

## CHAPTER I

### INTRODUCTION

#### A. Statement of the Problem

Since enacted by the Legislature in 1990, the current Nebraska public school finance system (the Tax Equity and Educational Opportunities Support Act) has been modified by 73 separate legislative measures.<sup>1</sup> Some of these measures were technical (editorial) in nature while others were more substantive (material) in nature. Some measures impacted only the resource or needs “side” of the system while other measures affected the system in secondary or indirect ways.<sup>2</sup> Nevertheless, each measure had its own story, its own legislative history, including the rationale for enactment, the objectives to be obtained, and the problems to be resolved.

The compilation of these individual legislative histories would comprise a complete policy history, which, in itself, is a worthy project to undertake. The results of such a project would serve as a useful reference guide to the history of public school finance law in Nebraska. However, there are two additional factors involved that transform a worthwhile endeavor into one of vital significance: (1) the overall complexity and controversial nature of school finance that makes policy decisions more difficult; and (2) the impact of term limitations on state legislators in relation to future policy maintenance and the institutional affect on the Legislature as a collective body.

#### *Complexity of the System*

A creditable argument can be made that a present and, perhaps urgent, need exists to explain in lay terms what is generally regarded as a fairly complicated policy issue: the public school finance system. Since its inception in 1990 with the enactment of Legislative Bill (LB) 1059, the implicit “formula” underlying the system has been, very

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<sup>1</sup> NEB. REV. STAT. §§ 79-3801 to 3824 (Cum. Supp. 1990) (current version at NEB. REV. STAT. §§ 79-1001 to 1033 (1996)).

<sup>2</sup> For instance, LB 742 (1995) imposed growth limitations on the state appropriations for special education reimbursement funds, LB 1114 (1996) imposed levy limitations on school districts and other political subdivisions, and LB 1172 (2002) created guidelines for fees that may be imposed upon students for various items and activities.

simply: the “needs” of a school district minus the local financial “resources” of a district equals the State’s financial contribution or “aid” to a district.<sup>3</sup> However, if the formula were truly that simple, the commitment to a policy history would be far less meaningful and much less useful.

Of course, the formula is not that simple and, in fact, might be considered one of the more complicated and, at times, controversial policy issues addressed by Nebraska lawmakers, including some veteran members. Former Speaker and chair of the Committee on Education, Ron Withem, referred to LB 1059, a measure he introduced, as “the most complex, controversial piece of legislation” with which he had ever been involved.<sup>4</sup> During debate on a major school finance bill in 1997, former Senator Ardyce Bohlke, also a former chair of the Committee on Education, related school finance to a “very complicated problem” and referred to the “amount of controversy” surrounding the issue.<sup>5</sup>

Perhaps one reason for the complexity of school finance has less to do with the underlying concepts involved and more with the way in which school finance laws are written. For instance, discussions on school finance often focus on the “state aid formula” used to determine allocations of state financial assistance to school districts. However, a true formula (i.e., a mathematical expression) does not exist per se in the written policy that is debated, amended, and passed by the Legislature. Indeed, the formula, as prescribed in state law, consists of a series of rather long-winded, “lawyerly,” paragraphs and sections of legal text; the type of text which would have the average reader either flipping back and forth between numerous definitions and complicated passages or, more likely, searching for better reading material. And school finance will

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<sup>3</sup> Nebraska Department of Education, School Finance and Organization Services, “Part II. 2002-03 Concept Summary,” in *Tax Equity and Educational Opportunities Support Act Re-Certification of 2002-03 State Aid* (May 2002), 11.

<sup>4</sup> Legislative Records Historian, *Floor Transcripts, LB 613 (1995)*, prepared by the Legislative Transcribers’ Office, Nebraska Legislature, 94<sup>th</sup> Leg., 1<sup>st</sup> Sess., 1995, 9 May 1995, 6487.

<sup>5</sup> *Id.*, *Floor Transcripts, LB 806 (1997)*, prepared by the Legislative Transcribers’ Office, Nebraska Legislature, 95<sup>th</sup> Leg., 1<sup>st</sup> Sess., 1997, 28 May 1997, 8510.

continue to be a mystery to most people unless an effort is made to explain it using words and illustrations that make sense to the average reader.

The controversy surrounding school finance focuses, in part, on the range of related issues involved in policy decisions. School finance has become a fixture on the political landscape because it encompasses so many different and, at times, competing concepts and values, including tax policy, spending policy, and issues of equity and fairness. For instance, one of the major controversies surrounding LB 1059 was that it proposed to raise both the State sales tax rate and primary income tax rate in order to provide additional funding for schools. During another major school finance debate in 1996, former Senator Ardyce Bohlke stated, “You cannot talk about property tax and not talk about school finance, they’re joined together.”<sup>6</sup> Consequently, a lawmaker’s position on a school finance bill, in some cases, is based less on the merits of the measure and more on the impact on other policy issues or political considerations.

A final reason for both the complexity and controversial nature of school finance is that the effects of policy decisions are usually measured over a span of time rather than the short-term and the outcome may vary from year to year. School finance cannot be compared, for example, to a policy decision to decrease the state sales tax rate, which provides more immediate, noticeable, and predictable results. With school finance, one small change in one component of the formula could result, whether intended or not, in decreased state aid to some schools and increased financial aid to others.

School finance, perhaps like no other policy issue, requires the patience and understanding of individual lawmakers. It also involves the willingness on the part of lawmakers to take into account past policy decisions in order to chart future policy actions. This, in turn, requires a sufficient institutional memory for recalling why and how the policy evolved as it did, and, until recently, the preservation of this institutional memory was not a major concern.

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<sup>6</sup> Id., *Floor Transcripts, LB 1050 (1996)*, prepared by the Legislative Transcribers’ Office, Nebraska Legislature, 94<sup>th</sup> Leg., 2<sup>nd</sup> Sess., 1996, 14 February 1996, 11146.

### *Term Limits*

Prior to leaving office after fourteen years as a Nebraska lawmaker, former Speaker Doug Kristensen urged legislative staff members to begin compiling a record of issues and procedures.<sup>7</sup> His concern echoes the sentiments of other lawmakers, past and present, in light of a recent national movement, which has now spread to Nebraska, and may jeopardize efforts to safeguard this vital institutional knowledge.

On November 7, 2000, the Nebraska voters approved Initiative No. 415 to place limits on the number of terms a state legislator may serve.<sup>8</sup> The initiative amended the Nebraska Constitution to prohibit a member of the Legislature from serving more than two consecutive four-year terms.<sup>9</sup> The term limits provision will take effect beginning in 2006. In the meantime, concern and speculation abound as to the impact of the new law on future policy decisions and the Nebraska political structure itself.

Robert Sittig, a political scientist and leading authority on the Nebraska Unicameral, was an outspoken critic of term limits.<sup>10</sup> Sittig emphasized turnover as a constant problem under term limits and noted that, in the future, the Legislature will be composed of half “newcomers” and half “lame ducks.”<sup>11</sup> The result, as anticipated by veteran Senator Dianna Schimek, will be a legislative climate that is “less cooperative, more competitive.”<sup>12</sup> Cohen and Spitzer predict that term limits “induce rapid turnover”

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<sup>7</sup> Francis Partsch, “Term Limit Tenacity Pays Off in Nebraska,” *State Legislatures*, July/August 2002, 36.

<sup>8</sup> Initiative 415 was approved by a vote of 355,030 to 280,985 (56% to 44%). Secretary of State John Gale, comp., *Official Report of the State Board of State Canvassers of the State of Nebraska, General Election, November 7, 2000* (Lincoln, Nebr.: Office of Sec’y of State). Currently, Nebraska is one of seventeen states to impose term limits for members of state legislators since 1990. U.S. Term Limits, “State Legislative Term Limits”; available from [http://www.termlimits.org/Current\\_Info/State\\_TL/index.html](http://www.termlimits.org/Current_Info/State_TL/index.html); Internet; accessed 22 August 2002.

<sup>9</sup> NEB. CONST. art. III, § 12.

<sup>10</sup> Francis Partsch, “Term Limit Tenacity,” 37. Sittig also states that term limits will be particularly difficult on the Nebraska Unicameral. In other term limit states, the bicameral system offers term-limited representatives to pursue election in the other house of their legislature and thereby continue their political careers.

<sup>11</sup> *Id.*, 36.

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

and “reduce cooperation” among fellow lawmakers and between legislators and their constituents.<sup>13</sup>

Hunter and Vickers suggest that term limits “compress the window of time” for legislators to complete their individual agendas, and this brings about a sense of urgency within the legislative process.<sup>14</sup> This sense of urgency, however, may be contrary to the general nature of legislatures and the policy-making process. Hickok, states that legislatures are designed to “engage in very slow, deliberative, and cumbersome decision making process.”<sup>15</sup> The concern, therefore, is that term limits might “rush” the process and foster a less than patient atmosphere for discussions on major policy decisions.

Rosenthal describes the term limits movement as a “major de-institutionalizing force” in state legislatures.<sup>16</sup> Rosenthal found that novice lawmakers would likely be less willing to take the time to “learn the ropes” and to seek counsel from experienced colleagues.<sup>17</sup> Under term limits, new members will have their own objectives to accomplish, and very little time to accomplish them, with even less time to oversee their implementation and future modifications. In a 1995 survey of state lawmakers, Carey, Niemi, and Powell found that legislative leaders perceive term limits as a “source of demise,” particularly in the loss of expertise and long-term relationships that promote compromise and cooperation.<sup>18</sup> Cain states that term limits “discount experience” whereas society generally recognizes experience as an important element in other

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<sup>13</sup> Linda R. Cohen and Matthew L. Spitzer, “Term Limits and Representation,” in *Legislative Term Limits: Public Choice Perspectives* ed. Bernard Grofman (Boston: Kluwer Academic Publishers, 1996), 57-63.

<sup>14</sup> Donald R. Hunter and Fred J. Vickers, “Term Limits Produce Changes,” *State Government News*, January 2002, 25.

<sup>15</sup> Eugene W. Hickok, Jr., *The Reform of State Legislatures and The Changing Character of Representation* (Lanham, Md.: University Press of America; Harrisburg, Pa.: Commonwealth Foundation for Public Policy Alternatives, 1992), 137.

<sup>16</sup> Alan Rosenthal, *The Decline of Representative Democracy: Process, Participation, and Power in State Legislatures* (Washington, D.C.: Congressional Quarterly Press, 1998), 72-73.

<sup>17</sup> *Id.*, 113.

<sup>18</sup> John M. Carey, Richard G. Niemi, and Lynda W. Powell, *Term Limits in the State Legislatures* (Ann Arbor: The University of Michigan Press, 2000), 125.

professions.<sup>19</sup> Cain writes that term limits “ignore the need for enlightened and experienced management of public policy.”<sup>20</sup>

Term limits may also unravel the relationship between politicians and their constituencies. Carey contends that legislators “not bound to their current constituents through a reelection constraint will alter their behavior to appeal to those who control their post-assembly prospects.”<sup>21</sup> Carey also describes the “last-term problem” (i.e., for those legislators who cannot run for re-election due to term limits) as a “destabilization of a cooperative equilibrium between representative and constituency.”<sup>22</sup>

In the history of Nebraska politics and government there was perhaps no better example of a representative-constituency relationship than that of Senator Jerome Warner and the 25<sup>th</sup> Legislative District. Senator Warner served the same district in the Nebraska Legislature for 34 years before his death in 1997. In a biography of Senator Warner, Berens describes the lawmaker’s opposition to term limits, his concern for the loss of institutional memory, and his belief that it takes a legislator at least four years (one term) to “get oriented if you’re really going to be active.”<sup>23</sup>

It remains to be seen what impact term limits will have on the Nebraska Legislature as an institution, the policy-making process generally, and the effects on school finance law specifically. Nevertheless, in the absence of term limits, the Nebraska public school finance system remains a policy in need of “demystification” and broadened explanation. The results of such a project would be helpful to both the newly elected legislator and veteran lawmaker alike. However, so long as term limits are a part of the Nebraska political scene, the need becomes even more urgent. Future legislators

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<sup>19</sup> Becky Cain, “Term Limits: Not the Answer to What Ails Politics,” in *The Politics and Law of Term Limits* ed. Edward H. Crane and Roger Pilon (Washington, D.C.: Cato Institute, 1994), 47.

<sup>20</sup> *Id.*, 46.

<sup>21</sup> John M. Carey, *Term Limits and Legislative Representation* (Cambridge: Cambridge University Press, 1996), 159.

<sup>22</sup> *Id.*, 163.

<sup>23</sup> Charlyne Berens, *Leaving Your Mark: The Political Career of Nebraska State Senator Jerome Warner* (Seward, Nebr.: Nebraska Times, 1997), 201-202.

will require such a policy history in order to have a running chance at making thoughtful decisions on school finance issues prior to the end of their short tenure as a lawmaker. Such a history will also create an institutional record of the policy and its evolution over the years.

### B. Purpose of the Study

This study addresses the need for a detailed history of the Nebraska Tax Equity and Educational Opportunities Support Act from 1990 to 2005 along with 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.

### C. Research Question

What is the policy history of Nebraska Tax Equity and Educational Opportunities Support Act from 1990 to 2005? What is the technical explanation of the various components of the Nebraska public school finance formula as they evolved from 1990 to 2005? What themes or patterns of policy action emerged from 1990 to 2005 concerning Nebraska public school finance law?

### D. Sub Questions

1. What is the chronology of state legislative measures impacting public school finance?
2. What were the concerns and issues expressed about school finance policy by the media, interest groups, school officials, and individual citizens?
3. What factors motivated state legislative action concerning the funding system for public education?
4. What were the intentions, goals, and objectives of the legislative actions?
5. To what extent did other political issues and legislative measures impact the policy evolution of the school finance system?

### E. Significance of the Study

The study will also serve as a practical guide to understanding Nebraska public school finance by explaining the components of the current school finance formula as those components evolved during the sixteen-year period covered under the study. The study will be useful to both policy-makers and school officials in gaining a better understanding of how the school finance system works.

The inevitable turnover of legislators and change in the political landscape necessitates a comprehensive chronology, documentation, and explanation of the school finance system in order to properly facilitate future policy decisions. Policymakers should possess an adequate historical and technical understanding of the school finance system in order to make knowledgeable policy decisions in both the near and distant future.

### F. Delimitations of the Study

1. The focus of this study concerned a specific historical period of Nebraska public school finance law. Only limited historical references are provided with regard to school finance law prior to the period studied.

2. The study does not discuss public school finance-related legislation that was introduced in a given legislative session but not passed by the Legislature. Only those legislative measures enacted into law are discussed in this study.

3. This study does not include analysis of federal legislation and federal administrative rules and regulations unless such matters were major factors in the development of various components of Nebraska school finance law.

4. The use of quantitative data was limited in this study unless disclosure of such data assisted in the explanation of policy development during the period explored.

5. Discussion on state revenue law is limited in this study to those revenue issues directly impacting public school finance law.



### G. Limitations of the Study

1. There are multiple viewpoints and interpretations to political issues such as those discussed in this study. The findings of this study are open to criticism by those with varying perspectives and recollections of the examined events.

2. This study does not represent policy analysis or policy research in the traditional sense.<sup>24</sup> Etzioni defines policy research as “a concern for mapping alternative approaches and with specific potential differences in the intention, effect, and cost of various programs.”<sup>25</sup> Dye defines policy analysis as “the systematic identification of the causes and consequences of public policy, the use of scientific standards of inference, and a search for reliability and generality of knowledge.”<sup>26</sup>

However, this study does concern policy analysis in a very loose sense. Yanow states that “policy analysis is traditionally undertaken in advance of legislative or other policy-making decisions or acts, but the sphere of activity has also extended to evaluating policies after they had been enacted, and to the evaluation of implementation activities themselves.”<sup>27</sup> Quade writes, “In a broad sense policy analysis may be defined as any type of analysis that generates and presents information in such a way as to improve the basis for policy-makers to exercise their judgment.”<sup>28</sup>

3. Bias and preconceptions on the part of the researcher must be carefully monitored during the research and writing process. Two elements of historical research methodology utilized in this study are internal criticism, relating to the authenticity of evidence, and external criticism, relating to the trustworthiness of evidence.<sup>29</sup>

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<sup>24</sup> The expressions “policy analysis” and “policy research” are often used interchangeably.

<sup>25</sup> Amitai Etzioni, ed., *Policy Research* (Leiden, The Netherlands: E. J. Brill, 1978), 1.

<sup>26</sup> Thomas R. Dye, *Policy Analysis What Governments Do, Why They Do It, and What Difference It Makes* (Tuscaloosa, Ala.: University of Alabama Press, 1976), 3.

<sup>27</sup> Dvora Yanow, *Conducting Interpretive Policy Analysis* (Thousand Oaks, Calif.: Sage Publications, 2000), 1.

<sup>28</sup> Edward S. Quade, *Analysis for Public Decisions* (New York: American Elsevier Publishing Co., 1975), 4.

<sup>29</sup> Homer C. Hockett, *The Critical Method in Historical Research and Writing* (New York: Macmillan, 1955).

## H. Definitions

Thompson and Wood define “state aid formulas” as “legislative interventions into the disparities in educational opportunity that would be present if schools were entirely dependent on local tax base.”<sup>30</sup>

I define a “public school finance system” as the structure by which public schools are financed including sources of revenue, the fund distribution system, and applicable restraints on expenditures.

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<sup>30</sup> David C. Thompson and R. Craig Wood, *Money and Schools: A Handbook for Practitioners* (Larchmont, N.Y.: Eye on Education, Inc., 1998), 62.

## CHAPTER II

### METHODS

#### A. Historical Case Study

This study was conducted by using qualitative research methods under the case study design and the historical research approach.

Strauss and Corbin<sup>1</sup> define qualitative research as any form of research that does not generate findings by use of statistical procedures alone. Marshall and Rossman suggest using qualitative research methods when the research project is exploratory or descriptive in nature, and when the research emphasizes the significance of “context, setting, and the participants’ frames of reference.”<sup>2</sup> The use of qualitative research methods, according to Creswell, is justifiable under a variety of circumstances, including: (1) When research questions begin with “how” or “what”; (2) when the topic needs to be explored; (3) when there is a need to present a detailed view of the subject; and (4) when the researcher serves as an “active learner” who tells the participants’ story.<sup>3</sup>

Merriam<sup>4</sup> describes qualitative research as an umbrella concept for several forms of inquiry that contain essentially the same five general characteristics: (1) the researcher is interested in the meaning(s) people have constructed; (2) the researcher is the primary data collector and analyst; (3) the research usually involves fieldwork; (4) the research uses an inductive research strategy; and (5) the product of the study is richly descriptive.

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<sup>1</sup> Anselm Strauss and Juliet Corbin, *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*, 2<sup>nd</sup> ed. (Thousand Oaks, Calif.: Sage Publications, 1998), 11-12.

<sup>2</sup> Catherine Marshall and Gretchen B. Rossman, *Designing Qualitative Research*, 3<sup>rd</sup> ed. (Thousand Oaks, Calif.: Sage Publications, 1999), 58.

<sup>3</sup> John W. Creswell, *Qualitative Inquiry and Research Design: Choosing Among Five Traditions* (Thousand Oaks, Calif.: Sage Publications, 1998), 17-18.

<sup>4</sup> Sharon B. Merriam, *Qualitative Research and Case Study Applications in Education* (San Francisco: Jossey-Bass Publishers, 2001), 5-8.

The case study, one of the forms of qualitative inquiry, is defined by Merriam as a research design employed to gain an in-depth understanding of a situation with an interest in process rather than outcomes and discovery rather than confirmation.<sup>5</sup> Creswell states that a case study is “an exploration of a ‘bounded system’ or a case . . . over time through detailed, in-depth data collection involving multiple sources of information rich in context.”<sup>6</sup> The case examined under this study is (i) the enactment of the current Nebraska public school finance system, the Tax Equity and Educational Opportunities Support Act (TEEOSA), (ii) the modifications of the policy through subsequent legislative actions, and (iii) the politics and process that facilitated its evolution. The timeframe of the study begins in 1990, with the enactment of the TEEOSA, through the 2005 Legislative Session.

The case study design is particularly well suited for this study because of the flexibility that it offers the researcher. Creswell writes that a case study involves a wide array of data collection as the researcher seeks to build a comprehensive portrait of the case.<sup>7</sup> The particular case examined in this study involves the description of both policy and politics, which, according to Yin,<sup>8</sup> also supports the use of the case study design. Yin writes, “As a research strategy, the case study is used in many settings, including: policy, political science, and public administration research.”<sup>9</sup>

This study also focused on the legislative process in relation to the development of public school finance policy. Merriam confirms the use of case study design if the researcher is interested in process.<sup>10</sup> Sanders believes case studies “help us to understand processes of events, projects, and programs and to discover context characteristics that

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<sup>5</sup> Merriam, *Qualitative Research and Case Study Applications*, 19.

<sup>6</sup> Creswell, *Qualitative Inquiry and Research Design*, 61.

<sup>7</sup> *Id.*, 123.

<sup>8</sup> Robert K. Yin, *Case Study Research: Design and Methods*, 2d ed., Applied Social Research Methods Series, vol. 5 (Thousand Oaks, Calif., Sage Publications, 1994), 1.

<sup>9</sup> *Id.*

<sup>10</sup> Merriam, *Qualitative Research and Case Study Applications*, 33.

will help shed light on an issue or object.”<sup>11</sup> In this study, telling the story of the enactment and evolution of the current public school finance system is greatly assisted by an ongoing explanation of the legislative process itself. To understand the legislative process is to understand the political nature of policy development, the conflicts, the strategies, and the compromises. In fact, the “case” examined here 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.

While numerous books and manuals have been written about qualitative research methods and case study design, very little authority exists concerning the specific type of case study known as historical case study. Merriam states, “Historical case studies have tended to be descriptions of institutions, programs, and practices as they have evolved in time.”<sup>12</sup> Yin distinguishes histories, which concern the “dead past,” from case studies but notes that histories can be done about contemporary events and in such situations the strategy of histories and case study may overlap:

The case study is preferred in examining contemporary events, but when the relevant behaviors cannot be manipulated. Thus, the case study relies on many of the same techniques as a history, but it adds to sources of evidence not usually included in the historian’s repertoire: direct observation and systematic interviewing. Again, although case studies and histories can overlap, the case study’s unique strength is its ability to deal with a full variety of evidence—documents, artifacts, interviews, and observations—beyond what might be available in the conventional historical study.<sup>13</sup>

Merriam seems to agree with Yin and writes that historical research is fundamentally descriptive in nature, and aspects of historical research and case study often merge.<sup>14</sup>

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<sup>11</sup> J. R. Sanders, “Case Study Methodology: A Critique,” in W.W. Welsh (ed.), *Case Study Methodology in Educational Evaluation*. Proceedings of the 1981 Minnesota Evaluation Conference (Minneapolis: Minnesota Research and Evaluation Center, 1981), 44.

<sup>12</sup> Merriam, *Qualitative Research and Case Study Applications*, 35.

<sup>13</sup> Yin, *Case Study Research*, 8.

<sup>14</sup> Merriam, *Qualitative Research and Case Study Applications*, 35.

This historical case study did, in fact, concern contemporary events. In addition, some of the individuals, who played a major role in the development of the current public school finance system, were available for interview. The study utilized a variety of evidentiary sources, including government documents, news accounts, and legal publications. The study also capitalized on the researcher's direct observation of the legislative process throughout both the policy evolution of the TEEOSA and the enactment of other education-related measures during the timeframe examined by this research project. In fact, the incorporation of the "surrounding" legislative events and the issues of the day assisted the researcher's effort to relate the evolution of the current public school finance system from an historical perspective.

The popular conception or definition of history, according to Brundage, is the written record of past events.<sup>15</sup> Hockett, defined the function of history as transmitting knowledge of the past, but he also wrote that history "makes the past a part of us, shapes our deeds in many ways, and links past and present with the future, making all one."<sup>16</sup> The purpose of history, one might speculate, is to bring the past alive and to make use of its teachings. Therefore, the process or method of reconstructing the past, as Fling states, must be done in a thoughtful, detailed manner if it is to be valuable to those in the present and future, and the foremost consideration must be the truth.<sup>17</sup> "A sound historical consciousness," Fling states, "can rest on no other foundation."

However, the historical method, as Postan writes, is not merely the collection and recitation of facts but also the intellectual understanding and relevance of those facts to present times.<sup>18</sup> Thus, one of the important objectives of historical research is to find meaning in history and relate that meaning to the reader. Shafer, for instance,

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<sup>15</sup> Anthony Brundage, *Going to the Sources: A Guide to Historical Research and Writing*, 2<sup>nd</sup> ed., (Wheeling, Ill.: Harlan Davidson, 1997), 1.

<sup>16</sup> Hockett, *The Critical Method in Historical Research*, 8.

<sup>17</sup> Fred Morrow Fling, *The Writing of History: An Introduction to Historical Method* (New Haven, Conn.: Yale University Press, 1920), 22.

<sup>18</sup> Michael Moisse Postan, *Fact and Relevance: Essays on Historical Method* (Cambridge, England: University Press, 1971).

characterized the historical approach as the multiple concerns for change over a period of time, the trends that may have arisen during such period, and “for those unique qualities, persons, or events that may either sum up an age or stand out from it.”<sup>19</sup> Hart, perhaps, communicates it most succinctly when he states that the “object” of historical study is to find out what happened and, at the same time, to find out why it happened.<sup>20</sup>

Renier,<sup>21</sup> and, more recently, Howell and Prevenier<sup>22</sup> simply characterized history as “story.” In the case of this study, the story revolved around the enactment and evolution of a major public policy, the identification of trends, and the unique features of the times, events, and people involved. Brundage agrees with the concept of history as story, “with a fixed plot and cast of characters,” but he also believes history should be a “dynamic process,” which includes a “rich, varied, evolving intellectual system that allows us to achieve a deeper and better understanding of our world, indeed of ourselves.”<sup>23</sup>

In summary, this historical case study incorporates the exploratory nature of qualitative methodology, the flexibility of case study design, and the evidence-gathering techniques used by historical researchers.

## B. Role of the Researcher

Kent referred to the command of Socrates, “know thyself,” and wrote that such commandment “never gave richer rewards than in the world of ... systematic study.”<sup>24</sup> Historians can never truly separate themselves from their personal values, judgments, and opinions prior to and during the undertaking of an historical investigation. Historians

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<sup>19</sup> Robert Jones Shafer, ed., *A Guide to Historical Method* (Homewood, Ill.: The Dorsey Press, 1969), 1.

<sup>20</sup> B.H. Liddell Hart, *Why Don't We Learn from History?* (New York: Hawthorn Books, 1971), 15.

<sup>21</sup> G.J. Renier, *History: Its Purpose and Method* (London: George Allen & Unwin, 1950), 38.

<sup>22</sup> Martha Howell and Walter Prevenier, *From Reliable Sources: An Introduction to Historical Methods* (Ithaca, N.Y.: Cornell University Press, 2001), 1.

<sup>23</sup> Brundage, *Going to the Sources*, 2.

<sup>24</sup> Sherman Kent, *Writing History*, Rev. with the assistance of James T. Schleifer (New York: Appleton-Century-Crofts, 1967), 9.

usually have a certain level of bias toward their object of study, which, if left undisclosed, may jeopardize the validity of the study's findings. The truly conscious student of history, Kent wrote, will be vigilant to identify personal bias and avoid weaving it into the narrative.<sup>25</sup>

Benjamin said that a historian's selection of important issues "is determined by personal values, by the concerns of those who support the historian's work, by the nature of the time in which the historian lives, or by a combination of all of these."<sup>26</sup> As a paid registered lobbyist for an organization comprised of school administrators, my obvious bias and interest in a favorable public education system cannot be ignored. As a lobbyist, my function within the organization is to carry out the will of the membership within the legislative arena through political means and channels. The organization I represent was, for instance, a vocal proponent of the original policy reviewed in this study. Therefore, the legislative positions taken by my employer and those of other interest groups are duly noted throughout the study. However, as a matter of personal interest, this study is devoted to an improved understanding of the current public school finance system while at the same time documenting its history.

Howell and Prevenier wrote that "historians do not discover a past as much as they create it... ." <sup>27</sup> Historians choose and then describe the events, issues, and people they think will best tell the story. The responsibility upon the historian for capturing the true essence of a story should be taken very seriously throughout the research and writing process.

The validity of the research product is dependent upon a sound research strategy. Barzun and Graff illustrated what they called the six virtues (or elements) of "good research" to help guide the researcher.<sup>28</sup> The virtues include accuracy (attending to the

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<sup>25</sup> Id., 10.

<sup>26</sup> Jules R. Benjamin, *A Student's Guide to History*, 5<sup>th</sup> ed., (New York: St. Martin's Press, 1991), 6.

<sup>27</sup> Howell and Prevenier, *From Reliable Sources*, 1.

<sup>28</sup> Jacques Barzun and Henry F. Graff, *The Modern Researcher*, 4<sup>th</sup> ed., (San Diego: Harcourt Brace Jovanovich, 1985), 44.



object), order (adhering to a system), logic (in the practical application of research), honesty (writing what the researcher finds to be true), self-awareness (to lessen the influence of bias), and imagination (relating to the location of applicable sources).<sup>29</sup>

Researchers make continuous decisions about their roles during the research process. Stake believes case study researchers, in particular, have the potential for taking on a number of roles whether consciously or unconsciously.<sup>30</sup> According to Stake, the case study researcher may serve as teacher (to inform and assist the increase of competence), as advocate (to indicate how the findings might be extrapolated), as evaluator (to research the merit and shortcoming of the case under study), as biographer (to describe persons relevant to the case), and as interpreter (to cognize and substantiate new meanings).<sup>31</sup> In some instances, as in my research project, all the above apply to the role of researcher.

In this study, every attempt was made to adhere to the research “virtues” mentioned above, to identify and prevent bias within the narrative, and to generally provide a truthful report of the findings based upon all available evidence. However, as with all research studies, the presentation and interpretation of the evidence remains open to critical review and judgment by the individual reader.

### C. Collection Procedures and Sources

Merriam writes that a historical case study “employs techniques common to historiography—in particular, the use of primary source material.”<sup>32</sup> Storey states that primary sources include those sources that “originate in the time period that historians are studying.”<sup>33</sup>

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<sup>29</sup> Id.

<sup>30</sup> Robert E. Stake, *The Art of Case Study Research* (Thousand Oaks, Calif.: Sage Publications, 1995), 91.

<sup>31</sup> Id., 91-99.

<sup>32</sup> Merriam, *Qualitative Research and Case Study Applications*, 35.

<sup>33</sup> William Kelleher Storey, *Writing History: A Guide for Students* (New York: Oxford University Press, 1999), 19.

The four essential primary sources used in this study include the (1) session laws published at the conclusion of each legislative session, (2) the official transcripts of both standing committee public hearings and “floor” debate on various legislative measures, (3) the official Legislative Journal of each legislative session, and (4) the Nebraska Revised Statutes and accompanying supplements to the statutes.

Other primary sources used in this study include both original print and copies of introduced legislative bills, amendments filed with the Clerk of the Legislature that were considered too lengthy to be placed in the Legislative Journal, various official opinions issued by the Attorney General at the request of a senator concerning a legislative measure, statistical and financial data provided by school districts to the Nebraska Department of Education, reports and studies commissioned by the Legislature, election canvas reports compiled by the Office of the Secretary of State, correspondence and memoranda from various elected officials, autobiographical materials, documents issued by the Legislative Research Office and the Legislative Fiscal Analysis Office, and official statements and other documents issued by standing committees of the Legislature.

News accounts published in general circulation newspapers were cautiously utilized in this study. Brundage warns that even when a newspaper article displayed no “detectable bias,” the researcher must “consider the problems inherent in relying upon a single reporter’s account of the event: his vantage point, his ability to hear all that was said ... and so on.”<sup>34</sup> In addition, newspapers are known for taking positions on issues through editorial opinions that give rise to the concern that journalists may write news accounts that enhance the position of their employer.

In the opinion of this researcher, there was less need for concern of bias when utilizing articles published in the *Unicameral Update* (the Nebraska Legislature’s official news magazine).<sup>35</sup> The news magazine neither offers or solicits editorial opinions and is generally regarded as an unbiased, fact-oriented news agency.

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<sup>34</sup> Brundage, *Going to the Sources*, 19.

<sup>35</sup> The *Unicameral Update* is operated by state employees and published by the Unicameral Information Office (a division of the Office of the Clerk of the Legislature).

The case examined in this 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 sixteen years. Time and resources did not permit an in-depth investigation of each measure, however, each such measure was documented to one degree or another. Instead, 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.

A limited number of secondary sources were also used in this study. Brickman describes a secondary source as a “derived source, once removed from the first hand material.”<sup>36</sup> A secondary source is “usually a document which describes or discusses a primary source.”<sup>37</sup> Brundage includes as secondary works such sources as survey textbooks, scholarly periodicals and journals, dissertations and conference papers, and book reviews.<sup>38</sup> The secondary sources used in this study include textbooks relating to school finance, dissertations (relating to school finance), and professional journal articles.

With the process of determining the preferred sources and location of available sources completed, the next phase of the research project involved the preparation and assimilation of data into a manageable and searchable system for the purpose of interpretation. The use of computer technology and software programs in research has become a major advantage to modern researchers. It is now common for qualitative researchers, including case study and historical researchers, to use databases to store and organize data. In fact, Yin warns that the absence of a formal database for most case

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<sup>36</sup> William W. Brickman, *Guide to Research in Educational History* (New York: New York University Bookstore, 1949), 92.

<sup>37</sup> *Id.*

<sup>38</sup> Brundage, *Going to the Sources*, 20-28.

study efforts represents a major shortcoming in case study research.<sup>39</sup> Harvey and Press expound upon the use of databases in historical research and write that, “[d]atabase systems are central to historical computing.”<sup>40</sup> Therefore, as outlined below, this historical case study relied heavily on the use of computers and database technology in order to make the best use of the source material.

The database system utilized in this study incorporated all available data concerning the applicable legislative measures reviewed in the case, including both introduced and Final Reading versions of the bills, statements of the sponsor’s intent, committee statements, committee vote records, bill summaries, legislative chronologies, proposed amendments, and any other available materials. For those legislative measures subjected to an in-depth investigation, the research process also involved the procurement and examination of copies of official legislative transcripts, both for public hearings and floor debate. In all, over 9,500 pages of transcripts were obtained for the purpose of this study. The transcripts were then scanned with the assistance of optical character recognition (OCR) software and converted into electronic data. In the case of scanned input, Harvey and Press suggest the application of an auditing procedure to proof the material and, in fact, all scanned documents used in this study were carefully checked for accuracy during this phase of the research.<sup>41</sup>

A database was constructed and formatted to incorporate data from every legislative measure analyzed in the study. Data from the transcripts of public hearings and floor debate were inserted into the database with each record encapsulating individual dialogues. For example, the testimony of one person and any exchange (i.e., questions or comments) between senators and that testifier would collectively consist of a single record in the database. Similarly, a senator’s opening or closing comments on an

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<sup>39</sup> Yin, *Case Study Research*, 95.

<sup>40</sup> Charles Harvey and Jon Press, *Databases in Historical Research: Theory, Methods and Applications* (New York: St. Martin’s Press, 1996), 10.

<sup>41</sup> *Id.*, 94.

amendment to a bill during floor debate would constitute a single record in the database for purposes of analysis.

As will be discussed below, the use of a database permitted the researcher to explore trends and patterns in the data and generally provide an efficient means of organization.

#### D. Interpretation of Data

A coding system was devised and incorporated into the database in order to retrieve and organize the data. Miles and Huberman describe codes as tags or labels used to assign “units of meaning” to the information collected during a study:

Coding is analysis. To review a set of field notes, transcribed or synthesized, and to dissect them meaningfully, while keeping the relations between the parts intact, is the stuff of analysis. This part of analysis involves how you differentiate and combine the data you have retrieved and the reflections you make about this information.<sup>42</sup>

In this study, codes were used to categorize the subject of the discussion or debate contained in each record. Codes were also assigned to the main points being asserted by individual speakers. Lastly, codes were used to track the individual sections of law under review in order to document the evolution of each component of the state aid formula.

There were two purposes for analyzing public hearing transcripts. The first purpose was to document the introducer’s identification of the problem(s) addressed by the pending legislation. The second reason was to catalogue the response of both interest groups and individuals to the introducer’s identification of the problem(s) and the solution as contained in the pending legislative proposal.

The coding process for transcripts of floor debate was conducted by first isolating statements of “proposal” introduction, whether the proposal is a complete legislative measure or an amendment to a legislative measure. The second step for coding floor debate was to identify and distinguish proponent and opponent inquiry about various components of the issue then being addressed.

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<sup>42</sup> Matthew B. Miles and A. Michael Huberman, *An Expanded Sourcebook: Qualitative Data Analysis*, 2<sup>nd</sup> ed. (Thousand Oaks, Calif.: Sage Publications, 1994), 56.

Special attention was given to identification of dominant themes found in the transcripts. For instance, the two general concerns in any debate on school finance are revenue (i.e., how will this be funded?) and distribution (i.e., how funds will be distributed among districts?). These themes were duly noted throughout this study.

Both inductive and deductive reasoning were used to provide historical interpretation of the transcripts. The point was to capture the arguments and discussion that defined the overall debate on a given policy issue. In many cases the same arguments and discussion continued from one legislative measure to another, from one legislative session to another, and these patterns were also noted throughout the study.

#### E. Verification Methods

Internal validity is of particular importance to case study research. Merriam characterizes internal validity as dealing with the “question of how research findings match reality.”<sup>43</sup> Stake writes that such validation helps the researcher gain confirmation, increase credence in interpretations, and demonstrate commonality of an assertion.<sup>44</sup> Several techniques used for internal validation include triangulation and member checking. Merriam defines triangulation as “using multiple investigators, multiple sources of data, or multiple methods to confirm the emerging findings.”<sup>45</sup> Stakes describes member checking as the process of asking the “actors,” those who played a major role in the case study, to assist the researcher:

In a process called “member checking,” the actor is requested to examine rough drafts of writing where the actions or words of the actor are featured, sometimes when furs written up but usually when no further data will be collected from him or her. The actor is asked to review the material for accuracy and palatability.<sup>46</sup>

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<sup>43</sup> Merriam, *Qualitative Research and Case Study Applications*, 201.

<sup>44</sup> Stake, *The Art of Case Study Research*, 112.

<sup>45</sup> Merriam, *Qualitative Research and Case Study Applications*, 204.

<sup>46</sup> Stake, *The Art of Case Study Research*, 115.

In order to facilitate internal validation, the preference of this researcher was to organize an informal advisory committee in order to review the researcher's historical and technical interpretations. The committee is comprised of key individuals who either were a part of the original draft of the TEEOSA or were involved in the process to amend the policy since its inception. The use of the advisory committee serves to provide internal validation and member checking of the data, the selection of sources, and the interpretations of the researcher.

#### F. Ethical Considerations

Most of the data used in this study consists of public records (e.g., transcripts and session laws). These documents and other such records are available to anyone and do not involve privacy issues.

However, the informal interviews of various participants in this study do present ethical considerations. Merriam writes, "Respondents may feel their privacy has been invaded, they may be embarrassed by certain questions, and they may tell things they had never intended to reveal."<sup>47</sup> Therefore, every effort will be made in this study to procure consent for use of the names of interviewees and their comments.

#### G. Presentation of Findings

Yin<sup>48</sup> states that the "presumed preferences" of the target audience for the final report should dictate the form of the report. Merriam notes the flexibility of qualitative research and the lack of any standard format for reporting.<sup>49</sup>

The format of this study will have the appearance of a chronology of events but will also take the form of a practical guide for ease of reference.

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<sup>47</sup>Merriam, *Qualitative Research and Case Study Applications*, 214.

<sup>48</sup>Yin, *Case Study Research*, 132.

<sup>49</sup>Merriam, *Qualitative Research and Case Study Applications*, 227.

#### H. Dissemination of Report

Those who participated in the informal advisory committee will receive a copy of the report. In addition, copies will be made available to state policymakers who comprise the target audience of the study.

The elements of this study will also become the content of an Internet website entitled, "Nebraska School Finance." The website will be dedicated to the study of the Nebraska public school finance system.



## CHAPTER III

### LITERATURE REVIEW

Marshall and Rossman assert, “When research questions explore new territory, previous literature and theory may be inadequate for constructing frameworks for the study.”<sup>1</sup> This study involves the dual function of providing a detailed policy history of the current school finance system (from 1990 to 2005) and providing technical explanation of the formula as it evolved. A project of this exact nature, as it relates to the Nebraska public school finance system, has not been previously attempted. While Gould provided a very thorough history of Nebraska public school finance law from 1854 to 1997, her study did not simultaneously focus on detailed, technical explanation of the various components of the current school finance formula.<sup>2</sup>

The Nebraska Department of Education (NDE) annually releases statistical data concerning current-year state aid calculations. This information includes a “Concept Summary,” a brief summarization of the various components of the formula. While NDE’s Concept Summary provides very general descriptions, it is not intended to provide in-depth analysis of each component.

Each state’s public school finance system contains unique components, objectives, disbursement systems, etc. Comparative analysis would be beneficial as a separate study to determine similar and varying policy characteristics. However, such a study would entail an entirely different set of objectives than that pursued in this study. This study is designed to provide a unique exploration into the thinking and decisions made by the Nebraska Legislature over a period of years concerning a specific policy arena.

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<sup>1</sup> Marshall and Rossman, *Designing Qualitative Research*, 46.

<sup>2</sup> Harriet M. Gould, “The History of Nebraska Public School Finance Law: 1854-1997” (Ed.D. diss., University of Nebraska, 1997).

The research materials used for this study represent a thorough literature review in and of itself. Copies of every official, and many unofficial, documents and files for all legislation relevant to the policy evolution of the current Nebraska school finance system were obtained, optically scanned, catalogued, and analyzed for purposes of this study. No less than 7,566 pages of debate transcripts covering 73 primary legislative measures spanning 16 years were reviewed for the study, along with 1,961 pages of public hearing transcripts for the same number of measures and years. Over 40 secondary legislative measures having an influence on the outcome of the primary legislative measures were researched at one level of scrutiny or another.

All available accompanying documents held within the archives of the Clerk of the Nebraska Legislature and the files of the respective standing committees having jurisdiction of the legislative measures examined in this study were accessed and reviewed. Committee statements, statements of intent, executive session reports, amendments, bill summaries, and all versions of each measure from introduction to Final Reading were acquired and studied in detail. Thousands of pages of the official Nebraska Legislative Journal from 1988 to 2005 were scrutinized for content and utilized in this study to ensure chronological accuracy of the events. All opinions of the Nebraska Attorney General relevant to the legislation at issue were obtained and wove into this body of work as deemed appropriate. Information from fiscal statements attached to the legislation and prepared by the Nebraska Legislative Fiscal Office was utilized in this study.

Adding to the merit of the chosen “literature” is the nature of the material itself. This study was a study of the law as it relates to Nebraska’s school finance system. Each legislative measure reviewed in this study was examined in-depth from the point of conception of the idea to the codification into statute. A painstaking effort was brought to bear in this study to evaluate the content of each legislative proposal, unravel it for purposes of analysis and re-assemble it for purposes of understanding the role it played in the evolution of the school finance system. Legislation is tedious, complicated and requires a trained eye for proper assessment. While it may not classify as literature in a

strict academic sense, it is nevertheless the appropriate basis to conduct the historical case study provided here.

This study also was a study of the people, some behind the scenes and others in the forefront, who shaped the outcome of policy decisions that affect the lives of children. Using the traditional method of historical research, it is the words of these people, as provided in the written record, that became the indispensable backdrop in order to assess the thoughts and intent of these individuals who endeavored to forge the legislation reviewed here. Once again, transcripts and news accounts are perhaps not considered academic-based literature, *per se*, but these materials do represent an important part of the best evidence for understanding the “what” and the “why” in this historical research. Each legislative measure studied here embodies a life of a policy objective with forces both for and against. At one point in our time, each measure was alive in the voices of those who cared whether it succeed or fail. This study examines why people felt the way they did, their hopes and their fears for the outcome of a given policy decision.