

**A History of Nebraska School Finance:**  
The Policy Evolution of the Nebraska Tax Equity  
and Educational Opportunities Support Act (TEEOSA)

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Discussions on school finance policy often involve three approaches: (1) the philosophical (e.g., the concepts of equity of educational opportunities or the concept of tax equity), (2) the political (i.e., the motives of individual policymakers), and the (3) technical (e.g., the mechanics of the distribution formula). Lawmakers, whether consciously or unconsciously, hinge their own agendas on one or more of these approaches and may even intertwine the approaches to advance their cause. This is understandable given the nature of the policymaking process within the legislative arena. In an ideal setting, however, lawmakers would focus on the philosophical grounds on which a given policy change is based. The technical aspects of a policy proposal would receive the bulk of attention after the philosophical issues are established, and the political “tug and pull” would be kept at a minimum.

Naturally, the “ideal” scenario is unlikely. Lawmakers are expected to have positions and agendas as they enter the Legislature. They may have preconceived notions about one facet of school finance or another. In essence, lawmakers bring to the Legislature the sum of their life and work experiences, which may or may not include a working knowledge and understanding of school finance. And there is only so much detail a policymaker can absorb at any one time. In his biography, the late Senator Jerome Warner said, “It takes at least four years to get oriented if you’re really going to be active.”<sup>1</sup> New lawmakers often find themselves at first simply learning the ropes of the legislative process itself, a much more involved process than some might think. School finance, for most lawmakers, is but one of many important subject areas to “learn as you go.”

School officials can be some of the best resources to lawmakers, both newly elected and veteran alike. As we begin feeling the impact of term limits within the next few years, it will

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<sup>1</sup> Berens, Charlyne. Leaving Your Mark: The Political career of Nebraska State Senator Jerome Warner, Nebraska Times, Seward, Neb., 1997, p. 202.

become vitally important for school officials to help lawmakers learn the fundamental concepts that surround school finance policy, and to remind lawmakers why certain changes were made over the years. An historical record of Nebraska school finance, particularly of the present school finance system, can be useful in this effort.

What follows is a brief history of the current school finance system, which incorporates the distribution formula, the revenue-related components, and other policies having a direct or indirect impact on school finance. The historical account embraces the policy evolution of the Tax Equity and Educational Opportunities Support Act, commonly referred by its acronym TEEOSA. Perhaps the most interesting aspect of this history is the consistency of themes, both before the inception of TEEOSA in 1990 and afterward, including such issues as school organization, property tax equity, property tax relief, equity of educational opportunities, and accountability.

### The Tax Crisis of 1967

To understand why and how the existing school finance system came to be, it is important to recall the system in place before it. The catalyst for school finance reform in 1967 involved a constitutional crisis that, if left unchecked, would have left the state without any substantial financial means to operate. The crisis not only produced the most sweeping changes in taxation in the history of the State of Nebraska to that point in time, but also produced a new school finance system.

The property tax was established as the sole means to fund public schools under the Common Schools Act, which was passed by the Nebraska Territorial Legislature in 1855. What many often forget, however, is that until the mid-1960s property taxes were levied at both the local and state levels. In fact, the principal means of financing state government derived from a state general property tax. In the 1954 General Election, the voters approved a constitutional amendment that stated that upon the adoption by the Legislature of an income tax and/or a sales tax, the state general property tax would automatically terminate. However, the Legislature failed to take action on the issue for over a decade.

In 1965 Governor Frank Morrison was serving his third and final term in office and a recently elected Jerome Warner of Waverly was serving his second term as a state senator. Senator Warner was among those who advocated an income tax and/or a sales tax over property

tax as the general source of revenue for the state. Toward this end, the Legislature took action to create the first state income tax system, which would thereby trigger the 1954 amendment to automatically eliminate the state property tax. Morrison declined to take action on the legislation and it became law without his signature.

Opponents of the income tax law, mostly from the business community, quickly took action to form a referendum petition movement to repeal the law at the 1966 General Election. Interestingly, at the same time, the Nebraska Farm Bureau was circulating an initiative petition to permanently remove and thereby eliminate the state general property tax provision from the Constitution. If both the referendum and initiative measures passed, the state would be left with no substantial means of revenue aside the relatively minimal revenue collected from various fees and fines. And this is exactly what happened.

On November 8, 1966, the voters overwhelmingly approved the referendum to repeal the income tax law by a wide margin (30% in favor of retention of the law, 70% against).<sup>2</sup> The voters simultaneously voted, although just barely, to approve the initiative measure which threw out the state general property tax provision of the Constitution (51% in favor, 49% against).<sup>3</sup> The Legislature, which at the time convened once every other year, had an emergency on its hands. The 1967 Legislative Session simply had to produce a solution to the state's revenue situation, and ultimately it would.

The Legislature passed and Governor Tiemann signed into law a revenue package that included the first-ever Nebraska income tax and sales tax, or at least the first-ever that would remain in law.<sup>4</sup> Along with the passage of the Nebraska Revenue Act of 1967, the Legislature also addressed and ultimately passed a comprehensive school finance reform measure. And it was Senator Warner who would lead the charge.

In 1967 Senator Warner introduced LB 448, which created the School Foundation and Equalization Act. As implied in the name, the Act would have a dual purpose. It would provide state aid to schools (2,366 school districts in 1967) on the basis of average daily pupil attendance during the previous year (foundation) and create a formula to regulate distribution of aid in

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<sup>2</sup> NEB. BLUE BOOK, p. 270.

<sup>3</sup> Id.

<sup>4</sup> The initial sales tax rate was set at 2.5%.

relation to the wealth of the district (equalization). In fact, there was a third element to the legislation, which provided incentive aid to school districts that offered summer school programs and/or employed teachers with advanced degrees. The bulk of the funding under the new formula would be used for foundation aid with the remaining available appropriations used for equalization aid and incentive aid.

Equalization aid under the 1967 formula was designed to meet the financial needs of a district when the “need” exceeded the local revenue coupled with the state aid received from the foundation allotment and other funding sources. The act established a formula to be used in calculating equalization aid along with several factors to adjust the aid owed to each district. The formula, for example, took into consideration low-density county populations and permitted extra aid allocations to those districts.<sup>5</sup> The equalization formula also gave additional weight to those districts that provide “a special program for (1) gifted children, or (2) culturally and educationally deprived children... .”<sup>6</sup>

The key to success for the new school finance system would be sufficient funding, and this is exactly where things went wrong in the 1967 Session. The estimated cost of the new system was \$67 million for implementation in the first year. However, the Legislature appropriated only \$20 million to fund the new school finance formula.<sup>7</sup> The decreased level of funding meant choices had to be made and priorities had to be established. A provision was added to LB 448 (1967), which set the foundation aid as the first priority for funding and the incentive aid as the second priority.<sup>8</sup>

The inadequate initial appropriation in 1967 was due largely to arguments by some legislators that the new formula would fail to provide any appreciable level of property tax relief. The Legislature was therefore reluctant to fully fund the measure at the suggested level. Senator Warner would endeavor in later sessions to increase funding for the new formula, but it was

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<sup>5</sup> NEB. REV. STAT., 1967 Cum. Supp., §79-1336.

<sup>6</sup> Id., §79-1337.

<sup>7</sup> “Funding Nebraska’s Schools: Toward a More Rational and Equitable School Finance System for the 1990s”, LRD Report 90-1, January 1, 1990, Appendix A.

<sup>8</sup> NEB. REV. STAT., 1967 Cum. Supp., §79-1343.

always the level of appropriation that “drove” the formula, as opposed to the total district “need” dictating the level of appropriation necessary to fund the formula.

At the height of its existence, the School Foundation and Equalization Act provided only 13% of the total funding for public schools (in 1989-90), which meant the bulk of the funding derived from local property taxes.<sup>9</sup> The result was the critical accusation that the formula failed to provide property tax relief. In truth, the formula was never fully funded to the extent that an accurate measure of its success or failure could be known. Moreover, as Warner would later recall, the intent of the formula was to provide equal educational opportunities for students, not necessarily to provide sweeping property tax relief.

### The Commission

In the mid 1980s, one of the major education issues of the day was school organization. In 1985 Nebraska had 977 school districts of which 288 were districts offering instruction in kindergarten through grade twelve (K-12).<sup>10</sup> In the same year, and after one of the most heated and contested legislative debates in Nebraska history, the Legislature passed LB 662 (1985) to require Class I (elementary only) districts to merge or affiliate with high school districts by September 1989. The legislation, which was signed into law by Governor Bob Kerrey, would also establish a legislative goal for a 45% statewide average ceiling on local property taxes in support of schools. Finally, the legislation would increase the state sales tax rate by 1% beginning on January 1, 1987. The revenue from the sales tax increase would be earmarked for state aid to schools.

Almost immediately after Governor Kerrey’s action to sign LB 662 into law, a petition effort was afoot to repeal the law on the grounds that it forced consolidation and that it raised taxes. Referendum 400 would appear on the 1986 General Election ballot and voters would speak loud and clear. By a 2-to-1 margin, 65% to 35%, voters said “No” to LB 662. Speculation after the election pointed to the 1% sales tax increase as the most likely target within the ballot question.

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<sup>9</sup> Funding Nebraska’s Schools, 13.

<sup>10</sup> NEB. BLUE BOOK, p. 945.

Another school organization bill would make it to final-round consideration in 1987 (LB 444), but would not receive a final vote. Senator Ron Withem of Papillion, then chair of the Legislature's Education Committee, would subsequently file an interim study resolution (LR 180) to study both school organization and school finance issues. It was this interim study, conducted during the summer and fall of 1987, which launched a major legislative effort to overhaul the state's school finance system.

The interim study led to the creation of a state sanctioned commission, the School Finance Review Commission, in 1988. Led by Senator Withem, the commission was originally designed to produce its final recommendations within a year, but would take two years to complete its work. With a \$100,000 budget at its disposal, the commission took great lengths to involve both educators and non-educators alike. It conducted numerous meetings and public forums, and hired consultants to assist the effort in crafting a general outline for a new school finance system. From 1988 to 1989, the commission had held 21 meetings, five public hearings and listened to dozens of presentations by staff and outside experts in order to arrive at its conclusions.<sup>11</sup>

In its final report, the commission found that state financial assistance for Nebraska schools was declining in relation to the national trend, which was to increase state aid to schools. The bulk of funding for Nebraska schools (70.3%) derived from local property taxes, while the national average for local support was 43.5%. The national average for state support to schools was 50.2%, while Nebraska provided only 24.5% state support.<sup>12</sup> The commission also found that the heavy reliance on property taxes had resulted in "highly inequitable tax burdens between taxpayers" within school districts of similar size.<sup>13</sup>

The commission also found that the equalization component of the 1967 formula was dramatically under-funded in comparison to the foundation component of the formula. In fact, the School Foundation and Equalization Act had never been fully funded since its inception in 1967. In the 1989-90 school year, the bulk of funding was used for foundation aid and only \$33 million was paid out to districts in the form of equalization. The commission's report expressed

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<sup>11</sup> Funding Nebraska's Schools, p. vi.

<sup>12</sup> *Id.*, 32.

<sup>13</sup> *Id.*, 34.

doubt that the existing formula would ever be able to assure that all children receive an “equitable opportunity for an appropriate education.”<sup>14</sup>

### TEEOSA

In the history of the Nebraska Legislature, there are very few bill numbers that have the fame and notoriety as Legislative Bill (LB) 1059, as introduced in 1990. To this day, some still refer to the school finance formula as “1059.”

LB 1059 (1990), of course, was the embodiment of the final recommendations from the School Finance Review Commission, which was established two years before. LB 1059 arguably represents one of the most remarkable feats of political achievement in the modern era of Nebraska history. The bill would be passed by the Legislature during a 60-day (short) session, perhaps the most unlikely scenario for a measure proposing sweeping education and revenue reform. The bill would accomplish a major shift in the source of funding for Nebraska’s public schools with the promise of property tax relief in exchange for income and sales tax increases. Finally, LB 1059 would not only survive a gubernatorial veto, but also a popular referendum seeking its repeal. In the final analysis, the people would have the final say on this legislative proposal.

The chief sponsors of the bill were Senator Ron Withem and Senator Scott Moore, who were two of the three members of the Legislature who served on the commission that produced the legislative proposal. The third legislator on the commission, Senator Howard Lamb, declined to attach his name to the bill. But other senators would, in fact, attach their names to the measure. No less than 32 of the 49 members of the Legislature signed on as sponsors or co-sponsors of the bill, including the Speaker of the Legislature, Senator Bill Barrett of Lexington.

LB 1059 was referred to a special joint panel of the Education Committee and the Revenue Committee for disposition. The majority of the members of these committees were also sponsors or co-sponsors of the bill.

LB 1059 would create the Tax Equity and Educational Opportunities Support Act, and, as the name of the act implies, TEEOSA embodied two central purposes: to provide tax equity for both taxpayers and schools, and to provide equity of educational opportunity for students. The bill carried a dual intent to (1) create a true equalization formula whereby school districts that

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<sup>14</sup> Id.

need the most state financial support actually receive the most financial support, and (2) create real and lasting property tax relief by shifting more of the cost of public education to the state and away from local resources. Specific policy goals included state support to meet 45% of the general fund operating expenditures of school districts, reduction on the reliance of property taxes for the support of public schools, and the dedication of a portion of revenue received from state income taxes in support of schools.

The legislation was partially based upon the Kansas school finance formula, as it existed at the time. The bill sought to utilize the level of income from each district as a means to help determine overall wealth. Accordingly, one of the major components of LB 1059 was a 20% income tax rebate sent directly to each school district. Since income tax receipts fluctuate from year to year, the formula would, theoretically, compensate with lesser or greater equalization aid, as the situation may require.

However, property tax relief was unquestionably one of the principal aims of the legislation. This would be accomplished in part by the imposition of a spending limitation with a base growth rate of 4% and a range up to 6.5%. The idea behind the spending lid was that school districts could only levy to the extent they could spend, hence the spending lid also acted as a sort of early levy limitation.

Another important factor addressed by LB 1059 was what Senator Withem called a “broken” property tax system, both as it relates to the taxpayer and to the educational system.<sup>15</sup> There were large variances in property tax levies for school funding with dramatic ranges between 50¢ to \$3.50 per \$100 of assessed valuation. From the perspective of students, and the educational system generally, per pupil spending also ranged dramatically from \$3,000 per student/per year to \$6,000.

Senator Withem also spoke of certain “forces in the State of Nebraska” that had compelled the Legislature to address the “whole question of how we fund education and how we tax property.”<sup>16</sup> The forces, to which Withem referred, involved several important factors. Certainly not the least of these factors was the lawsuit filed on January 2, 1990 against the state

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<sup>15</sup> Floor Transcripts, LB 1059 (1990), March 6, 1990, 10478.

<sup>16</sup> *Id.*, p. 10477.



concerning the constitutionality of the existing school finance system.<sup>17</sup> Lawsuits had been filed in other states, including Kentucky, Texas, and Montana. Each of these cases involved circumstances in which individuals, school districts, and/or education groups had filed suit against their respective states alleging the unconstitutionality of their school finance systems. Another force, of equal importance, was the pre-existing commitment of the Legislature to abandon the old school finance system in favor of a new system. LB 611, which was passed in 1989, placed an automatic sunset on the Foundation and Equalization Act. The old system was set to expire on June 30, 1991.<sup>18</sup>

LB 1059 was somewhat unique in that it not only contained an entirely new school finance formula, but also contained a substantial tax increase to fund the new system. The bill proposed to increase the primary rate for income tax purposes from the existing rate of 3.15% to 3.43% on January 1, 1990 and yet another increase to 3.7% on January 1, 1991. The legislation also proposed to increase the state sales tax rate from 4% to 5% on July 1, 1990. In fact, the debate on LB 1059 often included as much discussion on the tax increases as it did the merits of the school finance piece itself. Naturally, the idea was to increase state taxes in order to increase state aid, which in turn would result in property tax relief.

After a very lengthy debate over a period of one month and after a variety of compromises and changes, the Legislature took action on April 2, 1990 to pass LB 1059 on a 30-14 vote.<sup>19</sup> After Governor Orr vetoed the bill, the Legislature approved a motion to override the veto by a 32-16 vote on April 9, 1990.<sup>20</sup> But the final word on LB 1059 derived not by elected representatives but by the people. A petition effort to repeal LB 1059 was launched almost as soon as the Legislature took action to override Orr's veto. Referendum 406 appeared on the

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<sup>17</sup> On January 2, 1990, brothers W. Donald Gould and John S. Gould, filed suit on behalf of themselves and John Gould's minor daughters Donna Lee and Rebecca Lynn against Governor Orr and the State of Nebraska generally. The suit was filed in Lancaster County District Court seeking, in part, a declaration that the plaintiffs were being denied due process of law, equal protection of the law, equal and adequate educational opportunity, and uniform and proportionate taxation in violation of the Constitution of the State of Nebraska. *Gould v. Orr* (1993), 244 Neb. 163.

<sup>18</sup> Session Laws, 1989, LB 611 (1989), Section 4, p. 1774.

<sup>19</sup> Nebraska Legislative Journal, April 3, 1990, pp. 1842-43.

<sup>20</sup> *Id.*, April 9, 1990, p. 2043.

1990 General Election ballot, but voters would take an entirely different perspective on this legislation than they did with regard to LB 662 (1985). Even with the knowledge that it raised their sales and income tax rates, voters retained LB 1059 by a 56% to 44% margin. The people had spoken.

As passed by the Legislature and retained under Referendum 406, LB 1059 created a new school finance system, including a new equalization-based distribution formula and a more reliable arrangement of revenue sources to fund it. At the very least, LB 1059 created an opportunity, unlike any before it, for property tax equity, property tax relief, and equity of educational opportunities for students.

#### Provisions of LB 1059 (1990)

*Basic Formula:* Provided that each school district will receive state aid to the extent that its “formula need” exceeds “formula resources.”

*Specific Funding:* Goal to provide state support for 45% of aggregate general fund operating expenditures of districts. Increased the income tax rate from 3.15% to 3.70% and raised the state sales tax rate from 4% to 5%.

*Income Tax Rebate:* Dedicated 20% of all income tax receipts collected by the state net of credits and refunds. Provides for direct return of 20% of identifiable individual income tax receipts to the school district where such originated.

*Tier Structure:* All school districts would be placed within average daily membership tiers of comparable size in order to calculate each school district’s tiered per student costs for use in the equalization formula. Total “formula need” of each district is computed by multiplying the number of students it educates in kindergarten, grades 1-6, grades 7 and 8, and grades 9-12 times the tiered per student costs for each such grade grouping.

*Hold Harmless:* Provided a hold harmless provision such that a district would not receive state aid for school years 1990-91, 1991-92, and 1992-93 which is less than 100% of aid received in 1989-90.

*Minimum Levy Provision:* Provided that no district receives state aid in an amount that would result in the district having a general fund tax levy of less than 60% of the local effort rate.

*Adjusted Valuation:* Each district subtracts from its “formula need” the local effort rate yield, which is the statewide local effort rate multiplied by each district’s adjusted valuation (as opposed to assessed valuation). The local effort rate would be calculated annually by NDE based on available appropriations,

school district needs and school district resources. Adjustment factors would be established based on best available assessment practices.

*Spending Lid:* Limited growth in school district budgets based on allowable growth rates to be set annually by the Legislature. The basic allowable growth rate would be based on projections of available state revenues and school district costs. The basic allowable growth rate was initially set at 4%. The allowable growth range would be 4% to 6.5%.

*Lid Exceptions:* Provides for exceptions to the growth limitations in the following cases:

- New or expanded programs/services mandated by changes in state/federal law;
- Districts' project enrollment increases for the ensuing school year;
- Construction, expansion, or alterations of district buildings causing an increase in building operation/maintenance costs;
- Additional special education students enroll in the district for the ensuing school year resulting in an increase in expenditures; and
- Additional costs to the extent the terms of a collective bargaining contract exceed the district's applicable allowable growth rate.

*Additional Spending Authority:* Provided that districts may exceed allowable growth rates by an additional 1% upon a 75% majority vote of the school board or by any amount upon the approval of voters at a special election.

*Reserve Funds:* Limits school districts in budgeting of cash reserves, depreciation funds and contingency funds to a range of percentage levels based on school district size.

*Unused Budget Authority:* Provided that districts may carry-over to future years unused budget authority if a school board does not choose to budget the maximum allowed by law.

*Oversight:* Created the School Finance Review Committee to monitor implementation of the new finance system and suggest needed revisions.

The Class I issue was also addressed in the 1990 Session. LB 259 (1990) required Class I (elementary only) districts to merge or affiliate with a K-12 district or a Class VI (high school only) district. The measure established a July 1, 1992 deadline, but this date would later be extended by another year under LB 719 (1992).

## Modifications to TEEOSA

Between 1991 and 1994, the Legislature made a variety of changes to the new school finance system, most of which involved tweaking the distribution formula. The Legislature was forced to devote a considerable amount of time in the 1991 and 1992 Sessions on the issue of taxation of personal property. In July 1991, the Nebraska Supreme Court held that state law providing exemptions for certain classes of personal property (agricultural equipment, business inventory, farm inventory, livestock, and railroad rolling stock) violated the Uniformity Clause of the Nebraska Constitution. Several attempts were made by the Legislature under LB 829 (1991) and LB 1063 (1992) to resolve the issue. The resulting changes to the personal property tax system necessitated corresponding changes in the state aid formula. Voters would approve a constitutional amendment appearing on the 1992 General Election ballot to resolve the personal property tax issue once and for all. (Voters would also approve a constitutional amendment on the same ballot to create a state lottery system under which public education would be one of the primary proceed beneficiaries.)

On the whole, the school finance system was allowed to function as intended, but there were still some pending matters to address. Perhaps the most pressing of these matters involved the intended use of adjusted valuation for purposes of calculating state aid. The issue had been delayed in order to give the Department of Revenue necessary time to establish a system, which would ultimately permit the certification of adjusted valuation to NDE for use in state aid calculations. But the problem was not limited to time. The Department of Revenue required additional staff to take on the task of computing valuation of property for each school district. LB 1290 (1994), as originally introduced by Senator Jerome Warner, would have delayed the process for yet another year. Ultimately, however, the Legislature chose to appropriate additional funding to the Department of Revenue. LB 1290, as amended and passed, required the use of adjusted valuation beginning with the 1994-95 school year.

Other developments during this period of time included the passage of LB 839 (1993), which required a common levy for Class VI (high school only) districts and affiliated Class I (elementary only) districts. Supporters of the legislation believed the common levy would equalize existing tax inequities between the elementary districts that are part of high school systems. The opponents, including most of the Class I and VI districts, said the measure was unwarranted and would ultimately reduce state aid to those districts.

## Lids

Until 1995 school districts had existed under the “1059” spending limitations with a base growth rate of 4%. However, this would change in the 1995 Legislative Session. Among his priorities for the session, Governor Nelson proposed to reduce the spending limitation for public schools (and the resource lid for all other political subdivisions) by 1%. As embodied in LB 613 (1995), the Governor also proposed to eliminate the authority of a school board to exceed its applicable allowable growth rate by an additional 1% and eliminated unused budget authority. Lobbying groups for public education interests were able to convince members of the Revenue Committee, where the bill had been referred for disposition, that some of the bill’s provisions actually promoted spending and inefficiency contrary to what the Governor may have intended. As passed, LB 613 had the sole mission to reduce the spending lid from 4%-6.5% to 3%-5.5%. The measure also reduced the resource lid for all other political subdivisions.

Governor Nelson also believed in 1995 that school districts were essentially over identifying special education students and thereby over spending on special education services. He proposed under LB 742 (1995) to eliminate provisions of law requiring the state to fund 90% of the allowable excess costs for Level II and Level III special education programs and 80% for Level I programs for school age children. He also proposed eliminate state funding requirements involving allowable costs for early childhood-related special education programs. As introduced, the bill simply provided that state reimbursement for these programs would depend upon the amount appropriated each year. Last but not least, the Governor also proposed to freeze growth on state appropriations for special education funding.

Naturally, the Governor’s proposal would have had a significant impact on Nebraska school finance. Special education services are largely mandated by federal laws and are not particularly *flexible* when it comes to compliance. If school districts are faced with depletions of funds designated for special education services, they would have no choice but to use general education funding to make ends meet.

After one of the most heated and emotional debates of the 1995 Session, the Legislature opted to leave the existing special education cost reimbursement system in place.<sup>21</sup> LB 742 was

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<sup>21</sup> LB 742 (1995) included intent language to implement a new funding mechanism for special education services in time for the 1998-99 school year. This decision would be delayed (LB 865, 1997) and later rescinded (LB 1, First Sp. Sess., 1998) in subsequent legislative sessions.

amended to incorporate a growth lid on state appropriations for special education funding. The intent was to encourage careful identification of special education students in order to help reduce the overall cost of special education programs and services.

If 1995 had not produced enough drama for public schools, the following year would prove even more difficult. The 1996 Session would be the year of property tax levy limitations for local governments. The “property tax crisis” had been at the forefront of many lawmakers’ agendas for several years, and if the Legislature could not or would not address the problem then several influential organizations stood ready to take on the issue. In fact, the Nebraska State Education Association (NSEA) and the Nebraska Farm Bureau were intent to pursue constitutional-based levy limitations regardless of when or how the Legislature addressed rising property tax rates. The NSEA/Farm Bureau initiative petition included language to make public education a “fundamental right” and the funding of public education a “paramount duty” of the Legislature.

However, the Legislature would have the first opportunity to propose a solution at the outset of the 1996 Session. Lead by Senator Jerome Warner, the Legislature’s Revenue Committee would recommend a series of bills that would later be recognized as the 1996 Property Tax Relief Package. Included within this package were two bills that would dramatic consequences for public schools, ESUs, and other political subdivisions. LB 1114 (1996) would impose levy limitations on local governments beginning with the 1998-99 fiscal year. LB 299 (1996) would serve as the companion piece to the levy limit bill and would force local governments to drastically reduce spending authority as a sort of transition to the pending levy lids.

School District Levy Limitations (LB 1114)  
(general and special levies combined)

|                                  |                               |
|----------------------------------|-------------------------------|
| FY1998-99 through FY2000-01..... | \$1.10 maximum levy authority |
| FY2001-02 and thereafter .....   | \$1.00 maximum levy authority |

Levy Limit Exclusions:

- (i) Voluntary termination of employment (early retirement programs);
- (ii) Building funds for projects commenced prior to April 1, 1996;
- (iii) Judgments against a district to the extent not be paid by liability insurance;
- (iv) Preexisting lease-purchase contracts approved prior to July 1, 1998; and

(v) Amounts levied for bonded indebtedness.

School District Spending Limitations (LB 299)

FY1996-97.....2% plus the growth in students  
FY1997-98.....0% plus the growth in students

Spending Limit Exclusions:

- (i) Expenditures for special education;
- (ii) Expenditures for capital improvements;
- (iii) Expenditures to retire bonded indebtedness;
- (iv) Expenditures in support of an interlocal agreement;
- (v) Expenditures to pay for repairs due to a natural disaster;
- (vi) Expenditures to pay for judgments, except CIR orders, against a district to the extent not paid by liability insurance; and
- (vii) Expenditures to pay for early retirement programs.

Both LB 1114 and LB 299 would be passed by the Legislature, but it would not prevent the NSEA/Farm Bureau initiative campaign from moving forward. Initiatives 411 and 412 would appear on the 1996 General Election Ballot, but both would fail by large margins.

Comprehensive Changes to TEEOSA

There were two comprehensive school finance bills passed between 1996 and 1997. The first, LB 1050 (1996), was the result of interim studies conducted by the Education Committee during the fall of 1995. The second, LB 806 (1997), was introduced as a response to the levy limitation bill passed a year earlier.

Legislative Bill 1050 (1996) would become the first comprehensive modification to the school finance system since its implementation in 1990. It would produce some major policy changes in relation to the original formula, and would become a precursor to more significant changes a year later. It would cause divisions among rural versus urban interests, equalized schools versus non-equalized. It would represent one of the more contested legislative battles of the 1996 Session.

The original version of LB 1050 contained a number of modifications, but the overall objective of the legislation was to further the cause of equalization. For instance, the bill capped the total amount of income tax rebate that could be distributed directly to individual school districts and then funneled the remaining amount of appropriations back into the equalization

formula. Naturally, equalized school districts would benefit from the additional amount of available funding. It proposed to recognize transportation costs of school districts outside the computation of tiered costs. The result would be a shift of aid to equalization districts with high transportation costs in relation to other districts in the same tier. The original bill proposed to allocate option hold harmless payments only for the net number of option students and to award a per student payment in the amount of the average per pupil cost among equalization districts. Lastly, the total amount of insurance premium tax funds would be funneled into the equalization fund for distribution to equalized school districts.

After a lengthy debate spanning a two-month period, the Legislature gave final-round approval to LB 1050, but not before several important compromises had been achieved. Not the least of these compromises involved the income tax rebate. The original rebate provision, as contained in LB 1059 (1990), provided a 20% rebate of income tax funds to each school district. By 1996 the amount of rebate to some districts had grown significantly while the rebate to other districts had remained essentially static, which led to what some viewed as a “disequalizing” effect on the school finance formula. The compromise on this issue involved the capping of total income tax rebate funds at the 1992-93 funding level (about \$102 million). Of this amount, statewide net option funding would be paid out first and the remaining amount would be distributed to each district as rebate funds.

The option hold harmless system was replaced with a net option funding system (the net increase in option students to each district) and the option payment would be the lesser of either (i) the statewide average adjusted tiered cost per student or (ii) the option district’s adjusted tiered cost. This provision would allow all districts, not just equalized districts, to receive state aid for option students. Transportation costs would be no longer included in the tier structure that averages costs of similar-sized districts. Instead, each district’s formula need would include the lesser of either (i) the actual transportation costs, or (ii) 400% of the state mileage reimbursement rate multiplied by miles traveled.

Other changes to the school finance system under LB 1050 included the establishment of a “preliminary” certification of state aid to each district by April 1<sup>st</sup>. By this point in time, one of the major concerns expressed by school officials was adequate time for budget planning. Another concern involved the wide swings in state aid amounts from one year to another (an issue to be addressed in subsequent legislation). Another change under LB 1050 involved the



clarification of the original 45% funding goal to the extent that the goal would not apply to specific districts, but rather to the statewide aggregate general fund operating expenditures. As perhaps a preview to what lay ahead, LB 1050 also required the School Finance Review Committee to prepare a recommendation as to how a “sparsity factor” could be incorporated into the school finance formula.

Aside LB 1059 itself, perhaps no other school finance bill in modern Nebraska history has been debated and discussed as much as LB 806 (1997). By the end of the 1997 Session, LB 806 would be regarded as the most sweeping, comprehensive modification to the TEEOSA since its inception in 1990. In fact, only a few provisions of the original act would remain in place after the passage of LB 806, which would also impact school organization, county superintendents, and educational service units.

As originally introduced, LB 806 proposed to change the school finance formula to provide state aid based upon local system calculations, rather than individual districts. State aid for local systems would be distributed based upon the weighted formula membership attributable to the system from each district. The tier structure created under LB 1059 (1990) would be replaced with “cost groupings” based upon “sparsity” and membership weighting factors. Districts would be guaranteed 85% of the aid received in the previous year (hold harmless), except that state aid would be reduced for districts that are 10% below the levy limit (minimum levy adjustment). But the basic formula of Need minus Resources equals State Aid would remain in tact.

One of the more sweeping changes in the bill had to do with the calculation of formula need. The tier structure would be replaced with three cost groupings, standard, sparse, and very sparse. Under the new scheme, NDE would calculate the “adjusted formula membership” for each local system by multiplying the formula students in each grade range by corresponding weighting factors. The weighting factors were *lighter* for kindergarten students and *heaviest* for high school students under the same principle that high school students cost more to educate than kindergarten students. The sum of all weighted students from each grade range equals the weighted formula students for each local system.<sup>22</sup>

The weighted formula students for each local system would then be “adjusted” or increased if the local system qualifies under any of three separate factors. The Indian-Land

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<sup>22</sup> Id., Section 10, pp. 31-32.

Factor would apply to those local systems that receive federal funds and have students enrolled who reside on Indian land. The Limited English Proficiency Factor would apply to those local systems that report students with limited English proficiency. The Poverty Factor would apply to those local systems in which there are students who qualify for free lunches or free milk.<sup>23</sup> A fourth factor, “extreme remoteness,” would be added to the equation under LB 710 (1997) and would afford additional aid to certain local systems within the very sparse cost grouping.

The debate and passage of LB 806 was historic from several perspectives, including the obvious magnitude of the changes to the school finance system, but also from the standpoint of the legislative process itself. LB 806 was one of the first bills to be designated a Speaker Major Proposal (super priority bill), which gave the Speaker more latitude in establishing the order for amendments to be considered. (In 1996 the Rules of the Legislature were amended to permit the Speaker to designate up to five measures each session as major proposals.) The first stage of debate on LB 806 alone took five separate legislative days to finally arrive at a vote for advancement. In normal circumstances, a bill, even a controversial bill, may take one or two days of debate before a vote for advancement. Incredibly, LB 806 required a total of eight legislative days of tedious, sometimes contentious, debate before arriving at a final vote. In all, ninety-six amendments were filed, although the bulk of these amendments were withdrawn before a vote could be taken.

Senator Ardyce Bohlke, then chair of the Education Committee, regarded LB 806 as having a direct connection to the passage of the levy limitation bill a year earlier. “A number of options were considered, and in the end, we determined that the provisions of 806, as presented, solved the greatest number of problems resulting from 1114,” Bohlke said during General File debate.<sup>24</sup> Of course, not everyone agreed with all the solutions offered under LB 806, including some members of the Education Committee. Senators Curt Bromm, Elaine Stuhr, and Bob Wickersham, all members of the committee, would attempt to change various provisions of the bill during first and second-round debates. Some of their attempts would meet with success while others would not.

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<sup>23</sup> Id., p. 32.

<sup>24</sup> Floor Transcripts, LB 806 (1997), April 22, 1997, p. 4779.

Several key compromises were forged during the first two stages of debate that would permit the legislation to move forward. Perhaps the most significant of these compromises involved the expansion of the qualifications for local systems to be classified under the sparse cost grouping. Proponents of the bill sought to incorporate as many local systems as possible under the standard cost grouping in order to create what they believed would be a more level playing field. Opponents fought to expand the parameters of the sparse cost grouping in order to address the special circumstances facing rural school districts. In the end, several amendments would be offered and adopted to permit more local systems within the sparse cost grouping, but perhaps not as many as some opponents had hoped.

Other important compromises included changes to the poverty factor in order to lower the threshold for local systems to qualify for additional aid. “Low income child” was defined as a child under 19 living in a household having an adjusted gross income of \$15,000 or less. A compromise on freeholding permitted qualified landowners in a Class II or III district to transfer their property to a district contiguous to the property if the district has less than 60 students in grades 9-12 for two consecutive years, the district has voted to exceed the levy limits, and the high school is within 15 miles of another high school on a maintained public road. At the time, a freeholder in a Class II or III was allowed to transfer their property to a district in the same county or an adjoining county if the district has less than 25 pupils in grades 9-12 and the high school was within 15 miles of another high school on a reasonably improved highway.

LB 806 passed on a 36-13 vote. LB 806A (1997), the companion appropriation bill, also passed, and provided an additional \$110 million for state aid to schools in 1998-99.

#### Provisions of LB 806 (1997)

*Class I Districts:* Beginning with the 1998-99 school year, NDE would designate a primary high school district for each Class I district based on the high school district with the greatest share of the Class I district’s valuation.

*Free holding:* The new law would allow freeholders in a Class II or III district to transfer their property to a district contiguous to the property if the district has less than 60 students in grades 9-12 for two consecutive years, the district has voted to exceed the levy limits, and the high school is within 15 miles of another high school on a maintained public highway or maintained public road.

*Intent Language:* The 45% state funding goal for the general fund operating expenditures is modified to provide state funding sufficient to support general

fund operating expenditures that cannot be met by local resources. A new section requires an appropriation sufficient to result in a statewide levy for each year's state aid calculation that would be less than the maximum levy. The Legislative Fiscal Analyst would calculate the amount that most accurately accounts for the growth in school district budgets.

*Local Systems:* State aid would be based upon local systems instead of individual districts.

*Formula Need:* The existing tier structure would be eliminated after the 1997-98 school year. The new method for calculating need provides for the calculation of adjusted formula membership and the use of cost groupings (standard, sparse, and very sparse). Adjustment factors would include an Indian-Land Factor, a Limited English Proficiency Factor, an Extreme Remoteness Factor, and a Poverty Factor. Each local system's formula need would be equal to the sum of the local system's transportation allowance, special education allowance, and the product of the local system's adjusted formula membership multiplied by the average formula cost per student in the local system's cost grouping.

*Stabilization Adjustment:* Provides a hold harmless provision such that a local system would not receive state aid less than 85% of the amount of aid certified in the preceding school fiscal year minus the amount that the maximum levy could generate off of any increase in adjusted valuation, unless the system has a levy in the calendar year when aid is certified that is less than 90% of the maximum levy.

*Minimum Levy Adjustment:* A minimum levy adjustment would be made for any district that has a levy less than 90% of the maximum levy in the calendar year when aid is certified.

*Lop-Off and Small School Adjustment:* Provides that an equalized local system would not receive more revenue from the combination of state aid and property taxes based on a \$1.00 levy (90¢ beginning in 2000-01) than can be expended without exceeding the spending lid. Any state aid not distributed based on the lop off calculation would be distributed to qualified local systems (Small School Adjustment).

### Lid Modifications

As he sat before his fellow members of the Revenue Committee, Senator George Coordsen of Hebron concluded his opening remarks to a bill that would help define the 1998 Session. "My analysis of it," he said, "is that it is the single most important bill of the year."<sup>25</sup> And he was not too far off the mark in his assumption. At the beginning of the 1998 Session,

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<sup>25</sup> Hearing Transcripts, LB 989 (1998), January 22, 1998, p. 2.

Governor Ben Nelson was on a personal mission to ensure the property tax relief promised under the levy limitations of LB 1114 (1996). The Governor asked Senator Coordsen to serve as chief sponsor of what became LB 989, the spending limit bill of the 1998 Session. Demonstrating the seriousness of the proposal, the Governor asked the remaining seven members of the Revenue Committee to cosponsor the bill, giving it an all but guaranteed pass from committee to floor debate.

As introduced, LB 989 proposed to limit budget growth for all political subdivisions, including school districts and educational service units. The bill provided for an annual revenue lid of 2.5% for all political subdivisions other than school districts since schools are the only class of local government that operate under an expenditure lid.<sup>26</sup> For school districts, the bill set a 2.5% base growth rate on general fund expenditures other than expenditures on special education and permitted a lid range of 2% (2.5% to 4.5%).<sup>27</sup>

Perhaps more troubling to school officials were provisions in the original bill that restricted flexibility in the spending lid due to extenuating circumstances. The bill eliminated the power of the State Board to approve applications for a district to exceed its growth rate for expenditures involving new programs required by state or federal law, orders by the Commission of Industrial Relations (CIR), and payment of judgments against a district by a court of competent jurisdiction.<sup>28</sup> These were provisions originally contained in LB 1059 (1990).

Just as troubling for school officials was a provision in the original bill to reduce the amount a district may exceed its growth rate due to student growth. Under the existing law, a district may apply to the State Board of Education to exceed its applicable allowable growth rate by a specific dollar amount if the district projects an increase in formula students in the district over the current school year. LB 989 proposed to change the student growth allowance by increasing the expected percentage growth that triggers an adjustment by the State Board of Education.<sup>29</sup> In essence, it raised the threshold for the student growth provision to become accessible to a school district.

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<sup>26</sup> LB 989 (1998), Introduced Version, Sections 1-4, pp. 2-8.

<sup>27</sup> *Id.*, Section 6, p. 10.

<sup>28</sup> *Id.*, Section 8, pp. 14-17.

<sup>29</sup> *Id.*, pp. 14-15.

For school officials, the only good thing about the lids under LB 299 (1996) was that they were temporary. The lid provisions would automatically sunset after the 1997-98 school year and the former “1059 lid provisions” would once again govern school budgets. Prior to 1996, school districts enjoyed a 3% base-spending lid with a lid range up to 5.5%. If school officials had to endure levy limits, they thought, at least they would be able to spend as much of their revenue as the “1059 lid” would allow. But any hope that school officials may have had going into the 1998 Session quickly evaporated with the Governor’s spending lid proposal.

However, from the perspective of school officials, some of the provisions of LB 989 seemed almost counterproductive. Restrictions on unused budget authority, for instance, appeared to promote a spend-it-or-lose-it mentality rather than efficient use of spending authority. Accordingly, the education lobby worked diligently with members of the Revenue Committee to reinstate as many of the 1059 lid provisions as possible. And the effort proved successful to a significant degree.

As passed by the Legislature, LB 989 implemented a growth rate of 2.5% to 4.5% for general fund expenditures (other than special education) effective July 1, 1998. The bill reinstated the student growth allowance and unused budget authority provided under law prior to the implementation of LB 299 (1996). It allowed a school board to exceed the basic allowable growth rate by up to an additional 1% with the affirmative vote of at least three-fourths of the board. Finally, the bill reinstated most of the spending lid exceptions in existence prior to 1996, including lid exceptions for (i) interlocal agreements, (ii) repairs to infrastructure damaged by a natural disaster, (iii) judgments (except CIR orders) to the extent not paid by liability insurance, (iv) early retirement programs, and (v) certain lease purchase agreements.

Another important lid bill from the 1998 Session involved the levy limitations that would soon become operative for the 1998-99 school year. As originally introduced in 1997, LB 306 proposed to create an efficiency commission to approve or deny capital construction projects of local governments. The measure found support from such groups as the Nebraska Association of School Boards and the Nebraska Association of Hospitals and Health Systems.<sup>30</sup> As advanced from committee, the bill also incorporated levy exclusion of up to 12¢ for capital projects approved by the efficiency commission. The bill failed to move forward in 1997 and carried over to the following session.

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<sup>30</sup> Committee Statement, LB 989 (1997), p. 1.

By the start of the 1998 Session, a new and more pressing issue arose concerning the levy limitations. The issue involved the ability of local governments, including school districts, to place a levy override question on an election ballot in time for the first year of implementation of the maximum levies. LB 1114 (1996) stated that the maximum levy provisions would become operative for fiscal years beginning “after July 1, 1998.”<sup>31</sup> Given this operative date, some attorneys representing school districts questioned whether a levy override election could be held prior to the July 1<sup>st</sup> date. And a few school districts, particularly hard hit by the levy limits, had a need to pursue a levy override immediately in order to sustain school operations.

As passed by the Legislature, LB 306 made a number of modifications to revenue-related statutes. For school districts, however, the central focus of the bill was the levy override provisions. The provided a more specific election procedure and ballot language for elections to exceed the levy limits. It provided a process for a local governing body to rescind or modify a previously approved levy override ballot issue, something not considered at the time LB 1114 (1996) was passed. The bill specified that a local governing body could only pursue one levy override attempt per calendar year, but the patrons of the district may bring forward any number of petition efforts to override the levy limit as they wish during a calendar year. The idea was to avoid placing limits on the will of the people. Finally, the bill changed the operative date of the existing law concerning the ability to override the levy limitations from July 1, 1998 to the date of December 1, 1997. The retroactive date would permit school districts and other political subdivisions to exceed the levy limits in time for the first year of implementation (1998-99).

### Funding Calculation

The idea of “fully funding” the state aid formula has long been an objective of public schools. The issue dates back to Senator Warner’s attempts in 1967 to fully fund the Foundation and Equalization Act, the predecessor to TEEOSA. The proponents of LB 1059 (1990) and LB 806 (1997) also fought to ensure sufficient funding to permit the state aid formula to function as intended. In 1998, the issue reappeared in, of all things, an amendment to a technical cleanup bill (LB 1175).

Senator Bob Wickersham’s amendment sought to establish the local effort rate in the state aid formula at 90.97% times the maximum levy allowed schools under the property tax

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<sup>31</sup> Session Laws, 1996, LB 1114 (1996), Section 1, p. 1245.

lid.<sup>32</sup> The Legislature would then be required to provide sufficient annual appropriations to fully fund the amount of state aid certified by NDE based on the local effort rate established under the bill. In essence, there would be a guarantee, of sorts, by the Legislature to ensure complete funding from year to year. The formula would function with minimal political influences.

The Wickersham amendment would be adopted without initial fanfare, but that would not last long. Once the Governor's office understood the gravity of the amendment, the fate of LB 1175 was sealed. Governor Nelson would veto the bill, and subsequently call a special session of the Legislature to pass all provisions of the bill except the provisions contained within the Wickersham amendment.

In 1999 the issue would once again appear on the legislative agenda. This time the issue would involve the full attention of the Legislature and also the new executive administration under Governor Mike Johanns. The measure was LB 149, which was introduced due to an unexpected shortfall in state aid of approximately \$19.4 million.

Before 1999, the calculation of state aid to schools used both estimates and actual data. The state aid calculation was first based on an estimate using a three-year average growth trend. When actual data became available, the new data replaced the estimate, and any increases or decreases in state aid resulting from the use of actual data were subsequently reflected in the amount of state aid paid out to school systems the following year. In 1999, the disparity between the estimate and the actual data resulted in the \$19.4 million shortfall and the introduction of LB 149.

LB 149 proposed to declare the state aid amount certified by NDE for the 1998-99 school year null and void and required a recertification in order to correct the shortfall. The bill also changed the annual state aid certification date from December 1<sup>st</sup> of each year to February 1<sup>st</sup>. The change allowed state aid to be based on actual data rather than estimates.

The need to recertify state aid brought about a larger discussion about the state aid calculation process. Reasonable questions were asked about whether this would be an annual occurrence and whether anything could be done to bring about more stability in the funding process. The response by the Education Committee was the incorporation of provisions in the bill to provide that total aid would be the amount necessary to meet school needs after subtracting the revenue raised from local property taxes. The bill set the local effort rate (LER)

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<sup>32</sup> Nebraska Legislative Journal, March 30, 1998, Wickersham AM4207, p. 1548.



at 10¢ below the maximum property tax levy (e.g., \$1.00 under a \$1.10 levy). Use of a fixed LER to calculate the level of appropriation meant the amount of state aid to be appropriated would not be determined until the required data elements were available. But the goal to achieve more accurate state aid appropriations would be met.

The Legislature passed LB 149 by a resounding 43-3 vote, which was promptly followed by a gubernatorial veto. Undaunted, the Legislature took action to override Governor Johanns' veto by a 39-7 vote. The final passage of LB 149 was considered a major victory for public education, but the funding issue would return in subsequent sessions.

### The Temporary Aid Adjustment

Nebraska's post "9-11" economy found the Legislature scrambling to address one of the worst revenue shortfalls in the history of the state. Almost every facet of state government would be expected to take its lumps in order to reduce state expenditures and then hope for better times. The three largest pools of expenditures were, and still are, Medicaid, the University, and public education, and at least two of these major pools would be prime targets for budget reductions during the 2002 Session. The question was less "if" but "how" state aid would be reduced to help balance the state's biennium budget.

The Education Committee reviewed a number of proposals introduced in the 2002 Session designed to reduce the state's financial burden by somehow shifting more burden to the local level, at least temporarily. Ultimately, the vehicle of choice would be LB 898 (2002). The original version of LB 898, as introduced by Speaker Doug Kristensen, would have increased the local effort rate and thereby reduced the amount of state aid necessary to fund the school finance formula. As advanced from committee, LB 898 would accomplish a decrease in state aid by use of a "Temporary Aid Adjustment Factor," which would reduce calculated needs, allocated income taxes and net option funding to local systems by 1.25%. The reduction would be in place for three years and would result in a decrease of state appropriations of about \$22 million each year.

During second-round debate, the Legislature would amend the legislation in order to permit school districts to exceed the levy limitation by an amount equal to the amount of state aid lost by virtue of the Temporary Aid Adjustment Factor. The bill required NDE to certify the

amount by which the levy can be exceeded for each local system. The additional levy authority could only be accessed by a super majority (three-fourths) vote of a local school board.

If LB 898 had landed on the Governor's desk without the additional levy authority, he apparently would have signed the bill into law. This was not the case, and on April 10, 2002, the same day the Legislature voted to pass the bill by a 46-3 vote, Governor Johanns vetoed LB 898. In a letter of explanation to the Legislature, Johanns wrote:

[A]s amended on Select File, the bill now authorizes school districts to exceed the maximum levy allowed by law without a vote of the people. You have now presented me with legislation I cannot support. I believe that Nebraskans are asking for greater spending restraint at all levels of government. Granting authority to a local school board to exceed the maximum levy without first requiring approval from taxpayers is inconsistent with the State's previously established requirement of allowing only the taxpayers themselves to determine such an important local funding issue.<sup>33</sup>

Lead by Speaker Kristensen, the Legislature would take immediate action to override the veto by a 38-5 vote. The majority of the body believing that it would be inappropriate to preclude some form of remedy to local school districts.

One year later, in 2003, the economic situation in Nebraska had not improved. The Legislature was once again searching for alternatives to address the state's revenue shortfall. It was then the unthinkable became a legitimate item of discussion: increase the maximum school levy limitation, at least for temporary purposes. The result would be a decrease in state appropriations to fund the state aid formula, a reduction in the state's budget deficit, and a shift of funding responsibility to local school districts.

The bill was LB 540, introduced by Senator Ron Raikes. As advanced from the Education Committee, and ultimately passed by the Legislature, the bill provided what were intended to be temporary adjustments to the school finance formula. LB 540 would leave in place the Temporary Aid Adjustment Factor and the accompanying levy exclusion, both of which were incorporated into the formula the year before. The heart of the bill was to raise the maximum levy for schools from \$1.00 to \$1.05 beginning with the 2003-04 school year. It also increased the Local Effort Rate (LER) from 90¢ to 95¢ in order account for the higher maximum levy. But there was a catch.

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<sup>33</sup> Nebraska Legislative Journal, April 11, 2002, p. 1626.

LB 540 also proposed to lower the base spending lid for schools from 2.5% to 0% for both 2003-04 and 2004-05. In exchange, the lid range was increased from 2% to 3%. This meant that instead of the existing 2.5% to 4.5% spending lid range, schools would be subject to a 0% to 3% lid range for two consecutive fiscal years. The idea was that if the Legislature planned to offer additional levy authority to schools, then there had to be a tighter control on local spending. (The bill retained a local school board's authority to exceed its growth rate by an additional 1% by a three-fourths vote of the board.)

As a virtual repeat from the year before, the Legislature would pass LB 540 only to have it returned and stamped with a gubernatorial veto. The Legislature once again voted to override the veto, this time by a 44-4 vote.

The Legislature had proposed and passed legislation within two consecutive sessions to implement a mechanism for across-the-board reductions in formula need calculations, provide a relief valve through a levy exclusion, and increase the maximum levy for schools up from \$1.00 to \$1.05, and reduce the schools' spending authority. The efforts were met, for one reason or another, with vetoes and subsequent veto overrides. All this would change in the 2004 Session.

By 2004 there were some positive signs of economic recovery, but there were still pressing state budget issues to address. The Legislature once again set out to reduce costs to the state through a variety of means. But the general feeling was that public schools had already contributed sufficiently to the cause so as to avoid any new reductions and funding shifts. That is not to say, however, that existing reductions and shifts could not be extended. And, in fact, this is what the Legislature chose to do.

The Legislature passed LB 1093 (2004) to extend the existence of the \$1.05 levy (and the 95¢ LER) through the 2007-08 school year. After 2007-08, presumably, the maximum levy would return to \$1.00. In addition to the levy provision, the legislation would maintain the Temporary Aid Adjustment Factor and the corresponding levy exclusion through the 2007-08 school year. However, the 0% base spending lid, imposed under LB 540 (2003), would be allowed to expire after the 2004-05 school year. Unless the Legislature takes further action in the 2005 Session, school districts would return to the 2.5% to 4.5% spending lid range beginning with the 2005-06 school year.

LB 1093 did not propose anything new. It extended the life of existing provisions for a formula need reduction, maximum levy authority, and levy exclusion. And yet this time, the

Governor would sign into law rather than veto the proposal.

### Conclusion

Someone once said that history does not repeat itself, but it does rhyme. Over the years, many of the same issues have appeared and reappeared in school finance debates, including tax equity, property tax relief, school organization, and equity of educational opportunities for students. Accountability to the taxpayer has also been a common theme as witnessed by a successive number of legislative measures with the intent to control local spending.

Often setting the tone for debates on school finance is the varied interests of rural and urban communities, as voiced by their elected representatives. However, at times the Legislature could speak with a strong and clear voice on the policy direction of school finance in Nebraska. Recent funding issues, including LB 149 (1999), LB 898 (2002), and LB 540 (2003), are examples of a relatively unified Legislature.

Not surprisingly, legislative debates on the issues of education funding and taxation have always been closely intertwined. But it is often the circumstances that surround the dual issues that have often served as the catalyst for a resolution between them. Economic hardship, constitutional crisis, legal challenges, and the general political will of elected representatives have all helped to shape school finance policy in Nebraska.

## Abstract

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| <i>Title</i>    | The History of The Nebraska Tax Equity and Educational Opportunities Support Act   |
| <i>Author</i>   | Dulaney, Michael Scott   |
| <i>School</i>   | The University of Nebraska - Lincoln   |
| <i>Degree</i>   | PhD  |
| <i>Date</i>     | 2007   |
| <i>Adviser</i>  | Dlugosh, Larry   |
| <i>Pages</i>    | 1,160  |
| <i>Subject</i>  | <p>This study addresses the need for a detailed history of the current Nebraska school finance formula, the Nebraska Tax Equity and Educational Opportunities Support Act (TEEOSA), from 1990 to 2005. The study provides identification of themes and patterns throughout the evolution of the current public school finance system. The study also incorporates technical explanation of the various components of the school finance formula and how each component interacts with other provisions of the formula. The general purpose of this comprehensive history of the TEEOSA is to provide a record of the Legislature's actions relevant to school finance policy since 1990 for purposes of examination and understanding by policymakers and school officials.</p> <p>This study was conducted by using qualitative research methods under the case study design and the historical research approach. The particular case examined in this study involves the description of both policy and politics. This study also focused on the legislative process in relation to the development of public school finance policy. The case examined in this study involved not only the public policy itself (i.e., the philosophical and technical aspects of the policy), but also the politics and process that facilitated its enactment. In essence, this study represents a comprehensive history of the "life" of a major public policy.</p> <p>The study involved the investigation of 73 legislative measures having a direct impact (i.e., either through original enactment or subsequent modification) on the Nebraska public school finance system over a period of 16 years. The research project focused on those measures containing an extraordinary or highly substantive bearing on the evolution of the public policy. In addition to those measures having a direct impact on the public policy, several measures were identified and analyzed that did not specifically amend the TEEOSA yet still had a significant impact on the public school finance system either directly or indirectly.</p> |
| <i>Download</i> | <a href="http://ncsa.org/dr-michael-dulaney">http://ncsa.org/dr-michael-dulaney</a>  |