

The 66th Special Legislative Session: April 1954

In 1954, Governor Crosby called for an Extraordinary Legislative Session. The 66th Legislative Session was a special session that dealt with tax issues. Amendments were written to change the constitution. Legislative Bill 4 (1954), was introduced by Liebers, Carmody, Vogel, Martin, Bixler, Carpenter and Brower, who were members of the Tax Study Committee. This bill would amend Article VIII, Section 1 of the Nebraska Constitution. Section 1 stated that the necessary revenue of the state and its governmental subdivisions was to be raised by taxation in a process directed by the Legislature. Taxes were to be levied by valuation uniformly and proportionately on all tangible property and franchises, except for taxing motor vehicles. The new language stated, "The Legislature may prescribe standards and methods for the determination of the value of real or other tangible property at uniform and proportionate values." This was approved May 10, 1954.<sup>527</sup> The intent of LB 4 (1954) was to liberalize the term "actual value" and allow other methods of taxation in special instances such as taxation of seed and grain.

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<sup>527</sup> 1954 Neb. Laws, 66th Extraordinary Session, C 3, 61.

rental on school lands from 6% to 4% of the appraised value.<sup>586</sup>

Legislative Bill 562 (1965), Reallocation of State Taxes, was a significant bill during this legislative session. It was introduced by Gerdes and Fleming and its purpose was to eliminate the state general property tax and to reallocate taxes collected. It amended sections 77-628, 77-629, 77-1003, 77-1004, 77-1245, 77-1246, 77-1247, 77-1249, 77-1250, 83-226, 83-329.04, and 85-172.02, Reissue Revised Statutes of Nebraska, 1943, sections 2-2501, 2-2502, 77-704, and 81-815.34, Revised Statutes Supplement, 1963, section 72-1005, Revised Statutes Supplement 1963, as amended by section 1, LB 890, 75th Legislative session, Nebraska State Legislature, 1965 and section 83-347, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, LB 269, 75th Session, Nebraska State Legislature, 1965; and repealed the original sections. It was approved on August 11, 1965.<sup>587</sup>

The Committee on Revenue introduced LB 899 (1965), a bill addressing taxing property that was omitted from

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<sup>586</sup> 1965 Neb. Laws, C 438, 1391-1393.

<sup>587</sup> Id, C 478, 1539-1548.

taxation. This bill was a response to the 1964 approved constitutional amendment authorizing the Legislature to classify and exempt intangibles on the tax rolls. It amended section 77-716 and 77-1320.01, Revised Statutes Supplement, 1963, section 77-318, Revised Statutes Supplement 1963, as amended by section 2, LB 84, 75th Session, Nebraska State Legislature, 1965, section 77-413, Revised Statutes Supplement, 1963, as amended by section 2 LB 83, 75th Session, Nebraska State Legislature, 1965, and 77-1235 Revised Statutes Supplement, 1963, as amended by section 3, LB 81, 75th Session, Nebraska State Legislature, 1965. It discussed imposed and waived penalties, the appeals process and an implementation date for property assessment beginning with the year 1965.<sup>588</sup>

Establishment of Education Service Units: 1965

A major organizational change to Nebraska's educational system occurred in 1965 with the establishment of Education Service Units. Legislative Bill 301 (1965) defined the geographical areas for these centers. Each unit established its own governing board. Section 9 stated that the ESU board could use tax revenue from county, state or federal

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<sup>588</sup> Id, C 479, 1548-1555.

funding awards. Section 10 clarified that the ESU could levy a tax not to exceed one mill on the dollar of the assessed valuation of all property except intangible property. Each county collected tax for the ESU.<sup>589</sup> Thus, a new tax supporting public education was added to the statutes.

#### The Federation of School Districts: 1965

Another attempt at reorganization was The Federation of School Districts Law. Legislative Bill 452 (1965) was introduced by Marvel and Kjar. This bill allowed rural K-8 districts to retain their autonomy but work with a "parent" district to provide high school education for students in their district. It discontinued the free high school tuition levy in certain districts and provided for the allocation of state funds. Federations could be developed if the associate district and the parent district combined student enrollment had a minimum of 75 pupils per grade from 7-12 and a minimum assessed valuation of \$20 million. Budget procedures for the associate district remained the same but the parent district was required to develop two budgets. One budget was to be developed for its own K-6.

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<sup>589</sup> Id, C 504, 1606-1612.

The second budget was to reflect needs for grades 7-12, the newly established federated district. The funds would be raised by a mill levy that was to be uniform throughout the federation. Section 16 stated that free high school tuition levy would be discontinued in any district which entered into a federation.<sup>590</sup>

Legislative Bill 684 (1965) altered the language dealing with the nonresident high school tuition fund. Section 2 clarified that whenever the words "free" high school tuition, "free" public high school education, or "free" high school education appeared, the meaning was the same as nonresident high school tuition. "Free" did not mean without charge.<sup>591</sup>

Legislative Bill 450 (1965) changed the provisions for contracting pupil instruction with another school district. The contract price for instruction was to be the cost per pupil for the immediately preceding school year or the current school year. To calculate this cost, a formula was used dividing the sum of the operational cost and debt service expense of the accepting district, except retirement

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<sup>590</sup> Id, C 506, 1614-1620.

<sup>591</sup> Id, C 518, 1643-44.

of the debt principal, plus 3% of the insurable or present value of the school land and equipment of the accepting district, by the average daily membership of pupils in the accepting district. Payment was to be made in equal installments at the beginning of the first and second semesters.<sup>592</sup>

Legislative Bill 227 (1965) changed the method of charging tuition for nonresident pupils. An additional charge of \$3.00 per day was to be charged for preopening and postclosing days when teachers were required to be on duty. The additional charge for preopening or postclosing days could not exceed five days.<sup>593</sup>

Legislative Bill 634 (1965) limited the apportionment of the Forest Reserve Fund, clarifying that the apportionment to each school district lying within any forest reserve was to equal the actual per pupil cost for each pupil "but this apportionment per pupil shall not exceed the average annual cost per pupil, based on average daily attendance within that county."<sup>594</sup>

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<sup>592</sup> Id, C 521, 1647-50.

<sup>593</sup> Id, C 524, 1654-1656.

<sup>594</sup> Id, C 529, 1661-1662.

### Summary

Tax turmoil erupted in the mid 1960s. In 1965 the Legislature passed a sales tax. The "Duis Amendment" had been submitted to the voters in November 1954 and was now part of the Constitution's Revenue Article. This amendment stated that if the state approved a sales or income tax or combination of sales and income tax, the state property tax would be eliminated. In November 1966 a constitutional amendment was passed accepting a state income tax law based upon federal laws. Two petition initiatives were also on the ballot. One petition asked for the termination of property tax while the other questioned approval of an income tax. The voters favored terminating the property tax by a vote of 223,969 to 216,093 but voted against an income tax 310,681 to 133,584. The state was in a dilemma.

In 1965 William E. Metzger, Superintendent of West Point Public Schools, conducted a study for his dissertation at the University of Nebraska-Lincoln. In an interview published in the *Lincoln Star* Metzger stated that the purpose of the study "was to make a historical examination of financing methods of Nebraska public schools and to inquire into the philosophy of the administration of this

support."<sup>595</sup> In *A History of State and Local Support of Nebraska Public Schools*, Metzger concluded that 93.4% of all revenue for Nebraska's public school systems was raised at the local level from property tax while only 6.6% of the dollars for education came from the state. A comparative table indicated "that in 1963-64 the per cent of school revenue from state sources in Nebraska is the lowest of any state in the Union."<sup>596</sup>

Since 1953-54 the state's support for funding schools had only increased .2 per cent. Other conclusions presented by Metzger included:

Through precedent the State Legislature has established the philosophy that it is obligated to provide aid to the public schools of Nebraska to insure all pupils an adequate education. Appropriations for educational programs initiated by the Nebraska Legislature have generally been inadequate to carry out the intended project. Historically the Chief State school officer of Nebraska has been an ardent worker for adequate support of the public schools of the state. Adequate support has been a leading problem in Nebraska education since early statehood and the early reports of the state superintendents reflect their concern of the problem.<sup>597</sup>

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<sup>595</sup> *Lincoln Star*, 93% of School Funds Raised at Local Level Study Reveals, June 17, 1965, 23.

<sup>596</sup> W. E. Metzger, *A history of state and local support of Nebraska public schools*. (Unpublished doctoral dissertation, Lincoln: Univ. of Nebraska, 1965).

<sup>597</sup> *Id.*, 135.



Metzger elaborated further on the minor role the state played in the total support of public schools by concluding that Nebraska's average expenditure per pupil in 1963-64 was \$385.00. The apportioned amount from the Temporary School Fund was approximately \$10.376 per pupil.<sup>598</sup> This equated to only 6.6% of the total resources public schools used. In contrast the national average of state support was 41.6%.<sup>599</sup>

The number of school districts in Nebraska was decreasing. By 1966 the number of districts had dropped by more than 1,200 and now numbered 2,557. This was a significant decline from 1960. Enrollment figures continued to rise. Student enrollment in public schools increased by approximately 43,000 students.

Class I mergers, federated districts, tuition for children from tax exempt airfields, "free" high tuition changes, and the establishment of Education Service Units with an accompanying new tax all impacted school finance during the early 1960s. The state tax dilemma added major concern. A new school finance system for Nebraska was needed.

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<sup>598</sup> Id, 136-137.

<sup>599</sup> Id, 137.

Chart J

	<u>1960</u>	<u>1966</u>
Number of districts	3,777	2,557
Number of school houses	3,953	2,916
K-12 Districts	394	375
Number of counties	93	93
Number of children, 5-21	394,156	455,449
Children enrolled	275,802	318,881
Number of teachers	13,753	15,700
Value of School Property	293,436,124	434,738,683
Receipts	92,946,748	151,603,953
Expenditures	83,988,931	151,947,336
Indebtedness	102,464,631	163,142,825
State Apportionment from Endowments	3,079,681	3,600,087

\*Nebraska Blue Book<sup>600</sup>

<sup>600</sup> Nebraska Blue Book, (1992-93), 918-920.

LB 488, School Foundation and  
Equalization Act: 1967-1970

Introduction

It was clear that Nebraska's school funding system needed to be changed. Senator Jerome Warner understood the need and led the effort to change school funding. He proposed legislation in both 1963 and 1965 but the efforts failed. "Twice in this decade, Warner has guided massive state school financing bills to legislative enactment only to see them fall..."<sup>601</sup> During the 1963 biennium, Warner and Foster sponsored LB 678 (1963). Section 2 of the bill called for the creation of two special funds both funded through an appropriation by the Legislature. One fund was entitled the School Foundation Fund. The second fund was called the School Equalization Fund. To be eligible for funds it specified in Section 3 that

each public school district must submit to the county board of the county in which the school district is located, or in the event a school district shall be located in more than one county the total submitted to the county board of each county, a budget to be raised by a tax on the valuation of the school district in an amount equivalent to a levy of twenty mills for Class II, III, IV, and V districts, ten mills for Class I

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<sup>601</sup> Don Walton, Committee Studies School Financing, *Lincoln Star*, June 29, 1972, 1.

districts, and eight mills for Class VI districts, or a levy equivalent to forty per cent of the cost of the preceding year. The budget and resultant levy shall be certified by the county board to the Commissioner of Education within thirty days after such levy has been determined by the county board.

Section 4. Each school district whose tax levy shall be the amount prescribed in section 3 of this act, shall receive from the School Foundation Fund, an amount equal to the sum of (1) forty dollars multiplied by the number of elementary pupils, resident and nonresident, in average daily membership for the preceding year, and (2) sixty dollars multiplied by the number of high school pupils, resident and nonresident, in average daily membership for the year preceding as reported to the Commissioner of Education.

Section 5. To be eligible for funds from the School Equalization Fund, each school shall add to the funds obtained from the qualifying levy as prescribed in section 3 of this act and the funds from the School Foundation Fund as prescribed in section 4 of this act, (1) an amount equal to the actual per pupil cost of elementary pupils in average daily membership for the year preceding multiplied by the number of nonresident pupils, (2) an amount equal to the actual per pupil cost of high school pupils in average daily membership for the year preceding multiplied by the number of nonresident pupils, and (3) funds received for the preceding year from the federal government for the general support of the school. In the event this total does not equal the sum of (1) two hundred seventy-five dollars multiplied by the number of elementary pupils, resident and nonresident, in average daily membership for the preceding year, and (2) four hundred dollars multiplied by the number of high school pupils, resident and nonresident, in average daily membership for the preceding year, the school district shall receive from the School Equalization Fund, an amount equal to the difference of the two totals; provided, that in no case shall the total of all funds from the qualifying levy, nonresident pupils, federal

government and School Foundation Funds and School Equalization Fund be larger than the total expended by any school for the year preceding. Should the total be larger than the total expended for the previous year, the money from the School Equalization Fund shall be reduced in an amount equal to the difference between the total of all funds under the provisions of this act and the total expended by any school for the year preceding.<sup>602</sup>

The bill went through the normal process of reading and was advanced to general file in May 1963. An amendment to section 2 added that "funds shall not be raised by a property tax levy."<sup>603</sup> Another amendment was added to the bill. Section 6 was added stating that

This act shall not become operative until the Legislature adopts a general sales or income tax or combination thereof, and thereafter the funds necessary to carry out the provisions of this act shall be paid for from the revenue raised by the general sales or income tax or combination thereof.<sup>604</sup>

Senator Forrester moved to indefinitely postpone the bill. The vote was taken. The majority of the senators voted in favor of postponing the bill. There were 28 senators who cast their ballot to postpone while eight senators voted against this. They included the two senators who sponsored

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<sup>602</sup> Nebraska Legislature, 1963, Legislative Bills, 73rd Session, No. 512-815; LB 678.

<sup>603</sup> Id, 1643.

<sup>604</sup> Id, 1676.

the bill, namely Warner and Foster, along with Carpenter, Orme, Stalder, Payne, Reeves and Stomer.<sup>605</sup> A new school finance system made its way to the legislative floor, one based on foundation and equalization aid.

During the 1965 Legislative Session, a similar bill was advanced to the floor. Warner was the sole author of LB 472 (1965). The language in this bill was almost identical to the language in LB 678 (1965). In addition, the bill clarified that when an appropriation was made to implement the bill, the Legislature was to put money into the School Foundation Fund first.<sup>606</sup> A second amendment to the bill was similar to an amendment made on LB 678 (1965). Again, the bill was not to become operative until an alternative state taxing system was in place. It further clarified that the revenue used to pay for this aid was to come out of the funds raised by this taxing source.<sup>607</sup>

Senator Skarda moved to "indefinitely postpone" this bill on July 22, 1965. Debate on the bill ceased and a vote was requested. There were 23 votes in favor of postponing

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<sup>605</sup> Id, 1764.

<sup>606</sup> Nebraska Legislative Journal, 1965, 75th Session, 2498-99.

<sup>607</sup> Id, 2499.

the bill while 22 Senators voted to not postpone the bill.

There were four senators that did not vote. Those not voting included Danner, Kremer, D. Payne and Proud.<sup>608</sup>

Although the bill did not advance to become law, the popularity of state aid and new funding for education had changed significantly from 1963. Senator Warner continued to press for legislative change in school finance.

#### The 77th Legislative Session: 1967

During the 77th Legislative Session it was likely that the school finance issue would come before the legislature. The constitutional amendments passed in November 1966 in favor of a state sales and income tax created a climate for change. In addition, Norbert Tiemann became Nebraska's Republican governor following Democrat Frank Morrison who had been the governor for the past six years.

The school finance dilemma fell under the direction of the Legislature's Education Committee. A meeting was scheduled for January 16, 1967 to update and inform four new Education Committee members about Nebraska's school finance issues. The committee heard opposing viewpoints regarding state aid and disbursement of funds. The committee had

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<sup>608</sup> Id, 2498.

invited the executive secretaries from both the Nebraska State School Boards Association (NSSBA) and the Nebraska School Improvement Association (NSIA). Richard Brown, Executive Secretary for NSSBA discussed the state aid bill that Senator Warner would be introducing later in the session. He stated that the bill would use a formula which would allocate a small sum of money to all districts "but the bulk of the aid would be under an equalization formula for those districts which need it most."<sup>609</sup> The money would be distributed on the basis of average daily membership (ADM) in the public schools. When questioned about flat grants he replied

"..on flat grants you are retarding reorganization. That's so because the tax difference between rich and poor districts would not be narrowed and perhaps some inefficient districts maintained with state subsidization."<sup>610</sup>

Executive Secretary S.H. Brauer, Jr., representing NSIA, disagreed, stating that state aid should only be disseminated as flat grants equally to all districts. State standards were not necessary and rather than base the allocation on ADM, he felt it should be dispensed on a pupil

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<sup>609</sup> *Lincoln Journal*, State Aid to Schools Is Debated; Legislators Hear Views, January 17, 1967, 5.

<sup>610</sup> *Id.*



census. This would give larger grants to districts with non-public school student populations. He characterized his rural-oriented group as "the only school group in the state voicing the thinking of parents and taxpayers, not citizens connected directly or indirectly with the educational process."<sup>611</sup>

Senator Warner introduced LB 488 (1967) (79-1605.05) along with Waldron, Pedersen, Jr., Payne, Ely, and Moulton. This act was known as the School Foundation and Equalization Act. Section 5 of the law defined the funding process.

Each district shall receive financial support from the School Foundation and Equalization Fund as follows: Twelve dollars and fifty cents per kindergarten pupil, twenty-five dollars per pupil in grades one through six, thirty dollars per pupil in grades seven and eight, and thirty-five dollars per pupil in grades nine through twelve, the applicable sum for each category to be multiplied by the preceding year's average daily membership of <sup>612</sup>resident and non-resident pupils in each category.

Section 6 of the law stated that to be eligible for the aid there were minimum levies that had to be in place. For Class I districts the minimum mill levy was 10; for Class II, III IV, and V districts, the mill levy minimum was 16;

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<sup>611</sup> Id.

<sup>612</sup> 1967 Neb. Laws, C 514, 1723.

and for Class VI districts, the minimum levy was 7 mills.

Section 7 of the bill insured each district the following support:

(1) The smaller of the following calculations:  
(a) Two hundred twenty-five dollars per kindergarten pupil, four hundred fifty dollars per pupil in grades one through six, five hundred dollars per pupil in grades seven and eight, and five hundred fifty dollars per pupil in grades nine through twelve, the applicable sum for each category to be multiplied by the average daily membership for the preceding year of resident and nonresident pupils in each category, or (b) one hundred eight per cent of the district's per pupil cost for the preceding year multiplied by the district's average daily membership for the preceding year and (2) When the population density in any county is less than four persons per square mile, as determined for the most recent federal decennial census, the total financial support under subdivision (1) of this section insured for each district in the county shall be increased by the following percentages: (a) If the population density is three or more but less than four persons per square mile, ten per cent; (b) if the density is two or more but less than three persons per square mile, twenty per cent; (c) if the density is one or more but less than two persons per square mile, thirty per cent; and (d) if the density is less than one person per square mile, forty per cent; provided, any school district within a qualifying county showing a density greater than provided in this subdivision shall not qualify for such percentage increases.<sup>613</sup>

In Section 8 the law also added calculations for special programs for both gifted and culturally or

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<sup>613</sup> Id, 1723-24.

educationally deprived children. The gifted students enrolled in programs were counted as one and one-fourth students. The culturally or educationally deprived children were counted as two students. To be eligible for these additional funds, the district programs had to be approved by the State Board of Education. Students eligible to be transported by bus were also counted as one and one-fourth students.<sup>614</sup>

Section 9 altered the total by stating that from the sum calculated in section 7, each district was to subtract operating funds from (1) the State of Nebraska in Section 5, and (2) the qualifying levy prescribed in section 6. There were further provisions:

Provided, operating funds received from that portion of the local tax levy exceeds the minimum prescribed in section 6 of this act shall be excluded from this computation, (3) tuition, (4) fines, (5) license fees, (6) transportation reimbursements, (7) the Insurance Tax Fund, (8) funds received under the provisions of Chapter 79, article 13, Reissue Revised Statutes of Nebraska, 1943, (9) subsection (3) (a) and (3) (b) of Public Law 874, 81st Congress, as amended, and (10) the Johnson-O'Malley Act, 25 United States Code 452, as amended; Provided a district which does not apply for the federal funds referred to in subdivisions (9) and (10) of this section shall have the amount which it would receive upon such application subtracted from the amount of

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<sup>614</sup> Id, 1724.

equalization aid it would otherwise receive under section 10 of this act.<sup>615</sup>

Incentive payments were also added to the totals. Described in Section 11 of the law, a district would receive \$350 for each certificated teacher holding a doctorate degree, \$250 for teachers having either a master's degree or the equivalent of a 6-year certificate. For teachers holding a bachelor's degree an award of \$150 dollars was granted. The final category of incentive payments was for summer school. Pay was granted per student hour for each student participating in summer school.<sup>616</sup>

Unsure about the appropriation amount, section 14 of the law clarified for the 1967-69 biennium only, that funding Section 5 had first priority while the incentive funding in Section 11 was to have second priority.<sup>617</sup> The bill was approved on July 21, 1967. Legislative Bill 667 (1967) appropriated \$20 million for this bill. This was a major change in school funding. The state was now providing aid to schools on a much more equitable basis. School districts had to meet criteria in order to receive funding.

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<sup>615</sup> Id, 1724-25.

<sup>616</sup> Id, 1725.

<sup>617</sup> Id, 1726.

Other changes were made to the tax statutes during this session which impacted the funding of schools. Legislative Bill 185 (1967) amended section 54-415, Revised Statutes Supplement, 1965, relating to livestock. The purpose of this bill was to change the disposition of unclaimed proceeds in the Estray Fund. If the estray sold, after payment for the animal's care was met, any remaining dollars were deposited in the state school fund.<sup>618</sup>

Introduced by the Committee on Budget, LB 858 (1967), appropriated \$51,261 to assist in defraying the expenses of the State Department of Education for the biennium ending June 30, 1967, to supplement the amount already appropriated. The dollars were to come from the state general fund.<sup>619</sup> Advances were also being made in the area of business and technology. Legislative Bill 151 (1967) introduced "machine accounting and payroll processing of school funds."<sup>620</sup> The Board of Education for Class II, IV or V school districts would now be able to contract for the services of dispersing school funds in a computerized

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<sup>618</sup> 1967 Neb. Laws, C 344, 919-920.

<sup>619</sup> Id, C 371, 963.

<sup>620</sup> Id, C 510, 1712.

format.<sup>621</sup>

Across the United States, Educational Compacts were being established between several states. The purpose of these compacts was to establish and maintain cooperation between the different branches of government and lay leadership on a national basis at both the state and local levels. Compacts would provide a forum for discussions, problem solving and facilitate improvement. Legislative Bill 470 (1967) represented Nebraska's wish to become part of a compact establishing The Education Commission of the States also known as The Commission. One of the powers of The Commission was to "develop proposals for adequate financing of education as a whole and at each of its many levels."<sup>622</sup> The Commission would collect, correlate, analyze and interpret educational data with the intent of providing information and recommendations to the Federal Government concerning common educational policies of the States.

A new trust fund was established under LB 497 (1967). The State Department of Education Trust Fund could acquire donations for the Nebraska School for the Visually

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<sup>621</sup> Id, C 510, 1712-13.

<sup>622</sup> Id, C 516, 1732.

Handicapped, School for the Deaf or any school for mentally retarded children which was owned by the State. Donations could come from property either real or personal and would be under the directives of the State Department of Education.<sup>623</sup>

In addition to sponsoring the major finance bill this session, Warner also introduced LB 747 (1967) which called for dissolving certain school districts. The Legislature continued to find ways to reduce the number of school districts in the state and promote reorganization efforts. This bill amended section 79-426.23, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 585, 77th Session, Nebraska State Legislature, 1967.<sup>624</sup> A similar bill, LB 546 (1967), Mandatory Dissolution of Certain School Districts, was introduced by Hughes and Ely which amended 79-486, Reissue Revised Statutes of Nebraska, 1943. This bill dealt with dissolving school districts which used contracting for instruction. If a school did not contract for instruction for three consecutive years, the district would be dissolved

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<sup>623</sup> Id, C 528, 1752-57.

<sup>624</sup> Id, C 531, 1764-65.

unless a hardship was created.<sup>625</sup>

A new category of student attending Nebraska public schools was identified in LB 469 (1967), amending 79-446, Reissue Revised Statutes of Nebraska, 1943. Children whose parents were employed by the federal government and residing with their parents on national park ground or at a national monument site were to be admitted to school without any tuition payment.<sup>626</sup>

High school tuition for nonresident students increased to \$3.50 per day but the preopening and postclosing fee remained at \$3.00. This bill, LB 447 (1967), amended section 79-4,102, Reissue Revised Statutes of Nebraska, 1943.<sup>627</sup>

Restrictions and reductions of building and equipment fund levies were reintroduced. Legislative Bill 131 (1967) amended section 79-904, Reissue Revised Statutes of Nebraska, 1943, limiting and reducing the mill levy for the building and equipment funds for Class IV school districts. The tax levied for this fund was not to exceed 4 mills.<sup>628</sup>

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<sup>625</sup> Id, C 535, 1770-73.

<sup>626</sup> 1967 Neb. Laws, C 533, 1767-68.

<sup>627</sup> Id, C 537, 1776-77.

<sup>628</sup> Id, C 543, 1785.



The Nebraska Revenue Act of 1967 was introduced by the Revenue Committee upon the recommendation of the Governor. Legislative Bill 377 (1967) was new legislation imposing and implementing a new taxing system for Nebraska ending the turmoil created by the voters in November 1966. This bill declared an emergency which meant that it was to be enacted immediately. This bill was approved on April 12, 1967.<sup>629</sup>

Legislative Bill 554 (1967) defined the allocation procedures from the new sales and income taxes. The amount collected in the various taxing districts of the state in 1966 was to be apportioned in the following manner: 1/6 to the state General Fund, 1/6 to the County General Fund, 1/3 to the General Fund of the city or village, and 1/3 to the General Fund of the school district in which the property was assessed. If the property was not assessable within a city or village, 2/3 of the tax collected was to be apportioned to the General Fund of the school district. The apportionment changed for 1967 to 1/3 to the General Fund of the state, 1/3 to the General Fund of city or village and 1/3 to school district in which the property was assessed. This act repealed section 77-704, Reissue Revised Statutes

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<sup>629</sup> Id, C 487, 1633-1636.

of Nebraska.<sup>630</sup>

80th Legislative Session: 1969

In 1969 Governor Tiemann continued in office and the 80th Legislative Session got underway. Additional bills were passed during this biennium addressing school funding and taxes. A few constitutional amendments were prepared to put on the 1970 ballot. One amendment, LB 816 (1969), was to repeal county limitations on the mill levy which targeted Article VIII, section 5 of the Nebraska Constitution. This issue was not approved by the voters in November.<sup>631</sup> Another constitutional amendment related to school funding dealt with classifying personal property. Legislative Bill 290 (1969), amended Article VIII, section 2 of the Constitution and provided that the Legislature could classify personal property in a manner it saw fit and could exempt any classes or all personal property from taxation. The Legislature could generate a law that allowed a portion of the value of any residence actually occupied as a homestead to be exempt from taxation. This was a successful ballot issue.<sup>632</sup> A

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<sup>630</sup> Id, C 488, 1638-1640.

<sup>631</sup> 1969 Neb. Laws, C 426, 1445-46.

<sup>632</sup> Id, C 425, 1443-45.

third constitutional amendment impacting school finance was LB 1330 (1969) dealing with the investment of school funds. This bill was introduced by the Committee on Banking, Commerce and Insurance upon the recommendation of the Governor. It amended Article VII, sections 1 and 9 of the Constitution. Section 1 clarified that the general management of all lands set apart for educational purposes shall be vested, under the direction of the Legislature. It also clarified that not only does the governor appoint the members of this board, but the appointments were also subject to the approval of the Legislature.<sup>633</sup>

There had been increasing numbers of constitutional amendments during the 1960s. The Legislature created the Constitutional Revision Commission with the specific purpose of studying the constitution and determining changes. The commission was to simplify and condense the constitution identifying broad powers rather than numerous individual amendments. Legislative Bill 244 (1969) established the guidelines for this commission in the hope of reducing the number of amendments on the ballot in the future.<sup>634</sup>

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<sup>633</sup> Id, C 425, 1439.

<sup>634</sup> Id, C 410, 1415-17.

### Duis Amendment Proposal

During the same Extraordinary Session, Herbert J. Duis proposed a constitutional amendment. Often referred to as the "Duis Amendment," this landmark legislation prohibited taxation of property at the state level. In its place a combination of sales and income tax would be substituted. Legislative Bill 7 (1954) was approved on May 10, 1954 and was to be submitted to the voters for approval.<sup>528</sup> Voters cast their ballots in favor of this amendment in November.

Legislative Bill 2 (1954) was introduced by Liebers, Carmody, and Vogel. It submitted another constitutional amendment to the voters which amended Article IX, section 4 of the Constitution. Section 4 stated that

the legislature shall provide by law for the election of such county and township officers as may be necessary; except that the Legislature may provide that the office of county assessor may be appointive, and it may provide for the appointment of boards of equalization and assessment for counties or for other taxing districts.<sup>529</sup>

Property value would directly impact the tax levy.

The county assessor was charged with making assessments and the job was not an easy one. This amendment failed.

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<sup>528</sup> Id, C 5, 64-65.

<sup>529</sup> Id, C 6, 66-67.

The 67th Legislative Session: 1955

Victor Anderson won Nebraska's governorship as Republicans continued their strong hold on political offices in the 1954 general election. In January, 1955, the 67th Legislative Session convened. The language in the property tax law with regard to "value" was changed by LB 148 (1955). Property tax laws initially used the term "assessed" value. Next, the term was changed to "actual" value and LB 148 (1955) amended the law to use "basic" value which was to mean

the value of property for taxation that was ascertained by using the following formula where applicable: (1) Earning capacity of the property; (2) relative location; (3) desirability; (4) the reproduction cost and amount of depreciation; and (5) comparison with other properties of known or recognized value.<sup>530</sup>

Section 2, 77-201 stated that all property in the state, not exempt, shall be subject to taxation and valued at its basic, formerly actual, value and shall be assessed at 50% of the basic value. Again, since schools depended heavily on property tax, this amendment would impact school funding. Legislative Bill 148 (1955), was introduced by Liebers; Kotouc, Sr.; Vogel; Person; Bixler; and Martin, amending

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<sup>530</sup> 1955 Neb. Laws

sections 77-112, 77-506, 77-1503, and 77-1506 Reissue Revised Statutes of Nebraska, 1943, section 77-201 and 77-1239 Revised Statutes Supplement, 1953.<sup>531</sup>

Another property tax change was initiated in LB 150 (1955), introduced by Liebers; Martin; Kotouc, Sr.; Vogel; Bixler; and Person, amending section 77-202, Reissue Revised Statutes of Nebraska, 1943, changing the exemption from household goods. This bill partially implemented the constitutional amendment adopted in 1954, LB 3, which authorized the exemption of household goods and personal effects. The supporters of this bill realized that the personal effects items, which made up approximately 1.7% of the total taxable property were difficult to assess. Additionally, only about 50 to 60% of the population complied with this regulation. Those opposing the bill felt that all property should be on the tax rolls thus allowing a lower taxing rate. They challenged the fact that this was a difficult tax to collect. Personal effects included in the exemption might include items like air conditioners, freezers, dishwashers, pianos, radios, record players, sewing machines, stoves, televisions, and other similar

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<sup>531</sup> Id, C 289, 917-921.

items.<sup>532</sup>

Legislative Bill 285 (1955), provided a new intangible property tax formula<sup>533</sup> and LB 252 (1955) provided tax on stocks in lieu of other taxes.<sup>534</sup>

Legislative Bill 422 (1955), amending sections 79-431, 79-435, and 79-436, Reissue Revised Statutes of Nebraska, 1943, discussed budget preparation and procedures. Changes in the law now required submitting the budget on forms that were prescribed by the Commissioner of Education, for the ensuing year. The forms were to show expenditures, the revenues received from taxation and revenues available from sources other than taxation, including unencumbered balances. A copy of the budget was submitted to the county superintendent along with a certificate signed by the secretary of the board showing the amount of funds needed to be raised by the tax levy. It became the duty of the county board of equalization, formerly the county clerk, to levy such taxes. The bill was approved on April 11, 1955.<sup>535</sup>

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<sup>532</sup> Id, C 290, 921.

<sup>533</sup> Id, C 292.

<sup>534</sup> Id.

<sup>535</sup> Id, C 312, 963-965.

High school tuition rates increased to \$12 per week according to LB 474 (1955) which amended section 79-4,102, Revised Statutes Supplement, 1953.<sup>536</sup> The Committee on Education proposed LB 302 (1955) which clarified that tuition payment was to be paid to other districts when the Board of Education of any district of Class II or Class III school decided it was in the best interest of a specific pupil to attend a school outside the district.<sup>537</sup> Legislative Bill 6 (1955) amended section 79-1103.04 Revised Statutes Supplement, 1953, permitting the payment of tuition by a Class VI school district of 900 square miles to pay tuition if a student attended another school outside the district if it was closer.<sup>538</sup>

The aggregate school tax was again to be without restriction for Class IV school districts. The "no restriction" policy was to be extended until 1959, exclusive of the school bond interest fund and the school bond sinking fund. This was accomplished by LB 193 (1955) which amended section 79-904, Revised Statutes Supplement, 1953.<sup>539</sup>

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<sup>536</sup> Id, C 316, 981-982.

<sup>537</sup> Id, C 317, 982.

<sup>538</sup> Id, C 322, 996-997.

<sup>539</sup> Id, C 318, 982-983.



Legislative Bill 135 (1955) amended several sections of the law making the language harmonious in the laws relating to school tax levies and limitations. Section 3, amended 79-1007.02 removing specific numbers of mills for different levies and inserted "such number of mills." This would allow the law to be more flexible and perhaps not amended during each legislative session.<sup>540</sup>

An excise tax was introduced for oil and natural gas pumped from Nebraska soil. This new tax, defined in LB 216 (1955), established a rate of 2% of the value and was to be placed in a Severance Tax Fund. A portion of the tax was to be used to administer the account while the balance was to be placed in the Permanent School Fund as established in Article VII, section 4 of the Constitution.<sup>541</sup>

The *Lincoln Star* reported school taxes in 84 major Nebraska cities climbed 10.8% over the previous year according to a survey by the Nebraska Citizens Council. The school tax total for the 84 cities was \$29,600,000 compared to \$26,700,000 the previous year. The rate of increase varied for each city, two cities showed no change,

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<sup>540</sup> Id, C 320, 988-991.

<sup>541</sup> Id, C 219, 610-614.

65 cities had increases and 17 reported decreases.

Lincoln's enrollment was up 7.6% and school taxes increased by 12.1%. In Omaha, the student enrollment increased 4.8% and the school tax climbed 11.5% from the preceding year.

The Citizens Council said enrollment changes do not explain tax changes to a great extent. The explanation, it said apparently lies in rising costs of building, materials, maintenance and teachers' salaries. Costs per pupil are higher in smaller schools, the report showed.

Forty per cent of the high schools in the state had enrollments of 50 or fewer pupils last year, the Citizens Council said. Per pupil costs averaged \$488 in 62 high schools with enrollments of 50 or less, the survey showed, while the schools with about 300 students had an average per pupil cost of \$300.<sup>542</sup>

A constitutional amendment was proposed during this session too. This amendment authorized the Legislature to substitute other taxes on grain and feed in place of the ad valorem tax. This had been a difficult tax to administer. To avoid the tax many farmers moved grain and seed off their property or transferred it out of the state prior to the assessment date. Legislative Bill 154 (1955) changed Article VIII, Section 10.<sup>543</sup> This amendment passed during the November 1956 election. During the next legislative

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<sup>542</sup> *Lincoln Star*, City School Taxes Show 10.8% Hike, October 22, 1955.

<sup>543</sup> 1955 Neb. Laws, C 197, 561.

session, the legislature would define the new taxing method for grain and seed.

The 68th Legislative Session: 1957

The 68th Legislative Session under the direction of Governor Anderson continued to amend school finance and property tax laws in 1957. Legislative Bill 339 (1957) dealt with valuation of property for taxation and amended section 77-112, 77201, 77-506, 77-1239, 77-1242, 77-1503 and 77-1506 Revised Statutes Supplement, 1955. Section 1, 77-112 stated that the actual value of property for taxation was to add a sixth component to the formula, market value. Market value was the price of land used in buying, selling or trading the land. Section 2 changed the assessment value to 35% of actual value; this was a 15% decrease as the percentage had been previously set at 50%. Section 3 amended 77-506 and eliminated the determination of the ratio of basic value of all tangible property and real property to actual value.<sup>544</sup>

High school tuition fees changed for Class VI schools. Under LB 185 (1957) which amended section 79-4,102, tuition dropped to \$10.50 a week from \$12.00 a week until the

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<sup>544</sup> 1957 Neb. Laws, C 320, 1138-1140.

beginning of the 1957-58 school term at which time it could return to \$12 per week.<sup>545</sup> School districts continued to report their tax request to the county board. Legislative Bill 430 (1957) amended section 79-903 Reissue Revised Statutes of Nebraska, 1943, and section 79-904, Revised Statutes Supplement, 1955 changing the time that the Board of Education needed to submit this information. Previously set for a mid-June date, the request for funds information was now due on or before August 15. Although some discussion took place regarding a change from estimated funds to a specific number of mills, the estimate of funds request stayed in place.<sup>546</sup>

The apportionment of School Funds Law, amending sections 79-1302 and 79-1303, Reissue Revised Statutes of Nebraska, 1943, was amended with LB 320 (1957). The language was changed stating that the Commissioner of Education, not the Superintendent of Public Instruction, was responsible for apportioning the School Fund dollars. Additionally, this bill altered the method of figuring the amount to be received by the Free High School Fund of the

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<sup>545</sup> Id, C 347, 1190-1191.

<sup>546</sup> Id, C 353, 1199-1201.

county. Section 79-1303 stated that the county superintendents certified the tax levy for school purposes to the Commissioner of Education. Distribution to counties for saline lands and school land was to be determined at 50% of the appraised value so that distribution amounts to appropriate counties were correct.<sup>547</sup>

The 69th Legislative Session: 1959

A Democratic governor was elected for the first time in two decades in November 1958. Ralph Brooks, a former school superintendent from McCook, defeated incumbent Victor Anderson who was seeking a third term. As the 69th Legislative Session began in 1959, constitution amendments, property tax and school finance continued to be legislative issues.

The Agriculture Committee, with Hans Jensen as Chair, proposed a constitutional amendment to remedy inequities in taxing livestock using the same guidelines as other property. There were a number of characteristics that distinguished livestock from other property yet it was currently taxed the same. The debate had a number of issues. First, if livestock was bought for a short time, it

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<sup>547</sup> Id, C 359, 1217-1219.

might be considered as "property in transit" but the current constitutional law taxed livestock on a full year's value. Double taxation was the second issue. Livestock owners already paid tax on grain used to fatten cattle. A second tax occurred when the farmer paid tax for each fat cow. The third debated issue related to the types and uses of livestock. Under the current statutes all livestock was taxed at the same price despite differences in types and uses. Legislative Bill 682 (1959) addressed these issues and proposed a different taxing method for livestock. An amendment to change the constitution was scheduled for the ballot stating "Livestock shall constitute a separate and distinct class of property for purposes of taxation."<sup>548</sup> This amendment had strong support at the voting polls in November and passed.

Another constitutional amendment, LB 724 (1959), was introduced by the Committee on Revenue by Otto who was the committee chair. This amendment authorized the Legislature to establish bonded and licensed warehouses or storage areas for goods, wares, and merchandise in transit in the state which were intended for and shipped to final destinations

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<sup>548</sup> 1959 Neb. Laws, C 238, 823-824.

outside this state. The amendment exempted these goods, wares and merchandise from ad valorem taxation while in a warehouse or storage area.<sup>549</sup>

With the populations continuing to grow in the cities, it was necessary to alter the maximum population in Class IV and Class V schools. Legislative Bill 117 (1959) amend section 79-102, Reissue Revised Statutes of Nebraska, 1943, and increased the maximum population of Class IV schools to more than 50,000 and less than 200,000 inhabitants in the district. A Class V district was to have a population exceeding 200,000.<sup>550</sup>

The Free High Tuition law was amended again changing sections 79-498 and 79-4,102, Reissue Revised Statutes of Nebraska, 1943. Legislative Bill 582 (1959) provided for continuation of free high school tuition payments by an annexing school district after annexation or a merger occurred. It also increased the tuition fee to \$15.00 per week.<sup>551</sup>

The Education Committee introduced Legislative Bill 504

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<sup>549</sup>Id, C 239, 825-26.

<sup>550</sup> Id, C 379, 1320-31.

<sup>551</sup> Id, C 398, 1355-56.

(1959) which amended 79-4,106, Reissue Revised Statutes of Nebraska, 1943, adjusting the procedures for payment of free high school tuition in counties contiguous to the boundaries of the state. An adjoining state needed to have a statute providing for a reciprocal arrangement for payment of tuition. The amount paid for tuition was not to exceed the amount that a school district in the adjoining state would pay for tuition in Nebraska under a reciprocal arrangement. The intent of this legislation was to make sure that these fees were similar in both states.<sup>552</sup>

Legislative Bill 115 (1959), amended section 79-904, Reissue Revised Statutes of Nebraska, 1943, removing restrictions on the amount of the annual levy for Class IV school districts for the building and equipment fund as well as general school purposes. The amount of tax levied for these funds was unrestricted, however, the aggregate school tax levy was not to exceed the rate reported in the estimate.<sup>553</sup> Class V districts also requested to have no restrictions placed on the mill levy for operation of the schools, as well as payment of interest on bonded

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<sup>552</sup> Id, C 398, 1357-58.

<sup>553</sup> Id, C 405, 1367-68.



indebtedness. Legislative Bill 63 (1959) was written to amend section 79-1007.01 and 79-1007.02, Reissue Revised Statutes of Nebraska, 1943.<sup>554</sup>

Nebraska continued to have officers and enlisted personnel from the Army, Navy, Marine Corps and Air Force on active duty in the state. Legislative Bill 738 (1959) amended sections 79-446 and 79-447, Reissue Revised Statute of Nebraska, 1943, and allowed the children of military personnel to be admitted to a district without tuition payment. The bill further clarified that the State of Nebraska would be responsible for tuition charges. The fee was to be \$3.00 per week for grade school children and \$6.00 per week for high school students. The tuition fees were to be paid from an appropriation from the General Fund. This bill became law without the Governor's signature on July 1, 1959.<sup>555</sup>

#### Summary

In 1949, LB 27, The Reorganization of School Districts Act, was passed by the Nebraska Legislature. It was the intent of this legislation to push needed school district

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<sup>554</sup> Id, C 407, 1370-71.

<sup>555</sup> Id, C 390, 1345-46.

reform by reducing the number of school districts in the state. The impact of this legislation was felt during the next decade. In 1949-50 Nebraska reported 6,734 school districts with over 227,879 students enrolled in public schools. Ten years later the number of school districts was reduced to 3,777 while the enrollment in schools increased to 275,802, an increase of almost 50,000 students. The post World War II baby boomers were entering school during this decade and many families moved to the urban and suburban areas to find employment. Schools were going to need new facilities, more teachers and more money.

School finance legislation changed slightly during the 1950s. Schools continued to rely on property tax dollars for funding. Bills were passed removing restrictions on the aggregate school levy thus allowing local districts to determine levy amounts based on need. Tax levies increased particularly in Nebraska cities. In 1955 a survey conducted by the Nebraska Citizens Council reported an average increase of 10.8% in school taxes in one year.<sup>556</sup> The survey polled 84 communities. Decreases in school taxes were reported by 17 communities while 65 communities reported

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<sup>556</sup> *Lincoln Star*, City School Taxes Show 10.8% Hike, October 22, 1955, 9.

an increases in school taxes. Substantial increases were noted in Ralston where school taxes were up 52.2%; Bellevue, up 44%; Mullen, up 38.9%; Geneva, up 26.4%; and Crete, up 25.4%. Lincoln and Omaha, the two largest cities in the state, reported increases too. Lincoln's levy jumped 12.1% while Omaha's increase was recorded at 11.5%.<sup>557</sup> Enrollment changes did not explain the tax increase. According to The Nebraska Citizens Council the increases were due to rising costs for materials, new buildings, teacher salaries and maintenance.<sup>558</sup>

Constitutional amendments during the decade changed both education and tax policy. An amendment in 1952 altered taxing of motor vehicles which provided additional dollars to school districts. The State Department of Education was established by the approval of another ballot amendment in 1952. The position of State Superintendent of Public Instruction was abolished and Nebraska joined many states whose organizational structure consisted on a Commissioner of Education, a State Board of Education and a Department of Education.

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<sup>557</sup> Id.

<sup>558</sup> Id.

Property values plagued assessors. What was to be taxed? What was the value of each item? A constitutional amendment passed in 1954 relating to property values and methods of determining uniform value. Grain taxes and livestock taxes added further confusion to the property tax issue. Other amendments passed during this election included exempting household goods from taxation and appointing members to the Board of Educational Lands and Funds. Another law changed property assessment to 50% of actual value. Perhaps the most significant amendment passed during this decade was the Duis Amendment which set the stage for sales and income taxes. When Nebraska adopted this tax format, a state property tax would be prohibited. Considered by some as the "poison pill," the impact of this amendment was not felt during the decade.

Free High Tuition fees changed regularly during the 1950s. Initially the tuition fees were \$7.50 per week but by the end of the decade they had risen to over \$15.00 per week. An excise tax for oil and natural gas added dollars to the Permanent School Fund.

School finance laws changed during the decade of the 1950s. As Nebraska moved into the next decade, debate would

continue regarding the issues of fairness and equity.

Economic policy would be studied with renewed interest and intensity.

Chart I

	<u>1950</u>	<u>1960</u>
Number of districts	6,734	3,777
Number of school houses	7,008	3,953
K-12 Districts	647	394
Number of counties	93	93
Number of children, 5-21	317,850	394,156
Children enrolled	227,879	275,802
Number of teachers	11,948	13,743
Value of School Property	112,612,541	293,436,124
Receipts	48,577,379	92,946,748
Expenditures	46,544,048	83,988,931
Indebtedness	22,120,221	102,464,631
State Apportionment from Endowments	1,561,307	3,079,681

\*Nebraska Blue Book <sup>559</sup>

<sup>559</sup> Nebraska Blue Book, (1992-93), 918-920.

Protests...Civil Rights and  
Property Taxes: 1960-1966

Introduction

Nebraska continued to change during the decade of the 1960s. The population grew to 1,411,330 in 1960 which was an increase of approximately 100,000 people from the 1950 census. The population shift from rural to urban and suburban centers continued. The Democratic party selected Ralph Brooks as their candidate for governor in 1958. He was elected and sworn into office in January, 1959. He died in office on September 9, 1960. Lieutenant Governor Dwight W. Burney, a Republican, became governor due to Brooks' death. He served as governor only a few months. Democrat Frank B. Morrison was elected in November, 1960 and inaugurated in January, 1961. He served three consecutive terms as Nebraska's governor.

The number of farms continued to decline during this decade. There were approximately 93,000 farms in 1960. This number decreased to under 82,000 farms in 1967. State government continued to grow as more services were needed. According to Olson and Naugle, "In Nebraska, where the chief source of revenue had long been the property tax, those upon

whom this burden fell began to protest that the tax system was unfair."<sup>560</sup> Heated discussions about tax reform erupted throughout the state. The debates were hard fought but both political parties tried to avoid the issue.

While the 1950s were often thought to be "simple times," the 1960s were not viewed in the same manner. Significant societal changes occurred in both civil rights and economic opportunity during this decade. Malcolm X, an Omaha born African American, was a leader in the Civil Rights Movement. The movement was plagued with race riots and violence in many of the major cities throughout the United States during the late 1960s. Omaha was no exception. The Vietnam War, a controversial conflict, sent many Nebraskans to battle in the Vietnamese jungles. Thousands of American soldiers did not return home from this war, Nebraska sons included. On the brighter side, Nebraska established a state educational television system. Legislative Bill 666 (1966), better known as the Nebraska Educational Television Act, was visionary. The legislature appropriated funding for the development of this system.

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<sup>560</sup> J. C. OLSON & R. C. NAUGLE, HISTORY OF NEBRASKA (Lincoln, NE: University of Nebraska Press, 1997), 361.

The impact of this decision would provide the state with significant technological advantages in upcoming years.

As family farms declined in number, new economic development opportunities would need to be investigated. It was hoped that a wider industrial base would help improve Nebraska's economic future. With this in mind, Nebraska formed a State Department of Economic Development. The state had limited raw materials to attract manufacturing businesses. Service industries, on the other hand, could thrive in Nebraska. So began Nebraska's interest in insurance and banking.

School district reorganization continued to plague Nebraska. The number of school districts dropped under 4,000 in 1960. Commissioner Decker stated

...that well-planned school district reorganization, with its resulting increase in financial support, had resulted in the broadening and strengthening of curricula in many schools. Such highly important areas as English, science, mathematics, history, and government had received special attention.<sup>561</sup>

During this decade Nebraska would celebrate her 100th birthday. School finance legislation had witnessed a great

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<sup>561</sup> G. Jensen, *Development of Nebraska Education, 1854-1967*. (Lincoln: Nebraska Dept. of Educ., 1968), 46.



deal of statutory change to date. "Nebraska education was on the move, and the state department of education was moving with it."<sup>562</sup>

#### The 72nd Legislative Session: 1961

The 72nd Legislative Session began in January, 1961 with Democrat Frank Morrison as governor. Adjustments continued to be made to property tax laws. Taxing livestock in the state continued to be a problem. Several bills were passed in hopes of improving this tax issue. One bill suggested proportional taxation of livestock. In other words, the tax should be paid in proportion to the amount of time the livestock was in the state. Another bill, LB 130 (1961), developed a formula to determine the actual value of livestock for assessment purposes.<sup>563</sup>

Hiring qualified teachers became difficult in some parts of the state. A new law penalized a school district if they employed unqualified teachers. The penalty was the loss of state apportionment dollars. Legislative Bill 603 (1961) defined the penalty formula and amended section

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<sup>562</sup> Id, 47.

<sup>563</sup> 1961 Neb. Laws, C 383, 1174-76.

79-1304, Reissue Revised Statutes of Nebraska, 1943.<sup>564</sup>

Another funding change occurred addressing taxation for pupils who lived on tax-exempt airfields owned by the state or city. Legislative Bill 266 (1961), amended 79-445.01 and 79-446.02, Reissue Revised Statutes of Nebraska, 1943. The tuition for these students was to be paid by the Department of Aeronautics if students were living on a state-owned airfield. If the students lived on a city owned airfield, the tuition was the responsibility of the city.<sup>565</sup>

In 1962, the *Lincoln Journal* published an article focusing on Nebraska's property tax history from 1957-1961. Authored by Dick Herman, a respected journalist for the newspaper, the 5-year study revealed that property tax climbed faster than valuations marking a 29% increase from \$153.5 to \$198.2 million. A number of key points were identified. First, school taxes rose the most climbing 35.9% while city and village property taxes were up 30.7%, county taxes increased 27.7% and state property taxes advanced only 15.5%. Second, in 1961, local schools took 52.03 cents out of every dollar of property tax with cities

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<sup>564</sup> Id, C 409, 1226-28.

<sup>565</sup> Id, C 400, 1213-15.

and villages taking 15.87 cents, counties 15.46 cents and state government 14.71 cents. Third,

with half of the state property tax funneled to support the University of Nebraska, four state teachers colleges and the State Education Department, the observation that 60 cents out of every Nebraska property tax dollar goes into the educational function of government is regarded as statistically sound.

More than any other state, Nebraska insists its local and state governmental divisions rely upon the property tax for revenues.

Nebraska is alone among the 50 states in having neither a general sales tax nor a personal or corporate income tax, or a combination of the two.

Local school districts figure 95% of their revenue must come from property taxes. Thus, in a period of higher costs and increasing competition to attract and hold teachers, city and village school tax levies have been on the rise.<sup>566</sup>

Herman further suggested that some Nebraska boards of education were granting additional increases in teacher salaries thus pushing the school tax levy even higher. To eliminate total dependence upon the property tax, many "schoolmen" expressed the need for a broadened tax base.<sup>567</sup>

Nebraska's Commissioner of Education, Freeman Decker resigned on January 15, 1962. The State Board of Education

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<sup>566</sup> D. Herman, Property Tax Climb Far Faster Than Valuations, 1961 Total Reaches \$198 Million, *Lincoln Journal*, July 11, 1962, 8.

<sup>567</sup> Id.

appointed Deputy Commissioner Stanley Hawley in the interim. On April 2, 1962, Floyd A. Miller was appointed as the state's third Commissioner of Education. Miller, a veteran staff member and most recently Assistant Commissioner for Instructional Services, provided leadership for the department on issues including school finance, school district reorganization, curriculum, legislation and policy.

The State Board of Education developed policy and belief statements in 1962 and 1963. Nineteen statements were written in all and three targeted the problematic issues facing the state's educational progress namely, 1) school district reorganization (policy #11), 2) a broadened tax base (policy # 12), and 3) state aid to education (policy #13).

11. We believe that our commitment to quality education requires us to work vigorously toward adequate school district organization. Just to rearrange districts is not enough. A school district should have sufficient pupils and financial resources to make possible a quality program of general, special and vocational education for all children from kindergarten through high school. As a Board we accept the challenge of bringing about reorganization through educational and lay leadership. We also believe this demands the type of budget support which permits an adequate Department staff to provide the necessary leadership.

12. We are concerned with the limiting and sometimes disruptive effects of the present tax system on the support and improvement of public education. This is particularly true in connection with school district reorganization, one of Nebraska's major educational problems. We are convinced that a broadened tax base is necessary for the maintenance and improvement of public education. We are committed to the principle that revenue collected from new tax sources should be allocated to public education through an equitable program of state financial support. Only in this way can tax relief be provided at the local level where the pressure is the greatest. (Adopted February 5, 1963)

13. We believe, because education is constitutionally a State function, that it is the responsibility of the Legislature to provide an adequate and equitable program of financial support for public education which requires direct State participation. We believe that State financial support and effective school district reorganization go hand in hand. We further believe that a reasonable program of State support is the only solution for some of Nebraska's hard-pressed school districts which have school enrollments far in excess of their financial ability to provide quality education.<sup>568</sup>

With new policy and belief statements in place, the Commissioner of Education, the State Board of Education and the State Department of Education began discussions of taxing alternatives and options. Recommendations for changes would be submitted to the legislators for possible

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<sup>568</sup> G. Jensen, *Development of Nebraska Education, 1854-1967*. (Lincoln: Nebraska Dept. of Educ., 1968), 52-53.

changes in Nebraska's educational laws. The Legislature had concerns regarding the implications of sales and income tax and had requested a tax study. The McClelland Tax Study compared Nebraska's current taxing system with a system using sales and income tax.<sup>569</sup>

73rd Legislative Session: 1963

Governor Morrison began his second term as governor in 1963 as the 73rd Legislative Session began. Another effort to change motor vehicle taxation was initiated. Legislative Bill 377 (1963) was a constitutional amendment to provide a different method of taxing motor vehicles owned and held for resale. It also suggested a different method of taxing motor vehicles owned by residents of this state.<sup>570</sup> Another constitutional amendment, LB 692 (1963), addressed intangible property tax changes. Some intangible property was to be classified and taxed while other intangible property was tax exempt.<sup>571</sup>

Legislative Bill 339 (1963), amended 79-402 Revised Statutes Supplement, 1961, as amended by section 1, LB 284,

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<sup>569</sup> *A Comprehensive Guide to the Nebraska State and Local Tax System* (Prepared by: Staff of the Committee on Revenue, Nebraska Legislature, December, 1966).

<sup>570</sup> 1963 Neb. Laws, C 298, 886-888.

<sup>571</sup> *Id.*, C 301, 892-893.

73rd Session of Nebraska Legislature, 1963, allowed petitions to be accepted to merge Class I school districts.<sup>572</sup> Another bill, LB 106 (1963), amended section 79-1302, Reissue Revised Statutes of Nebraska, 1943, and section 79-1304, Revised Statutes Supplement, 1961, provided that the portion of school funds that were distributed on the basis of the school census were be distributed on the basis of the number of children between the ages of 5 and 18 years rather than the number of pupils.<sup>573</sup>

The Forest Reserve Fund statute was amended by LB 812 (1963). Amending section 79-1310, Reissue Revised Statutes of Nebraska, 1943, reallocation of the fund was to go to each school district lying wholly or partly within any forest reserve with an amount equal to the actual per pupil cost. The remaining one-fifth of the allocation was to be used by the public road fund.<sup>574</sup>

The state Temporary School Fund reported increases in allocations during 1964. In an article in the *Lincoln Journal*, a total of \$6,358,613 was certified for

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<sup>572</sup> Id, C 474, 1521-1524.

<sup>573</sup> Id, C 493, 1579-1578.

<sup>574</sup> Id, C 494, 1578-1579.

distribution to eligible school districts. The previous year's allocation was approximately \$3.2 million. With the doubling of the fund, the district allocation average increased to \$568 as compared to \$259 the previous year. The per pupil allocation increased to \$10.37 from \$5.11. Additional revenue from lease rentals and bonus payments were the primary cause of the increase. The annual rate for the use of school land was 6% of the appraised value. The increase in capital was due to higher land appraisals as well as bonus payments.<sup>575</sup>

#### The 75th Legislative Session: 1965

Governor Morrison began his third term in office in January, 1965. During the 75th Legislative Session, there were 17 constitutional amendments prepared for the November, 1966 ballot. The major constitutional issues addressed taxation and education. Policies, studies and recommendations had been proposed earlier in the decade to initiate major changes in the tax law. Tax administration itself underwent a major change. Legislative Bill 172 (1965), introduced by Marvel, Orme, Gerdes, and Stryker established a Department of Revenue and defined the duties

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<sup>575</sup> *Lincoln Journal*, Higher Land Appraisals Impact Distribution, March 23, 1964.



of a tax commissioner.<sup>576</sup>

Legislative Bill 79 (1965), introduced by Carpenter and Payne, was an act to amend Article VIII of the Constitution to provide an income tax law when it was adopted by the Legislature. The new income tax law was similar to the federal income tax laws.<sup>577</sup>

Legislative Bill 317 (1965), a School Land Administration bill, placed another issue before the voters in November of 1966. This amendment to Article VII, Section 4, of the Constitution, requested that the costs of administration of the unsold school lands be deducted from school land income first. Then the school land income could be applied to the support and maintenance of the common schools.<sup>578</sup>

A significant change in Nebraska's tax structure was offered in LB 341 (1965). Introduced by Jerome Warner and Marvin Stromer, this amendment to Article VIII, section 1A, of the Nebraska Constitution implemented a general sales tax, or an income tax, or a combination of sales and income.

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<sup>576</sup> 1965 Neb. Laws, C 459, 1455-1468.

<sup>577</sup> Id, C 292, 833-834.

<sup>578</sup> Id, C 294, 836-837.

The voters passed this amendment. The Legislature was to allocate not less than 20% of the proceeds from this tax to the common schools. This too was placed on the November ballot.<sup>579</sup>

Legislative Bill 434 (1965) introduced by Warner and Kremer, was another constitutional amendment to Article VIII, Section 1 which was to authorize the Legislature to fix the value of land actively devoted to agricultural or horticultural use.<sup>580</sup> It was hoped that a fixed or set value might add uniformity to the taxation. This amendment failed in the November election.

An amendment dealing with the investments of educational and public funds was also on the ballot. Legislative Bill 879 (1965) revised and limited investment sites for this fund.<sup>581</sup> Legislative Bill 447 (1965) stated that the Board of Educational Lands and Funds was responsible for the eradication of noxious weeds on school lands.<sup>582</sup> A companion bill, LB 326 (1965), authorized the

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<sup>579</sup> Id, C 295, 837-839.

<sup>580</sup> Id, C 298, 842-844.

<sup>581</sup> Id, C 302, 851-854.

<sup>582</sup> Id, C 428, 1367.

Board of Educational Lands and Funds to provide dollars for contract work to control the noxious weeds on school lands.<sup>583</sup> Although this was an expense, this put the school land in compliance with statutes regarding noxious weeds.

The school lands continued to be a point of controversy between legislators, the Board of Educational Lands and Funds and the governor. Legislative Bill 234 (1965) amended Sections 72-208 and 72-258 Reissue Revised Statutes of Nebraska, 1943, and Section 72-257 Revised Statutes Supplement, 1963, which related to the school lands. This bill allowed school lands to be sold at the expiration of the present lease. It also established a market price for the land. The minimum price was set at the appraised value. If the land was not sold at auction, it could be leased for another 6-year period, however, it was not to be offered for sale again until the new lease expired. This bill became law in spite of the Governor's objection.<sup>584</sup> During 1966, 1,355.93 acres were sold for a total of \$142,218.<sup>585</sup> Another bill, LB 316 (1965), School Land Rentals, reduced the annual

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<sup>583</sup> Id, C 427, 1366.

<sup>584</sup> Id, C 435, 1385-87.

<sup>585</sup> G. Jensen, *Development of Nebraska Education, 1854-1967*. (Lincoln: Nebraska Dept. of Educ., 1968), 62.