

Further restrictions were legislated regarding the formation of new school districts. Legislative Bill 1377 (1969), introduced by the Committee on Education prohibited the formation of new school districts unless they were K-12 district related to a Class VI district. The purpose of this bill was to restrict contracting for instruction.⁶³⁵

A procedural bill was introduced with LB 1063 (1969) which discussed the disbursement of taxes, amending section 79-435, Reissue Revised Statutes of Nebraska 1943, to provide for the collection and disbursement of taxes by the county treasurer as prescribed. When the taxes were collected, they were to go directly to the county treasurer, not the treasurer of the school district. Upon receipt by the county treasurer the taxes could then be withdrawn as provided in section 77-460.⁶³⁶

Nonresident high school tuition issues continued to change. Legislative Bill 910 (1969), amending section 79-4,102, Revised Statutes Supplement, 1967, stated the rate was determined annually by the receiving district on a uniform basis for all pupils. In no circumstance was the

⁶³⁵ Id, C 703, 2702-03.

⁶³⁶ Id, C 714, 2439-40.

rate to be less than the average per pupil cost from the preceding school year. The superintendent for the receiving district was to certify the rate for the nonresident high school tuition to the county superintendent on or before the second Monday in July.⁶³⁷ Legislative Bill 1397 (1969) altered the high school tuition statute for residents in Class II or VI Districts amending section 79-1103.04, Revised Statutes Supplement, 1967. If a pupil in a Class II or VI district attended an accredited junior high school or junior-senior high school outside their resident district, tuition would be granted.⁶³⁸

LB 633 (1969) was introduced by Keyes and adjusted the provisions for calculation of state aid. This bill amended sections 79-1338 and 79-1341, Revised Statutes Supplement, 1967. Section 79-1338 eliminated language about Public Law 874, 81st Congress and the Johnson O'Malley Act which dealt with federal funds. This bill clarified the process stating

From the sum calculated pursuant to section 79-1336, each district shall subtract operating funds obtained from (1) the state under 79-1334, (2) the qualifying levy prescribed in section 79-1335; provided operating funds received from

⁶³⁷ Id, C 720, 2748-49.

⁶³⁸ Id, C 725, 2759-60.

that portion of the local tax levy which exceeds the minimum prescribed in section 79-1335 shall be excluded from this computation, (3) tuition, (4) fines, (5) license fees, (6) transportation reimbursements, (7) the Insurance Tax Fund, and (8) funds received under the provisions of Chapter 79, article 13.⁶³⁹

Legislative Bill 34 (1969), introduced by Carpenter, repealed sections 77-512, 77-513, 77-514, and 77-517, Reissue Revised Statutes of Nebraska, 1943, which repealed the state property tax levy. This bill was necessary since property was no longer to be taxed at the state level.⁶⁴⁰

Legislative Bill 1430 (1969) amended sections 10-711 and 79-425, Reissue Revised Statutes of Nebraska, 1943, and section 79-435, Reissue Revised Statutes of Nebraska, 1943 as amended by section 1, LB 1063, 80th Session, Nebraska State Legislature, 1969, relating to school finance. This bill provided for the collection and disbursement of taxes and corrected an erroneous reference regarding collection of tax money. Tax dollars were to be collected by the county treasurer not the treasurer of the school district.⁶⁴¹

⁶³⁹ Id, C 732, 2768-69.

⁶⁴⁰ Id, C 657, 2575.

⁶⁴¹ Id, C 50, 269-271.

The Legislature intended to redesign the format of the session law books. Legislative Bill 36 (1969) described the new format. Beginning with the 1971 Session Laws, the legislative acts were to be identified and cited by the Legislative Bill number that was originally assigned to the bill when it was introduced. The previous practice of arranging legislative acts in the order in which they would appear in the Revised Statutes and designating a chapter number to each bill was to be discontinued.

Summary

Passing the School Foundation and Equalization Act was significant for Nebraska. Senator Jerome Warner led the effort in changing the school funding system which provided increased state aid to education. Foundation and equalization grants had already been selected by many other states. Educational finance theorists Ellwood Cubberly and Harlan Updegraff had written about school finance early in the century. In 1906, Cubberly discussed the state's responsibility to provide minimum education programs.

Cubberly's thesis stated:

"Theoretically all the children of the state are equally important and are entitled to have the same advantages; practically this can never be quite true. The duty of the state is to secure

for all as high a minimum of good instruction as is possible, but not to reduce all to the minimum; to equalize the advantages to all as nearly as can be done with the resources at hand; to place a premium on those local efforts which enable communities to rise above the legal minimum as far as possible; and to encourage communities to extend their educational energies to new and desirable undertakings."⁶⁴²

His research changed school finance thinking. The question no longer encouraged the state to be a benevolent giver to public education, but rather it was the state's responsibility to contribute to the financing of education within the state. Money did impact education.

Nebraska's efforts to adopt the school foundation and equalization laws were intertwined with issues of local control, politics, population shifts, school reorganization and quality of education. The 1970s would witness the impact of this new school finance legislation.

⁶⁴² D. C. THOMPSON, R. C. WOOD & D. S. HONEYMAN, FISCAL LEADERSHIP FOR SCHOOLS, CONCEPTS AND PRACTICES (Longman, 1994).

Chart K

	<u>1966</u>	<u>1970</u>
Number of districts	2,557	1,824
Number of school houses	2,916	2,308
K-12 Districts	375	327
Number of counties	93	93
Number of children, 5-21	455,449	461,801
Children enrolled	318,881	332,072
Number of teachers	15,700	19,931
Value of School Property	434,738,682	559,312,183
Receipts	151,603,953	255,391,921
Expenditures	151,947,336	250,257,954
Indebtedness	163,142,825	192,478,807
State Apportionment from Endowments	3,600,087	4,759,784

*Nebraska Blue Book⁶⁴³

⁶⁴³ Nebraska Blue Book, (1992-93), 918-920.

An Era of Fiscal Conservation: 1970-1978

Introduction

Governor Tiemann was responsible for leading Nebraska through a great deal of needed change during his tenure as governor. He was the first governor to serve a four-year term without having to run for reelection. As a result, he had time to initiate and implement new ideas. He looked to the future more than any governor to date and understood the need to broaden the tax base within the state. Major changes in taxation were implemented during his term, however, Nebraskans were nervous and unsure that they wanted him at the helm for another term. Lincoln businessman, J. James Exon, became Tiemann's challenger for the governorship in 1970. Exon was a longtime Democrat and no stranger to politics as he ran former governor Morrison's campaigns. He was known as a fiscal conservative. This quality appealed to voters after the taxing and spending efforts of Tiemann. Exon promised to hold the line on spending, provide only the essential state services, eliminate the sales tax on food and halt the sale of school lands.⁶⁴⁴

⁶⁴⁴ J. C. OLSON & R. C. NAUGLE, HISTORY OF NEBRASKA (Lincoln, NE: University of Nebraska Press, 1997), 376.

The Democrat Exon had set a far different tone for his administration than the Republican Tiemann, yet his message eased the anxieties of many Nebraskans, both Republicans and Democrats, who were nervous about the growth of the state budget. "It is not that Nebraskans are necessarily opposed to progress, the Lincoln Evening Journal had declared with some sarcasm in the aftermath of the election, "they just don't want to pay for it."⁶⁴⁵

The state's economy would change during the 1970s.

The stockyards of Omaha closed and the meat packing industry moved to smaller cities in the state. Grand Island, Schuyler and Lexington became new sites for beef and pork production. The population in these smaller communities became more diverse as a result. Farm prices were relatively good during this era however inflation hit double digits. An oil embargo with the Middle East forced oil prices to skyrocket impacting farming costs. Land values increased during the decade. Farms were sold at increased value but as mortgage rates increased and farm income decreased, a farming crisis was inevitable. This crisis would have a major impact on the number of farms in the state. Many farmers were forced into Chapter 11 bankruptcy.

The school statistics changed from the previous decade.

⁶⁴⁵ Id, 376.

Student enrollment increased by over 50,000 students since 1959. In 1969-1970 student enrollment numbers were calculated at 332,072.⁶⁴⁶ Although there were fewer school districts in the state than in the previous decade, there were still 1,488 districts reported in 1969-70. The number of K-12 districts decreased to 327 but the number of teachers needed to instruct students increased over 6,000 from the previous decade.⁶⁴⁷

Manley, in his book *Images of Nebraska Education*, wrote that the administrative structure of Nebraska education would change in the 1970s and beyond.

State aid means greater State participation in education. The degree of that participation remains to be worked out, but while the State will enlarge its influence, the local districts will not be thrown into the trash heap. Not by any means. State aid may lessen the financial problems of the local district (although at this point considerable numbers of board members do not think this is necessarily so) but it will not decrease the number of vital educational issues with which the local board must deal. After all, mill levies and budgets are but means for achieving the more important goal of educating children and young people. And in the substantive area of quality education, the challenges are great indeed. Student discipline, curricula, teacher organization - these seem to be the three issues which are on the minds of Nebraskans; and

⁶⁴⁶ *Nebraska Blue Book*, 1992-93, 919.

⁶⁴⁷ *Id.*, 919.

the restive public talks more and more about educational accountability.⁶⁴⁸

Manley discussed the polarization of opinion in the 1950s stating that it was inevitable but regrettable. There was no middle ground between the traditionalists and the proponents of reorganization and new methods of school financing. Knowing that change was inevitable, Manley suggested that the new social and economic forces in Nebraska "squeezed the local districts hard. Slowly the traditionalists retreated, and the movements for reorganization and a broadened tax base gained momentum."⁶⁴⁹ Manley felt that the polarization issues of the past would diminish in the 1970s and the question of "local control" would become an urgent concern.⁶⁵⁰

The 82nd Legislative Session: 1971

The 82nd Legislative Session began in January 1971. J. James Exon defeated Tiemann for the governorship of the state. The Legislature continued to monitor and adjust taxing issues related to school finance during this session. It should be noted that LB 36 (1969) changed publication

⁶⁴⁸ ROBERT N. MANLEY, IMAGES OF NEBRASKA EDUCATION (Selection Research Inc., 1972), 23.

⁶⁴⁹ Id, 45.

⁶⁵⁰ Id, 45.

practices of the session laws. Legislative bills were now to be listed in the session law books according to numerical order. The previous practice of arranging bills by chapter numbers in the order of statute appearance was discontinued. Vincent D. Brown, Clerk of the Legislature, added this note at the beginning of the 1971 Session Law book.⁶⁵¹

Legislative Bill 27 (1971) amended 79-1344.01 and guaranteed each school district the amount of foundation aid that was computed.⁶⁵² Legislative Bill 527 (1971) amended section 77-27, 119, Revised Statutes Supplement, 1969. This bill required taxpayers to write their school district number and county name on their state tax forms when filing their income tax. This bill allowed more accurate data collection regarding personal income relative to school districts and would be valuable data for assessing differences in school districts.⁶⁵³

Class I schools continued to align themselves with larger districts. Legislative Bill 447 (1971), amending section 79-4, 103, Reissue Revised Statutes of Nebraska,

⁶⁵¹ 1971 Neb. Laws, LB 36.

⁶⁵² Id, LB 27.

⁶⁵³ Id, LB 527.

1943, credited nonresident tuition funds remaining in the old district to the new district.⁶⁵⁴

Legislative Bill 227 (1971) clarified that in order to receive state funding, districts needed to be in session for the required length of time. The statute previously stated exceptions to this rule which included epidemic sickness and destruction to the school building. This bill added that severe storm conditions would also qualify as an exception provided that the board of education felt it was advisable to close school. This bill amended section 79-470, Reissue Revised Statutes of Nebraska, 1943.⁶⁵⁵

Legislative Bill 469 (1971) changed the statute section dealing with nonresident tuition for pupils attending school in another state. The law repealed section 79-4, 106, Reissue Revised Statutes of Nebraska, 1943. Section 1 clarified that the parent of a student living in a county which was contiguous to the state boundary line could attend a school outside the state but needed to make an application before August 15 of each year to the Board of Education of the district in which the parent resided and specify the

⁶⁵⁴ Id, LB 447.

⁶⁵⁵ Id, LB 227.

district in which they wanted to have their child attend. The application also needed to state if any of the following conditions existed: 1) the out of state school was closer, 2) natural barriers such as rivers cause transportation difficulties, 3) road conditions from the pupil's home to the out-of-state school are better than to the district school, 4) travel time was less to the proposed district; or 5) educational advantages existed in the proposed receiving district. Section 4 discussed payment stating that the Board of Education of the sending district was to pay daily tuition for up to 185 days per year. The daily tuition rate was to equal the actual per pupil per day operating expense of the receiving district from the preceding school year. This change allowed the out of state district to charge fees that may be greater than the per pupil cost in the local district. To avoid fraud, section 5 further clarified that the State Board of Education would have access to the records of the receiving district in an adjoining state in order to verify the amount charged. If necessary, the Commissioner of Education could confer with the department of education of the adjoining state to establish uniform

methods of determining costs pursuant to this act.⁶⁵⁶

Legislative Bill 1002 (1971), introduced by Stahmer, amended sections 79-1302 and 79-1304, Reissue Revised Statutes of Nebraska, 1943, and changed the manner of apportioning the State School Fund. The Commissioner was still in charge of apportioning these funds for saline land and the Free High School Fund of the county in lieu of tax dollars. The bill repealed language with regard to the remainder of the dollars. Previously the remaining dollars were to be equally divided among the districts and divided according to the number of districts in the county. Now the remaining funds were to be apportioned to the counties according to the pro rata enumeration of children between the ages of 5 and 18 years. Section 2 amended 79-1034 to match disbursement procedures stating that the total apportionment of each district was to be: a) its pro rata share of the balance of the amount of the state apportionment, b) the amount received from fines and licenses, and c) proceeds of sale or unexpended balances of taxes when a district is taken over by the United States for any defense, flood control, irrigation or war project.

⁶⁵⁶ Id, LB 469.

Attendance requirements consisted of 175 school days for the year.⁶⁵⁷

One requirement for receipt of state funds was linked to the number of school days for students. Legislative Bill 211 (1971) amended sections 79-201 and 79-420, Reissue Revised Statutes of Nebraska, 1943, requiring that school terms be not less than 175 days.⁶⁵⁸

The payment dates for state aid to school districts were altered with LB 426 (1971) which amended section 79-1333, Revised Statutes Supplement, 1969. Funding to schools was to be paid in quarterly allotments on September 30, January 15, March 15, and May 15. The previous law stated that would be made in equal installments on the first day of December and first day of April. Section 2 addressed changes to increase the amount of the payment. If the school membership, which was counted on the last Friday of September, increased 5% or more above the membership of the preceding year on the corresponding date, then the total financial support pursuant to section 79-1336 was to be

⁶⁵⁷ Id, LB 1002.

⁶⁵⁸ Id, LB 211.

increased by the per cent of membership.⁶⁵⁹ A growth factor for districts increasing in size was now part of the statute.

Ziebarth, Simpson and Kennedy were key senators who sponsored much of the school finance legislation during the first legislative session of the 1971-1972 biennium. Nebraska senators and taxpayers began to question what was happening in Nebraska's schools when news sources reported the California Supreme Court's decision to declare their public school system unconstitutional and based their judgment on an inequitable school funding system. The *Lincoln Journal* reported comparisons between some of Nebraska's school districts.

An interesting Nebraska comparison is in the districts of West Point and Papillion whose assessed valuations are not far apart - West Point, \$14 million; Papillion, \$18 million. But because of pupil concentration - West Point, 468, Papillion, 3,453, the mill levy at West Point is 15.20 as compared with 69.90 at Papillion.

The great disparity in mill levy, however, results in both districts spending something over \$500 per pupil in the elementary grades while West Point spends \$1,026 per pupil in high school and Papillion spends \$653 per high school student.

...The suit on which the California Supreme Court made its ruling was brought by a group of Los Angeles parents and children. It was

⁶⁵⁹ Id, LB 426.

dismissed in Superior Court, but was carried on appeal to the state Supreme Court.

James J. Duggan, assistant attorney general, said a prediction whether any such litigation against the state of Nebraska might be brought by a group of parents could only be determined after studying the California Constitution comparing it to Nebraska's, as well as a study of the case.⁶⁶⁰

Senator Jerome Warner claimed that Nebraska's system of public school support would stand a court test. Although Nebraska's system relied heavily on the local property tax, Warner said that the problem is "whether there is an equitable method of distributing state aid to local school districts."⁶⁶¹ California's court said that the state's aid distribution formula partially alleviated disparities among the districts but there were still wide differentials in per-pupil expenditures. Warner went on to state that "Nebraska's formula, held up nationally as an example of the right method, was based on per-pupil expenditures and was aimed specifically at alleviating disparities among districts."⁶⁶² He stated that the basic philosophy in Nebraska's formula was okay but it needed to be updated to reflect current costs. Furthermore, he stated that the law

⁶⁶⁰ B. Stevens, School Funding Puzzle Confused by Variables, *Journal Star*, August 31, 1971, 8.

⁶⁶¹ Warner: Nebraska Law Would Stand Court Test, *Lincoln Journal*, September 1, 1971, 30.

⁶⁶² *Id.*

should be funded to the amount prescribed, not partially as was the current practice.⁶⁶³

An article in the *Lincoln Journal* compared Nebraska's school funding system and to California's. Herman deduced that there were many similarities.

Virtually all of the factual circumstances which led the California Supreme Court last week to strike down that state's public school financing system are duplicated in Nebraska. Whether the Nebraska Supreme Court would reach the same conclusion of unconstitutionality is highly problematical, legal observers say.⁶⁶⁴

Herman stated that

Unlike its California counterpart, the Nebraska Supreme court historically has steered clear of making judgments based on the U.S. Constitution - which it has authority to interpret and apply in not covered situations. The 6-1 California decision held that vastly unequal property tax resources behind individual students in different public schools violates the 14th Amendment (equal protection) to the federal Constitution.

Contrary to initial national reports, the California high court did not call the local property tax unconstitutional...Judges held the California school "funding scheme invidiously discriminated against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors."⁶⁶⁵

⁶⁶³ Id.

⁶⁶⁴ *Lincoln Journal*, Nebraska and California Situation Similar in Public School Financing Area, September 7, 1971, 8.

⁶⁶⁵ Id.

Across the Nebraska plains questions were beginning to surface about school funding, equity, state aid and reinstating a statewide tax for schools. Senator Warner, known as the "legislative father of state aid to schools" felt that full equalization aid was the intent of the 1967 Foundation and Equalization Act. Until achieved, the intent of the law was not met. Warner pushed for additional school funds during the 1971 Legislative Session but was met with opposition from Governor Exon and the Legislature. In 1971 the state funded education with a \$35 million payment. Warner wanted to raise the state's contribution to \$89 million. In 1972 the Legislature continued to address school finance issues while keeping a close eye on what was happening in California.

The second session of the biennium began in 1972 and school funding issues resurfaced. Legislative Bill 875 (1972), introduced by Proud, amended section 79-432, Reissue Revised Statutes of Nebraska, 1943, and provided an exception to the maximum levy for Class I, II, III and VI school districts with regard to the aggregate school tax levied. This act stated in school districts of the first and second classes, "except for taxes levied to pay

principal and interest on bonds issued by the school district as to which taxes there shall be no limitation."⁶⁶⁶
The maximum levy remained at 12 mills.

The Committee on Constitutional Revisions, a newly formed group, introduced new amendments to the Constitution. Legislative Bill 1023 (1972) defined the amendments to be approved by the voters. Senator Syas was chair of the committee and Senators Stromer, Moylan, Snyder, Barnett, Jr. served on the revisions committee. Article VII of the Constitution was to be amended in sections 1, 2, 3, 4, 6, 7, 8 and 9, and sections 14-17 were to be repealed. If approved by the voters the amendment would recodify, revise and clarify the provisions of Article VII. The following changes were recommended. Section 1 changed the make up of the Board of Educational Lands and Funds. In addition to providing free instruction in the common schools of the state for all persons between 5 and 21 years, the Legislature could financially support other people in educational institutions which were owned and controlled by the state or a political subdivision.

Section 2 previously discussed the use of money and

⁶⁶⁶ 1972 Neb. Laws, LB 875.

property granted to the state for educational purposes.

The amendment revised this section stating that the State Department of Education was to be comprised of a State Board of Education, and a Commissioner of Education. It would be the duty of The State Department of Education to supervise and administer the state school system and other activities that the Legislature might direct.

Section 3 previously dealt with financial issues regarding perpetual funds for the common schools. The revisions to this section defined membership on the State Board of Education stating that it was to have 8 members elected from equally representative districts according to population. Office terms were to be 4 years and duties were to be prescribed by the legislature. Elected on a nonpartisan ballot, the state board members were not to be compensated nor actively engaged in the education. Section 7 addressed the perpetual funds for common school purposes and methods of appropriation.

Section 8 defined educational trust funds and stated that the income from these funds could not be transferred to other funds. Section 9 clarified that the funds were to be exclusively used for the support and maintenance of the

common schools in each school district in the state provided by the Legislature.⁶⁶⁷ This amendment was approved by the voters at the November election.

Another amendment, which was also approved in the General Election in 1972, called for partial implementation of the constitutional amendment passed in 1970 which authorized the Legislature to provide for personal property tax exemptions. Legislative Bill 1241 (1972) was vetoed by the governor but the Legislature passed the bill overriding the governor's veto. This bill allowed phased-in partial tax exemptions of agricultural machinery, inventory, grain and livestock.⁶⁶⁸ A third amendment, LB 837 (1972), was proposed by Warner and authorized the Legislature to determine the value of agriculture land on the fringe of urban centers.⁶⁶⁹ Known as the "greenbelt" law, this amendment was a benefit to the farmers living just outside the city limits by reducing the tax rates on this property.

Legislative Bill 1167 (1972) amended section 79-1333.02 Revised Statutes Supplement, 1971, and increased financial

⁶⁶⁷ Id, LB 1023.

⁶⁶⁸ Id, LB 1241.

⁶⁶⁹ Id, LB 837.

support to schools in proportion to increased student membership. When student membership increased one half of one per cent or more above the membership of the preceding year, the total financial support pursuant to section 79-1336 was to be increased by the per cent of increase of the student membership over the previous year. The purpose of this bill was to allow additional funds for schools which had rapid growth in student membership.⁶⁷⁰ Another bill, LB 1219 (1972), addressed tuition charges for children placed in foster homes in a school district. These children were exempt from paying tuition charges. Legislative Bill 1219 (1972) amended section 79-445, Reissue Revised Statutes of Nebraska, 1943, and section 79-4, 119, Revised Statutes Supplement, 1971.⁶⁷¹

At the conclusion of the legislative session, Warner planned meetings for his legislative study committee and wanted to include representatives from a wide variety of statewide organizations to focus on school finance affairs. According to Warner, the meetings were to "develop a series of guidelines which we can agree constitute a good method of

⁶⁷⁰ Id, LB 1167.

⁶⁷¹ Id, LB 1219.

financing schools."⁶⁷² It was hoped that the guidelines would lead to specific legislative proposals. Warner reported that the recent court decisions challenging the constitutionality of inequitable local property tax support for education had become a major national issue. Dr. Cale Hudson of the University of Nebraska-Lincoln, reported differences in Nebraska's funding system to Warner's committee. Per student expenditures differed greatly as Hudson presented data supporting the disparities. Expenditures ranged from \$504 at Plattsmouth to \$1,595 at Venango while property tax mill levies ranged from 18.82 at Harrisburg to 80.94 at Ewing.⁶⁷³

Staff writer Milan Wall of the *Lincoln Star*, interviewed Hudson in July 1972 and reported that the "solution" to Nebraska's school finance problems was a balanced tax load which would spread the burden to three revenue sources including sales, income and property.⁶⁷⁴ Hudson also concluded that Nebraska might be vulnerable to a legal attack on the school funding issue. The article

⁶⁷² D. Walton, Committee Studies School Financing, *Lincoln Star*, June 29, 1972, 1.

⁶⁷³ *Id.*

⁶⁷⁴ M. Wall, Balanced School Financing Suggested, *Lincoln Star*, July 17, 1972, 1.

reported that

The UNL professor has begun to put together enough statistical evidence, gleaned from reports on schools and taxation, to provide a solid basis for an attack on heavy reliance on property taxes for school support. Hudson says although there is a constitutional prohibition against a statewide property tax, the state can and does in effect, set a statewide property tax which the counties collect.

That is accomplished, he notes, when the state mandates that school districts must collect some local property taxes to qualify for state aid.

Under the terms of the current legislation, for example, kindergarten-12th grade districts must levy at least 12 mills in order to qualify...Hudson's calculations show that a shift to sales-income taxes would increase the school tax burden in only four counties - Douglas, Lancaster, Adams and Hall.⁶⁷⁵

Nebraskans could also wait to see if the federal government would assist schools with massive aid. Schools were being supported by federal dollars in some specific programs at this time but Hudson and Boardman, a former member of the staff of the National Educational Finance Project, both felt that waiting for the federal government to decide what to do was not the best choice.⁶⁷⁶ Hudson explained:

⁶⁷⁵ Id.

⁶⁷⁶ *Lincoln Star*, Wait for Federal Aid Said Probably Unwise, July 17, 1972, 3.

The federal government currently supports a huge number of programs that provide monies back to the state in one way or another to help finance projects on the state and local level...But Nebraska...pays to the federal government \$1.19 for support of such grants for every dollar the Cornhusker state gets back.⁶⁷⁷

Along with per capita personal income, per capita disposable personal income, per capita total tax collections of state and local governments and public school revenue receipts, Hudson suggested that the figures indicated that Nebraska was not measuring up to its ability to pay for its public schools. In essence, the federal government would frown on sinking more federal dollars into a state which was currently not paying for schools in relation to their ability to pay. His recommendation was to reshape school finances in the state and not wait for the federal government to act on the matter.⁶⁷⁸

In December 1972, Governor Exon's proposal to clamp down on local school district expenditures was unveiled. Although thought by many to be similar to the politically popular law imposed in Kansas school districts two years earlier, the author of the proposal denied the claim.

⁶⁷⁷ Id.

⁶⁷⁸ Id.

Gus Lieske, State Administrative Services Director, explained that the Kansas plan held school district budgets to 5% per year. If a district wished to increase the budget over the lid, a vote of the people would allow it. Nebraska's plan was not so simple. Lieske described Nebraska's plan and how it would work beginning with 1974-75:

- A school district's operating budget would be divided, by gross dollars, into three major components: teachers salaries, administrative salaries, and other operating costs.
- The amount of money available for teachers' salaries in any given year would be the previous year's total, inflated by the national consumer price index for the preceding 12 months.
- The amount available to pay all administrators would be increased by the average dollar amount jump authorized for teachers.
- Operating costs could be increased by the national wholesale price index for the preceding 12 months.⁶⁷⁹

Lids were not new to Nebraska but the idea of locally controlling which area of the budget could increase was new. Districts could chose to increase the budget beyond the lid in two ways. First, the patrons could vote to exceed the lid if a majority vote was gained at the polls. Second, if student enrollment numbers increased, a budget increase

⁶⁷⁹ *Lincoln Journal*, Proposed School Funds Limit Measure Explained by Lieske, December 12, 1972, 13.

was allowed.

In 1972, Papillion School District filed a suit challenging the school finance system in Nebraska. It maintained that variations in property tax support of schools between school districts resulted in unequal educational opportunity between rich and poor school districts. The basis of the suit was the equal protection clause of the 14th Amendment. Nebraska's suit was similar to a suit filed in Texas, San Antonio Independent School District v. Rodriguez, 1973, U.S. Supreme Ct. (411 U.S. 1, 93 S. Ct. 1278, 36 L. Ed. 2d 16). In 1971 the U.S. District Court ruled that the Texas school finance system was unconstitutional under the equal protection clause of the 14th Amendment because significant disparities existed in school expenditures. John Kelly, attorney for the Papillion School District, filed the Papillion suit believing that Nebraska's situation was very much like that of Texas.

In the spring of 1973, however, the U.S. Supreme Court held in a 5-4 decision that education was not among the rights afforded explicit protection under the United States Constitution. This historic case, (411 U.S. 1, 93 S. Ct. 1278, 36 L. Ed. 2d 16), eliminated federal courts as a

receptive forum to school finance cases.

John P. Kelly, attorney for the Papillion School District, stated that the United States Supreme Court decision would make his current Nebraska suit difficult to win.⁶⁸⁰ Assistant Attorney General Ralph Gillian told *The Star* that if Papillion did not move to dismiss the case, he would. He further stated, "I can't see any distinction between this case and the Texas case, except that the Texas situation is worse than Nebraska's."⁶⁸¹ The Papillion case was dropped.

The 83rd Legislative Session: 1973

In 1973 Nebraska's 83rd Legislature convened and school finance issues continued to be a high priority. Law suits and the threat of suits forced many states to reexamine their funding schemes. In Nebraska, school funding bills were amended and new legislation was added. Legislative Bill 172 (1973) was a new law. Section 1 appropriated 10 million dollars from the Revenue Sharing Trust Fund to the School Foundation and Equalization Fund. Section 2 of this bill appropriated another 10 million dollars to the State

⁶⁸⁰ *Lincoln Star*, Now School Support Changes to be Hard, March 22, 1973, 1.

⁶⁸¹ *Id.*

Department of Education

...to be distributed such that every district in the state receives the same amount of funds per unit of average daily membership as every other district, which distribution shall be based upon average daily membership as defined by the State Department of Education for the regular school year.⁶⁸²

This money was to be distributed in the following manner:

one quarter on September 30, one quarter on January 15, one quarter on March 15 based on the average daily membership (ADM) from the previous school year. The final payment was to be adjusted on or before July 31 so that the total distributions for the year reflected the actual average daily membership for the current school year. These funds were not to be considered in computation of state aid under the provisions of sections 79-1330 to 79-1340, and 79-1342 to 79-1344, Reissue Revised Statutes of Nebraska, 1943 and other amendments.

Section 3 stated that for the purposes of this act, a school district's general fund budget was the budget for that district less the amounts budgeted for: 1) payment of principal, interest and other charges related to bonded indebtedness; 2) payments from building and equipment funds;

⁶⁸² 1973 Neb. Laws, LB 172.

3) payments or expenditures for programs or activities funded in whole or in part by the U.S. government but not state programs. The budget itself would have a different look; there were to be only two parts to the budget, salaries and other expenses. Expenditures could not exceed the amount that was budgeted. Section 6 was significant as it limited the budgeting process. For the 1973-74 school year, the general fund budget was not be increased over the previous year according to the following computations:

- 1) to the amount of salary and salary related items shall be added an amount equal to two per cent of the salary and salary related items and this total shall be increased by a factor or percentage which shall be an increase in the Cost of Living Index as established by the U.S. Department of Labor for the immediately preceding calendar year. To the amount resulting from this computation may be added an amount equal to any increase in employer contributions under the federal social security act, which will take effect during the year for which the budget is being set such amount to be computed based upon the number of employees and their salaries in the year preceding the year for which the budget is being set;
- 2) to the amount of other expenses shall be added an amount equal to two per cent of the other expenses and this total shall be multiplied by a factor or percentage which shall be the increase in the wholesale Price Index for the immediately preceding calendar year; and
- 3) the amounts resulting from computations pursuant to subdivisions (1) and (2) of this section shall be added together and shall constitute the dollar amount that the general

fund portion of the budget described in section 2 of this act may be increased, except that if there is an increase in student enrollment the amount determined under this subdivision may be further increased by the percentage increase in student enrollment.⁶⁸³

For enrollment calculations, average daily membership (ADM) was to be used. Section 8 explained computations. If final figures were not available, estimates were to be used. When final figures were available, recalculations were to take place. If recomputation data were lower than the original estimation, the difference was to be determined.

Expenditures were to be aligned with the new figures allowing remaining dollars to be carried forward into the next budget year as an item of general fund revenue for the district. If expenditures were made in excess of the amount permitted, those dollars were to be subtracted from any state funds distributed to the district for general school purposes. The amounts subtracted were to be placed in the state General Fund.

Options were still in place for districts to exceed budget plans. If a board wanted to exceed the amount, the following information needed to be shared with the state:

⁶⁸³ Id, LB 172.

1) the previous year's budget, 2) the allowable increase in the budget identified as both a percentage and dollar amount; 3) the dollar amount of increase above the limitation provided in sections 2 to 7; and 4) the intended use of the funds which were in excess of the allowable increase under section 5. Section 11 allowed The Director of Administrative Services to draw warrants upon the proper fund in the state treasury for the sums needed. The State Treasurer was to pay the warrants out of the money in the Revenue Sharing Trust Fund that was not otherwise appropriated. This bill was approved on May 30, 1973 and was to be immediately implemented.⁶⁸⁴

Legislation continued to change regarding school finance issues during the second session of the 83rd Legislative Session. Legislative Bill 49 (1974) and an accompanying appropriations bill, amended section 79-445, Revised Statutes Supplement, 1972. This bill funded wards of the state even if the ward was placed in a school district outside the ward's resident district.⁶⁸⁵ Another bill, LB 43A appropriated \$406,875 from the State General

⁶⁸⁴ Id, LB 172.

⁶⁸⁵ 1974 Neb. Laws, LB 49.

Fund from July 1, 1974 to June 30, 1975 to the State Department of Education. Governor Exon reduced the appropriation amount to \$160,000 by authority granted to him in Article IV, section 15 of the Nebraska Constitution.⁶⁸⁶

A significant act of legislation was passed with LB 772 (1974). Introduced by Senator Warner and entitled The Public School Support Act of 1974, it amended section 79-4, 102, Reissue Revised Statutes of Nebraska, 1943. It changed the basis for determining nonresident high school tuition rates and provided severability. The bill was vetoed by Governor Exon but the legislature overrode the Governor's veto on March 26, 1974. Section 1 of the bill noted that the Legislature recognized its responsibility under Article VII, section 1 of the Constitution to provide financial support to the public schools of the state. The purpose of this act was to meet this responsibility and at the same time "to provide a reduction in property taxes for public school purposes within the state. Funds provided under this act shall be in addition to those furnished under the School Foundation and Equalization Act."⁶⁸⁷ Section 3

⁶⁸⁶ Id, LB 43A.

⁶⁸⁷ Id, LB 772.

established a fund known as the Public School Support Trust Fund. Section 4 clarified that

- (1) State aid to the public schools shall be increased over a two-year period so that the state shall bear an average of fifty per cent of the adjusted current operational expenditures of the state's public schools as provided for in subsections (2), (3) and (4) of this section. The local burden shall be one half of the total adjusted current operational expenditures for the state as defined in subsection (4).
- (2) The Legislature shall increase appropriations for the aid of public schools so that (a) for the 1975-76 school year one half of such percentage to be borne by the state shall be provided and (b) for the 1976-77 school year the total of such percentage shall be provided.⁶⁸⁸

Another important bill, LB 984 (1974), was introduced by Proud, Speaker for the Governor and amended sections 79-4, 160, 79-4, 161, 79-4, 162, 79-4, 164, 79-4, 165, 79-4, 166, 79-4, 167 and 79-4, 168, Revised Statutes Supplement, 1973, relating to school expenditures. The intent of this bill was to change restrictions that had been developed for public school expenditures the previous year. Section 1 79-4, 160 amended and deleted the \$10,000,000 appropriation from the Revenue Sharing Trust Fund stating that "in addition to any funds which may be appropriated to the

⁶⁸⁸ Id, LB 772.

School Foundation and Equalization Fund, there may be other funds appropriated to the State Department of Education" for distribution.⁶⁸⁹ Section 4 inserted the words Consumer Price Index for the Cost of Living and changed the year to that ending on March 31 rather than the calendar year. Section 7 continued to allow voters to exceed the general fund expenditures if they voted to do so however, "such increase may be made, and the amount of such increase shall not be considered a part of general fund expenditures when computing the expenditure limitation under section 79-4, 160 to 79-4, 168."⁶⁹⁰ Sections 9 and 10 were added to the bill. This required the State Department of Education to provide written notice to the school district if there was to be a reduction of state aid payments. The notice was to specify the amount of the reduction and the provide a reason for the reduction as well as when the reduction was to occur. Section 10 clarified that the State Department of Education would need to adopt new rules and regulations to meet this act. The bill was to become

⁶⁸⁹ Id, LB 984.

⁶⁹⁰ Id, LB 984.

operative on September 1, 1974.⁶⁹¹

The 84th Legislative Session: 1975

During the first session of the 84th Legislation Session which began in 1975, no new school finance legislation was introduced. The *Lincoln Journal* reported on another University of Nebraska-Lincoln study completed by the Department of Educational Administration claiming "the chasm is widening between Nebraska school district needs and the ability to finance them."⁶⁹² The study reported school finance data from districts across Nebraska. The article highlighted per pupil assessed valuations in the state's 297 K-12 districts noting that they ranged from a high of \$66,446 to a low of \$1,406. The average expenditure per enrolled student was \$920 for the 1973-74 school year but the "outlay ranged from \$2,235 spent per pupil to a low of \$679."⁶⁹³ Funding percentages were reported as well:

The districts received 68.72% of general fund support from local sources and 8.03% from federal sources. Only 20.80% came from state sources, which is about half the national average of state aid.⁶⁹⁴

⁶⁹¹ Id, LB 984.

⁶⁹² J. Kennedy, Chasm Widening Between Schools' Needs and Funds, *Lincoln Journal*, January 30, 1975, 22.

⁶⁹³ Id.

⁶⁹⁴ Id.

A special session of the legislature convened on October 22, 1975. Legislative Bill 3 (1975) was introduced with the intent of distributing state payments to schools more rapidly. This bill amended 79-1333, Reissue Revised Statutes of Nebraska, 1943 and 79-4, 160, Revised Statutes Supplement, 1974 altering the quarterly payments to a new schedule calling for seven distribution periods beginning on December 1, 1975 and ending on June 30, 1976.⁶⁹⁵

The second legislative session of the 1975-1976 biennium introduced more school finance legislation. This session convened in January 1976. Legislative Bill 460 (1976) amended section 79-446.01 Reissue Revised Statutes of Nebraska, 1943, changing the provisions for tuition payments for children living on an airfield. The Department of Aeronautics was responsible for appropriating these dollars from the Department of Aeronautics Cash Fund derived from renting and leasing airfield land and property. Previously the tuition fees were distributed from the State's General Fund.⁶⁹⁶ Nonresident tuition claims were altered by LB 521 (1976), amending section 79-4, 103 Revised Statutes

⁶⁹⁵ 1975 Neb. Laws, LB 3.

⁶⁹⁶ Id, LB 460.

Supplement, 1974. Claims were changed from a semester basis to a quarterly payment on the second Monday in February, May, August and November.⁶⁹⁷ This bill was another example of more rapid distribution of school funding dollars.

Cuts in appropriation dollars were introduced with LB 756 (1976) which amended section 2, LB 610, 84th Legislative Session, First Session, 1975, as amended by section 34, LB 6, 84th Legislature, First Special Session relating to appropriations. It reduced the amount in the Special Education fund as well as State Aid, School Food Services and the Reserve Teacher Act.⁶⁹⁸ Another bill passed on an override of the Governor's veto. Legislative Bill 752 (1976) amended section 2, LB 610, 84th Legislature, First session 1975, as amended by section 1, LB 756, 84th Legislature, Second Session, 1976, relating to appropriations and increasing them.⁶⁹⁹

Legislative Bill 757 (1976) was introduced by the Education Committee and amended section 79-1007, Reissue Revised Statutes of Nebraska, 1943, and section 79-501,

⁶⁹⁷ Id, LB 521.

⁶⁹⁸ Id, LB 756.

⁶⁹⁹ Id, LB 752.

Revised Statutes Supplement, 1974, and made the fiscal year for all Nebraska districts uniform. It was to begin on September 1 and end on August 31.⁷⁰⁰

Legislative Bill 903 (1976) changed the distribution of some state funds. Previously these funds were to be distributed quarterly; now the funds were to be distributed monthly in equal payments beginning in September 1976 amending section 7 of the act amended 79-4, 160, Revised Statutes Supplement, 1974, as amended by section 7, Legislative Bill 3, 84th Legislature, First Special Session, 1975.⁷⁰¹

Section 8 amended 79-1333, Reissue Revised Statutes of Nebraska, 1943, as amended by section 6, LB 3, 84th Legislature, First Special Session, 1975. Again, the number of payments was changed. Nine equal payments were to be used with payment beginning in October. A third payment schedule was explained in Section 9 of the bill for districts receiving less than \$200 stating the total annual allocation to the school district was to be paid in two or

⁷⁰⁰ Id, LB 757.

⁷⁰¹ Id, LB 903.

less payments during the months of December and May.⁷⁰²

Legislative Bill 920 (1976) modified tuition for high school students attending school outside the state. Amending section 79-1103.05, Reissue Revised Statutes of Nebraska, 1943, this bill stated that the resident board of education may pay the regular high school tuition or such portion thereof as may be agreed upon by the respective governing bodies. Previously the fee was set by the out-of-state school district. If the parent was not satisfied with the tuition fee, they could appeal to the State Board of Education. If an appeal was made, Nebraska's State Board of Education decision would be final.⁷⁰³

Nearly a decade after the inauguration of state income tax support for public schools, limited data affirmed that urban schools were backed by more income than rural schools. It was reported that

...the distribution of personal income among school districts indicates what rural Nebraskans have been saying all along: the people in town earn more on a per pupil basis.

The ability of a Nebraska school district to finance education traditionally has been measured by per pupil property value. By that index, a

⁷⁰² Id, LB 903.

⁷⁰³ Id, LB 920.

district with few students and lots of farmland was considered wealthy.

Senator Jerome Warner of Waverly, who has been studying school finances for many years, said it always was recognized that the property valuation measurement didn't tell the complete story.

"But it was used because it was the only one available," Warner said. Now, nearly a decade after he first sought such information, he has some data to show how the school districts stack up when ranked by what the residents earn instead of what they own.⁷⁰⁴

Ron Bowmaster, a legislative research assistant, compiled the statistical data for this report. Warner concluded that the data were too sketchy for more than general conclusions. There were problems with the data collection process. One problem was that only 75% of the people filing state income tax forms reported their school district number. Another problem was that the data was only available for one year. A third problem noted that the information was not current as it came from 1973 income tax reports.⁷⁰⁵

An ability-to-pay factor is used in the state aid formula. It has been based upon property value, and Warner said one use of the income tax figures could be to show whether a school district needs state equalization aid to help it finance education at the same level as districts with more wealth.

⁷⁰⁴ D. Pieper, Data Show Urban Schools Backed by More Income Than Rural Schools, *Lincoln Journal Star*, February 29, 1976, B-1.

⁷⁰⁵ Id.

Warner said some combination of property and income probably would be needed to be fair about ability to pay. If only income were used, he said, it would credit to the home school district money a person earned from property in another district.⁷⁰⁶

Warner was looking for data to better understand the impact of LB 448 (1967), The School Foundation and Equalization Act, along with the newly imposed state income and sales tax. The taxation issues of fairness, equity, efficiency and quality would continue to be discussed.

The 85th Legislative Session: 1977

The 85th Legislative Session commenced in January 1977. Governor Exon continued to serve the last two years of his second term as Nebraska's governor. State aid and educational quality became hot discussion topics among legislators. Nebraska's public school funding scheme still needed modifications. Efforts to change legislation were introduced during the next biennium.

Legislative Bill 33 (1977), introduced by Koch and Marsh, would significantly have changed Nebraska's school funding system. It amended sections 79-1334, 79-1336, 79-1337, and 79-1343, Reissue Revised Statutes of Nebraska

⁷⁰⁶ Id.

1943, section 79-4, 161, 79-4,166, 79-1333 and 79-1338, Revised Statutes Supplement, 1976 and Section 79-490, as amended by section 1. LB 117, 85th Legislature First Session, 1977. It pushed the appropriation amounts from the state to much higher levels. The entitlement dollars were to be increased to \$75,000,000 in 1978 and \$95,000,000 in 1979.⁷⁰⁷ Per pupil rates were to dramatically increase under LB 33. Foundation aid to kindergarten students was to be funded at \$75 per pupil, up from \$17.50; elementary students in grades 1 through 6 were to be funded at \$150, up from \$35; students in grades 7 and 8 were supported with \$175, up from \$42 and high school student support increased to \$200 per pupil, up from \$49.

Equalization aid increased also, amending 79-1336, Reissue Revised Statutes of Nebraska, 1943. Support for kindergarten students was raised to \$225 per pupil, increased from \$400 to \$600 for students in grades 1 through 6, and from \$500 to \$700 for students in grades 7 and 8, while high school student support increased from \$550 to \$960. The new fees were then multiplied by the average

⁷⁰⁷ 1977 Neb. Laws, LB 33.

daily membership (ADM).⁷⁰⁸ Governor Exon kept his campaign promises true allowing no increase in taxes and vetoed this bill. The legislature moved quickly to override Exon's veto and passed LB 33 on May 23, 1977. The bill generated a great deal of controversy and was ultimately thrown out in a referendum vote in the November 1978 general election.

Legislative Bill 477 (1977) was introduced during the 1977 session also. Authored by the Appropriations Committee this bill was to provide financial assistance to school districts and add an additional \$2.5 million in financial aid to school districts from the General Fund for the period ending June 30, 1977. It was to be distributed so that every district in the state received the same amount of funds per unit of ADM.⁷⁰⁹

A federally funded Nebraska Public School Finance Study had been completed and the results were shared in December 1977 with the study's advisory board. Roe Johns, one of the nation's leading school finance experts, claimed

...there is a wide variation in the quality of elementary and secondary schools in Nebraska.

"The state is doing very little to assure high quality education," said Johns, a retired

⁷⁰⁸ Id, LB 33.

⁷⁰⁹ Id, LB 477.

University of Florida professor and consultant to the study. "The present school finance system does not do very much to equalize educational opportunities. It guarantees nothing."

The criticism came just a day after a "summit conference" here Thursday of groups supporting and opposing a school aid increase. Most of the discussion there was on how to help schools whose state aid was cut dramatically as a result of a successful petition drive to halt the aid increase...

Johns' measure of quality was the number of different courses in high schools. At the state's largest secondary schools, the number of courses offered students in grades 10, 11 and 12 ranged from 29 to 85. The average was 64... Among middle-sized high schools, the number of classes varied from 24 to 55. In the smallest school group, one high school offered just 16 courses to student in grades nine to 12.⁷¹⁰

Johns' suggested that one way to remedy the inequality was to create larger schools since they can provide more courses at lower costs. He said the way to get larger, more efficient schools was through consolidation of districts.⁷¹¹ Dr. Cale Hudson, UNL professor, was the study director. His data showed no relationship between school size and what course of study a student choose when they came to UNL.

Coming up with a better state aid formula would require all areas of the state to come up with more accurate property tax valuations, Hudson said. The formula should be based on those new

⁷¹⁰ R. Paxson, Quality of education varies widely in Nebraska-study, *Lincoln Journal*, December 16, 1977, 7.

⁷¹¹ Id.

assessments, with an adjustment for the personal income of residents of the area... Local boards should also have the option of levying a limited special levy outside state control for schools and unrestricted by existing levy ceilings...The local levy would be enacted by public vote.⁷¹²

School finance issues continued to suggest concerns with the current system. Exon would serve his last year as governor in 1978. Change was needed in the school funding process but would the legislature, governor and people be able to agree on how this was to be done? New bills were introduced during the second session of the 85th Legislature which convened in January 1978.

Legislative Bill 407A (1978) amended 72-422, Reissue Revised Statutes of Nebraska, 1943. This bill changed the payment procedures for the Lydick Fund. After the bills were paid, the net proceeds were to be paid to Jessie Lydick, widow of Jonathan, for the remainder of her lifetime. Upon her death, the proceeds were to again be transferred to the Temporary School Fund.⁷¹³

Legislative Bill 460 (1978) developed a cash fund to pay for administration costs and noxious weed control on

⁷¹² Id.

⁷¹³ 1978 Neb. Laws, LB 407A.

school lands. The costs of administering the unsold lands was to come from receipts on the school land income. This bill amended sections 72-232.02, 72-240.08 and 72-240.09, Reissue Revised Statutes of Nebraska, 1943.⁷¹⁴

New legislation was introduced with LB 508 (1978). Introduced by the Education Committee, this bill provided financial support to certain school districts from public power districts. New power stations were being built. If a school district had 10% of their student population, or 35 students, representing families connected to the construction of an electric generating facility, the power company would assist by providing dollars to support the education of employee's children.⁷¹⁵ The communities scheduled to build electrical generating facilities needed these dollars to pay for the increased education costs created by a larger student population.

Legislative Bill 757 (1978) impacted state aid appropriations. Introduced by DeCamp this bill reduced the funding to \$47,500,000 from the state's General Funds to the School Foundation and Equalization Fund, and \$7,500,000

⁷¹⁴ Id, LB 460.

⁷¹⁵ Id, LB 508.

General Funds for distribution under section 79-4, 160 to 79-4, 168.⁷¹⁶

Legislative Bill 953 (1978) was introduced by the Appropriations Committee with Senator Warner serving as Chair. In essence this bill noted that there was a referendum to repeal LB 33 from 1977. This bill called for recomputation of state aid if the referendum passed.⁷¹⁷

The 85th Special Legislative Session: 1978

A special legislative session was called in 1978 to address continued tax concerns. Legislative Bill 1 (1978) was introduced by Dworak and Keyes and became law without the governor's signature. It amended 77-1355: (1) stating that every political subdivision authorized to levy a tax could adjust that portion of the budget funded by ad valorem taxes and limit it by a 7% increase and (2) any school district could increase the budget limit due to anticipated enrollment in the upcoming school year as prescribed in 79-1333.01. If the increases did not occur, then that portion of the budget was to be carried forward to the next

⁷¹⁶ Id, LB 757.

⁷¹⁷ Id, LB 953.

budget year and treated as a receipt for ad valorem taxes.⁷¹⁸

A new school finance system was needed. The federally funded report authored by Hudson and shared with an advisory committee in December 1977, offered solutions to Nebraska's many problems. Hudson proposed a new state school finance plan, with 50% of school money coming from the state. A 5% local lid could be exceeded if the taxpayers approved. He also suggested that with simultaneous revamping of the tax structure, school district reorganization was needed. Hudson's report identified other shortcomings in Nebraska's system. Included in the list were inadequate science and vocational facilities, fewer library books in smaller schools, and inequity in spending budget dollars between large and small schools.

Smaller districts spend far less than the average 67.9 percent of the budget on instruction, including salaries. Inflation and new programs, not salary increases, have been the primary factors in school budget increases.

Need for new school buildings will continue, despite drops in enrollment. About 25 percent of the total public school buildings in reporting districts were more than 50 years old; 44 percent were 40 years old or more.

Aid for school construction for the first time is in the proposed finance plan, Hudson noted. Only 10 states, including Nebraska, do

⁷¹⁸ Id, LB 1.

not offer state help with construction. The plan he proposes would change that.

The Nebraska school-finance system "should be one in which the state undertakes its responsibility to provide an adequate education to every child in Nebraska, regardless of the district in which the child is located," says a chapter of the study on "financial equity" summarized by UNL economist F. Gregory Hayden.

The state must define what it wants in education, finance it, and monitor the results... "This program must not be a minimum foundation because a minimum usually becomes an inadequate maximum. The fact that a district is rich or poor should not be a reason to give it more expenditures per pupil... It is need per student and not poverty or wealth per student that should determine the expenditures flow."⁷¹⁹

Senator Frank Lewis, chairman of the Legislature's Education Committee commented in an interview that public policy makers and "political opportunists" have failed to deal with the issues of school finance and it can no longer go unremedied.⁷²⁰ The Education Committee began laying the groundwork for eight education-related studies that had been mandated by legislative resolutions. Lewis suggested that they might look at alternative sources of financing public education, possibly a local income tax.⁷²¹ Thus, more research, more study and no change to school finance law

⁷¹⁹ J. Kennedy, New state school-finance plan is suggested, *Sunday Journal Star*, July 2, 1978, C-1.

⁷²⁰ J. Joyce, Public's anger may force school tax change -- Lewis, *Lincoln Star*, August 15, 1978, 1.

⁷²¹ *Id.*

occurred. In August Hudson shared his study with the State Board of Education. Again he stated that there were two things that must occur at about the same time to change inequitable funding and unequal educational opportunities. He again suggested school district consolidation and changing the taxing and funding structure.⁷²²

Hudson presented a new funding formula to the State Board of Education in September 1978. It based the local ability to pay on income and property valuations. The proposed formula also would shift more of the tax burden to the state, currently sharing only 20% of the financing load.⁷²³

New voices were heard from at the end of the 1978 calendar year. Alliance School Superintendent Marvin Petersen told a Unicameral committee that many school districts were concerned about how the state distributed funds derived from railroad taxation. He shared figures noting that his district receives \$2.41 per pupil and North Platte gets around \$8 per pupil while some smaller districts

⁷²² N. Hicks, Report labels school financing in state inefficient, *Lincoln Star*, August 5, 1978, 1.

⁷²³ *Lincoln Star*, New school funding formula is presented, September 8, 1978, 1.

get \$150 per pupil.⁷²⁴ Another concern came from Nebraska Public Power District. A suit was filed in Lincoln County District Court with hopes of declaring LB 508 (1978) unconstitutional. Legislative Bill 508 (1978) allowed school districts to demand payment from NPPD for certain operating expenses. The bill was passed to relieve school districts affected by construction of the Gerald Gentleman power plant at Sutherland. A constitutional issue was at stake according to the power district. NPPD suggested that LB 508 (1978) created an additional tax which violated Article 8, Sections 1,2, and 11 of the Nebraska Constitution.⁷²⁵

Summary

The decade of the 1970s witnessed the implementation of the School Foundation and Equalization Act, LB 448 which passed in 1967. In theory, the state made an important step toward becoming more fiscally responsible for the education of its public school student population. The state increased appropriation dollars for public school education under LB 448 (1967) and tried to increase aid with LB 33

⁷²⁴ Rail tax formula criticized, *Lincoln Star*, December 8, 1978, 12.

⁷²⁵ NPPD resists ed expense law, *Lincoln Star*, December 13, 1978, 29.

(1977). The governor vowed to hold the line and pushed for fiscal conservatism throughout the decade. Although the school finance laws were modified slightly, battles were waged between the legislature and governor on school funding issues. Senator Warner's strong leadership in school finance and taxation continued throughout the decade.

Across the nation law suits were beginning to challenge school funding systems. Both California and Texas had suits challenging their state school finance systems. Rich and poor districts, educational opportunities and disparities in per pupil costs, challenged state funding formulas. Nebraska's educational disparities were revealed in numerous studies. The most prominent study was compiled under the direction of Dr. Cale Hudson, a University of Nebraska-Lincoln professor in the Department of Educational Administration. His federally funded study clearly identified Nebraska's funding problems. He also proposed possible solutions to the problem. The solutions included increasing the state's financial role in supporting public schools from the existing 20%, consolidating the many Nebraska school districts and providing state dollars for construction of new facilities. Hudson's data provided

needed insight into the funding problems of the state.

A few legal challenges were initiated during this decade. In 1972 Papillion School District filed a suit similar to the Texas case but it was later withdrawn. Another suit, filed by Gretna School District, challenged LB 508 when it was told by the state board in January 1975 that its share of state-apportioned school funds would be reduced by 10 percent. The State Supreme Court clarified that the state statute under which the appeal had been taken "does not provide a right of appeal from a declaratory ruling of an administrative agency."⁷²⁶ The Supreme Court also said that although the statute confers with the right of appeal in a contested case, obtaining a ruling from an agency is not a contested case.⁷²⁷ A similar suit was dismissed involving the state Board of Education and the York School District.⁷²⁸

⁷²⁶ Supreme Court Rules Judge Erred in Not Granting Divorce, *Lincoln Journal*, December 6, 1978, 10.

⁷²⁷ Id.

⁷²⁸ Id.

Chart L

	<u>1970</u>	<u>1980</u>
Number of districts	1,824	1,097
Number of school houses	2,308	1,703
K-12 Districts	327	319
Number of counties	93	93
Number of children, 5-21	461,801	413,444
Children enrolled	332,072	287,570
Number of teachers	19,931	19,301
Value of School Property	559,312,183	1,372,244,902
Receipts	255,391,921	589,457,948
Expenditures	250,257,954	584,861,327
Indebtedness	192,478,807	246,978,483
State Apportionment from Endowments	4,759,784	11,843,193

*Nebraska Blue Book ⁷²⁹

Preparing for Change: 1979-1988

Introduction

As Nebraska entered a new decade, the economic and political climate changed. Record inflation figures impacted all Nebraskans. A slogan developed for the state, "Nebraska: The Good Life" turned into a question - "The Good Life: Where and for Whom?"⁷³⁰ Food costs, housing costs, and fuel costs grew rapidly. Gasoline increased from approximately \$.70 per gallon in 1979 to \$1.15 at the end of the year and to \$1.30 per gallon in 1980. This was a huge increase for the automobile driver but consider the impact this had on the farmer who used exorbitant amounts of fuel to run farm equipment.⁷³¹

On the political scene, the Republicans returned to power. After eight years of Governor Exon's fiscal conservatism, newly elected Governor Charles Thone would have a difficult time initiating new spending programs and increasing taxes. The recession forced the governor to limit increases in government spending. His inaugural address sounded much like a rerun of his predecessor.

⁷³⁰ J. C. OLSON & R. C. NAUGLE, HISTORY OF NEBRASKA (Lincoln, NE: University of Nebraska Press, 1997), 385.

⁷³¹ Id, 385.

He stated that there would be no tax increases and the state would have to live within its means.⁷³² Spending lids were put in place, and efforts to reduce taxes and cut budgets followed.

Democrat Bob Kerry became governor after Thone. He brought new energy and enthusiasm to the governor's office. As a businessman, he understood the necessity for statewide economic planning. He represented business, yet kept farmers' interests in the forefront. The 1986 election brought a woman into power as Republican Kay Orr defeated Democrat, and former Lincoln Mayor, Helen Boosalis. Touted "The Year of the Woman," by the press, the previously male-dominated political scene began to shift slightly as more women sought public office. Nebraska's gubernatorial race made national news. Historically, two women had never run against one another in the race for governor. Orr emerged victorious and became the first Republican woman governor in the United States. Nebraska's governorship made political headlines! Change in political leadership occurred three times during the 1980 decade.

The state's population grew between 1970 and 1980,

⁷³² Id, 385.

increasing by almost 85,000 people. Metropolitan centers continued to grow, however, there was a significant decline in the number of family farms. In 1979, approximately 65,000 farms existed, down 12.3% from 1970.⁷³³ The farm crisis played a major role in the decline of family farms. This trend continued into the 1980s. Manufacturing increased slightly during the decade of the 1970s, but Nebraska's economic status was still heavily dependent on agriculture. It was hoped that manufacturing companies would look at the advantages Nebraska could bring and move to the middle of the country. Many new manufacturing plants were looking for new facilities so states began recruiting business and industry. Nebraska was no exception. Unquestionably, the state needed to redesign efforts to entice relocation to Nebraska. The state's economy needed a broader base for a sound economy.

School district reorganization continued at a slow pace. Nebraska still had over 1,000 school districts in 1979-80. Although down some 700 districts from 1969-70, efficiency and local control provided a double-edged sword. Population figures for school age children decreased

⁷³³ J. C. OLSON & R. C. NAUGLE, HISTORY OF NEBRASKA (Lincoln, NE: University of Nebraska Press, 1997), 381.