to taxation in hopes of including every element and factor affecting the actual value.

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<sup>414</sup> Id, C 185, 742-743.

<sup>415</sup> 1939 Neb. Laws, C 8, 72.

In arriving at the "actual value" of property, as used in this Act, there shall be taken into consideration its value in the ordinary course of trade and in arriving at the "actual value" of real property there shall also be taken into consideration the proximity of such property to markets, the school facilities and other advantages and other facilities afforded by the governmental subdivision or subdivisions in which the real property, and every other element or factor affecting the actual value of said real property.<sup>416</sup>

This legislation enlarged the range of considerations used by assessors in valuing property for schools.

Counties were experiencing financial difficulties.

A County Budget Act was introduced in 1937 and an emergency levy was adopted for 1939 to provide for auditing claims and contracting of indebtedness.<sup>417</sup>

Legislative Bill 53 (1939) continued appropriations for children of soldiers, sailors and marines. Amending Section 79-524, Compiled Statutes Supplement of 1937, an appropriation was made for the biennium ending June 30, 1941 for \$15,000 or as much of that sum as necessary, for the purpose of paying tuition for these children. The appropriation was not increased, but if all the dollars

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<sup>416</sup> Id, C 102, 460-461.

<sup>417</sup> Id, 468.

were not needed, the law suggested it not be used.<sup>418</sup>

A constitution amendment was introduced by the Committee on Education. Legislative Bill 179 (1939) was to amend Section 1, Article VII, and Article XVII, Constitution of the State of Nebraska, 1875. The new constitutional proposal stated that the Superintendent of Public Instruction was to be a member of the Board of Commissioners for the Board of Educational Lands and Funds. This constitutional amendment passed at a special election on September 21, 1940. It made sense to have the Superintendent of Public Instruction as a member of the board. The major job of the board was to oversee the school lands, the sale, leasing and general management of these lands, but the board was also responsible for the investment of these school funds. The appropriations made from this fund assisted schools. The Superintendent of Public Instruction would add insight to spending needs.

Levy limits were again modified for county high schools. Legislative Bill 315 (1939) amended Section 79-1003, Compiled Statutes Supplement of 1937, stated that when there were more accredited high schools in the county

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<sup>418</sup> Id, C 107, 472-473.

than three, an additional levy of 7/10 of a mill could be levied for tuition.<sup>419</sup> Metropolitan school districts were also seeking to change the aggregate school tax.

Legislative Bill 487 (1939), introduced by Douglas County senators, amended Article 27, Chapter 79, Compiled Statutes of Nebraska, 1929, as amended; amending Section 79-2722 (b), Compiled Statutes Supplement, 1937 (First Section 6, Chapter 176, Session Laws of Nebraska, 1937). This bill would allow the voters to exceed the current school tax levy, but set a lid of 15 mills. If the voters approved the increase, additional funds could be created with restrictions. If additional dollars were needed for the general operation of the school, the additional levy was not to exceed 10.5 mills. If money was needed for paying interest on bonds or retiring a bond, the levy was not to exceed 4 mills. If dollars were needed to acquire building sites or erection a building, the levy was not to be greater than .5 mills. A levy could also be used to establish a recreation fund to create and manage recreation centers and purchase playground equipment.<sup>420</sup>

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<sup>419</sup> Id, C 110, 479-482.

<sup>420</sup> Id, C 112, 484-487.

### Summary

At the end of the 1930s, Nebraska still had over 7,000 school districts. Little was done to change major tax law. The Great Depression impacted local citizens and their ability to pay. Debt was created and laws were developed to provide relief. Local property taxes were still responsible for funding schools. Tuition rates for rural high schools were revised constantly. State aid to "weak schools" continued to adjust the requirements for the length of the school term. Charles Taylor, Superintendent for Public Instruction, advocated for more favorable investments of the Permanent School Funds and suggested greater returns from leasing the education lands. He succeeded in pushing for a constitutional amendment that abolished the office of Land Commissioner and pushed for another amendment making the State Superintendent of Public Instruction a member of the Board of Educational Lands and Funds.

Character education was mandated during this decade, tuition payments were provided for children whose parents were in the service, and a new term known as "welfare" became part of government language. Nebraskans were concerned with crippled children and provided some fiscal

support for their education. School levies could be used to establish playgrounds at schools. Superintendent Taylor was in office throughout this decade. His leadership was strong and he had to defend his educational position in court.<sup>421</sup> He was not satisfied with the inequities and unfairness of the current system, a funding system which placed the burden on local property. A gap in funding between the larger city schools and the small rural schools was evident. Superintendent Taylor might be the educational leader with the power to push for major change in school funding.

Chart G

	<u>1930</u>	<u>1940</u>
Number of districts	7,244	7,192
Number of school houses	7,565	7,511
K-12 Districts	940	836
Number of counties	93	93
Number of children, 5-21	423,602	369,154
Children enrolled	325,216	276,188
Number of teachers	14,400	13,759
Value of School Property	85,303,692	82,361,854
Receipts	27,733,859	20,549,162
Expenditures	37,853,595	20,427,683
Indebtedness	35,121,274	26,740,166
State Apportionment from Endowments	1,025,162	984,696

\*Nebraska Blue Book<sup>422</sup>

<sup>421</sup> G. JENSEN, DEVELOPMENT OF NEBRASKA EDUCATION, 1854-1967 (Lincoln: NE Dept. of Education, 1968), 28-32.

<sup>422</sup> Nebraska Blue Book, (1992-93), 918-920.



## From War to Baby Boomers: 1940-1950

### Introduction

The end of World War I did not bring the end to aggression. Although Americans hated the thought of another war, they listened to radio stories of Adolf Hitler marching across Europe. The United States was forced into the war when the Japanese attacked an American naval base, Pearl Harbor, on December 7, 1941. Ordinance plants, food production, and air bases sprung up throughout the state. The war effort made a positive impact on Nebraska's economy.

The political scene changed in Nebraska during this decade. Republican leadership thrived during the post war prosperity. The weather cooperated for farmers who were becoming more mechanized in their methods. Cattle production increased during this era and farm prices returned to the records achieved during World War I. The family farm began to increase in size. The average farm was about 350 acres in the mid 1930s and it increased to approximately 590 acres by 1955.<sup>423</sup> The legal code would again be revised. In 1941, a Statute Commission was

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<sup>423</sup> J. C. OLSON, & R. C. NAUGLE, HISTORY OF NEBRASKA (Lincoln, NE: Univ. of Nebraska Press, 1997), 351.

established for 1943. The revisions to the code led to the Revised Statutes of 1943, considered as the only true version of Nebraska law.<sup>424</sup> Public school enrollment declined during the decade and the number of school districts decreased from 7,498 in 1940 to 6,807 in 1949. State Superintendent Taylor's leadership and understanding of the inequities of the school funding system was helpful in initiating change.

#### The 55th Legislative Session: 1941

In 1941, the 55th Legislative Session convened. Legislative Bill 139 (1941) allowed school lands to be sold to the United State government, or any county, city, or village for public use for the development of aviation fields. School lands could also be sold for water conservation projects authorized by the 76th Congress entitled, "An Act Authorizing the Construction of Water Conservation and Utilization Projects in the Great Plains and Arid and Semi-Arid Areas of the United States."<sup>425</sup>

Real estate transfers of land from one school district

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<sup>424</sup> P. F. HILL, NEBRASKA LEGAL RESEARCH & REFERENCE MANUAL (St. Paul, MN: Mason Publishing Co., 1983), 69.

<sup>425</sup> 1941 Neb. Laws, C 145, 575-580.

to another were permitted. Legislative Bill 80 (1941) outlined the procedure to transfer real estate from one district to another. This law encouraged district boundaries to broaden. District maps began to change their shape.<sup>426</sup> Legislative Bill 168 (1941) supported an appropriation for the biennium ending on June 30, 1943, of \$20,000 to pay school tuition for children of soldiers, sailors and marines.<sup>427</sup>

#### The 56th Legislative Session: 1943

In 1943, under the leadership of Governor Dwight Griswold, more than fifteen school finance bills were initiated. Legislative Bill 12 (1943) allowed personal property that had been acquired by the state and become the property of the Common School Fund through bequest, gift, escheat or forfeiture to be sold. The articles would be converted into money and deposited into the Common School Fund.<sup>428</sup> Another bill, LB 85 (1943), required that the rental fees from saline lands be placed in the Temporary School Fund instead of the Permanent School Fund.<sup>429</sup>

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<sup>426</sup> Id, C 162, 646-649.

<sup>427</sup> Id, C 165, 658-659.

<sup>428</sup> 1943 Neb. Laws, C 155, 565.

<sup>429</sup> Id, C 156, 566.

Legislative Bill 97 (1943) amended legislation relating to the investment of bonds by the Board of Educational Lands and Funds. This bill empowered the board to sell various bonds for the purpose of immediate reinvestment. If a capital gain was noted, a capital reserve fund was set up to offset past capital losses.<sup>430</sup>

School land sales continued to be regulated.

Legislative Bill 213 (1943) stated that no individual, partnership or corporation could hold more than 640 acres of educational lands unless the leased land lies adjacent to the lands the party already owns. Additionally, if the lessee failed to pay the rental on the land, the amended law provided for the forfeiture of the lease.<sup>431</sup> Isolated tracts of school lands could be sold if the tract contained less than 40 acres, was undivided or was a city lot. Legislative Bill 265 (1943) stated that prior to the land sale the land needed to be appraised. The land needed to be sold at public auction by a representative of the Board of Education Lands and Funds or by the county treasurer where the land

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<sup>430</sup> Id, C 157, 566-568.

<sup>431</sup> Id, C 159, 570-573.

is located.<sup>432</sup>

A new law, LB 267 (1943), clarified that if a land owner petitioned the county superintendent to transfer land into another district that was more conveniently located to an adjoining district, the land owner needed to notify the respective districts that might be affected and enter an order to transfer the land. After the transfer was filed, the land was subject to school taxation in the new district.<sup>433</sup>

Legislative Bill 414 (1943) was a new law authorizing the governing board of all lands of the State, except the Board of Educational Lands and Funds, but including the school districts, to lease lands under their control for oil and other petroleum products. The lands could be leased for a maximum of 10 years at \$.25 per acre. This was a new strategy for funding schools in Nebraska. Under a separate bill, LB 415 (1943), the Board of Educational Lands and Funds could lease school or public lands belonging to the state for oil and gas exploration and development. If the lands were previously leased for grazing or agriculture,

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<sup>432</sup> Id, C 162, 575-576.

<sup>433</sup> Id, C 162, 577.

those rights were protected.<sup>434</sup>

A new revenue bill, LB 147 (1943), allowed the State Board of Equalization to make a levy of one-tenth of one mill in 1943-1947 on all the taxable property in the state, except intangibles, for the purpose of reimbursing the Permanent School Fund for the losses that were sustained as reported by the Auditor of Public Accounts to the Board of Educational Lands and Funds. State ex rel. Walker v. Board of Commissioners for Educational Lands and Funds, et al. was affirmed by Nebraska's Supreme Court.<sup>435</sup> The action by the state to require defendants to make an accounting of the Permanent School Trust Fund would not be allowed. The state, as a trustee of public property and funds, cannot be sued without its consent. The suit further clarified that while it is the obligation of the state, imposed by the Constitution, to replace shortages in the Permanent School Fund, the constitutional provision fixing the obligation was not the duty of the court.

Legislative Bill 425 (1943) was a related bill. If the money raised by LB 147 (1943) was not needed to reimburse

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<sup>434</sup> Id, C 164-579-586.

<sup>435</sup> 141 Nebraska 172, 3 N.W.

the Permanent School Fund, the money could be used for the construction and equipment of a historical building for the Nebraska State Historical Society. The additional dollars were to be put into a special fund until an appropriation was made.<sup>436</sup>

Impropriety surrounded the new school district transfer law. LB 180 (1943), amended section 79-2101, Compiled Statute Supplement 1941, allowing the county superintendent to cancel the transfer if it was improperly used.<sup>437</sup> The motives for transfers were often to avoid paying higher school taxes. Another tuition appropriation for children whose parents were serving in the military in Nebraska was approved for \$50,000.<sup>438</sup>

The county high school bill (1907) had not been well received. The vision of this organizational format was sound but local or neighboring schools were more frequently chosen. Thus, LB 225 (1943) established procedures to dissolve organized county high schools. Budget or bond debt were clearly spelled out in the law.<sup>439</sup> Appropriations from

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<sup>436</sup> 1943 Neb. Laws, C 221, 767.

<sup>437</sup> Id, C 194, 649-652.

<sup>438</sup> Id, C 195, 653.

<sup>439</sup> Id, C 198, 666-667.

the State continued to supplement weak schools and established a rate for tuition for free high school tuitions. Legislative Bill 236 (1943) amended 79-902 and 79-522 Compiled Statute Supplement, 1941, establishing the high school tuition rate at \$3.00 and supporting grade school children in weak districts at \$1.00 per week.<sup>440</sup>

Legislation for apportionment funds from Nebraska's treasury continued to be modified. Legislative Bill 266 (1943), amended section 79-1609 Compiled Statutes Supplement, 1941, which supported schools. The Superintendent of Public Instruction continued to apportion the funds based on the number of youth reported by the county superintendent. Dollars were allocated to counties that had unsold school lands or saline lands. The last appraised value was considered to be its actual value. School districts could not appeal to the Board of Educational Lands and Funds to reappraise the land if the district board did not feel that the appraisal was in proportion to the value of adjoining land of like value. A reappraisal of the land became possible which ultimately

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<sup>440</sup> Id, C 199, 668-669.



could provide more appropriation dollars to a district.<sup>441</sup>

The Committee on Education introduced LB 435 (1943), amending sections 79-212 and 79-2523, Compiled Statutes Supplement, 1941. Section 1 of the bill stated that the aggregate school tax levied for general school purposes in school districts organized under 79-310 to 79-311 inclusive and 79-601 to 79-604 inclusive was not to exceed 8 mills on the dollar of actual valuation. This mill levy did not change, but if a district wished to increase the levy amount, it could provided it did not exceed 22 mills during the years of 1944 and 1945. Section 2 extended the same aggregate school tax levy of 22 mills for schools in cities of 1,000 or more.<sup>442</sup> The Education Committee introduced a similar bill increasing the aggregate tax for county high schools. One additional mill could be levied making the maximum levy for county high schools 3.3 mills until the end of 1945.<sup>443</sup>

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<sup>441</sup> Id, C 200, 670-671.

<sup>442</sup> Id, C 204, 678-682.

<sup>443</sup> Id, C 206, 682-685.

### The 58th Legislative Session: 1945

The 58th Legislative Session continued under Governor Griswold. State funding for Nebraska's schools ranked them at the bottom of the list in 1945. About one percent of funding came from the state.<sup>444</sup> Nebraska had the lowest pupil average daily attendance per district at 29 and the lowest average population per district at 173. Nebraska also had the lowest assessed value per district which was \$11,826.<sup>445</sup> Local property tax funded schools and great differences continued to be noted between metropolitan schools and rural schools.

Legislative Bill 322 (1945) provided schools in metropolitan cities with water free of charge. The bill stipulated that the schools were to conserve water and if the flush tank (toilet) used more than 50,000 gallons of water per month, the city board of directors could collect a fee for this additional use. Metropolitan schools had more advanced restroom facilities; many rural schools used the familiar privy.<sup>446</sup> This statute is an example of how the

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<sup>444</sup> S. J. Buss, Public School District Reorganization and Consolidation in Adams County, Nebraska, 1949-1989, *Nebraska History*, 1991, Vol. 72, No. 2), 89.

<sup>445</sup> *Id.*

<sup>446</sup> 1945 Neb. Laws, C 18, 122-123.

laws reflect society. There were no water fees in rural schools. Most schools had a well outside the school house that needed to be primed.

School land rental rates increased. Legislative Bill 265 (1945) increased the interest on this property to 7%.<sup>447</sup> Additional legislation was approved for state bonds. Legislative Bill 180 (1945) specified that bonds needed to be stamped and signed designating the fund to which the bond belonged. The state funds included the Permanent School Fund, Permanent University Fund, Agricultural College Endowment Fund, Normal Endowment Fund and Veteran Relief Fund.<sup>448</sup>

Increased aggregate school tax levies for additional funds had been approved during the previous biennium. Legislative Bill 165 (1945) merely extended the fiscal years for the aggregate school tax of 22 mills to 1947. This amended 79-212 and 79-2528, Revised Statutes of Nebraska, 1943.<sup>449</sup> Students going on for a high school education needed to take an exam at the completion of the elementary

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<sup>447</sup> Id, C 175, 560-562.

<sup>448</sup> Id, C 180, 467-468.

<sup>449</sup> Id, C 201, 608-610.

course. Although the statutes encouraged a free high school education to all students in the state, LB 365 (1945) required students who completed their elementary course in a rural school to take a test. To continue in 9th grade, each student needed a signed statement by the county superintendent indicating eligibility.<sup>450</sup>

Tuition payment for children of soldiers, sailors and marines continued to receive a legislative mandate. The fees increased to \$2.00 per week for grade school children and \$4.50 per week if the student was in high school.

A \$5,000 appropriation was budgeted for this purpose.<sup>451</sup>

Additional bills amended other school funding issues.

Legislative Bill 363 (1945) increased bonded indebtedness to 8%, LB 179 (1945) increased free high school tuition to \$4.50 per week<sup>452</sup> and LB 202 (1945) changed the time of apportionment from a semiannual system to the third Monday in January.<sup>453</sup> Rural high schools were dissolving too.

Legislative Bill 266 (1945) provided procedures for

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<sup>450</sup> Id, C 202, 610-613.

<sup>451</sup> Id, C 203, 613-614.

<sup>452</sup> Id, C 207, 620-621.

<sup>453</sup> Id, C 210, 623-624.

dissolving rural high schools organized in Article 8, Chapter 79, Revised Statutes of Nebraska, 1943.<sup>454</sup>

School tax laws for metropolitan cities were amended. Section 79-2722, 79-2723, 79-2724 and 79-2730, Revised Statutes of Nebraska, 1943, was amended by LB 304 (1945) which clarified that the aggregate school tax was not to exceed 15 mills on the actual dollar value of all taxable property except intangible property. Money levied for bonded indebtedness, site and building, and sinking fund could go into the general fund if needed.<sup>455</sup> As people continued to move into the Nebraska cities, additional dollars were needed in the general fund.

Extensive school finance legislation occurred during the 1945 legislative session. Wayne Reed was State Superintendent for Public Instruction at this time. His campaign motto reflected his thinking on schools: "locally controlled, locally administered, community-centered schools."<sup>456</sup> As World War II ended, demographic changes in rural population were significant. Enrollment in elementary

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<sup>454</sup> Id, C 218, 635-637.

<sup>455</sup> Id, C 214, 627-631.

<sup>456</sup> G. JENSEN, DEVELOPMENT OF NEBRASKA EDUCATION, 1854-1967 (Lincoln: NE Dept. of Educ., 1968), 32.

school districts had decreased from 129,507 in 1922 to 53,925 in 1946.<sup>457</sup> Mill levies varied from zero to 74.8 in 1947-48.<sup>458</sup>

#### 59th Special Legislative Session: 1946

In 1946 a special session of the legislature was called on August 22. This was the 59th Legislative Session and was labeled "extraordinary" meaning that it was called for a special purpose outside the normal legislative calendar. A bill, LB 4 (1946), was approved during this session directing the Superintendent of Public Instruction to receive the funds from the United States government under the National School Lunch Act. In addition, \$10,000 was appropriated from the Nebraska's general fund to cover the costs of administering and disbursing these funds.<sup>459</sup>

A constitutional amendment was slated for the ballot in 1946 that would provide major changes to school funding and make it more equitable. Superintendent Taylor

...led a drive for equalizing the educational opportunities for school children of the state, pointing out that the property values of the state did not coincide with the centers of the school

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<sup>457</sup> F. E. HENZLIK & L. L. CHISHOLM, NEBRASKA LOOKS AT HER SCHOOL DISTRICTS (Lincoln: Univ. of Nebraska Press, 1948), 13.

<sup>458</sup> Id, 4.

<sup>459</sup> 1946 Neb. Laws, C 6, 62.

population and suggested a statewide tax be enacted to be distributed by a legislative formula to correct the inequities and unfairness in the scheme of taxation for the support of schools.<sup>460</sup>

This constitutional amendment was soundly defeated by a two to one margin by Nebraska voters. The citizens voice was clearly heard on this issue - keep things the same.

The 60th Legislative Session: 1947

The 60th Legislative Session introduced additional school finance bills. Val Peterson, another Republican governor, replaced Griswold. An appropriation shortfall occurred leaving the Board of Educational Lands and Funds in need of additional funding. Legislative Bill 426 (1947) provided \$3,700 from its own fund, \$2,450 out of Auditor Account No. 254D and an additional \$1250 out of the general fund to defray salaries and maintenance.<sup>461</sup>

Mill levies could be increased to support the erection of school houses, school buildings, improvements or additions. Legislative Bill 357 (1947) allowed a maximum of 5 mills for this purpose and only for a term of 10 years. The county board could levy a tax of up to 4.3 mills for a

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<sup>460</sup> G. JENSEN, DEVELOPMENT OF NEBRASKA EDUCATION, 1854-1967 (Lincoln: NE Dept. of Educ., 1968), 32.

<sup>461</sup> 1947 Neb. Laws, C 237, 753-754.

county high school. This was up one mill from the previous year.<sup>462</sup> Levy increases on the aggregate levy for general school purposes in school districts organized under Article 3 and 6, Chapter 79 Revised Statutes of Nebraska, 1943, had no restriction while those districts organized under 79-301 could not exceed 8 mills but no restriction would be placed on the years ending in June, 1948 and 1949. This legislation was the first to eliminate mill limit restrictions.<sup>463</sup>

The free high school tuition rate saw another hike. The Education Committee proposed this amendment and raised the rate to \$6.00 per week.<sup>464</sup> The aggregate tax for youth in high schools was increased to 5.3 mills and allowed an additional one mill increase. The amount of the levy did not change but the bill was extended to the end of the fiscal year in 1949.<sup>465</sup> Certain textbook purchase restrictions were eliminated by LB 310 (1947). District school boards and trustees of high school districts could

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<sup>462</sup> Id, C 270, 872-874.

<sup>463</sup> Id, C 271, 874-875.

<sup>464</sup> Id, C 277, 885.

<sup>465</sup> Id, C 278, 885-886.



purchase all texts necessary. Greater freedom in text selection appeared with these amendments.<sup>466</sup> A change in reporting was initiated with LB 84 (1947). This bill required the Board of Education to have a report in writing detailing all revenue raised by taxation and boards were to prepare an estimate for the upcoming year. This information would be useful to state resources for planning and data comparison. This bill amended section 79-2527, Revised Statutes of Nebraska, 1943.<sup>467</sup>

The Committee on Education proposed legislation for Article 25 schools. For fiscal years ending in June 1948 and 1949 there was to be no limit on the amount of the levy. Legislative Bill 530 (1947) amended section 79-2528, Revised Statutes Supplement, 1945. The rationale for this decision was to allow schools to prepare for the additional children coming in the early 1950s.<sup>468</sup> A similar bill, LB 464 (1947) authorized an additional levy of 5 mills for a period of four years from the effective date of the act to provide for building, altering and equipping schools; if it was not

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<sup>466</sup> Id, C 283, 891-892.

<sup>467</sup> Id, C 284, 904-905.

<sup>468</sup> Id, C 293, 904-906.

needed for this purpose, it was allowed to be credited to the general operation fund for the school or for the site and building fund.<sup>469</sup> The Education Committee introduced LB 526 (1947) which was a special appropriation of \$40,000 from the General Fund to assist the school district of Bellevue and District No. 61 of Douglas County to pay for general operating expenses for both of these districts.<sup>470</sup>

Introduced by the Committee on Judiciary, LB 39 (1947) provided for the apportionment and distribution of public grazing funds that were collected from the United States government under an act of Congress known as the Taylor Act. Money was to be distributed according to the number of acres of grazing land in each county and used for public schools and roads.<sup>471</sup>

#### The 61st Legislative Session: 1949

The 61st Legislative Session got underway with Val Peterson as governor. Significant changes appeared in the school funding laws during this biennium. Legislative Bill 490 (1949) made changes in the educational lands law. A

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<sup>469</sup> Id, C 298, 913-915.

<sup>470</sup> Id, C 302, 919-920.

<sup>471</sup> Id, C 300, 915-918.

method of reappraisal was established for the lands as well as reclassifying the lands if needed. Also, the board had the right to forfeit a lease if rental fees were not paid for a period of six months. School lands were not to be leased to nonresidents of the state. Section 72-205 clarified that the board was to adopt a schedule of valuation. To do this, the board needed to consider the sale price and the average crop production of other lands in the county, the rental value of nearby land and other facts that were relevant to school lands.<sup>472</sup> Legislative Bill 413 (1949) dealt with eminent domain regarding school lands and how the payment process, including allocation for damages would be handled.<sup>473</sup> Some of the educational lands were on timber land. Legislative Bill 233 (1943) eliminated provisions for unnecessary destruction of timber; these lands were now available to be sold. Some additional tracts of school land were available in 40 acres or less.<sup>474</sup>

Although not directly linked to funding, an act was introduced to identify a procedure to accredit elementary

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<sup>472</sup> 1949 Neb. Laws, C 212, 602-607.

<sup>473</sup> Id, C 213, 604-610.

<sup>474</sup> Id, C 214, 610-611.

and secondary schools. By developing an accreditation standard, it was hoped that improved quality of education would be forth coming.<sup>475</sup>

Reorganization of School Districts Act: 1949

Another significant bill was introduced by Metzger, Hoyt, and Burnham. Legislative Bill 27 (1949) called for reorganization of Nebraska's schools. Known as the Reorganization of School Districts Act, this bill's intent was to reduce the number of school districts in the state. Nebraska's school districts numbered 6,807 in 1948-49.<sup>476</sup> The framework for the process was defined in statute. County committees were to be established as well as a state committee for reorganization. Section 9 clarified that when the county committee determined that some reorganization was desirable, it developed a plan showing recommendations. One of the major thrusts of this legislation was to "reduce disparities in per pupil valuation among school districts."<sup>477</sup> Another important purpose was to equalize the educational opportunity for pupils.<sup>478</sup> After developing a

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<sup>475</sup> Id, C 248, 672-673.

<sup>476</sup> Nebraska Blue Book, 1992-93, 919.

<sup>477</sup> Id, C 249, 676.

<sup>478</sup> Id, 677.

plan, it was sent to the state committee for review. If recommendations were made, they were advisory in nature.

The Blanket Tax Levy supported elementary schools. Legislative Bill 388 (1949) defined the blanket tax levy stating that it was a uniform minimum tax levy on all elementary school districts. The levy was to raise two-thirds of the cost of operating for all elementary school districts and it was to be levied on the actual value of the property except intangible property. The tax was to be determined by the county treasurer based on figures from the previous year's expenditures. The tax levy was not to exceed 4 mills. To be eligible for this funding, a school district needed to have at least 5 students enrolled. High school districts could participate in this funding too. If a district would not utilize all the distributed tax, it could request only necessary funding. If a district contracted for instruction, contract dollars plus transportation costs were funded. The distribution formula required two-thirds of the dollars to be divided equally by elementary schools with an average daily attendance of five or more. The

remaining one-third was to be apportioned to eligible districts on the basis of average daily attendance.<sup>479</sup>

Another act of Congress known as the Flood Control Act, paid funds to the state treasurer for leasing lands acquired by the U.S. for flood control purposes. Legislative Bill 136 (1949) defined the procedures for receiving this funding for schools. The apportionment and distribution of this money came from lease money and was to be distributed to counties where the leases were paid. County superintendents apportioned the amount in the following manner: 1/5 of the whole amount went to the public road fund in the county and the remaining 4/5 to the school districts in proportion to the respective acreage of lands leased in each school district acquired for flood control purposes.<sup>480</sup>

Children of parents who resided on tax exempt state-owned air fields also received tuition funding. Legislative Bill 217 (1949) approved tuition fees of \$3.00 per week for an elementary school child and \$6.00 per week for a child enrolled in high school. The tuition was paid by the

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<sup>479</sup> Id, C 250, 680-682.

<sup>480</sup> Id, C 251, 682-684.

Department of Aeronautics.<sup>481</sup>

The Educational Finance Act of 1949, enacted by the 81st Congress of the United States, provided federal aid to public education for elementary and secondary schools. Legislative Bill 504 (1949) authorized the state treasurer received this funding and was to deposit it into a separate fund entitled the "Educational Finance Fund." This money went to counties based on an amount per pupil in average daily attendance and was to be distributed by the county superintendent. This support was to begin after June 30, 1953.<sup>482</sup>

Rewriting of School Code: Six School Classifications Defined

A bill was also introduced during this session, LB 1 (1949), to recotify the school laws. The bill was introduced by Hoyt, Metzger and Burney and required major rewriting of the school code. It also defined the terms of the school year as a minimum of 36 weeks of instruction.<sup>483</sup> Section 2 of the law reclassified school districts into six classifications. Class I schools were elementary only

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<sup>481</sup> Id, C 252, 684-685.

<sup>482</sup> Id, C 254, 686-688.

<sup>483</sup> Id, C 256, 690.

schools; Class II schools were those embracing territory having a population of 1,000 inhabitants or less maintaining both an elementary and high school under a single board; Class III school districts embraced a population of more than 1,000 and less than 50,000 inhabitants having both an elementary and high school under a single board; Class IV districts embraced a population of more than 50,000 inhabitants and maintained both an elementary and high school; Class V schools embraced a territory having a population of 150,000 and maintaining both elementary and high school grades under the direction of a single board; and Class VI school districts were high school only districts. Under Article IV, Provisions Applicable to All Schools, part (c) was entitled Taxation. Section 70.79-431 clarified that it was the school board's duty to prepare an estimate of the amount of money required for maintenance of schools during the upcoming year. This amount would be levied on the taxable property of the districts. Schools needed to be in session for eight months except Class V schools.<sup>484</sup> Agricultural demands in the rural schools often required students to assist with the family farm. Class V

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<sup>484</sup> Id, 716.



districts were urban districts so attendance requirements within these districts were longer.

Section 71.79-432 stated that the aggregate school tax levied for general school purposes in Classes I, II, III, and VI school districts was to be without restriction. In districts I, II, and VI class, no levy was to be made in excess of 12 mills on the dollar actual valuation unless it was appropriated by a 55% vote of the people. Subsection 2 discussed that a further appropriation, not to exceed 1/4 mill could be levied for a recreation fund. Subsection 3 identified that tax for Class II districts, exclusive of schools bonds and special warrant taxes, was to have no restriction for the fiscal years ending June 30, 1950 and June 30, 1951. After that a mill levy was not to exceed 20 mills for maintenance and operation of schools. An additional mill could be added to establish a building fund for repair and alteration of buildings.<sup>485</sup>

Section 79-433 and 79-434 discussed the duties of the county clerk. The clerk was to certify the assessed valuation and certify the levy prior to September 1. Section 79-435 clarified that it was the school board's

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<sup>485</sup> Id, 717.

job to report to the county superintendent and county clerk all the taxes voted by the school district during the current school year.

The Free High Tuition Fund was still in place. Section 75, 79-436 discussed that upon receipt of the proper certificate, the county board would levy on all taxable property, a sufficient tax to pay the high school tuition. The tuition was a rate fixed by law per week or fraction thereof. The money came out of the free high fund. If not enough money existed in the fund, then the fund shall be distributed pro rata to the districts entitled to such funds.<sup>486</sup>

Section 79-446 specified the requirements for children of officers enlisted in the U.S. service and on active duty in Nebraska. Chapter 72, Article 6, stated that these children could attend school free, without payment of tuition. The rates remained the same - \$3.00 for grade school children and \$6.00 for high school pupils.

Class V school districts were discussed in Article X. Section 265. Section 79-1007.01 clarified that the aggregate school was not to exceed 15 mills on the dollar upon the

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<sup>486</sup> Id, 740-741.

actual value of all the taxable property of the district, except intangible property; provided that for a period of four years from and after April 8, 1947, the aggregate school tax may be 20 mills but not in excess of 20 mills, in any one year on the dollar upon the actual value.

Section 266. 79-1007.02 created for the general operation of schools, a fund resulting from an annual levy of 15.5 mills on the dollar. A further fund resulting from an annual levy of not to exceed 4 mills was created for the purpose of paying the interest on retiring, funding and servicing bonded indebtedness. A further fund, resulting from an annual levy of not less than .5 mills on the dollar was created for acquiring sites for buildings.<sup>487</sup>

Article XI defined provisions applicable to Class VI districts which were formerly organized as rural high school districts or county high districts. Subsection 2 of Section 297 79-1103.01 stated that the board of education for Class VI district, was to set apart each year, out of the aggregate tax authorized to be levied for high school purposes arising from the one mill levied, the amount necessary to pay the high school tuition of students

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<sup>487</sup> Id, 780-781.

residing within the said school district.<sup>488</sup>

Article XIII was entitled School Funds. Section 379 79-1304 clarified that the county superintendents were to apportion the entire amount they received as follows: the money the Superintendent of Public Instruction certified as payment in lieu of taxes was to be distributed to the free high school tuition fund and in districts where there were school or saline lands, the amount was determined by the appraised valuation of those lands and the respective school levies. This share was to be equally distributed to the qualifying districts. The balance was distributed to the county, money received by the county treasurer for fines and licenses, and proceeds from sale of school houses, sites or other property of a district and also all unexpended balances of proceeds of taxes levied by a district, when the district has been taken over by the U.S. for any defense, flood control, irrigation or war project. The sum total was to be distributed to the districts of the county pro rata according to the enumeration of pupils first returned by the secretaries of the various districts.

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<sup>488</sup> Id, 791.

The total apportionment of each district was to be (1) its share in the district apportionment made by the Superintendent of Public Instruction, (2) its pro rata share of the balance of the amount of the state apportionment, (3) the amount received from fines and licenses, and (4) proceeds of sale and expended balances of taxes when a district has been taken over by the U.S. for any defense, flood control, irrigation or war project. Funds were still tied to using legally qualified teachers and meeting the time requirement. To receive funds, all classes need to be in session for nine months and not less than 176 days; Class I school session requirements were eight months or 156 days.<sup>489</sup>

Legislative Bill 410 (1949), amended section 79-212, Revised Statutes Supplement, 1947, and provided an aggregate levy for general school purposes in school districts organized under Chapter 79, articles 3 and 6, Revised Statutes of Nebraska, 1943. There were to be no levy restrictions for the fiscal years ending June 30, 1950 and June 30, 1951. Section 1, 79-212, Revised Statutes of

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<sup>489</sup> Id, 819.

Supplement, 1947, was to be amended.<sup>490</sup> Similarly, LB 409 (1949) lifted restrictions on the aggregate levy for general school purposes in school districts in cities of 1000 or more amending section 79-2528, Revised Statutes Supplement, 1947.<sup>491</sup>

Legislative Bill 169 (1949), amended section 79-1006, Revised Statutes Supplement, 1947, increasing the maximum amount levied for the aggregate county high school tax to 12 mills. If there was a need to exceed this amount, a 55% majority vote for approval was needed.<sup>492</sup>

Legislative Bill 394 (1949) increased the amount of the levy to pay the tuition of high school students residing within the county high school district who wanted to attend high school in districts other than the county high school district within their own county. This bill amended section 79-1007 and 79-1008, Revised Statutes of Nebraska, 1943, The one mill levy was to be used to pay for the tuition but if the money was not sufficient to pay the full amount of the tuition, then the fund shall be paid pro rata to the

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<sup>490</sup> Id, C 257, 866-868.

<sup>491</sup> Id, C 268, 882-883.

<sup>492</sup> Id, C 259, 869-870.

district or distributed pro rata among the districts. In counties having three or more accredited high schools other than a county high school, the Board of Regents had the authority to levy an additional 7/10ths of one mill for tuition.<sup>493</sup>

Legislative Bill 65 (1949) amended section 79-2003, Revised Statutes of Nebraska, 1943, and provided for the distribution of unexpended proceeds of taxes that were levied by a district when such district has been taken over by the United States for any defense or war project.<sup>494</sup>

Schools within cities of Primary Class, were to conform with LB 400 (1949), which clarified the maximum amount of tax for the "bond interest fund" and the "bond sinking fund." The interest fund was to draw no more money than it needed to pay the interest bill while the sinking fund levy was mandated in statute in section 79-2625. The aggregate school tax for this type of school was not to exceed 21 mills for the fiscal year beginning July 1, 1949 and an additional mill thereafter.<sup>495</sup>

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<sup>493</sup> Id, C 260, 871-872.

<sup>494</sup> Id, C 265, 878-879.

<sup>495</sup> Id, C 270, 886-887.

### Summary

Nebraska's school finances underwent a great deal of revision during the decade of the 1940s. Ideas to change the funding appeared to be reactive rather than proactive. When a shortage existed, additional levies were added. When budget limits were unknown, levy limits were unrestricted. The decade witnessed increased support from the federal government for special programs including the newly added National School Lunch Program and the Taylor Act which provided money to schools apportioned according to the number of acres of grazing land in each county. Federal dollars also supported schools under the Flood Control Act. The Educational Finance Act of 1949 enacted by the 81st Congress apportioned money to counties according to the average daily attendance for pupils but would not go into effect until 1953.

The Blanket Levy Tax of 1949 mandated a uniform minimum tax levy on all elementary school districts and encouraged mergers. The levy was returned back to the districts that had at least 5 pupils enrolled. Tuition for nonresidents continued to be modified throughout the decade too.

The school laws were recodified in 1949 and an



important change with this legislation was the reclassification of school districts. This plan placed school districts into various classes according to population size of the community and/or the type of school. Taxation differed according class.

Nebraska's tax system continued to be a problem. An attempt to increase state aid to schools occurred in 1946 with a constitutional amendment. It was defeated by a two to one margin. State Superintendent Taylor supported this attempt but the people's voice favored local control for school funding. Schmidt authored *Appraisal of the Nebraska Tax System* in 1941. He stated

...Nebraska's tax system contains serious compositional defects which require correction. The intangible tax rate is too high compared with rates prevailing in other states or with rates imposed upon investments in farm lands. These rates are too high also in relation to current security yields and they serve as a powerful incentive to evasion....The motor vehicle license tax is defective in its failure to require owners of trucks with hard rubber tires or multiple axles to compensate for extra wear and tear to highways...The liquor license tax is arbitrary and enables licensees to exercise limited monopoly control...Unsatisfactory Tax Administration. It is revealed, however, that the tax system is most defective when viewed from the operating standpoint. Gross inequalities in the assessment result from a too great reliance upon personal judgment rather than objective standards. As a consequence the concept of uniformity loses its true meaning. Assessments, instead of reflecting

real inequalities in value, tend to ignore them and show equality where none exists. Thus the real estate assessments in many cases do not reflect inequalities in value which are due to differences in local tax rates; urban real estate assessments do not reflect adequately the effect of depreciation or the influence of location. In some areas assessments are made more with a view to securing an adequate tax base than to provide an equitable distribution of the tax burden.<sup>496</sup>

Schmidt discussed the excessive reliance upon personal judgment and suggested that local assessors resort to "rule of thumb" procedures. He suggested that county sheriffs acted arbitrarily and inefficiently when they deferred serving distress warrants until the delinquent tax payer was about ready to exit the county or hold an auction.<sup>497</sup> Further defects of Nebraska's tax system resulted from provisions of the distribution of revenue.

Thus inequality among school districts, municipalities, and counties in taxable resources is due largely to the fact that railroad properties are taxable in the jurisdictions through which the lines operated rather than by all jurisdictions which contribute to their support. The practice of earmarking given revenues for specified purposes tends to remove these funds from legislative control and thus interferes with the orderly process of adjusting tax revenues to changing governmental needs.<sup>498</sup>

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<sup>496</sup> E. B. SCHMIDT, AN APPRAISAL OF THE NEBRASKA TAX SYSTEM (Lincoln: Univ. of Nebraska, 1941).

<sup>497</sup> Id, 196.

<sup>498</sup> Id, 197.

Leadership during this decade continued under Superintendent of Public Instruction Taylor until 1943 and under Wayne Reed who replaced him. Reed's tenure ended in 1950. Senator Metzger was active in promoting legislative change for school funding.

Nebraska still had over 6,800 school districts in 1949. Quality was becoming an issue with the attempts at accrediting schools. School enrollment figures would increase slightly in the upcoming decade but still not reach the highs of the early and mid 1930s.

Chart H

	<u>1940</u>	<u>1950</u>
Number of districts	7,192	6,734
Number of school houses	7,511	7,008
K-12 Districts	836	647
Number of counties	93	93
Number of children, 5-21	369,154	317,850
Children enrolled	276,188	227,879
Number of teachers	13,759	11,948
Value of School Property	82,361,854	112,612,541
Receipts	20,549,162	48,577,379
Expenditures	20,427,683	46,544,048
Indebtedness	26,740,166	22,120,221
State Apportionment from Endowments	984,696	1,561,307

\*Nebraska Blue Book<sup>499</sup>

<sup>499</sup> Nebraska Blue Book, (1992-93), 918-920.

## Major Changes on the Horizon: 1950-1960

### Introduction

During the 1950s many Nebraskans began to enjoy a more relaxed lifestyle. Electrical power spread to rural parts of the state. Television supplemented radio for entertainment. An interstate highway system began to weave across the nation. Like the earlier days of the railroad, the interstate system had a positive impact on the state's economic growth.

Nebraska farms witnessed change. Farms had grown larger in size yet there were fewer of them. In 1940, there were approximately 121,000 farms with the average size close to 400 acres. Twenty years later, in 1960, the farm size had risen to 528 acres but the number of farms was reduced to 90,000. The number of mortgaged farms decreased to 29,509 in 1950, while approximately 75% of Nebraska's farms were mortgage free. Technological advances in equipment, improved irrigation and increased scientific farming practices helped establish Nebraska as a leader in agriculture. As farms grew larger and became more mechanized, fewer people were needed as farm laborers. Suburbs sprung up in metropolitan areas bolstering the

construction business.

Post World War II conflicts emerged. The Korean Police Action required American troops in the mid-1950s and Americans became very suspicious and fearful of the Russians. Termed the Cold War, the United States initiated defense plans to keep the Russians in check. Fear of nuclear attack from the A-bomb troubled many Americans. Bomb shelters were built at both work sites and family homes. Nebraska was chosen as the headquarters for the Strategic Air Command which incorporated a defense system of planes and missiles to combat foreign threats. Intercontinental ballistic missile sites were scattered around rural Nebraska.

Republican leadership continued in Nebraska.

Val Peterson, Robert Crosby and Victor Anderson held the governorship during the decade. Freeman Decker became the State Superintendent of Public Instruction following Otto G. Ruff who was appointed by Governor Peterson as a replacement for Wayne Reed. Nebraska's school system had more one teacher schools than any other state in the nation from 1950 to 1980. In 1950-51 there were 6,604 school districts, 6,794 school houses, 648 K-12 districts and 11,942 teachers

in Nebraska. In 1979-80 there were 1,097 school districts with 1,703 school houses, 319 K-12 districts and 19,301 teachers.<sup>500</sup> Nebraska also led the nation in the number of school districts from 1950 to 1970.<sup>501</sup>

#### The 62nd Legislative Session: 1951

The 62nd Legislative Session was led by Republican Governor Val Peterson. Two constitutional amendments were proposed during this session which affected schools and finance. The first amendment was LB 120 (1951), introduced by Hern and Marvel, to change the method of taxing motor vehicles. The proposal would amend Article VIII, Section 1, of Nebraska's Constitution relating to revenue. The amendment clarified that the tax proceeds from motor vehicles were to be allocated to the state, counties, townships, cities, villages, and school districts of that county in the same proportion to the levy each bears on personal tangible property.<sup>502</sup>

Rationale was provided for this bill during a legislative hearing. Karl Vogel, chairman of the Government

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<sup>500</sup> Nebraska Blue Book, 1992-93.

<sup>501</sup> S. J. Buss, Public School District Reorganization and Consolidation in Adams County, Nebraska, 1949-1989, *Nebraska History*, 1991, Vol. 72, No. 2, 89.

<sup>502</sup> 1951 Neb. Laws, C 160, 636.

Committee suggested the following concerns: 1) the state loses \$600,000 to \$800,000 from nomad or transient owners; and 2) under the present law it was possible for an owner to have a vehicle and not pay tax on it for 21 months. Support for this bill came from the County Commissioners Association, the City Council of Omaha and the Omaha School District. A petition effort had been underway to get this on the ballot as an initiative but the drive lasted five weeks, insufficient time to gain the needed 7,000 signatures. Although no attempt was made to change the proceeds of the motor vehicle tax, counties were assured that the money would stay within the taxing county in the same proportion as under the current law.<sup>503</sup>

The second constitutional amendment established the State Department of Education with an appointed commissioner. Both of these amendments were approved by the voters.

Other funding issues were addressed. Legislative Bill 554 (1951), introduced by the Committee on Education, authorized a special tax for Class I or Class II districts

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<sup>503</sup> Legislative Council, State House, Lincoln, NE LB 120, Legislative Bills, 62nd Session, 1951, Vol 1, 190.

to erect or repair a schoolhouse and equipment. The levy was not to exceed 5 mills and again needed to be approved by the people.<sup>504</sup>

Problems were noted with current legislation that reduced the assessed valuation of a school district. Legislative Bill 338 (1951), amended a bill relating to school district boundaries, 79-408 and 79-446.01 Reissue Revised Statutes of Nebraska, 1943, suggesting that if a school district suffers a reduction in the assessed valuation of real property due to former district land being acquired by the United States government and an increase occurred in the number of school age children, the old tax levy might not be sufficient. Legislative Bill 338 allowed an increase in the levy of taxes for general school purposes. The county superintendent was authorized to change the boundaries of the school district by excluding the federally acquired land. The school district could also charge tuition for those living on the tax-exempt air fields.<sup>505</sup>

Hoyt and Wilson introduced LB 67 (1951) amending

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<sup>504</sup> 1951 Neb. Laws, C 275, 926-927.

<sup>505</sup> Id, C 277, 934-935.



section 79-432, Reissue Revised Statutes of Nebraska, 1943, to remove the restriction of aggregate school tax levy for general school purposes for Class II school districts. The levy had been unrestricted since 1947. Due to the wide variation in tax levies necessary to operate Class II schools, it was felt that the removal of the levy limit should continue until the legislature felt it was advisable to reinstate it.<sup>506</sup> A similar bill proposed to eliminate the restriction years in Class IV schools. Legislative Bill 242 (1951) amended section 79-904, Reissue Revised Statutes of Nebraska, 1943.<sup>507</sup>

Compensation from one district to another had previously been handled through tuition fees. Legislative Bill 392 (1951) amended section 79-486, Reissue Revised Statutes of Nebraska, 1943, to provide a basis for compensation to be paid by one school district for instruction of pupils in another district. Specifically,

the contract price for instruction shall not be less than the per pupil cost as determined by the district accepting the pupils for instruction, and shall be exclusive of transportation. Per pupil cost shall be determined by dividing the

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<sup>506</sup> Id, C 279, 942-944.

<sup>507</sup> Id, C 283, 949-950.

operational costs of the district, plus three per cent depreciation on the school plan and equipment as fixed by the school board or board of education by the number of pupils enrolled in the said district the preceding school year.<sup>508</sup>

Glenn Cramer, Chair of the Education Committee, submitted a statement on LB 392 (1951) on April 18 stating the bill was introduced for the purpose of fixing a bottom price for school contract rates. It was hoped that this would discourage competition for pupils, a current practice according to Cramer. The bill established a uniform system for determining per pupil cost throughout the state. Under the present statute, some districts charged while others did not. Contract prices ranged from \$45.00 a year to \$500.00 a year. In a survey made prior to the drafting of this bill, many county superintendents recommended per pupil costs as the proper rate to charge for contract instruction.<sup>509</sup>

Omaha's mill levy needed adjustment too. Legislative Bill 239 (1951), amending section 79-1007.01 and 79-1007.02, Reissue Revised Statutes of Nebraska, 1943, adjusted the maximum mill levy for general operations to 16 mills and a maximum mill levy of 4 mills for interest, sinking fund

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<sup>508</sup> Id, C 280.

<sup>509</sup> Legislative Bills, 62 Session, 1951, 381-562.

purposes and the erection, alteration, equipping and furnishing of school buildings. The district also wanted to maintain the ability to transfer funds from the sinking fund to the general fund if needed. The transfer was not to exceed 1.5 mills for this purpose.<sup>510</sup>

Legislative Bill 464 (1951) was designed to expedite and simplify the distribution of the state school funds. The plan of certifying the funds to the county treasurer to be credited to the individual districts was being followed in some counties and the process was now to be legally performed by all county superintendents. Legislative Bill 464 (1951) amended section 79-1306, Reissue Revised Statutes of Nebraska, 1943.<sup>511</sup>

The Free High Tuition statute was amended by LB 132 (1951). In addition to a rate increase to \$7.50 per week from the previous \$6.00 rate, the payment was limited to 36 weeks of school. If a district held school for a longer period, additional compensation was not to be expected.<sup>512</sup>

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<sup>510</sup> 1951 Neb. Laws, C 285, 951-952.

<sup>511</sup> 1952 Neb. Laws, C 288, 955.

<sup>512</sup> Id, C 294, 973-974.

### The 65th Legislative Session: 1953

Republican Robert Crosby was elected as Nebraska's governor in November, 1952. He presided over the 65th Legislative Session, a session devoted to enacting new laws and corrective amendments. As Commissioner of Education, from 1951-1955, Decker pushed for school district reorganization thus reducing the number of school districts. In 1950-51, 6,604 existed and by 1956-57, 4,966 school districts were in place.<sup>513</sup> Although some progress was made, small, locally controlled schools districts still remained the norm. Decker recommended amendments to the School District Reorganization Law giving the State Committee more authority, but the legislature was reluctant to support his idea.<sup>514</sup>

Constitutional amendments were proposed during the 1953 session. Legislative Bill 96 (1953) recommended changing the membership of the Board of Educational Lands and Funds. Previously those serving on the board held specific state offices, but this legislation allowed the governor to

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<sup>513</sup> Nebraska Blue Book, 1992-93, 919.

<sup>514</sup> G. JENSEN, G., DEVELOPMENT OF NEBRASKA EDUCATION, 1854-1967 (Lincoln: NE Dept. of Education, 1968), 39-40.

appoint the five member board.<sup>515</sup> Voters approved this amendment in the November 1954 election.

A special request was made by Governor Crosby to appropriate \$40,000 out of the general fund to District No. 7 for the purpose of assisting in rebuilding the high school building. Legislative Bill 589 (1953) was approved on June 6, 1953.<sup>516</sup>

A request was made to have money placed in the Permanent School Fund. The Mineral Leasing Act money approved by Congress on February 25, 1920, was to be deposited by the State Treasurer upon its arrival. Legislative Bill 353 (1953) placed these funds into the Permanent School Fund subject to the laws governing this fund.<sup>517</sup>

A major change in assessing property was initiated in LB 272 (1953). The legislation proposed that property be assessed at 50% of actual value. This act amended section 77-201, Reissue Revised Statutes of Nebraska, 1943, relating to revenue and taxation. It also clarified how the property

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<sup>515</sup> 1953 Neb. Laws, C 174, 554-555.

<sup>516</sup> Id, C 199, 701-702.

<sup>517</sup> Id, C 260, 870.

was to be listed and affirmed that levies were to be made on the assessed value.<sup>518</sup>

A related bill was introduced by the Revenue Committee by Chair Karl Vogel (see Appendix L for Revenue Committee Chairs). It defined valuation in relation to specific tax levies. Legislative Bill 577 (1953) changed the language regarding assessed value in all appropriate taxation statutes.<sup>519</sup>

Legislative Bill 89 (1953) was a revenue and taxation act restricting the amount of revenue raised by a tax levy by the State of Nebraska or by any political subdivisions until two years after the effective date of the act. If the levy was insufficient to meet needs, then an increase in the tax levy would be permitted. Section 1 further clarified that it was unlawful within a political subdivision or taxing district, to fix or make any levy upon the assessed value of all the taxable property within the State, except intangible property, that will increase the revenue produced by such levy in excess of 5% of the revenue from such a tax

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<sup>518</sup> Id, C 260, 877-878.

<sup>519</sup> Id, C 287, 925-993.

levy.<sup>520</sup>

Legislative Bill 158 (1953) removed restrictions on the amount of the aggregate annual levy of Class IV districts for those fiscal years up to and including the fiscal year ending June 30, 1955. This bill merely continued the date for the nonrestricted levy.<sup>521</sup>

Legislative Bill 283 (1953) approved the same conditions for Class V school districts. It also increased the mill levy by 3 mills on the accrued liabilities of the retirement fund; 1007.02, established the mill levy for general operation of the schools and this levy was not to exceed 18 mills, up 2 mills. The annual levy established to pay interest on retiring, funding or servicing bonds was up one mill to 5 mills, while a 5 mill levy for the sinking fund could be used. The bill also allowed unused dollars of the sinking fund to go to the general fund.<sup>522</sup>

Other bills addressed school financing during this period. Legislative Bill 517 (1953) amended The Forest Reserve Funds which could be used in libraries in Class I,

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<sup>520</sup> Id, C 290, 985-987.

<sup>521</sup> Id, C 306, 1021-1022.

<sup>522</sup> Id, C 307, 1022-1024.

Class II and Class III schools. Legislative Bill 517 (1953) amended 79-1310, Reissue Revised Statutes of Nebraska, 1943.<sup>523</sup> Free High Tuition was increased to \$9.00 per week by LB 256 (1953) amending 79-4, 102, Revised Statutes Supplement, 1951.<sup>524</sup>

A new system of supervision and administration for Nebraska's public schools became effective under LB 285 (1953). This bill reorganized the structure of school government creating the State Department of Education, the State Board of Education and a Commissioner of Education in accordance with Article VII, sections 14, 15 and 16 of the Constitution of Nebraska. This bill aligned the statutes to reflect the constitutional amendment that was approved by the voters in 1952 creating the State Department of Education. This was a significant change for the educational leadership of the state.<sup>525</sup>

During the post war era a teacher shortage occurred especially in the western part of the state. Senators Burney of Cedar, Hubka of Gage and Cole of Cherry County

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<sup>523</sup> Id, C 312, 1036-1037.

<sup>524</sup> Id, C 317, 1050-1051.

<sup>525</sup> Id, C 320, 1053-1063.



introduced a bill to validate a levy allowing a district to build, have built, purchase or acquire a "teacherage" for housing school employees. If a tax had been levied prior to the approval of this bill, LB 35 (1953), it too was to be valid. It was felt that this practice would help lure teachers to this area of the state.<sup>526</sup>

A Supreme Court case, Laflin v. State Board of Equalization (156 Neb. 427), impacted legislation. The effect of the Laflin case was to require equalization of property assessments at market value. Previous legislation placed the assessment at 50% of value. This did not solve the problem. The governor felt that the resulting burden of increased noncompliance by personal property owners would force real estate to pick up more of the burden. The issues with the Laflin decision would: (1) require valuations to be made on current, yearly, market value rather than multi-year averages, forcing the Board of Equalization to equalize on sales only, and (2) disallow other methods than fair market value for arriving at tax basis for certain types of property.

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<sup>526</sup> Id, C 323, 1068-1069.