THE DEVELOPMENT OF THE PUBLIC SCHOOL SUPPORT PLAN IN WEST VIRGINIA

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(ABSTRACT)

The purpose of the study was to trace the historical and legal development of the financial support system for public elementary and secondary education in West Virginia from 1863 through November, 1984. In addition, the study provided a compiled source of data on selected aspects of the West Virginia school support system which had bearing upon the 1975 legislation that successfully challenged the constitutionality of the state school finance system. In the case of Pauley et al. v. Bailey et al., the method of financing public schools in West Virginia was declared unconstitutional on May 11, 1982, and the court directed the Legislature to completely redesign the West Virginia system of public school finance.

In order for the educational and legislative leaders to fulfill meeting the court's criteria, an awareness of the changes and carryover of past doctrines and practices into the present situation was deemed to be of great importance.

The study provided a historical review of significant legislation and cases affecting the evolution of the West Virginia school finance system. Designated periods of time in education history were presented through the utilization of both a chronological and topical approach. Evaluative criteria, such as equity in funding, adequacy in educational opportunity, efficiency of organization, and formula alterations were incorporated into the study in order to identify the significant changes in the developmental process of school finance.

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Further, the support and understanding of my family members reinforced me with a strong will to achieve this academic quest. Their generous love, patience, and faith continued throughout this endeavor.

DEDICATION

To my
Father

In whose memory this historical study is dedicated as being symbolic of the value he placed upon education and of his intense search for new knowledge.

A gentle man of great foresight and wisdom whose faith, love, and understanding, as well as, his tireless efforts in his teachings and guidance, provided inspiration and a sense of aspiration to my brothers, my sisters, and to me.

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Chapter 1

INTRODUCTION

The financing of public education has been one of the most pressing and critical problems facing the nation's educational leaders. Among the chief concerns is the demonstrated relationship between a school district's property wealth and a district's ability to provide an adequate level of funding. Concurrently, the issues of fiscal equity (see Glossary) and educational excellence have become actively involved in the educational reform movement. As a result of questioning the adequacy (see Glossary) and equity in educational provisions, educational reform has been occurring in school regions and districts across the nation. Greater awareness has been created regarding the presence of vast disparities in educational opportunities both among states and states' school districts.

The resolute interest in the methods of financing public schools is part of a national reform movement stemming from the now famous lawsuits of Serrano v. Priest[1] and San Antonio Independent School District No. 1 v. Rodriguez.[2] In the Serrano v. Priest case, the court made clear that the quality of a child's education could not be dependent upon the wealth of a school

district. The court stated, instead, that the education burden must be borne by the State. As a result of this and other school finance litigation, several states are presently grappling with complex constitutional issues. School systems are being cited for failing to insure equal educational opportunities for all children, as mandated by the respective states' constitutions.

Following the United States Supreme Court ruling in the case of San Antonio Independent School District No. 1 v. Rodriguez, a broad range of school finance litigation sought educational adequacy and equity in many states. As a result of this landmark case, the issue of school finance was returned to the states. In Rodriguez, the Supreme Court ruled that the federal doctrine of equal protection could not serve as a basis for litigation, whenever a state's school finance support system was being challenged. "The United States Supreme Court majority concluded that the Texas school finance scheme, with its wide interdistrict revenue disparities resulting from a heavy reliance on local property taxes, did not violate federal equal protection guarantees." [3]

Since Rodriguez, legislatures, courts, and citizens have demonstrated increased interest in educational offerings and as a result, state school systems' financial programs have been more closely reviewed. In some cases, alleged violations have been

based upon "thorough and efficient clauses" found in state constitutions. One month following Rodriguez, the case of Robinson v. Cahill,[4] "was the first case in which a state supreme court relied on the education provisions of a state constitution, rather than on equal protection requirements for finding discriminatory fundings of schools unconstitutional."[5]

David Long, an attorney noted for his involvement in public school finance litigation, alleged that,

> Across the nation the major state constitutional issue of the decade became whether state courts should strike down inequitable statewide school finance systems under provisions of state constitutions pertaining to education and equal protection.[6]

All fifty states contain within their constitutions provisions for legislative responsibility in providing for public education.[7] However, judicial reviews often have been necessary for interpreting the legislatures' state constitutional obligations in providing for an education system. The courts have been called upon to assess whether legislatures have fulfilled their duty to define and support the state guaranteed educational program. With education being left to each state to organize and to finance, the discrepancies and concerns lie in the degree of legislative responsibilities or services required by the respective states' constitutions and the methods for funding such services.

Court cases in numerous states, including West Virginia, have challenged the constitutionality of state support systems for funding public schools. In West Virginia, the court case of Pauley v. Kelly,[8] has served to stir considerable interest in the State's method of school funding. This case has been responsible for stimulating new proposals in West Virginia regarding both equity and adequacy in educational opportunities. In 1975, the Pauleys, who are parents of five children, filed for declaratory judgment and sought relief for having been denied a "thorough and efficient" system (see Glossary) of education and denied equal protection.

It should be noted that since the confirmation of West Virginia's first school law, revealed in Chapter Forty-Five of the Code of 1868, there has been a provision for the establishment and support of a "thorough and efficient" system of Free Schools in West Virginia. Based upon this legal provision, the West Virginia school fiscal support plan was ruled as being unconstitutional by the West Virginia Supreme Court of Appeals. The court identified the elements of the school financing system as compounding the relationship between local wealth and the available resources for education. The court further cited the school districts' voter approved excess property tax

levy as lying at the root of the financial disparity and causing inability among counties to meet their educational needs.[9]

Purpose of the Study

Various studies have been commissioned to report on the method of financing West Virginia's public schools and to provide assessments of the educational setting in West Virginia. The review of these studies, as well as other literature on education history in West Virginia (see Appendix A), failed to find a complete study tracing the historical and legislative development of West Virginia's public school fiscal support plan from the inception of the State's constitution in 1863 through 1984.

The central purpose of this study was to trace the development of the West Virginia school fiscal support plan and to provide a document which can be used by education leaders, legislators, and the citizens of West Virginia. Said document incorporates specific historical, fiscal, and legal elements of the funding system, whereby, such a document provides ready access to pertinent information and lends toward greater understanding of the current school support plan.

Ancillary to the main purpose was the intent to create an increased awareness of the changes in the school fiscal support plan as well as an awareness of the

carryover of past doctrines and practices into the present system. In order to determine the evolution process and to assess the effects of the West Virginia school finance system, it was deemed useful to examine the happenings of the past and to realize how West Virginia arrived at its present state. The uncertainties and lack of information regarding the school support plan can be clarified through this research effort.

An operative description of the current school funding formula is presented in order to relate the present finance scheme's inability to solve the continuous fiscal problems identified throughout the history of education in West Virginia. These recurrent problems have been identified in the areas of variance in fiscal capacity, formula design, as well as, unequalized property appraisal and assessment practices.

Unlike other available reports, this study purports to provide information on the historical and legislative evolution of the school fiscal support plan which has led to the picture of the educational setting currently provided to the citizenry of West Virginia. Increased knowledge and understanding of past events are intended to create greater interest, and thus, make for greater progress on the part of the education leaders and the legislature in providing for adequacy and equity in educational opportunities. An enhanced awareness of the

contributing elements which have shaped the school support plan is deemed to be of value.

The study is an historical research concerned with West Virginia's method of providing school fiscal support beginning with the State's admission to the Union and the inception of the State's constitution, on June 20, 1863. The study contains the historical development of the school finance system and incorporates the legal framework prescribed by the Constitution of West Virginia and the Acts of the Legislature of West Virginia. The study terminates with the outcome of the Constitutional Amendment, "Better Schools, Roads, Public Works Construction", which was presented to the voters of West Virginia, on November 6, 1984.

Need for the Study

Accurate information and understanding of the historical and legal development of West Virginia's school fiscal support plan and how it progressed to its present state are purported to be useful in serving the historian, the student of school finance and law, and to the school administrator. George M. Johnson stated, "Educators can benefit by knowing the constitutional provisions and legal developments under which they perform their duties." [10]

Background information leading up to the present financial structure for West Virginia's public schools can

identify specific features which have affected the outcome of the school finance system. For example, certain elements of a statute or statutory changes over the years may have resulted in either improving or in handicapping the effectiveness of the given method for financing public education. By having the availability of a document that chronicles the development of the school fiscal support plan, the State may avoid the pitfalls that created the system challenged by Pauley v. Kelly.

Based upon the information gathered from this study, the hoped for result is increased knowledge of how and why events occurred and the process by which the past has become the present. Lance Morrow, noted that, "The past inhabits us and defines us and often haunts us. We need to go back to it, to sift it, in order to know who we are..."[11] This study, and similar studies on Texas[12] school finance and Louisiana[13] school finance, offer a literary contribution serving as reference sources for significant factors regarding public school financial support.

Research Method

The study was designed to capture the historical, legal, and financial picture of West Virginia in its support of the public schools. The focus of the study was upon those events which created changes and which shaped

the financial structure for the support of public schools. Designated periods of time in education finance history were established and presented by utilizing the combination of both a chronological and topical approach. Incorporated into the study were significant legislative acts, constitutional revisions, and economic conditions that were notable for having affected public school fiscal support. The study presented, where available data permitted, the allowance and procedure for the distribution of state aid prior to the equalization formula, the major formula changes including a description of the current system, other legislation relating to school fiscal support, e.g., categorical grants, and the taxation procedures for the support of schools. Such evaluative criteria as equity in funding, adequacy in educational opportunities, efficiency of organization, and formula alterations are evident throughout the school finance history and are cited to determine the significant changes in the developmental process of school finance. Comparative information is presented to show variation among the counties pertaining to per pupil expenditure, teachers' salary, tax levy rates, and taxable property valuations.

The design of this study was based upon the historical approach, wherein, the historical type of research attempts to establish facts and arrive at conclusions concerning the past. Historical reporting

contains the how and why of past events and the process through which the past has become the present. William W. Brickman stated that, "Historical research in matters concerning education is valuable in that it can push back the frontiers of knowledge and reduce the area of ignorance about a given subject."[14]

The control, in the historical approach, lies in the choice of questions to be asked of the sources. For example, "What legislative acts have related directly or indirectly to the support of public schools? What lasting effects have these acts had?" The value of the historical approach rests with the external versus internal criticism, wherein the authenticity of the evidence is reflected. The sources were classified in two categories: the primary and the secondary sources. Such secondary sources as history books and educational journal reports, were utilized and documented in this research effort. Literature on the general history of education in West Virginia was reviewed to establish periods of history and to achieve greater awareness of the economic trends and how these trends affected or influenced the officials and voting electorate.

The legal research intertwines with the historical reporting and after determining the study's legal components, i.e., constitutional provisions, legislative acts for school funding and taxation, and the court

decisions, the necessary documents for carrying out the study were identified. Said documents, considered as primary sources, included the articles and sections of the State's constitution and those specific statutes (see Glossary) related to the West Virginia school fiscal support plan (see Appendix B).

West Virginia's statutory compilations are based upon a topical approach, i.e., schools, taxation, with each topic designated as a chapter within the code publication. The code annotations note revisions of a section and often include information leading the researcher to other reference sources. Following the text of each section of the West Virginia Code is a list, in chronological order, of all the forerunner acts which have evolved into the present day statute. Following each statute of the West Virginia Code there is presented a list of court cases in which the statute has been interpreted.

The State of West Virginia has no official records of debates or history of legislation; therefore, other primary legal sources included the West Virginia Reports,[15] the journals of the house and senate, and the Acts of the Legislature of West Virginia. Due to the chronological method of annual publication of the Acts of the Legislature of West Virginia, it was necessary to refer to the indices of each published volume to extract school finance legislation.

Biennial and annual reports of the State Superintendent of Schools were utilized. Data reflecting equity of the school funding system and adequacy in educational opportunity were obtained from said source. The Biennial Reports, Tax Commissioner of West Virginia, provided information on indirect and direct taxation, as well as levy rates and taxable assessed valuation of property for the counties, as well as, for the State as a whole.

Limitations of the Study

This study does not cover, in full, all of the factors contributing to school finance in West Virginia. For example, the study is exclusive of federal funding in such programs as vocational education, special education, adult education, and others. The study provides some information on those financial elements outside the foundation formula which significantly contributed to improving conditions within the West Virginia school system, i.e., categorical grants for the construction and renovation of school buildings. The emphasis of the study, however, lay with the historical development of the West Virginia financial support plan for education leading to the State's basic foundation support as prescribed in the West Virginia Code, chapter eighteen, article nine-a, sections four through ten. The study makes reference to

information relative to the computation of local share, appraisal and assessment of property, to state aid for construction and renovation of school facilities as prescribed in chapters eleven and eighteen, and to the general revenues from taxation earmarked for school support, as prescribed in chapter eleven of the West Virginia Code.

Outline of the Following Chapters

With the scope of the study defined in Chapter One, an outline of the chapters to follow provides references to the developmental processes upon which the State aid plan for the West Virginia public schools has been based. Provided in Chapter Two is the historical development of financing public schools in West Virginia. Periods of time in West Virginia's school finance history are designated and the influencing economic trends of the times are identified. Incorporated into Chapter Two are the provisions of the Constitution of West Virginia, the enabling acts, the statutory and annotated code, and significant court opinions related to shaping the development of the West Virginia school fiscal support plan. The information provided on the revenue and funding dimensions for the State aid plan of the West Virginia's schools includes the identification of state taxes going into the general fund and more directly for school support.

Additionally, the legislative enactments, the means of state aid prior to the foundation formula, major formula changes, and the procedure for distributing state aid are presented. The chapter provides a review of the provisions contained in the Master Plan for Education in West Virginia. The chapter refers to the proposed constitutional amendment for Better Schools, Roads, and Public Works. Said amendment was presented by the executive and legislative branches for the purpose of meeting the criteria established by the court in the Pauley v. Bailey case. Comparative data on per pupil expenditure, teachers' salary, levy rates, education adequacy, and taxable property are provided, based upon data availability.

Described in Chapter Three are the processes of how the means of funding, appraising of property, taxation procedures, and the state aid distribution design have inhibited the State in providing equal educational opportunities to all students. Various steps of the formula are highlighted and questionable existing practices are identified. The chapter paints a cursory picture of how the formula has worked for West Virginia.

Included in Chapter Four is a summary of the historical and legal events leading to the present plan for funding education in West Virginia. The concluding chapter incorporates considerations for the State's

educational funding program. Identified deficiencies and potential solutions are provided for further consideration. Following the final chapter's narrative portion of the dissertation, a glossary of terms and definitions is provided.

Summary

The first chapter has included a statement of purpose in the undertaking of this project and the related need for the study. Following the intent of the study is an explanation of the method of historical, legislative, and legal research. Presented last is an outline of the content of the chapters to follow.

End Notes

Chapter 1

1. Serrano v. Priest, 487 P. 2d 1241 (Cal.1971).

2. San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

3. Martha M. McCarthy and Paul T. Deignan, What Legally Constitutes An Adequate Public Education (Indiana: Phi Delta Kappan Educational Foundation Publications)(ND) p.8.

4. Robinson v. Cahill, 287 A. 2d 187 (N.J. 1972), affirmed as modified, 303 A. 2d 273 (N.J. 1973) (Robinson I).

5. David C. Long, "Rodriguez: The State Courts Respond," Phi Delta Kappan, March, 1983, p. 481.

6. Ibid., 482.

7. McCarthy, pp. 120-126.

8. Pauley, et al. v. Kelly, et al., 255 S.E. 2nd 859 (1979).

9. Pauley, et al. v. Bailey, et al., Kanawha County Circuit Court, May 1982, Civil Action 75-1268, p.149.

10. George M. Johnson, Education Law, (East Lansing: Michigan University Press, 1969), p. XIX.

11. John A. Meyers, "A Letter From the Publisher," Time, November, 1983, p. 3.

12. Stephen B. Thomas and Billy D. Walker, "Texas Public Schools Finance," The Journal of Education Finance, VIII (Fall, 1982), pp. 223-281.

13. Berton Gremillion, Louisiana School Finance, (Baton Rouge: Louisiana State Department of Education, 1976).

14. William W. Brickman, Guide to Research in Education History, (New York University Bookstore, 1949), p. 1.

15. West Virginia Reports: It is to be noted that the West Virginia Reports have not been maintained since 1979.

Chapter 2

A HISTORICAL PERSPECTIVE WITHIN THE FINANCIAL AND LEGAL FRAMEWORK

Introduction

Enacted in 1872, the West Virginia Constitution states, "The Legislature shall provide, by general law, for a thorough and efficient system of free schools."[1] Regardless of this provision, State Superintendent Miller reported in 1904 that, "the free school (see Glossary) system's organization and development, during its earliest years, were largely influenced and dependent upon the public's sentiment."[2] The development of the education system in West Virginia, from the State's inception, in 1863, "experienced slow and gradual growth due to lacking educational sentiment among the people."[3] The citizenry had to be educated toward the new concept of public education," related State Superintendent Shawkey, "and by the 1870's, there was evidence of increased growth and development of the true ideas of public education."[4]

The history of West Virginia's school support plan, for more than a century, revealed that fiscal support for education was largely dependent upon the ability of the

State and of the local districts [townships] to generate sufficient revenues for public services. The townships, incorporated within the specified county boundaries, often were divided into subdistricts whenever necessary. This was based upon the required enumeration of at least fifty youth between the ages of six and twenty-one years, residing within each subdivision. "The question of revenues," stated Superintendent Miller, "appeared early, as a cause for concern due to the objection by some school districts to the local levy and the inability of other districts to raise sufficient funds for the support of schools."[5]

This chapter describes the historical development of the public school fiscal support plan from the State's inception, on June 20, 1863, to November 6, 1984. On this latter date, the voters of West Virginia rejected a proposed amendment to the Constitution of the State of West Virginia, whereby money would have been appropriated to construct, renovate, or remodel elementary and secondary schools,[6] and to fund quality education through a statewide excess levy and a one cent dedicated consumers' sales and service tax.

The study identifies certain factors as legislation, voters' influence, and fiscal resources as contributing to and/or detracting from the State's

educational growth. Variations among districts and developmental changes in such areas as equity in teachers' salaries, expenditure per pupil (see Glossary) and local levy rates will be presented. Additionally, taxable property valuations (see Glossary) among districts, will be shown in the comparative statistics, where data are available.

Part I

Education in The New State, 1863-1909

For many years before the division of Virginia, the western sector of the Commonwealth had pleaded in Richmond to have an equal share of the schools within the state. Superintendent Miller reported, "There were sections in western Virginia which had no system of education, while other sections had schools, but which were very poor. Western Virginians wanted to extend the benefits of public education to all of its citizens."[7] As a consequence, when the first constitution was drafted, for West Virginia, there seemed to be a determination to bring about increased educational opportunities for the youth of the State. The writers of the Constitution gave the initial thrust for the establishment of free schools within the new state.

The First Constitution, 1863

Superintendent Miller reported,

> The initial step taken toward establishing a public school system in West Virginia was on the 27th day of November, 1861, when the Honorable John Hall, President of the First State Constitutional Convention, named a committee on education. Gordon Batelle, a Methodist minister served as chairman of that committee which provided the initial document containing the General School Law of the State.[8]

When the first Legislature of West Virginia assembled at the Linsly Institute in Wheeling, West Virginia, the individuals who drafted the first Constitution of West Virginia incorporated sections from Batelle's initial document and made the necessary

provisions for a public education system. The first West Virginia Constitution proclaimed that, "The legislature shall provide as soon as practicable, for the establishment of a thorough and efficient system of free schools."[9]

The major thrust of the constitutional provision provided for the Invested School Fund,[10] the establishment and support of a thorough and efficient system of Free Schools, the election of a General Superintendent of Free Schools, a county superintendent of each county, [subdivided into township school districts] and the election of such other officers as should be necessary to render the system effective.[11]

Article Ten of the first constitution provided for the support of the free schools by

> appropriating the interest of the invested school fund, the net proceeds of all forfeitures, confiscations, and fines accruing to the State, and by general taxation on persons and property, or otherwise. The Constitution provided for raising in each township, by the authority of the people thereof, such a proportion of the amount required for the support of free schools, therein, as shall be prescribed by general laws.[12]

The first West Virginia Constitution contained financial provisions for schools similar to those of the Mother State.[13] These inherited similarities lay in the areas of retaining a capitation tax, real and personal property tax, and an invested school fund. Davis reported that, "the financial system of the State was established in

time of war when other matters were more pressing. The restored government, in contemplation of the formation of a new state, took the path of least effort and reenacted selected tax laws of Virginia."[14] Thus, the basis for financing schools was a reposition of the taxation structure of the Commonwealth of Virginia.

Early Constitutional and Statutory Provisions for Education

On the fourth day of the first legislative session, both a Senate and an House Committee on Education were appointed. Miller reported,

> The joint work of these two committees was the first school law of the State, known as Chapter CXXXVII of the Acts of 1863. This act was passed on December 10, 1863, and was entitled, An Act Providing for the Establishment of a System of Free Schools. It was under this law that the State's school system originated and developed through its earliest years.[15]

Finance. Immediate concern was evident regarding the method of financing the proposed system of schools. In order to provide the necessary funds for education, the Constitution had directed that the school fund include

> all money accumulated from the sale of forfeited lands, all grants made to the State for education purposes, the proceeds from estates of persons without leaving a will or heir, funds from the Virginia Literary Fund, money, stocks, and property that the State had a right to claim for education purposes, and appropriations made by the legislature, should be set apart and be known as the school fund. The whole amount was to be invested in interest bearing securities and the accrued interest annually applied to the support

of public schools.[16]

This designated school fund was to be augmented by fines collected by the State and by general property tax on persons and property.[17] During this period for the support of free schools, a state tax was levied in the amount of ten cents on each one-hundred dollar assessed valuation of real and personal property of the state. This tax, together with the interest of the invested school fund named above, and receipts from the capitation tax[18] (see Glossary) were set apart as a separate fund to be called the school fund. The tax on persons referred to the capitation tax which was "a tax of one dollar levied upon each white male inhabitant who had attained the age of twenty-one years."[19] The annual distribution of the State school funds to the counties was in accordance with the number of youth between the ages of six and twenty-one years, as determined by each annual enumeration made for school purposes.

The legislature also prescribed that

> a certain portion of the amount required for education in each township be raised by local taxation. With the approval of the voters of the township, the board of education was to levy annually, for teachers and buildings, a tax on the property taxable in the township or district. This tax was not to exceed the rate of fifty cents on every one hundred dollars valuation, according to the latest assessment. The money received along with the State's support of free schools was to keep such schools in operation for at least four months in the year.[20]

Thus, it is to be noted that within each township, in order to provide school houses, furniture, and to keep the same in good repair, the board of education could levy a tax on property, [with the approval of the voters] not to exceed fifty cents on every one hundred dollar valuation to go to the building fund. Additionally, by the authority of the people, a tax on property not to exceed fifty cents on every one hundred dollar valuation, could be levied to constitute a special fund to be called the teachers' fund. No part could be used for any other purpose than for payment of teachers' salaries.

Illustrated in Table 1 is the average local levy rate for the teachers' fund and building fund [not to exceed fifty cents on each one-hundred dollar property valuation] for the years 1866 to 1903. This average is an aggregate of the rates levied in the township school districts, as well as, township each subdistricts within each county.

TABLE 1.

Average Local Levy for Teachers' Salary and Building Fund, By Year

YEAR	AVERAGE LEVY for BUILDING FUND (Cents on each $100 Assessed Valuation)	AVERAGE LEVY for TEACHERS' FUND (Cents on each $100 Assessed Valuation)	TOTAL
1865, NOT GIVEN			
1866, 35 COUNTIES		52	
1867, NOT GIVEN			
1868, NOT GIVEN			
1869, 48 COUNTIES	31	27	58
1870, 45 COUNTIES	28.67	30.06	58.73
1871	27.39	29.90	57.29
1872	22.69	28.42	51.11
1873	23.38	34.01	57.39
1874	19.17	29.18	48.35
1875	21.50	29.30	50.80
1876	19.90	29.70	49.60
1877, NOT FOUND			
1878	14.30	26.20	40.50
1879	15.58	24.09	39.67
1880	19.30	25.20	44.50
1881	19.75	28.25	48
1882	22	38	60
1883	19	27	46
1884	19	27	46
1885	21	33	54
1886	21	35.50	56.50
1887	22	26	48
1888	23	26	49
1889	24.13	25.75	49.88
1890	24.75	33.60	58.35
1891	25.10	34.15	59.25
1892	25.60	34.84	60.44
1893	23.52	29.38	52.60
1894	24.14	32.52	56.66
1895	21.90	32.70	54.60
1896	22.40	37.30	59.70
1897	23.30	38.20	61.50
1898	24.20	38.10	62.30
1899	24.37	40	64.37
1900	24.96	41.49	66.45
1901	28.80	42.20	71.00
1902	28.90	43.05	71.95
1903	28.90	43	71.90

Source: Thomas C. Miller, History of Education in West Virginia, 1904. Reprinted from the original document.

Ambler indicated that, "the inequalities in taxable properties and in the districts' taxing procedures soon proved, however, to be a contributing factor to the slow development and growth of the free school system."[21] This situation occurred despite the constitutional declaration that, "Taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law."[22] As noted by Ambler, the inequities and inadequacies in education may have begun at this time. "Because of the great inequalities in taxable property [among the townships], the constitutionally authorized thorough and efficient school system was thus forced to develop in a manner that produced great inequalities."[23]

From 1863 to 1867, the rate of the levy in the townships had fluctuated and the provisions for funding continued to prove to be inadequate. Ambler stated that

> revenues were not sufficient to maintain the legalized school term and to erect the necessary buildings. The 1867 legislature, thus, required all boards of education to levy fifty cents on every one hundred dollars of assessed valuation for teachers' salaries and for buildings. This township rate, as well as the state rate of ten cents [per one hundred dollar valuation], remained constant until after the turn of the century.[24]

It should be noted that the variance in the counties to provided for school support was partially due to the unequalized distribution of property wealth. This

situation caused the sentiment of the people to be reflected either favorably or unfavorably in their response to laying levies for school purposes.

Additionally, the inadequate and ineffective taxing procedures, e.g., under-valued property assessments, appraisal practices, and tax avoidance compounded the difficulty in local government units' ability to generate sufficient revenue to support schools and other public services. The problems of variation in fiscal capacity among the districts, as well as, the ineffective and unequalized taxing procedures were witnessed from the earliest employment of the free public school system and have continued throughout the progression of school support, in West Virginia.

School Boards and Trustees. The inauguration of the public school system by the Legislature provided for the creation of boards of education. The West Virginia Code of 1868 related that

> the qualified voters in each township were to elect, according to the law, three commissioners for a term of three years. The three officers constituted a board of education for their township and were charged with the care, custody and management of all property used for the public schools. In order to determine the number of schoolhouses needed in every township, the board required an enumeration of all the youth between the ages of six and twenty-one years residing within each school district. It was the responsibility of the board to divide the township into subdistricts allowing, as nearly as possible, fifty pupils for each subdivision. For this number

> of pupils, school was to be in operation for at least four months of the year. Annual reports from the board were made to the county superintendents.
>
> Duties of the board included the appointment of three trustees, residents of the township, who were charged with appointing teachers, regulating salaries, and dismissing the teacher if general incompetency was found. The trustees decided the subject areas to be taught, selected the textbooks and took any other action to promote education. Annual reports from the trustees were made to the secretary of the board of education.[25]

General and County Superintendent. Provision was made by law for electing and prescribing the duties, powers, and compensation of the chief State school officer entitled General Superintendent of free schools for the State. Elected by joint vote of the two branches of the legislature, the General Superintendent served a two year term of office which was the same as that of the Governor.[26]

The county superintendent, who was the overseer of all the township school districts located within a county's boundary, was elected by that county's qualified voters. The term of office began on the first day of January, following his election, and continued for two years. For his services, the county superintendent's salary was not to exceed three dollars per day for each day he was actually and necessarily employed in the discharge of his duties.[27]

A New Constitution, 1872

Due to the discontent among reactionary radicals to

the 1863 constitution, and based upon many expressed motives urging the need for a constitutional convention,[28] the Legislature passed a convention bill on February 23, 1871. Such notions of discontent emphasized that the constitution of 1863 was adopted without the consent of the whole people, at a time when many were in the Confederate Army and others, refusing to recognize the reorganized State, failed to participate in the election. Still others wanted a new constitution in order to extend the time in which the Virginia debt[29] should be paid. The people, on August 24, 1871, voted for scheduling a new constitutional convention.

The Second Constitutional Convention assembled on January 16, 1872, in Charleston, West Virginia, and remained in session for eighty-four days. Still influenced influenced by the provisions of the former constitution of Virginia, radical reactionaries made strong effort to keep West Virginia under the influence of the life and institutions of Virginia. As a result, several sections quoted from the Virginia constitution of 1851, were introduced into the bill of rights.[30] These sections pertained to such generalities as the equality of man, the sovereignty of the people, the alienable right of the majority and the principles of free government.

The new constitution, which is the constitution

still in effect today, was ratified on January 1, 1873. The document repeated the language of the old constitution requiring the legislature to provide by general law for "a thorough and efficient system of free schools."[31] As in the first constitution, the legislature was required to "foster and encourage moral, intellectual, scientific and agriculture improvement."[32] The new constitution was similar to the previous constitution, regarding free schools. However, new provisions[33] included the following:

1. converted the title, "general superintendent" to state superintendent" and increased the maximum amount of his salary not to exceed five hundred dollars in any one year.

2. created a Board of the School Fund consisting of the Governor, Superintendent of Schools, Auditor, and Treasurer.

The newly created Board of the School Fund was required to invest the school fund in interest-bearing securities. The amount of accrued interest was annually applied to the support of free schools throughout the State.[34]

Sources for School Funding. Within the new constitution, the school funding sources, as reported by Lewis, were relatively unchanged. The following sources of funds, earmarked for school funding, were (1) proceeds from

the capitation tax, (2) accrued interest from the School Fund, (3) net proceeds of all fines and forfeitures, (4) interest on public money received from State depositories, (5) State tax on marriage licenses, (6) State tax on other licenses not paid to the State Auditor and Secretary of State.[35]

The State distributed the money to the several counties, a share ascertained by the State Superintendent. The County Superintendent would then ascertain the appropriate share for each township [school district].

Statutory Provisions. Legislative enactments, on the subject of free schools, were directed toward revising the code as follows:

1. redefined the powers and duties of the state superintendent; extended the term from two years to four years; made the superintendent's position an elected office; the made the superintendent a member of the Executive Department.

2. provided for the separate education of white and Negro youth.

3. prescribed for textbooks.

4. retained the minimum legal term of four months of school, but allowance was made for school districts having sufficient revenue to exceed this term.

5. retained the position of county superintendent

who was also permitted to teach in order to have supplemental income.

6. retained the maximum local levy of fifty cents per one hundred dollar assessed valuation for teachers' salaries.

7. reduced the local levy for buildings from fifty to forty cents per one hundred dollar assessed valuation.

8. authorized an additional local levy up to thirty cents for voter approved graded or high schools.

9. vested in the county sheriff, instead of the township school board, the collection and disbursement of school revenues.[36]

To this time, as stated by Callahan, "progress in the school system had been hindered by the misuse of funds by the school boards who voted themselves liberal compensations for their services."[37] Ambler, however, noted that the changeover failed to resolve the misuse of school funds. "Soon after the latter enactment, it was seen in a very short time that the sheriff, too, had learned the art of "shaving" school orders and of temporarily diverting school revenues to his private use."[38] School funds, thus, continued to confront problematic situations, due to

variation in taxable wealth among the districts, under-assessed property, lack of money, and misuse of funds.

School Support: Fiscal Variations and Inadequacies Among Counties

Despite the two key constitutional provisions for (1) equal and uniform taxation and (2) a thorough and efficient school system, the State's ineffectiveness in enforcing the law became points of grievance among the people. Ambler reported that

> a chief criticism against Virginia by its former residents had been the Commonwealth's favoritism shown toward the aristocrats and the indigent poor. It soon became recognized, however, that the new state of West Virginia showed favoritism to the industrialists and residents along the Ohio River.[39]

The inequities in property valuation among the counties caused great protest from the rural units. Callahan stated that, "In some thinly settled counties of the interior and along the southern border the people were not able to build school houses."[40] Reinforcing the inequity issue was the fact that levies varied among the townships, resulting in significant average levy rate variation among the counties. Ambler stated,

> Some wealthier counties had levies averaging eighteen and one-half cents [per one hundred dollar valuation] and a school term exceeding four months, while other non-wealthy counties had an average levy of thirty-nine and one-half cents [per one hundred dollar valuation] and a

school term of three and one-half months.[41]

The resulting effect gave a segment of the population adequate schools at a lesser rate of taxation and required the remaining segment to provide for such schools as they could. Ambler noted,

> As the [school] districts with the lowest levies generally had the longest terms and best paid salaries, the resulting inequalities presented perhaps the worst feature of the existing system.
> For example, in 1890, Wyoming County, had a tax rate of forty-eight and one half cents for teachers and fifty-five days of school; whereas, Jefferson County had an average levy of seventeen and three-tenths cents and an one hundred eighty day school term.[42]

Contained in Table 2 are data pertaining to the approximate average length of the school term and the average monthly rate of teachers' salaries for counties and cities, in the early 1900's. Such evidence reveals that inequities existed in the earliest years of the educational system within the new State. Ambler stated,

> More than anything else, these inequalities were the greatest retardation to educational progress in a large part of the State. The system was looked upon in comparison with tumbled down shanties and hovels while here and there a fine house was visible.[43]

Table 2.

Average Length of School Term and Average Monthly Rates of Teachers' Salary by Counties/Cities 1908

Counties/Cities	Average Length of Term in Days	Average Monthly Salary Rates for Teachers
Barbour	110	$ 46.20
Berkeley	152	35.00
Boone	108	42.60
Braxton	115	48.37
Brooke	155	55.57
Cabell	120	45.00
Calhoun	130	39.50
Clay	123	48.33
Doddridge	120	39.00
Fayette	133	50.62
Gilmer	112	44.00
Grant	112	43.25
Greenbrier	117	49.03
Hampshire	105	35.00
Hancock	153	51.23
Hardy	96	35.00
Harrison	131	45.57
Jackson	120	44.92
Jefferson	180	38.00
Kanawha	125	48.86
Lewis	107	39.00
Lincoln	100	41.00
Logan	96	42.17
Marion	126	46.66
Marshall	136	45.23
Mason	125	46.30
Mercer	100	39.00
Mineral	119	41.28
Mingo	137	51.00
Monongalia	112	44.28
Monroe	112	35.71
Morgan	117	35.42
McDowell	143	53.33
Nicholas	101	37.50
Ohio	172	47.20
Pendleton	90	35.00
Pleasants	137	45.83
Pocahontas	99	40.00
Preston	119	41.13
Putnam	106	41.86
Raleigh	100	40.71
Randolph	109	41.11
Ritchie	120	41.00
Roane	105	35.70
Summers	107	39.25
Taylor	120	44.64
Tucker	130	41.00
Tyler	135	45.00
Upshur	107	38.63
Wayne	107	40.83
Webster	98	39.50
Wetzel	127	50.00
Wirt	113	39.89
Wood	120	39.00
Wyoming	100	38.23
Ceredo	180	35.00
Charleston	174	60.90
Grafton	180	50.00
Huntington	180	42.50
Martinsburg	200	49.83
Moundsville	180	49.58
Parkersburg	190	72.32
Wheeling	183	68.28

Source: Bienniel Report of the State Superintendent of Free Schools, 1908.

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Industrial Expansion and Related Legislative History

Economic advancement outdistanced legislative enactments and commercial wrongs were allowed to grow rapidly due to inadequate tax laws, as related below. Though prosperity came to the forefront, this prosperity resulted in influencing the leaders to treat the law with indifference for the sake of commercial gains. Examples of the prosperous developments were described by Judge Atkinson.

> (1) Capital became abundant for the purpose of developing the resources of the State (2) railroads were built through the mineral producing counties (3) mining outputs were greatly increased (4) the lumber industry had made hitherto valueless lands valuable, and new farms were established.
>
> At this same time, the population had increased by 40 percent during the census period. In spite of this growth taking place, the assessed valuation of personal property was greater in 1871 than in 1881, by three million dollars. The identified lack of net gain in real and personal property, during that ten year span, aroused tremendous protest against the 'method of assessing taxable property. The inequality of taxing procedures led to much discussion within the legislature. However, the legislature did nothing and the old spirit of class favoritism prevailed and dereliction of revenue officials continued.
>
> Furthering the sources of the problem were the land frauds, wherein, many large bodies of land were offered for sale for ten cents an acre. In addition, the deeds, plats, abstracts, seats, etc., for West Virginia lands were being manufactured in New York City.[44]

Revenues for the State continued to remain as a chief concern among the State's leaders, as the railroads, the owners of industry, and the farmers had been traditionally opposed to taxes and continued to do so. To

exemplify the feelings of these interest groups, Ambler related a letter, written to Senator J. N. Camden from A. S. Dandridge of the Eastern Panhandle, regarding the candidacy of E. W. Wilson for election to the State Senate. "I am quietly using the fact among our farmers that he [Wilson] has always been a warm advocate for the increase of the state school tax which is particularly obnoxious to our people."[45]

Judge Atkinson noted, "the theory of our government was being undermined by election frauds and the corrupting influence of money."[46] However, the demand for reform eventually became insistent and this same sentiment was shared by many public officials. Resulting from the rising concern, a special session of the 1890 Legislature was demanded to pass laws to correct the abuses. This aggregate of actions by the people and the lawmakers led to the development of a new era, though the desired results required a lengthy period of time. Thereafter, state public institutions and general public needs began to receive more consideration by the Legislature. "During the session of 1899, the Legislature appropriated, for public purposes," reported Judge Atkinson, "one-half million dollars more than in any preceding session."[47]

In 1903, the Legislature was confronted with the question of a general revision of the tax laws. Through

the report of the tax commission, the need for an entirely new tax system was expressed. "After reviewing the recommendations of the tax commission, the tax bills were presented to the Legislature for enactment and permanent laws speedily followed. Under the new tax system, the assessment of corporation property marked a new era in taxation in the State," reported Judge Atkinson.[48]

It should be noted that following the turn of the century the taxation laws began to show slight improvement. The over-all State wealth showed an increase; however, the existing fiscal disparities among the districts remained, due to unequalized distribution of taxable wealth. Illustrated in Table 3, the growth of population, taxable wealth, and wealth per capita, between the years 1870 to 1910, shows steady advancement. Though the figures show a considerable increase between the years, 1904-1910, in taxable wealth and wealth per capita, a strong economic picture for the State had not yet manifested itself, due to the concentrated wealth in certain locations.

TABLE 3.

Growth of Population, Taxable Wealth, and Wealth Per Capita In West Virginia For Selected Years, 1870-1910

Year	Population	Taxable Wealth	Wealth Per Capita
1870	442,014	$ 190,651,491	$430
1880	618,457	340,000,000	550
1890	762,794	426,887,358	560
1900	958,800	635,607,830	660
1904	1,065,055	814,340,202	760
1910	1,221,119	1,119,828,000	925

Source: J. M. Callahan, Semi-Centennial History of of West Virginia, p.506.

Reprinted excerpt from the original document.

State Revenue Sources for Schools, Early 1900's

The financial trend remained in an unsatisfactory state in the early nineteen hundreds, due primarily to the State's difficulty in obtaining necessary revenues to accommodate the increased demand for both new and existing public services. Education, being one of these services, failed to command the needed attention from the State's leaders. Instead, said Ambler, "the leaders of the State were busily making state investments attractive, by providing assurances to out of state investors, regarding tax issues and public expenditures."[49] "The concern among the State's leaders with respect to education, was to keep the cost down."[50]

Unfortunately for the state's educational interests, the vast amount of the State's natural resources and industries were controlled by outside investors and the people of the State became greatly exploited by non-resident capitalists. It was noted by Ambler that, "many of the resident capitalists or corporation owners assumed a similar attitude. Whenever possible, the capitalists took advantage of technical errors to nullify school levies."[51] Thus, the thorough and efficient system of free schools continued to lag, even though corporation wealth was on the increase. "The large property owners," quoted Ambler, "resorted to any and all means to keep tax

rates as low as possible."[52]

Invested School Fund. Until the early 1900's, an important means of school fiscal support lay with the Invested School Fund which had its origin in the 1863 Constitution[53] and remained in the amended Constitution of 1872.[54] Sources for the Invested School Fund of the 1872 Constitution were: a share of the Literary Fund of Virginia; unspecified devises or bequests; money, stocks, or property claimed from Virginia; bequests made to education purposes; proceeds of forfeited, delinquent, unappropriated lands.

The Invested School Fund, however, became a topic of concern and controversy among educators and politicians, who became aware that the fund was witnessing considerable growth. Ambler reported that

> beginning with $106,122.79 on October 1, 1865, the fund aggregated $1,104,412.69 on July 1, 1902. The annual income from this fund, together with all other state capitations, the state school levy and the proceeds of fines and forfeitures, made up the distributable school fund. This money was then apportioned among the counties on the basis of school population.[55]

Irreducible School Fund Amendment. Some of the State's leaders thought that management of the Invested School fund for profitable investment purposes was becoming too burdensome. Others thought that the fund should be allowed to increase and be utilized to provide more public services without increasing taxes. A proposal to limit the

school fund to one million dollars was referred to the electorate in the form of a constitutional amendment. This amendment established the Irreducible School Fund which was ratified on November 4, 1902.[56] The new consitutional revision stated

> the accumulation of the school fund provided for in section four of article twelve, of the Constitution of this State, shall cease upon the adoption of this amendment, and all money to the credit of said fund over one million dollars, together with the interest of said fund, shall be used for the support of the free schools of this State. All money and taxes heretofore payable into the treasury under the provisions of said section four, to the credit of the school fund shall be hereafter paid into the treasurer to the credit of the general school fund for the support of the free schools of the State.[57]

General School Fund. With the new, existing amendment, the Irreducible School Fund was limited to one million dollars and the General School Fund was established. A provision in section sixty of the School Laws of West Virginia , 1903, stated that on the State level

> for the support of free schools, there shall be a tax levied, annually of ten cents on the one hundred dollar valuation on all real and personal property of the State, which together with the interest of the invested school fund, the new proceeds of all forfeitures, confiscations and fines which accrued to the State during the previous year, the proceeds of the annual capitation tax, dividends on bank stock held by the board of the school fund and the interest accruing on stocks invested in United States bonds, shall be annually applied to support the free schools throughout the State, and to no no other purpose whatever. It shall be

> distributed to the several counties in the State in the State in proportion to the number of youth therein according to the latest enumeration made for school purposes.[58]

In four years, the General School Fund increased by nearly $200,000.00, as shown in Table 4, an increase of 72 percent.

TABLE 4.

GROWTH OF THE THE GENERAL SCHOOL FUND
FOR THE YEARS 1904-1908

YEAR	AMOUNT
1904	$518,145.73
1905	575,637.68
1906	737,237.29
1907	685,147.49
1908	718,102.67

Source: Biennial Report of the State Superintendent of Free Schools, 1908.

Reprinted excerpt from the original document.

In 1909, the amount of the General School Fund became fixed at seven hundred fifty thousand dollars. Before the distributable fund was issued to the districts, Lewis reported that the following expenditures had to be assumed: "salary and expenses of the State Superintendent, salaries of the county superintendents, and supplements to the teacher and building funds in those districts unable to provide the minimum term at a maximum levy rate."[59]

Legislation in the Early 1900's for School Support

Though the minimum term had been extended in 1895 from four to five months of school, Ambler reported that many counties found the resulting expenditures to exceed the available resources. It was realized that the additional expenditures for teachers' salaries could only be met by an increased rate on taxable property.

> To remedy this situation, the attorney general ruled, in 1903, that the five month term was obligatory and that the regular fifty cent local levy could be exceeded to the extent of thirty cents to provide the required legal term. Failure to lay the additional levy or such part of it, as was needed, automatically deprived the offending district of its share of the distributable school fund.[60]

The special session of the 1904 Legislature enacted a law allowing for a change in the State school tax, which since the origin of the State, had been ten cents on the one hundred dollar valuation of real and personal property. Miller reported that

> the tax was reduced, in 1905, to eight cents and further reduced, in 1906, to two and one-half cents, by authority conferred upon the Board of Public Works by the Legislature. Concurrently, with the lowering of the State's rate of taxation and final elimination, by 1907, of the State School levy, the General School Fund kept increasing with each year. This was largely due to a more consistent procedure of taxation on corporations and railroads, and the realized potential in taxable wealth.[61]

When the reduction of the state school levy was made, the 1904 legislature, in order to make compensation, claimed that in addition to the proceeds already designated to go toward the support of free schools

> two-sevenths of the license privilege and franchise taxes were then to be set apart for the General School Fund. The fund, distributed annually, continued to be based according to each school district's enumeration taken on the preceding first day of April and based upon the number of pupils between six and twenty-one years of age. The chief sources contributing to the distributable fund were: the capitation tax, the two and one-half cents levy, two-sevenths of all license privilege and franchise taxes, interest on the one million dollar School Fund, fines and forfeitures, one-half the interest on State deposits, and the sale of delinquent lands.[62]

Other legislation,[63] provided by the 1904 special session of the Legislature, modified the laws pertaining to laying local levies for the support of free schools. The following explains the local levies for both the teachers' salaries, which remained intact, and for the building fund which first began at fifty cents, and was then reduced in 1872 to forty cents, and then to twenty cents, in 1904.

For the Building Fund Levy, the local school board

was authorized to levy a tax not to exceed, annually, twenty cents on each one hundred dollar valuation on property according to the latest assessment made for county and State taxation. In the event that it was necessary to erect any new school, the school board could then make an additional levy, not to exceed forty cents on each one hundred dollar valuation, and could make this levy until the building was erected.

For the Teacher Annual Levy, the local school board could lay a levy not to exceed fifty cents on each one hundred dollar valuation of property according to the latest available assessment. This money along with the money received from the state for the support of free schools was to keep the schools in operation for at least five months. If the funds were insufficient, the board could make a special levy, not to exceed twenty-five cents on the one hundred dollar valuation of property. Provided in Table 5 are the average levy rates, by counties and cities, for the building and teachers' funds.

Furthering the progress of the State's education system, Superintendent Miller regarded the 1908 revision of the school code as

> showing much wisdom in proper codification. Inquiries from across the country were received. The new code included such items as establishing a State Board of Education, increasing the minimum salaries, initiating a supplemental fund in addition to the General School Fund to aid

districts in maintaining a six month term when the levy would not raise sufficient revenues, and authorizing by the vote of the people the establishment of district high schools.[64]

Table 5.

Average Rate of Levies For Building and Teachers' Funds By Counties and Cities 1908

Counties and Cities	Average Rate of Levy (Cents on $100 Assessed Valuation for Building Fund)	Average Rate of Levy (Cents on $100 Assessed Valuation for Teachers Fund)
Barbour	8	14 1/2
Berkeley	10 1/2	15
Boone	15 1/2	22 1/2
Braxton	12 1/2	20
Brooke	11 1/3	15 2/3
Cabell	17 1-11	23 2-11
Calhoun	21	23
Clay	16	20
Doddridge	7 1/2	17
Fayette	17	26
Gilmer	25	35
Grant	14 2-5	21 1-5
Greenbrier	25	26
Hampshire	12	29 2-7
Hancock	13 2/3	23 1/3
Hardy	12 3/8	30 3/8
Harrison	10 1/4	14 1/4
Jackson	17 1-9	33 8-9
Jefferson	7 3/8	18
Kanawha	17	24
Lewis	9	18 1/2
Lincoln	20 3/8	24 3/8
Logan	17 1/2	16
Marion	12 4-9	13 2/3
Marshall	12 3-5	15 1/2
Mason	14 1/2	19 2/3
Mercer	18 1/3	27 7-9
Mineral	15	21 2-11
Mingo	17 1/2	21 5/8
Monongalia	9	10 5-7
Monroe	13 1/2	31 5-6
Morgan	12 1/3	14 1/2
McDowell	17	21
Nicholas	15 5/8	24
Ohio	15	15
Pendleton	9 2/3	24 2/3
Pleasants	13 1-6	19 1/2
Pocahontas	14 1/2	20 3/4
Preston	16 1/4	20 1/4
Putnam	14 5-7	25 3-7
Raleigh	15	23 1/2
Randolph	11 9-10	17 1/2
Ritchie	7 9-10	22 3-10
Roane	31	16 1/2
Summers	20 5-6	41 1/2
Taylor	7 1-5	14
Tucker	22 6-7	14 2-7
Tyler	11 2-7	20 1-7
Upshur	11	23
Wayne	11 2/3	21
Webster	17 1/2	25
Wetzel	14 9-10	15 1-2
Wirt	15 1/2	28
Wood	14	23 4-9
Wyoming	11 4-7	23
Ceredo	11	14
Charleston	23	20
Grafton	10	30
Huntington	20	15
Martinsburg	22	28
Moundsville	17 1/3	16 2/3
Parkersburg	18	23
Wheeling	26	26

Source: Biennial Report of the State Superintendent of Free Schools, 1908.

Reprinted excerpt from the original document.

Part II

Early Attempts and Progress for School Support, 1910-1938

The new decade brought with it much evidence that the State continued to lag in asserting its title to the proper returns on its gas, coal, and oil resources. The extraction of the natural resources was in reference to the direct removal of said resources by means of pumping or mining from the land. These mineral rights had passed into the hands of private ownership and were being rapidly exploited. The failure to enact adequate tax legislation contributed greatly to the State's lack of revenue to be allocated for schools, roads, or other government purposes. Without indirect taxation on the State's natural resources, the inadequate district school levies remained as the primary source for supporting free schools. Emphasis started to be given to the idea of placing in the hands of the local districts, the chief responsibility for the support of free schools. Contradicting this notion, however, was the sentiment of the people in emphasizing that the district was limited to levying a property tax to generate revenue. It was deemed that the State of West Virginia had greater opportunity and the legal authority to collect taxes on various items as charters, inheritance, franchise, and others, in order to generate revenue.

As the need for additional state revenues for the school system arose, it became clear that the State had to do more for the less wealthy counties than it had in the

past. The education leaders called upon the Legislature to provide the additional revenue necessary to give the State a thorough and efficient school system. Superintendent Shawkey reported,

> Suggestions on the means for additional support included a tax on the production of oil and gas, a license tax on businesses, the development of the enormous water power for leasing to commercial enterprises, the provision of a large permanent fund with the income to be used for operating the schools.[65]

With the State being unable or perhaps unwilling to provide the needed financial assistance, some people became concerned that the limited potential of the district levies hindered adequate provision for their children's education. Superintendent Shawkey stated, in 1914,

> The Legislature, in essence, was decreeing that the people would only be permitted to educate their children as long as the cost did not exceed an arbitrary amount.
>
> West Virginians were seeking a yet stronger public education system along with an increase in other State services. The demand for extended State services brought with it an increased rate on the existing taxes and introduced new taxes to generate needed revenue. The Legislature increased the license tax on charters and inheritance, and levied a tax on gas.[66]

It was reported by Cometti et al, that a tax on gross receipts of businesses and professions was imposed, in 1921, and was applicable when the annual gross sales or proceeds from their business exceeded ten thousand dollars. The Acts of 1921 related,

> Each person who shall engage in any business or profession, upon which a tax is imposed under the provision of this act, for any fractional part of a tax year, shall be entitled to an exemption of that part of ten thousand dollars which bears the same proportion to the total sum of the period he engages in business bears to a whole year.[67]

This tax law, referring to a privilege tax for engaging in any business or profession in the state, declared that all persons engaged in the production of coal, oil, gas, and other minerals were required to pay a tax of two-fifths percent on the gross sales or proceeds of their business. Other businesses or professions paid one-fifth of one percent, except wholesalers, who were to pay one-third of one percent on proceeds of sales after deducting the purchasing price.

In explaining the higher rate on those engaged in coal, oil, gas, and other mining industries, Governor Morgan, in West Virginia, claimed that this procedure recognized the depletion tax theory. Those industries depleting the natural resources were to pay double.[68]

> Eventually, the Legislature exempted the professional persons and those engaged in real estate as an avocation, which in turn left the "extractive" businesses with the largest part of the gross sales tax burden.[69]

The matter of taxation on extractive businesses did not go without challenge, in that commodities entering interstate commerce became an issue, and resulted in a legal suit by the Hope Natural Gas Company. The gas

company contested the taxing procedure pertaining to the gross sales tax on the gas produced in the State of West Virginia, but sold in neighboring states. The State court's interpretation and subsequent response was that the plaintiff [Hope Natural Gas Company], in error, was being subjected to an unlawful direct tax upon gross receipts derived from interstate commerce. The State court's decision was affirmed by the United States Supreme Court, wherein, the court decreed that the tax was to be computed upon the value of the gas at the well [before it entered interstate commerce] and not otherwise.[70]

Effects of the State's Early Industrial Development

When the counties were originally divided into school districts, the State was mostly of an agricultural setting. Thus, land and personal property values basically were equalized throughout the State. However, as industrial developments took place, cities and large towns developed into wealth centers. With the expansion of the timber, coal, oil, and gas industries, new railroads were established, other railroads were expanded and trolley lines were extended into the county districts. As factories were being built in large numbers, smaller towns soon began to acquire some degree of wealth.

The industrial developments became, however, confined to certain counties and/or school districts.

While some counties or districts were totally enveloped into the industrial maelstrom, others were not affected and consequently were not beneficiaries of the resulting increases in wealth.

State Superintendent Shawkey cited district situations, wherein, disequalization in the value of taxable property was in evidence. Shawkey reported,

> A county having a large industrial plant capitalized at one million dollars, two railroads passing through, a corporation owning the coal within the district (X) has 90 percent of the school taxes paid by the corporations. While district (Y), of the same county, has farming as its only industry, no railroads, no industry, thus leaving the total school tax burden upon the farmers.[71]

Inequalities and Variations in Rates of Taxation

West Virginia's concentrated wealth, in scattered sections of the State, allowed for a continuation of grave inequalities in school taxes among the districts. As a result, of the unequal distribution of wealth, a high wealth district could exercise a low rate of taxation and still maintain comfortable school houses, long terms, and good teachers. Yet, in the lower wealth district, a maximum levy resulted in the provision of inadequate educational services. The term and the teachers' salaries for the low wealth district remained at a minimum and funds for buildings and improvements were nonexistent. Even though the desire of the Boards of Education of such

districts and the willingness of the people demonstrated favor for better schools and even higher taxes, the low valuations and the legal maximum levy rate prohibited improved school conditions from taking place.

As inequities continued to exist, the State Superintendent's report of 1924 pointed out that the per capita wealth of each student, based on enumeration

> varied among the districts of the State from $841 in Jumping Branch District, Summers County, to $14,664 in Clay District of Monongalia County. The ability of the Clay District to support its schools was sixteen times greater than that of the Jumping Branch District.[72]

In essence, the State had established and maintained a school system that left the quality of the public schools to the chances of resources and wealth of individual school districts and the State. Such a system, reported Superintendent Ford,

> Caused the citizens in one district to possibly pay school taxes at a rate six times as high as that paid by another citizen living in more favored [wealthier] section of the State. From this situation, it became recognized that an unequal as well as an unscientific nature of school support existed in the State of West Virginia.[73]

Legislative Proposals/Enactments

As the demands were being expressed for better schools for all districts, reform bills were introduced into the Legislature, some of which eventually became law. The proposals, reported by Superintendent Shawkey,

pertained to raising the districts' maximum rate of the levy, increasing the state supplementary fund, and establishing the county unit plan of school organization.[74]

Through the 1921 State Aid Act, the Legislature acted to provide greater financial assistance to the districts. A sum of one million dollars was appropriated to supplement the General School Fund and was to provide for the following:

1. salary, travel, and contingent expense of the State Superintendent.
2. salary of the county superintendents.
3. teachers' fund supplement.
4. maintenance fund supplement.
5. districts' supplement for those districts placing an additional levy for increased salaries, and for the hiring of district supervisors.
6. aid to classified high schools and twenty normal schools.
7. aid to standardized elementary schools.[75]

Any balance remaining in the general school fund in any fiscal year was to be distributed to the various school districts on the basis of enumerated youth between the ages of six and twenty-one years. The state superintendent would ascertain the counties' needs for the various purposes in the order of preferences, listed above.

However, before making a requisition to the auditor, the state superintendent would consider the existing conditions of those districts needing aid, e.g., number of teachers employed and number of students enrolled.[76]

Superintendent Ford reported that the demands for state fiscal aid were due largely to the fact that the length of the school term for elementary schools was increasing. In addition, the rapid growth of the high schools in the State required a substantial increase in State Aid funds. The new schedule for increased teachers' salary also contributed to the need of the additional one million dollars.[77] With few exceptions, Table 6 shows the years of 1865-1922 as having a steady progression in the average length of the school term as well as an increase in the average salary for teachers. Each factor was a contributing cause for greater need of State aid, as well as, local fiscal support.

Table 6.

AVERAGE LENGTH OF SCHOOL TERM AND AVERAGE MONTHLY SALARY FOR TEACHERS BY YEARS 1865-1922

YEAR	AVERAGE LENGTH OF SCHOOL TERM IN MONTHS	AVERAGE MONTHLY SALARIES FOR TEACHERS
1865	2.70	$
1866	3.12	31.44
1867	3.00	36.00
1868	3.50	37.66
1869	3.55	34.11
1870	4.12	34.25
1871	3.84	33.50
1872	4.04	31.01
1873	3.86	31.46
1874	4.12	32.62
1875	4.20	32.90
1876	4.32	31.52
1877	4.13	31.86
1878	4.38	28.97
1879	4.30	76.64
1880	4.50	28.19
1881	4.45	28.22
1882	4.50	28.77
1883	4.43	30.22
1884	4.55	30.39
1885	4.24	31.70
1886	4.46	30.71
1887	4.95	31.52
1888	5.10	33.00
1889	4.80	31.38
1890	4.85	31.20
1891	4.95	31.54
1892	5.59	32.26
1893	4.90	33.63
1894	5.00	34.10
1895	5.00	34.70
1896	5.55	35.87
1897	5.65	31.66
1898	5.60	31.33
1899	5.40	31.74
1900	5.30	32.39
1901	5.80	30.41
1902	5.90	32.04
1903	6.15	32.99
1904	6.15	33.56
1905	6.15	34.58
1906	6.25	36.70
1907	6.38	36.30
1908	7.65	36.66
1909	7.68	39.84
1910	6.70	39.90
1911	6.75	46.75
1912	6.85	46.66
1913	6.85	49.00
1914	5.85	51.00
1915	6.85	46.00
1916	6.75	50.75
1917	6.70	57.60
1918	6.50	62.75
1919	6.85	-----
1920	6.80	-----
1921	7.00	70.60
1922	7.30	88.59

Source: Biennial Report of the State Superintendent of Free Schools of West Virginia, 1922.

Reprinted excerpt from the original document.

Effects of the Great Depression

The country became enveloped in the throes of an economic depression; the public demands were for a reduction in public expenses. The once positive feeling for public support of education began to dwindle within the State, as the entire nation came under difficult times during the Great Depression. The Legislature enacted little if any significant legislation and, in fact, threatened to reduce minimum school terms, and teacher salaries, lower the teacher certification qualifications, as well as, reduce the maximum levies for school purposes. By 1925, the depression in farming and coal mining was being felt and as a reaction to public sentiment, the Legislature reduced the school term to six months. Ambler wrote,

> Failure by the 1925 Legislature to enact needed school legislation was attributed to the existing depression in farming and in coal mining.
>
> The State of West Virginia, having a controlled economy, experienced a decline in school expenditures at a time when pupil enrollment was increasing. The cost of education was going upward while the value of the dollar was declining. A number of levies within the respective school districts were voted down and public sentiment was reflected as being indifferent toward public education. There seemed to be a general questioning of how much longer and to what degree the people could be expected to finance the expanded education program.
>
> Resulting from the difficult times, a reduction of the school term was necessary. This reduction was partially due to the farmers' claim that their children did not even attend school

> during the last two months of the term. It was also exclaimed that the rural children learned enough and even more in six months than did the city children learn in eight months.[78]

Following the economic collapse, of 1929, considerable private landholdings were sold or forfeited to the State for delinquent taxes. "Because the schools had depended heavily on the property tax for support," stated Ambler, "the decreased tax valuations on property, together with the delinquency of tax payments, caused the school operations to suffer greatly."[79] Cometti stated that

> hundreds of school employees were not paid, school terms were shortened, and scores of public schools were closed. By the end of 1932, the Great Depression had taken a toll on the economic life of West Virginia. Prices of mine, farm and factory products had collapsed, bankruptcies were epidemic, wages had sadly decreased, and unemployment was rampant.[80]

Comstock reported that, "Because of the decline of property values during the depression, the rural districts became "strapped" for financial means to support the schools for full terms."[81]

During and following the Depression, all school districts, both high and low wealth districts had to turn to the State for greater financial support and the distribution of limited money became a major problem. Heretofore, only the poorer districts had depended upon significant state financial support, whereas, the wealthier districts had operated almost without state assistance.

Tax Limitation/Tax Potential

The matter of the decrease in revenues within the State and the increase in expenditures , reported Lambert, was a chief concern among the political leaders.[82] The property owners, who were paying an average tax rate of $2.65 on each $100 property valuation, were making demands for relief, reported Ambler.[83] These demands resulted in the General Classification of Property and Tax Limitation Amendment,[84] ratified in the general election of 1932. The provision and resulting effects of the new amendment are presented in the following sections.

General Property Classification and Tax Limitation Amendment. The new constitutional amendment authorized a broad classification of property into four categories and fixed the ceilings on tax rates for each of those named classes of property. The act was designed to lighten the tax burden on property owners who found difficult times as a result of the period of the depression. However, it was soon realized that the tax limitation on property caused a substantial decrease in the ability of the local units to generate sufficient revenue for schools and other public services. Provided in Table 7 are the maximum levy rates on the four different classifications of property. These same rates are currently in existence, as specified in the Code of West Virginia.

TABLE 7.

MAXIMUM LEVY RATES ON GENERAL PROPERTY CLASSIFICATIONS AS PROVIDED IN THE 1932 TAX LIMITATION AMENDMENT

Class I $.50 on each $100 of assessed value: tangible personal property employed exclusively for agriculture; notes, stocks, bonds, and any other intangible personal property.

Class II $1.00 on each $100 of assessed value; property owned, used and occupied by the owner for residence purposes and upon farms occupied and cultivated by their owners or tenants.

Class III $1.50 on each $100 of assessed value; all real and personal property situated outside municipality, exclusive of Classes I and II.

Class IV $2.00 on each $100 of assessed value; all real and personal property within municipality, exclusive of Classes I and II.

Source: W. Va. Code ch. 11, art. 8, §§ 5 and 6. W. Va. Const. Art. X § 1.

In addition to fixing a maximum levy on properties, the constitutional amendment made provisions for an increase above the maximum levy.

> With the approval of 60 percent of the voters, but never to be extended longer than three years, and never to exceed by more than 50 percent of the maximum rate, as prescribed by law, the voters could approve higher tax rates for themselves.[85]

The effects of the amendment with its intent to reduce property taxes were immediately realized. Farm and home properties began to experience considerable relief from the tax burdens. However, it was soon discovered, reported Davis, that

> the imposed maximum levies placed severe restrictions and were insufficient in meeting the needs and demands for public services, including education. In 1934, only 35 percent of the total state and local requirements was produced by general property taxation, compared to 75 percent in 1932.[86]

The amendment tended to shift service and fiscal responsibility to the State government, centralizing the functions of government and, thus, reducing the freedom and flexibility for action by local governments. The approval of the Tax Limitation Amendment had caused a major shift in the tax dependence from local property taxes to non-property state taxes,[87] e.g., licenses, privileges, businesses and occupations.

Tax Structure Modifications. It was realized, soon thereafter, that alterations and additions to the State's

tax structure were necessary in order to expand the tax base. Governor Herman Guy Kump succeeded in convincing the Legislature to enact financial legislation to impose a 2 percent consumer's sales tax,[88] as a temporary measure. Lambert wrote,

> This tax was projected to bring into the state treasury fifteen million dollars, annually. The receipts from the tax were to aid the treasury's deficit and to supplement the revenue set apart for the support of public education.
>
> To recapture the lost revenue caused by the Tax Limitation Amendment, the rate of the business and occupation or gross sales tax was increased. Other taxes effected by the amendment included the chain store tax, beer tax, personal income tax, racing tax, and the privilege tax, which applied to the sale of coal, oil, gas, limestone, manufactured products, and electric power.[89]

Effects of the Tax Limitation Amendment and Other Legislative Enactments for Schools

As summarized in the State Tax Commissioner's Thirty- Sixth Biennial Report, the resulting effects of the Tax Limitation were as follows:

> A radical change in West Virginia's tax structure developed as a consequence of the tax limitation amendment of 1932. The adoption of the amendment, together with the necessity for increased services at the State level, required a shift away from the property tax to indirect taxation. Also, the tax limitation amendment coincided, unfortunately, with a deterioration in property tax assessments and the property base was somewhat eroded.[90]

As a result of a rigidly set property tax, the former chief source of revenue for education became limited. Prior to the approval of the tax limitation

amendment, Ambler wrote that, "approximately 95 percent of the total school costs came from local taxes on general property. Thereafter, the major portion had to come from state appropriated revenues."[91]

On the heels of the Tax Limitation Amendment came proposals for reform for the education system in the State. West Virginia's school system witnessed the following significant in legislation, in the ensuing years.

County Unit System. On May 22, 1933, the County Unit Law was enacted. As the design of the county unit plan was to provide better services to the students, the contents were directed toward equal educational opportunities for the students, improved economics and efficiency in administrative operations.[92] As the State had a higher investment in the schools, the need for greater efficiency became necessary. The new law abolished three-hundred ninety-seven[93] school districts and their governing boards. Substituted, instead, were fifty-five county school districts systems established to be governed by five members who were elected by the qualified voters of the respective county.[94] Additionally, the law identified the responsibilities and limitations of the elected board members, i.e., the county boards were to elect the county superintendent. Provision was also made for the transfer of all money from the separate funds of the magisterial and

independent districts to the county boards of education.[95]

The new law provided a guarantee of State financial aid to each county in proportion to the total amount of money necessary to keep its schools open for the full school term. The county was to pay a part of the cost, with the percentage dependent upon the county's revenue-raising ability. The State made up the remainder.[96] This plan was to implemented through the School Fund Act, described within the discussion that follows.

The process, for financing the new county school systems, authorized each county board of education to lay a uniform levy on the property of the county without voter approval, but within the confines of the Tax Limitation Amendment. In the event the total amount acquired from said source was insufficient to sustain the system, the State was to supplement the sum with an amount the State Superintendent considered as a fair portion of available money.[97] The distributable amount was obtained by the State from a variety of taxes and licenses and was disbursed through the General School Fund. It should be noted that before the years of the depression, the wealthier county school districts had been able to support their schools; state assistance was provided largely for the poorer districts unable to maintain minimum terms and minimum

salaries. As a result of the economic decline, resulting from the depression, all districts found it necessary to seek larger sums from the state. This distribution became a concern and major problem.

School Fund Act/Primary and Secondary Aid. In 1933, the "Hiner Bill",[98] House Bill Number 4 further clarified the State's role in providing fiscal support for schools. The bill redefined the General School fund, provided for its distribution, and identified the fund's sources of income.[99] The fund was allocated and distributed for the purposes below, listed in order of preference:

A. Primary Aid

1. salary payment to the state superintendent of free schools and the related expenses of his office.

2. salary payment of county superintendents on the basis of twenty cents for each pupil in average daily attendance for the preceding year, not to exceed two thousand dollars, annually.

3. supplement the tax revenues of each county district by a sum sufficient to pay each needed elementary, junior and high school teacher for a period of four months, based upon the teacher's certification. These basic salaries

ranged from $45 to $90 per month for elementary teachers and from $80 to $110 for junior and high school teachers.

B. Secondary Aid

This aid was designed to supplement the elementary and high school funds wherever counties had difficulty in maintaining the minimum term and salaries with the revenue available from their maximum levy and state aid. A petition to the State Superintendent was necessary before secondary aid funds could be received. The Superintendent, in turn, notified the state auditor regarding the sum that was needed.[100]

The intent of operating schools for a minimum four month period, as contained in the Primary Aid Act, drew opposition from State Superintendent Trent, who wanted the term extended to nine months. Responding to this issue and without the approval of Governor Kump, the Legislature voted , in January, 1934, in favor of House Bill Number 278. This act amended the school fund act and authorized the State to pay the teachers' salary supplement for an eight month term.[101]

Emergency Revenue Act. Facing the administration was the question of identifying the means for securing

funds, in order to meet the increased amount for salary supplements, enabled by the new House Bill Number 278. To meet this need, a Supplemental (Emergency) Revenue Act[102] was passed in March, 1934, which appropriated money out of the treasury to grant additional state aid to schools. This act appropriated a sum of five million dollars from the state general revenue fund for the free school system to operate on an eight month term for each of the fiscal years ending in 1934 and in 1935. This amount was designated in addition to all other appropriations made for the free school system. The amount was to be transferred from the state general revenue fund to the general school fund on the requisition of the governor and as state receipts permitted.

However, because of the drastic decrease in local revenues[103] caused by the Tax Limitation Amendment, this emergency financial school support legislation initiated a diligent search by the State for properties and privileges which could bear even more taxes. As a result, several specified taxes[104] became the favored sources for the much needed revenue, e.g., consumer sales, liquor, and other permits, fees for barbers and beauticians, and privilege tax on coal, gas, oil, and limestone.

It had become increasingly apparent that the development of the county unit system and property tax

limitations had contributed to a marked upward trend in the amount of support necessary from the State. Despite the increased effort by the State to support the schools, however, it was reported by Strayer that "the restrictions on the use of the property tax were so drastic that in spite of the large advances in state support, the net effect by 1939-1940, was a considerable loss over 1930."[105] The acquisition and distribution of state funds to the county school districts continued to be a concern and major problem. To this time, financial shortfalls, both on the state and local levels, caused the schools to experience uncertain and often difficult times. Here again, it should be noted that the continuation of such problems as property wealth variations, insufficient State resources, inadequate taxing procedures, i.e., property assessments and uncollected taxes, as well as, the effects of the depression, caused the county school districts to suffer.

Education Stagnation

The next few years witnessed little school legislation due to in-house political controversies; thus, progress in the public free schools was repressed. Ambler reported that,

> Governor Kump, a respected leader in his own right, was not without differences among legislators and among the leaders in education. Conflicting personalities were evident within these groups and often, because of the split

> situation, school programs were defeated by the efforts of certain politicians and self-interest groups. This non-progressing situation caused education to take a back seat, which in turn produced cries from the public stating that public schools needed to be returned to the people, and the decision making taken away from Charleston.[106]

The need for school revenues continued to increase and the State's chief executive felt strongly that this could be addressed by raising or improving procedures in property assessments. As the governor was focusing on property assessment, it became evident, according to Ambler, that

> much general property was not listed by the assessors and land assessments varied from 7 percent to 700 percent of selling prices. It was realized, too, that the capitation tax was not producing its fully expected amount as only one-half of this tax was ever collected. Many autos, town and city lots, and tracts of land were not assessed.[107]

The critical importance of the state money for supplementing teachers' salaries and maintenance funds continued as a key issue. "The State, during the 1930's, had witnessed a dramatic increase for the need of state aid," reported Superintendent Taylor, "due to the loss of local revenue after 1933."[108]

This period in the schools' financial history had many bearing influences shaping the direction of the State's education system. Following the Depression, there was due cause, it seemed, to initiate many changes in the school system structure.

The shift of school fiscal support from local to State brought with it (1) a greater dependence on state assistance, (2) a need by the State to identify additional revenue sources, and (3) less local effort, thus, less local control. Additionally, the happenings in the school setting and more specifically in the general economic setting, caused greater sensitivity on the part of the State's leaders, regarding salaries, length of school term, property assessments and taxing procedures. This awareness of the schools' financial shortfall contributed to the enactment of new legislation for the school foundation program, as noted in the following section.

Part III

Moving Toward Greater Equalization, 1939-1965

In February, 1939, the Legislature responded to the public schools' financial dilemma by amending chapter eighteen of the Code of West Virginia. The act[109] was responsible for adding two new articles designated as article nine-a, providing for the distribution of state aid to schools, and article nine-b, creating and defining the powers and duties of the Board of School Finance. The intent of the legislature and provisions of the enactments were an attempt to bring greater equalization of funding for the county school districts.

State Board of School Finance

The enactment creating the State Board of School Finance,[110] assigned the state superintendent of schools, state tax commissioner, and the state budget director as board members who were authorized to distribute the state school funds. The purpose of the act was to develop approved methods of finance administration and to provide guidelines and assistance to the management of county schools. The legislative act stated the following:

> Because of the adoption of the "Tax Limitation Amendment", it became necessary for the state to participate to an increasing degree in the financing of the free public schools. In the fiscal year 1938-39, this participation aggregated 55 percent of the total expended by county boards of education for the operating of the schools of the state, and in seventeen counties, state aid represented in excess of 70 percent of the total amount spent for public education in those

> counties. In consequence of this state investment in local education, the state acquired a paramount interest in the sound and stable management of the financial affairs of county school districts so that the maximum effectiveness of education might be obtained from the expenditure of the limited funds available.[111]

Equalization Through A Foundation Program

Providing state aid to the schools through a computed plan[112] was a means to exercise better control of the funds. Heretofore, based upon the revenue raising ability of the county school district, the State would supplement the local sum with an amount considered by the State Superintendent as a fair portion of the available money. Even though the distribution was to be based upon enumeration within each county school district, the allegations, throughout, indicate that favoritism was shown.

The new formula, a mathematical calculation presented in the following discusion, was designed to guarantee equitable distribution of the funds appropriated for the public schools. The intended legislative purpose was to (1) establish a method of computation and allocation that as far as possible eliminated the need for the exercise of state administrative discretion as to the requirements of the several counties, (2) provide a method of distribution that would supply each county with the

funds necessary to operate its schools, (3) give to each county every possible incentive to the constructive development of its school system, to place with the county boards the responsiblity for upholding the standards of local education, (4) coordinate the administration of state aid closely with the general fiscal policies of the state.[113]

The foundation school program was to be computed separately for each county, by the State Superintendent. "So far as funds available from state sources will permit, each county school district shall receive a sum which, together with the amount of local revenue reasonably expected, will pay the cost of the foundation school program as computed."[114] The calculations were based upon experience and certification of the teachers actually employed, as corrected by the size of schools, weightings for instruction, and the average daily attendance (see Glossary) of each county.[115] The state supplied 45 percent of the cost of the foundation program for that county school district or an amount equal to the difference between the cost of the foundation program for that county and the local share of revenue for that county, or whichever was greater.[116] The 1939 plan, as identified in

the 1939 edition of West Virginia School Law stated the following:

I. 1939 Foundation Plan

The total of the foundation program for the first distribution to a county school district shall be obtained by:

1. Multiplying the number of weighted pupils for the county by fifty-one and three-tenths.

2. Determining one-fourth the total amount expended by the county for transportation of pupils, excluding the the purchases of buses, during the four year period ending the thirtieth day of June, 1939.

3. Add the amounts in 1 and 2 above: except that for no county shall the amount under 2 exceed four and one-half dollars per weighted pupil nor less than three-fourths dollars per weighted pupil.

For each succeeding distribution of aid under this article, the total foundation program for a county shall be obtained by:

1. Multiplying the number of weighted pupils for the county by each of the following:

a. Fifty and one-half.

b. Five hundred times the total number of non-isolated elementary schools in the State divided by the total number of weighted pupils in State.

2. Determining the amount needed by each county to meet its transportation costs, including necessary costs for buses. In this determination, the board shall apply uniform rules in each county in measuring transportation needs, and shall consider at least the following factors, based upon data for the preceding year:

a. The number of elementary and high school students transported.

b. The length of bus routes.

c. The condition of buses and transportation equipment.

d. The average size of buses needed.

e. The condition of the roads traveled.

f. The number of schools to which students are transported.

3. Add the amounts under 1 and 2 above, except that the total for all counties of the amounts determined under sub- section 2 above, shall not exceed three and one-half times the total number of weighted pupils in the State.

II. State Share

The board shall first allocate to each county (a) 45 percent of the cost of the foundation program for that county, or (b) an amount equal to the difference between the cost of the foundation program for that county and the local share of revenue for that county, whichever of (a) or (b) is greater.

III. Local Share

The board of finance shall determine for each county 95 percent of the amount obtained by multiplying the classified valuations of real, personal, and public utility property in the county as of the year, 1938, by the rates of levy authorized for current school purposes as of the current year. The amount so obtained for each county shall be known as the local share.[117]

Despite the interest and work that were demanded in establishing the foundation formula, the ensuing years revealed the fact that the formula for state aid distribution did not prove to be wholly satisfactory. Superintendent Trent stated, "A few counties were still not able to maintain a full term, while others had funds in excess of the Foundation Program."[118] The newly established foundation plan was unable to rectify the wealth

disparities and variation in educational opportunities which existed among the county school districts.

Legislative Enactments

The 1939 session of the Legislature passed nineteen acts directly or indirectly affecting education. The subjects of some of these acts were teacher retirement, pupil enumeration by teachers, compulsory school age, minimum basic salary for teachers. contracts, and levies on local properties.[119]

Adding to the concept of greater equalization in education opportunities, Superintendent Trent reported that

> legislation was enacted which required the board of education of each county to provide textbooks to be used in the free schools. Such textbooks, as adopted by the State Board of Education were for pupils whose parents, in the judgment of the board, were unable to provide the same. Within the first year of existence, the free textbook budget item was in the amount of $150,000.00.[120]

The distribution of this amount for free textbooks among the counties was determined by multiplying the number of weighted pupils by four-tenths.[121]

Enabling Acts for School Support

The following school biennium, 1940-42, was signaled by the country's entry into World War II. The next several years, within the State's educational realm,

were influenced by the war.[122] A profile of the schools' activities, as reported by the State Superintendent, indicated that

> the school year, 1941-42, found West Virginia education at the highest level in the history of the State. Old standards and new projects, caused by the war, were blended toward greater academic effectiveness. The period was marked by greater devotion and interest on the part of the teachers. Each of the counties was able to maintain a term of nine months of school; this was achieved, however, with some counties having very restricted funds while other counties had sufficient funds. Very few counties had sufficient monies, however, for repairs; fewer still had money for building construction. Once again, inequities of the formula regarding the distribution of state aid were being cited as causing the resulting difference and hardship on some counties.[123]

School legislation, with regard to finances, continued to pertain to operational issues as free textbooks and more equitable allocation of aid. Prior to 1941, the counties were to provide textbooks to indigent children. New legislation,[124] in 1941, permitted the county to use any textbook money not used for dependent children to purchase free textbooks for other children. Thus, some counties were able to provide additional books for more grade levels and more subjects. Other county school districts chose to provide free textbooks for all elementary school children by supplementing the amount allocated by the State.

Additionally, legislation[125] addressed the adjustment in the computation of state aid in order to

insure equitable allocation of aid against any abnormal circumstances, e.g., epidemics affecting average daily attendance. The teachers' retirement system,[126] adjustments in teachers' salaries,[127] and the values applied to teachers' certification[128] underwent minor revisions.

Teachers' salaries continued to be a subject of legislative concern causing continual adjustments for securing and rewarding teachers during the war emergency.[129] State aid also received a noticeable revision in 1943, whereby, computations were to be based upon the average daily attendance of the second to the seventh month of school.[130] This legislation was necessary because of abnormal absence of pupils from school, due to their working in food production during the war. Legislation of 1943 also included, aside from the state aid, supplementary appropriation for the counties to organize and maintain hot lunch programs.

The Strayer Report

The legislature was faced with mounting concerns regarding the education program. Some concerns were caused as a backlash from the war, but others were related to the familiar problem of inadequate state allocations to the school districts. In an effort to improve the quality of

education, the Legislature made the appointment of an interim committee to study the West Virginia system of public education. George D. Strayer, retired from Columbia University, was hired to study and to report on the administrative and financial aspects of the state's education system.

The Strayer Report of 1945,[131] indicated that the current expenditures were entirely inadequate to maintain the desired education program. The report identified the weaknesses in the structure of public education in West Virginia as being the (1) waning away of local support and (2) the withdrawal of the schools from popular control. Stating that, initially, the property tax had carried too great a burden in many communities, the state had overreacted in correcting and in compensating for this overburden through the 1932 Tax Limitation Amendment.[132] The report, stated Ambler, "supported a continuation of the existing practices for obtaining revenue, but emphasized the possibility of raising increased revenue by extending the rates on the existing local property assessments to the legal maximum."[133] Additional revenues could be received by assessing general property at its full and actual value, as required by the existing law,[134] and by laying the necessary levies. The findings within the Strayer Report, were publicized, stated Ambler, and

> resulted in many concerns being expressed by the rural and small county residents. The citizens were fearful that such assessment procedures would reshift back to the county, a major portion of the school tax burden. On the other hand, conservatives were saying that the state aid had reached its maximum limit and any additional monies should come from the counties. It was believed that the more money contributed by the state would likely destroy the local initiative and system of local control.[135]

Resulting Effects of the Strayer Report

Ambler reported that,

> By 1947, many West Virginia counties had accepted the recommendation of the Strayer Report and had extended their levies. At this same period of time, the legislature appropriated for public schools a total sum of state funds never before witnessed and passed a bill giving increases in salaries for teachers and principals.[136]

"Some of the demands for operation and maintenance of schools were also met; however, there still was no margin for building purposes," reported Superintendent Trent.[137]

Formula Revision

Legislation in 1947 allowed for a change in the state aid formula.[138] The new formula, which was developed by the county superintendents,[139] was designed so that each county school district would become more responsible for its own improved program. Local shares were to be based upon each school district's ability to pay, as determined by a series of business "indices".[140] (see Glossary). Even

with the increase of state appropriations and with new legislation for public education, a major concern still remaining, lay with those those counties lacking taxable property wealth and with the existing fiscal inequities.

School Bond Amendment

In 1948, buildings and equipment came to the forefront as a major need and the state was called upon to assume part of the responsibility to provide and upgrade school facilities across the State. We are told by Superintendent Trent that, "The backlog of accumulated needs for construction was created by the war years as well as West Virginia's lack of spending prior to the war. Buildings, thus, became depreciated or obsolete."[141] Toward this need, State Superintendent Trent appealed to the state budget commission for a sum of $16.5 million.[142] However, ten million was the amount appropriated by the Legislature to be distributed among the county school districts for building purposes.[143] Each county was to have an outright one-half of 1 percent of the total amount appropriated for the biennium for building programs. Any additional money was available on the basis of the ratio of the net enrollment of each county to the total new enrollment for the state based on the fourth month of the preceding year. To be eligible to receive this second

distribution, the county school districts were to provide funds over and above the current levies.[144]

So that the local school districts could incur the debt necessary to take part in the newly initiated building improvement incentive program, a proposed amendment to the Constitution, known as the School Bond Amendment, was submitted to the voters. The amendment of section eight, article ten of the West Virginia Constitution, was submitted within the Acts of the Legislature of West Virginia, 1949, chapter eighteen, and ratified on November 7, 1950.[145] The intent of this section was to limit the power to incur debt and to prescribe the only mode in which debt could be incurred, which was, to submit the issue to the vote of the people with approval granted by three-fifths of the voters.[146] The amendment stated that the county school district could levy a tax, not to exceed an amount in the aggregate of three per centum on the value of the taxable property therein to be ascertained by the last assessment.[147]

The legislation,[148] providing funds for state aid for construction of school buildings, marked a first in the history of West Virginia. State Superintendent Trent reported,

> This financial assistance provided by the state, was a stimulus to the counties. State and county funds, during the year 1949-50, aided in having one hundred thirty nine projects approved

> in forty-two different counties. The total cost of these projects was approximately $15,571,528.00, of which $4,627,718.00 were from the State School Building Fund, and $8,913,810.00 were from local county funds." Additional State funds were disbursed to the counties for the repair and construction of school buildings and the purchase of new sites, approximating a sum of $5,955,612 for the first year of the biennium.[149]

School Fiscal Support Variations and Resulting Revisions

Under the current plan for distributing state aid funds, Superintendent Trent wrote,

> Some counties in 1948-49, had funds stemming from the Foundation Program over and above the amount required for maintaining schools for a term of nine months. Other counties had great difficulty in meeting the nine month term. Even though additional monies were made available for the 1949-50 school year, the inequities in the educational provisions still existed.[150]

The inequalities in the existing plan were attributed by the State Superintendent, to the "sparsity factor" (see Glossary) and from varying computation adjustments. Those counties having less taxable values made many sacrifices to maintain a term of nine months, while the more wealthy counties accumulated balances over and above the Foundation Program.

Revisions in state aid for schools were again made in 1949 amending sections two, three, six, seven, eight, thirteen, and fourteen of article nine-a, chapter eighteen of the Code of West Virginia. These revisions involved the following:

1. Computation of local share allowed the state board to compute the amount of revenue which the applied levies [for general current expense] would produce, if levied on 100 percent of the true and actual value of each of the classes of property. A deduction of 5 percent was allowed for usual losses in collection. One-half of the remainder constituted the local share of revenue.

2. The total foundation program for each caused to be determined by the state board included:

a. The preceding year's average teacher's salary was divided by thirty-three and one-third.

b. This quotient was multiplied by the "high school factor" [net weight enrollment divided by the net enrollment, (see Glossary), carried to five decimal places].

c. The product multiplied by one plus the sparsity factor.

d. The product was divided by seventy-one hundredths. The resulting quotient was the total per pupil cost of the foundation program.

e. The quotient of step d was multiplied by the net enrollment. This product was the foundation program for said county.

> 3. State aid allocation to each county was based upon the computed foundation program for each county minus the local share of revenue. If the computed amount of state aid was less than the product of twenty-two hundred multiplied by the number of teachers approved for each county as of July 10, 1946, the amount of state aid to the county was then 65 percent of its foundation program. Provided further, that at this point in the computation, the state aid, if less then one hundred dollars per pupil, the foundation program was computed to raise the amount to one hundred dollars per pupil.[151]

The changes in the state aid formula were claimed, by State Superintendent of Schools, W. W. Trent, to have brought about even greater inequalities than before. The extreme variations in the amount of per pupil spending from state and local sources were revealed wherein

> one county provided from local sources, the amount of $162.42 per child and received from the state the amount of $132.52 per child. Whereas, a less favored county which could spend only $45.93 per child, received $98.46 from the state. Further, one county had the ability to spend $129.93 per child and received from the state $104.25 per child, while another county could pay from its local levy only $50.57 per child and received only $87.66 from the state.[152]

Hereagain, it is to be noted that the funding for schools was greatly inhibited by the unequalized distribution of

wealth, the taxing procedures and inequitable formula design. As a result, the inequate and inadequacies continued to be present within the school funding system.

Revenues Influence State Actions, Early 1950's

The state approached the 1950's with the population starting to show a decline as employment opportunities were narrowed due to the depression in the coal market, the exhaustion of natural resources, and the shift to greater automation of the mines. An imbalance in the industrial structure or too few industries in the state, along with the decrease in employment opportunities, caused an out-migration of workers. Despite the above occurrences and a state tax burden below that of the United States as a whole, the total amount spent for state aid to schools continued to show a distinct increase. A growing recognition of the importance of education may have accounted for the nearly ten million additional dollars funded between the fiscal years ending in 1951 and in 1952.[153]

It was realized, however, that new sources of state income had to be devised to meet the immediate and future needs. Expediency rather than consideration of the long term effects of adopting new fiscal policies seemed to be the key factor at the time. A new tax of one cent on each

ten cigarettes sold within the state and paid into the general school fund was added to overcome the financial shortages and to contribute to the support of the free schools. This added excise tax (see Glossary) was put into effect after June 30, 1951.[154] In addition, new taxation provisions allowed for the proceeds of the Use Tax[155] (see Glossary), channeled by means of the general revenue fund, to go to the support of public schools (see Glossary).

Superintendent Trent reported,

> Through the increase in state revenues, the legislature was able to increase the teachers' salaries but only slightly increased the funds available for maintenance of school facilities. It was soon realized that the amount appropriated for the purchase of newly adopted textbooks was insufficient, and thus, necessitated the continued use of old texts, in many counties. Some counties were yet under considerable strain to maintain schools for a full nine month term and were compelled to spend meagerly for educational supplies, repairs, and upkeep.[156]

Information is provided in Table 8 indicating the variation among the county school district in the length of term and the average annual salary for instructional personnel for the school year 1954-55. Three counties, Lincoln, Mercer, and Mason had the shortest term of one hundred seventy days. Ohio and Hancock Counties had the greatest school term of one hundred seventy-seven days. Ohio County, being highly industrialized, also paid the

highest average salary in the amount of $3,548.30 for instructional personnel. Wetzel County paid the lowest average annual salary of $2,026.30, a figure well below the over-all State average of $2,933.01.

Table 8.

Length of School Term in Days and
Average Annual Teachers' Salary
By Counties for the School Year, 1954-55

Counties	Length of Term in Days	Average Annual Salary (All Instructional Personnel)
Barbour	171	$ 2,908.42
Berkeley	175	3,285.59
Boone	174	2,633.70
Braxton	175	2,678.72
Brooke	176	3,406.70
Cabell	175	3,311.40
Calhoun	173	2,275.70
Clay	172	2,658.00
Doddridge	172	3,051.10
Fayette	173	2,939.70
Gilmer	173	2,987.60
Grant	174	2,858.60
Greenbrier	171	2,776.30
Hampshire	175	3,103.10
Hancock	177	3,506.00
Hardy	174	2,927.10
Harrison	176	3,269.40
Jackson	172	2,813.00
Jefferson	175	3,253.20
Kanawha	174	3,403.70
Lewis	175	3,164.50
Lincoln	170	2,490.20
Logan	172	2,884.10
Marion	175	3,185.30
Marshall	175	3,076.20
Mason	170	2,779.30
Mercer	170	3,184.90
Mineral	171	3,017.20
Mingo	171	2,896.80
Monongalia	175	3,296.10
Monroe	173	2,914.00
Morgan	174	2,977.00
McDowell	175	3,035.70
Nicholas	172	2,771.50
Ohio	177	3,548.30
Pendleton	174	2,829.00
Pleasants	173	2,953.80
Pocahontas	172	2,795.00
Preston	174	3,006.50
Putnam	172	2,466.90
Raleigh	173	3,122.20
Randolph	174	3,115.40
Ritchie	173	2,986.70
Roane	172	2,543.40
Summers	172	2,876.40
Taylor	175	3,068.10
Tucker	175	3,109.10
Tyler	172	2,981.10
Upshur	173	3,003.50
Wayne	174	2,651.50
Webster	172	2,493.50
Wetzel	172	2,026.30
Wirt	173	2,054.20
Wood	172	3,079.70
Wyoming	172	2,885.00

Source: First Annual Report of the State Superintendent of Free Schools, 1955.

Excerpt taken from the original document.

The obvious inequalities and inadequacies in state aid distribution prompted Superintendent Trent to recommend the adoption of a new formula based upon the weighted pupil or the teacher unit method. "The existing formula," stated Superintendent Trent, "did not allow a reduction in funding when a county school district would lose teachers or pupils. Instead, a county having a reduction in enrollment might have received more money, due to an adjustment factor within the formula."[157] Trent thought that a restructured formula would bring about more reasonable equity, while increasing state aid in a number of counties and decreasing the amount in other counties. Superintendent Trent advocated "having state and local funds to provide a foundation program, and those counties with higher property value assessments use their additional revenue for an enrichment program."[158]

School Support Plan Revisions 1953 and 1955

The Legislature approved in 1953, a new statutory formula for state aid to schools. This act[159] was to amend and reenact article nine-a, chapter eighteen of the 1931 Code of West Virginia, relating to the allocation of state aid for schools, and included sections one through fourteen. The new foundation program incorporated separate allocations for weighted pupils of elementary and high

school as well as foundation allowances for instructional salaries, transportation, other current expenses, general improvement, and temporary supplemental state aid. The significant changes in the 1953 legislative enactment are noted as follows:

1. Local share computation, based on the most recent survey of property valuation, was computed by determining the amount of revenue the levies [for general current expense purposes] would produce, if levied upon 100 percent of the true and actual value of the property. The state board took 97.5 percent of the amount ascertained by applying these rates to the total assessed public utility valuation in every classification of property in the county. The state board then applied these rates to the appraised value of other property and deducted 5 percent as an allowance for usual losses. Fifty percent of the amount so determined was then added to the 97.5 percent of the public utility tax as computed.

2. The total state foundation program for any school year was the appropriation for state aid for schools available for distribution, plus the total local share for all county school districts in the state, as determined in the previous section.

3. Allocations for weighted pupils in each elementary school (see Glossary) was determined by application of a scale, so specified in the Code of West Virginia, to the net enrollment for such school as shown by the superintendent's certified attendance report for the third month of the school year.

4. Allocation for weighted pupils in each high school (see Glossary) was determined in the same manner but with the utilization of a different scale. In each instance, the sum of the weighted pupils computed for the county school district was the total number of weighted pupils allocated to the county for the purpose of calculating the total foundation school program of the county, for the next fiscal year.

5. The foundation program allowance for instructional salaries, for the next fiscal year, was based upon the total number of weighted pupils in the county school district, multiplied by one-thirtieth of the average annual legal minimum salary for teachers in the county for that year.

6. The foundation program allowance for transportation for the next fiscal year was computed based on the third month of the current school year. The state board determined for each county the average number of pupils transported per mile of bus routes one

way by dividing the total number of pupils scheduled to ride such buses each day by the total length one way of all regularly scheduled bus routes traveled. The allowance was the average number of pupils transported per mile of the bus routes one way, multiplied by the annual allowance per pupil provided for in the specified scale for transportation allowance.

7. The foundation program allowance for other current expenses was computed to allow thirty-five dollars each for the first thousand weighted pupils plus ten dollars each for all weighted pupils in the county in excess of one thousand; fifteen dollars for each net enrolled pupil in the county; five dollars for each weighted pupil in the county. The sum of the amounts allowed each county school district under these steps was the total allowance for the county for other current expenses for the next fiscal year.

8. The foundation program allowance for general improvement was computed as one-half of the undistributed remainder of the total state foundation program and was allocated among the counties on the basis of weighted pupils. The other half of the undistributed remainder of the total state foundation school program was allocated among the counties on the basis of net-enrolled pupils in the state. The sum of

the amounts allowed each county school district under these two steps was the total allowance for the county for general improvements for the next fiscal year.

Under the former formula, it was indicated that many county school districts had difficulties in maintaining the operation of schools for a nine month period. To do so, reported Superintendent Trent

> much needed repairs had to be postponed and the purchase of supplies, materials, and textbooks had to be greatly reduced. Under the new formula, however, all counties were able to operate a full nine month term, and to budget, with more ease, money for school supplies, library books, and for the necessary repairs to buildings and equipment. The state distributed, in 1953-54, a total sum of $50,162,760, of which $49,839,743 was for direct state aid to schools. Other money distributed was for textbooks, orphanage, and homebound crippled children.[160]

Once again, it is to be noted that the progression of the formula structure, over the years, was beginning to assume a more credible posture, whereby, the allocations permitted greater ease in maintaining general school operations.

It was realized that the appropriation for free textbooks during the 1952-54 biennium was barely adequate to supply books for the indigent children. The thrust for free textbooks for all children in the first eight grades had made little progress and the State Superintendent recommended an increase in appropriations for this purpose.[161]

On the heels of the newly revised formula, a

legislative enactment,[162] in 1955, amended the state aid plan for schools. This legislative act amended and reenacted section three, article nine-a, chapter eighteen of the Code of West Virginia, referring to the computation of local share. Additionally, to qualify for state aid, a county's assessed value (see Glossary) of all the non-utility property could not be less than 35 percent of the appraised value, (see Glossary) with a 5 percent increase to be added for each of the three following years, and capping at the 50 percent level of the appraised value of such property. The tax commissioner was charged with completing the appraisal survey of all fifty-five counties by January 1, 1956, and to annually revise his reports.

Legislative Enactments for School Improvement

The new measures passed by the Legislature were designed in hopes of providing adequate revenue for state operations. Acts by the Legislature, attempting to remedy present conditions, consisted of granting authority to the boards of education to impose a personal school tax for the support of public schools. This act allowed passage of ordinances to impose not more than ten dollars on each resident of the county, twenty-one years of age or older.[163] Additionally, an act of 1957 authorized county boards which failed to qualify for a full share of state

aid for repair and construction to qualify for such allocation at any time during the following fiscal year.[164]

Existing Inadequacies In The School Support Plan

There remained evidence in the 1957 school year, that needed improvements still existed within the public school system of West Virginia. Superintendent Rohrbough stated,

> A critical realization and disappointment was with the fact that the school programs had not been enriched through local effort, as had been anticipated. It had been hoped that local effort would continue to go beyond and extend the minimum program. However, this occurred only in rare circumstances. Thus, the so-called "Minimum Foundation Program" had resulted in its being the program of "maximum" support. The program which, also, supposedly "guaranteed" a foundation level of support for schools actually became a program supported by whatever money was available for a given year. The emergence of a quality education program had not come to fruition.[165]

Constitutional Amendments and Enabling Legislation For Education

Pertinent legislation in the late 1950's and early 1960's was significant for West Virginia's education picture. The financial revision in the legislation was a step toward improving the possibilities for increasing local fund raising ability. Other legislation discussed in

the following sections addressed the organization of public education in West Virginia in addition to changes in state aid.

Better Schools Amendment

After many requests and appeals were made to the Legislature for a higher level of minimum support for the foundation program, an act to amend the state constitution was passed on March 7, 1957.[166] The new Better Schools Amendment,[167] ratified on November 4, 1958, authorized a school district to lay a special levy of up to a maximum of 100 percent of the authorized rate for a period not exceeding five years based upon a favorable vote of 60 percent of the qualified voters. The amendment also increased from three to 5 percent of assessed valuation the amount of bonded indebtedness which could be served.

State Superintendent of Free Schools Amendment

An additional legislative act, not directly related to the finance picture, but certainly a critically determining factor in the operation of public schools, was the State Superintendent of Free Schools Amendment.[168] This amendment to the West Virginia Constitution was ratified on November 4, 1958. Amended were article seven pertaining to the Executive Department and article twelve pertaining to the Supervision of Free Schools. Amending section two,

article twelve of the West Virginia Constitution,[169] placed the general supervision of free schools upon the West Virginia Board of Education. The Board of Education was charged by manner of prescribed law to appoint the State Superintendent of Free Schools.[170] Until the passage of this act, in 1958, the State Superintendent's office had been an elected position. In addition to changing the method of selecting the State Superintendent new functions and responsibilities were given to the State Board of Education, one of which was the consideration of the total structure of school finance in West Virginia. Additionally, statutory provision caused the State Board of Education to assume the duties of the Board of School Finance.

Statutory Provisions

To raise additional funds for the support of free schools, legislation in 1958 was designed to provide incentives to the county school districts by establishing a method of computing the local share. The appraisal of the property based upon the true and actual value was to be performed by the state tax commissioner. The 1958 legislation is further described within the following section.

In 1961, the Joint Committee on Government and Finance of the West Virginia Legislature was directed to

conduct a study dealing with all phases of the school foundation program for public education. The charge given by the Legislature to this committee was to determine whether or not the present system could properly be revised to meet the changing social and economic conditions of the State.[171] Following and perhaps resulting from this study, legislation on state aid enacted changes in article nine-a, chapter eighteen. By amending and reenacting sections one, three, four, eleven, and twelve, relating to school support,[172] the Legislature, in 1961, reemphasized the intent of the school support program. The Legislature addressed the total state foundation program comprised of the local and State shares, the computation of local share, and the appraisal and assessment of property. The county basic foundation program was the sum of the amounts allowed under the formula steps four to ten of article nine-a of chapter eighteen. The total amount of state aid was the difference between the total cost of the basic foundation and the computed local share of the county; except no county would receive less than 50 percent of the computed cost of the foundation program of said county. Supplemental instructional support was another factor and was designed to keep qualified teachers by extending the employment term . This phase of school support was computed on a teacher-unit basis. In 1962, a section

fifteen article nine-a, chapter eighteen, was addressed pertaining to state aid for increased enrollment.[173] A determination of the county school districts' increase in net enrollments, as of the end of the third school month, allowed for an allocation equal to the average total state aid per net pupil multiplied by the total of all the increases in the net enrollments of the counties.

Legislation in 1965,[174] pertaining to state aid, was in the form of amending and reenacting section two, article seven, of chapter eighteen, whereby, teachers' salaries were defined, certification and training of teachers was classified and a state minimum salary schedule was established. This salary schedule was to be uniform across the state; however, county school districts were permitted to establish local salary schedules, uniform throughout the county, which would be in excess of the state minimum. [Article seven was repealed in 1968 and was replaced with chapter eighteen-a, pertaining to personnel].

This same piece of legislation incorporated an amendment to article nine-a by adding section twelve-a[175] for the improvement of supporting services to the instructional program. The allocation was an amount equal to 35 percent of the difference between the current allocation made under the provisions of section twelve, article nine-a, and the allocation made under the

provisions of said section twelve for the school year 1964-65. This determined amount was to be distributed among the county school districts on a per pupil basis, with one-half allocated according to net enrollment and the remaining one-half according to weighted pupil. The additional money was to be directed to instructional aid and aides, secretarial help, custodial care, maintenance, transportation and areas pertaining to the protection of all school personnel, e.g., salary, social security, sick leave, workmen's compensation. No money was to be used for capital outlay nor for any current operating program which was already being supported by regular or special levies.

New Revenue Sources/Increased Levy Rates, 1958-1964

Resulting from the previously mentioned legislative act[176] and pertaining to the computation of local share, a state wide reappraisal program was designed. The intended purpose was to inequities in the local property tax base, as well as to generate an increase in revenue from property taxes. This act provided more specification on procedures for the tax commissioner to follow, e.g., establishing permanent records consisting of tax or aerial maps, property record cards, and property owners' index containing alphabetical listing of all property owners for cross-reference purposes. This attempt by the State to

establish a prescription for appraising and assessing property failed to greatly enhance the equalization and uniformity in taxing procedures, as evidenced throughout the remainder of the history.

To further the State's support for schools, money was designated through an added one and one-half cent tax on each ten cigarettes, with the one-half cent portion, thereof, to be suspended on June 30, 1961.[177] This enactment and the effects of legislation during the years, 1958-1964, allowed West Virginia to benefit from new and needed revenues previously denied, because of statutory tax limitations. Along with the financial progress allowed by the increase in school bond indebtedness (see Glossary), an amendment to section six-c, article eight of chapter eleven of the Code was enacted, in 1959, which increased the maximum regular levy rate on property classifications.[178] This rate was greater than the levy rate for local share computation which was computed as 19.6 cents, Class I property; 39.2 cents, Class II property, and 78.4 cents for property in Classes III and IV. County boards of education were authorized, however, through the above mentioned legislation, to levy up to established maximums for general current expenses as shown in Table 9.

Table 9.

Property Classification and Maximum Levy Rates for Schools' General Current Expenses

Classification of Property	Maximum Levy Rates Per $100 Assessed Valuation
Class I Property	21.1 cents
Class II Property	42.2 cents
Class III and IV Property	84.4 cents

Source: Acts of the Legislature of West Virginia, c. 158, 1959.

The State's legislative leaders continued to realize the need for increased revenue for state services and successfully proposed additional taxes on the existing consumers' sales tax as well as enactment of a personal income tax. In 1961, the consumers' sales tax was increased from two to 3 percent.[179] This tax,[180] along with the Use Tax,[181] (see Glossary), which increased by 1 percent in 1962, were used as revenues for the support of free schools and were channeled through the General Revenue Fund.

Despite the increased assessments of property and the excess levies being approved by the voters for general school purposes, the state legislature found it necessary to seek additional revenue sources, in order to meet the fiscal obligations. The years 1961, 1962, and 1963, respectively, produced acts[182] of the legislature pertaining to an additional cigarette tax on each ten cigarettes to provide additional revenue for the support of free schools, with still another tax increase of two cents, in 1966.[183]

Education Affected By State's Economy

As a state's economic structure and status influences its expenditures for education and for other public services, it is appropriate to review the economic

condition for the early 1960's. According to the Cometti documentary,

> West Virginia ranked forty-seventh, economically, among the states in per capita income from taxes which, in 1963, approximated eighteen hundred dollars annually. Coal, the staple of West Virginia's industry, was being produced and sold more than ever before and the wages of the industrial workers were high. However, mechanization of the mines brought about a sharp decline in the work force from one hundred seventeen thousand to less than forty thousand men. Ghost towns quickly emerged and thousands lost any prospect of re-employment in the coal industry. Some counties experienced as high as 41 percent unemployment and much of the unemployment benefits were exhausted. The people had come to be dependent upon handouts of surplus government food.
>
> This period of time witnessed the coal and other state resources as timber and natural gas being carried out of the State without plowing any of the profits back. Many of these businesses had largely been owned and exploited by outsiders who were interested in keeping taxes as low as possible. It was also generally admitted that these men controlled the legislatures which passed the tax laws.[184]

The economic picture for West Virginia continued as a concern for the people of the State. The 1932 Tax Limitation Amendment, having caused a decline in local support for services, required the State to continue its search for new tax measures to compensate for the lost revenue. To this end, new measures were enacted in the 1950's and 1960's which included the increase in the maximum levy rate for general school purposes.

Additionally, new or add-on taxes for cigarettes, use, consumer's sales, and personal income, were put into effect.

The State's continued efforts to provide an adequate school fiscal support plan had not, at the close of the year, 1965 become a satisfactory realization. Despite the initiation of a computed mathematical formula for a foundation program, the State's aid, even with its several amendments and modifications, never wholly proved to be satisfactory.

During the ensuing years, however, a more positive climate for the State began to emerge. Greater emphasis was placed on education and the economic status of the citizens of West Virginia, as measured by per capita personal income, more than doubled between 1970-1975, due to industrial development. During this period, West Virginia began to experience a population growth and an increase in the employment rate. This more positive economic climate was created by an increase in the tourist industry, as well as, new industries locating within the State. This positive climate had a carry-over effect on education. An increase in the maximum rate of the levy for school purposes and the improved taxing practices caused greater potential for increased school support.

Part IV

Education Signaled By Reform and Reconstruction, 1966-1984

The West Virginia system of public elementary and secondary education experienced few changes during the late sixties. The few legislative enactments that were witnessed involved minor revisions in the allocation of state aid. These revisions pertained to the appraisal and assessment of property and applied to the computation of local share.[185] Other legislation secured a ten month employment term for teachers and other instructional personnel.[186] However, average salaries for class teachers among the county school districts still varied greatly ranging from an average of $8349 paid in Hancock County to an average of $4902 paid in Wirt County.

The inadequacies in educational opportunities and the problems facing the education system were cited, in 1968, by incoming Governor Arch A. Moore, who pledged to put education in a more positive standing among the States. Governor Moore placed great emphasis on retaining quality teachers in the State. Teachers' salaries were addressed at the 1969 regular session of the Legislature and the increase in salaries advanced the state's ranking from forty-four to twenty-four, in the national average teachers' salary.[187]

> West Virginia became more competitive in the area of teachers' salaries and entered the following school year, 1969-70, with fewer vacancies in teaching personnel than ever before in the history of the State. West Virginia had increased the salaries of teachers $1000 through

> the action of the Fifty-Ninth Legislature, and was compelled to request an additional $500 increase.[188]

The data provided in Tables 10 and 11 show the variation of teachers' salaries in 1968-69, among the fifty-five counties of West Virginia in comparison to the average state salary for teachers. Twenty-seven of the fifty-five counties fell below the state average of $6554. In 1970, with an increase in the West Virginia teachers' salaries, the four county school districts of Hancock, Ohio, Kanawha, and Monongalia, were above the Southeastern states' average of $7603. The 1970 national average of $9265, was met only by Hancock County, one of the fifty-five counties of the State of West Virginia.

Improved State Economy

"Between 1965 and 1970," the 1977 report stated that, "West Virginia continued to experience a decline in population, continuing a trend which began in the 1950's."[189] This trend, however, was reversed between 1970-1975, at which time West Virginia not only experienced a population growth but witnessed, a total non-agricultural employment increase. The employment increase of non-agricultural workers reflected a 17.6 percent increase which approximated 477,000, in 1965 to 561,000, in 1975.[190] This change was enhanced by increased industrial

Table 10.

Average Annual Teachers' Salary,
West Virginia Counties
1968-69

Counties	Average Annual Salary
Barbour	$6,231.13
Berkeley	6,691.90
Boone	6,771.27
Braxton	5,823.63
Brooke	7,471.61
Cabell	7,107.48
Calhoun	6,269.37
Clay	5,715.85
Doddridge	6,145.80
Fayette	7,012.55
Gilmer	5,203.55
Grant	6,771.13
Greenbrier	6,081.46
Hampshire	7,043.30
Hancock	8,349.16
Hardy	6,686.95
Harrison	6,686.95
Jackson	6,624.20
Jefferson	7,092.72
Kanawha	7,793.05
Lewis	6,239.55
Lincoln	6,549.62
Logan	6,921.45
Marion	6,543.41
Marshall	6,403.10
Mason	6,711.77
Mercer	6,811.46
Mineral	6,669.87
Mingo	7,036.69
Monongalia	7,574.33
Monroe	5,810.66
Morgan	6,703.93
McDowell	7,099.47
Nicholas	6,156.44
Ohio	7,988.35
Pendleton	6,192.35
Pleasants	6,639.63
Pocahontas	6,169.58
Preston	6,378.17
Putnam	6,094.58
Raleigh	6,654.19
Randolph	6,216.34
Ritchie	6,753.52
Roane	5,864.71
Summers	6,524.46
Taylor	6,392.45
Tucker	5,964.39
Tyler	6,509.08
Upshur	6,181.62
Wayne	6,088.85
Webster	5,405.54
Wetzel	6,895.18
Wirt	4,902.10
Wood	7,141.91
Wyoming	6,733.81
West Virginia State Average	6,554.47

Source: Educational Statistical Summary for the School Year 1968-69, West Virginia Department of Education.

Table 11.

Average Teachers' Salary
United States

Southeastern Regional States

United States	$9,265
SRCEI	7,603
Alabama	7,376
Arkansas	6,668
Florida	8,805
Georgia	7,778
Kentucky	7,190
Louisiana	8,340
Mississippi	6,008
North Carolina	8,168
South Carolina	7,000
Tennessee	7,400
Virginia	8,700
West Virginia	7,800

Source: Southeastern Educational Information System, Vol. I: Data Profiles, p. 38.

development and tourist industries, with the latter having shown a growth rate of 7 percent in the year 1972.[191]

Citing that personal income per capita is widely identified as the best single summary measure of the relative economic status of states,[192] West Virginia began to indicate significant improvement in its overall economic position during the ensuing years. It was reported that between 1965 and 1975, personal income per capita in West Virginia grew more rapidly than either the national or the regional averages. By 1975, West Virginia's per capita income was $4,918.00 compared to $2,109.00 in 1965.[193] Adding to this healthy economic condition was the implementation by the State Tax Department of more effective property assessment practices. All major taxes administered and collected by the tax department approached a 10 percent growth rate within the fiscal year, 1974.[194] The tax department continued its efforts in mapping and appraising property for ad valorem purposes, thus, contributing positively to the total tax yield for the state of West Virginia.[195]

Legislative Enactments for School Support

Governor Moore continued to push for greater equalization of educational opportunities and indicated that there was unequal opportunity for a complete education

for some of the State's children. The Governor also addressed the school facility issue, stating that "the more affluent counties were striving to improve their public school buildings while the least affluent counties were standing still."[196] On this same subject, the Governor made a third appeal to the Legislature to enable establishing an Elementary and Secondary Public School Building Authority.[197] The Governor's continuous efforts eventually led to the Senate Joint Resolution Number 4,[198] proposing the Better School Buildings Amendment, as presented in this section.

Legislation,[199] indirectly affecting education was the repeal of the former provision for the collection of capitation taxes, referred to in section one, article seven, of chapter eleven. More critical legislation pertained to article nine-a, chapter eighteen, of the West Virginia Code and the public school support plan's complete revision. It should be noted that until West Virginia's foundation program was changed by the 1971 Legislature, a previous formula of 1961[200] had stated that no county school district would receive less than 50 percent of the computed cost of the foundation plan of such county. "This legislative provision often resulted in the receipt of 50 percent by those county school districts having a stronger tax base and needing only 20 percent in state aid. This

deprived the less wealthy counties from receiving much needed funding for educational purposes."[201] The 1971 formula identified the State's share as being the difference between the total cost of said basic foundation plan and the computed local share for said county.

The recognized need for expansion and improvement of the existing educational conditions led the Fifty-Ninth Legislature to repeal the provisions of sections, parts of sections or articles or parts of articles that were inconsistent with the newly established provisions of article nine-a, chapter eighteen,[202] of the West Virginia Code. Also amended and reenacted were sections two, seven, and eight, article four of chapter eighteen-a, which related to substitute teachers' pay and the minimum salary schedule for public school teachers and auxiliary and service personnel.[203]

New Support Plan, 1971

According to the West Virginia Code, sections one through twenty, article nine-a, of chapter eighteen, underwent revisions and newly prescribed provisions relating to the state aid to public schools. The new public school support plan[204] of article nine-a, chapter eighteen of the West Virginia Code included sections one through twenty, of which seven steps, sections four through

ten, were identifiable as the foundation base for school support.

The intent was to provide a plan of financial support for the public schools. The legislative purpose was to effect a basic foundation support plan that would provide for program growth and would assure more equitable educational opportunity for all children, regardless of where they lived.[205]

School Support Program (Chapter 18-9A). Basic Allocation:

(Step I) Professional Educators: Allocated to each county an amount required to pay the state salary schedule, ceiling of fifty-five per one thousand students. State supplemental salary excluded.

(Step II) Other Personnel: 5.5 percent of the total state allocation for professional personnel was distributed based upon number of bus drivers; 13.5 percent of the total state allocation for professional personnel was distributed based upon adjusted enrollment. (Six percent and 14 percent allocations were not until 1973).

(Step III) Fixed Charges: Social Security Rate plus 2 percent.

(Step IV) Transportation:

a. Eighty percent of non-salaried operation, maintenance and related costs for previous fiscal year.

b. Fleet insurance, if bid.

c. Ten percent replacement cost of active bus fleet.

d. Eighty percent of contracted and public utility transportation costs.

e. State average in lieu of transportation cost per pupil. (With no county receiving more than 133 percent of state average cost per bus-mile times total mileage).

(Step V) Administrative Cost: One percent of total state allocation for professional educators divided equally among the counties.

(Step VI) Other Current Expense. Ten percent of totals for Steps I and II distributed on the basis of adjusted enrollment.

(Step VII) Allowance toward National Average Attainment. Redistributed state funds released by increased local share on basis of adjusted enrollment.

(Step VIII) Total Basic Foundation Program: Sum of the above seven steps.

(Step IX) Minus Local Share: Local share--local taxes at formula levy rate of 19.6 cents for Class I, 39.2 cents on Class II, and 78.4 cents on Classes III and IV. (Approximately 86 percent of the regular levy of the board of education on 50 percent of property values appraised by the State Tax Commissioner, and 97.5 percent of the Public Utility values assessed by the State Board of Public Works).

(Step X) Basic State Aid: Total Basic Foundation Program Minus Local Share.

Other sections, relating to the financial support of free schools, provided the mechanics for the process, in addition to describing the duties and powers of the State Board of School Finance. These identified sections of seventeen, eighteen, and nineteen, article nine-a of chapter eighteen,[206] found new existence in 1971.

It should be noted that with the exception of

varying changes in the ratios and percentages applied to each allowance, the 1971 support plan is the same format as that followed in the 1981 or current plan. Additionally, the Step Seven or Allowance Toward National Average Attainment (1971) was changed to Allowance for Instructional Improvement, within the 1981 plan.

This new plan was significant advancement in attempting to bring about parity in education among the counties. The new state aid formula allocated funds approximately in inverse proportion to a county's wealth. In essence, the state aid subsidized local resources in an attempt to equalize the fiscal resources among the county school districts. The wealth variation differential, between the wealthiest and the poorest school districts in the State, was reduces to approximately 1.7 to 1.[207]

Better School Buildings Amendment

Furthering the endeavor to promote better schools, a recommendation by Governor Moore resulted, on March 9, 1972, in the adoption of the Senate Joint Resolution Number Four,[208] proposing an amendment to the Constitution of the State of West Virginia. This amendment, entitled the Better School Buildings Amendment, authorized the Legislature to issue and sell state bonds in an amount not to exceed $200,000,000.00 for distribution to county boards of education for the construction, renovation, remodeling,

and equipment of elementary and secondary school facilities. The Better School Buildings Amendment was ratified by the voters at the general election on November 7, 1972. Enabling legislation, identified in article nine-c, chapter eighteen, of the Code, was a reenactment and amendment to the 1931 West Virginia Code. The act was written in eight sections in lieu of the former five sections inserted by the Acts of 1949, chapter fifty-one.[209] The enabling legislation,[210] authorizing the issuance and sale of school building bonds, was designated in 1973, the eighth day of June.

State and County Revenues for Building Program. In order to be eligible for state building funds, a county school system had to have an approved comprehensive education facility plan. The availability of state funds, for school contruction, provided a much needed incentive to counties in passing their bond levies. Prior to 1972, most elementary and secondary school construction in West Virginia had been financed by the county boards of education through the sale of general obligation bonds or by the passage of excess levies. These methods necessitated both voter approval and the taxing of real property within the county to meet the bond debt service or to provide the excess levy revenue. Before 1972, only a few counties had been able to pass bond elections for

school construction. A summary of the county school bond elections is provided in Table 12. The period between 1972-76 shows the greatest percentage of passage, while the years of 1980-84 show the least percentage in passing school bond elections.

Table 12.

SUMMARY OF COUNTY SCHOOL BOND ELECTIONS

1967-1984

Period	Elections Attempted	Passed, Percentage	Failed, Percentage
1967-71	38	28.9	71.1
1972-76	37	56.8	43.2
1977-79	15	46.7	53.3
1980-84	11	27.3	72.7

Source: Don R. Richardson, Associates, Inc.

Incentives For Improved Facilities. Governor Moore reported that

> comprehensive education facilities plans were approved for twenty-two county school districts in the calendar year, 1974; five plans had been approved in the previous years. Of these twenty-seven counties, $98,714,382 of the $200,000,000 funds had been committed. The total project cost for the twenty-seven counties was $230,781,678. Local funds amounted to $119,246,496 (plus Federal and/or vocational of $12,820,800).[211]

By the year 1974, and since the inception of the Better School Buildings Amendment, twenty-two counties had conducted bond elections. Governor Moore reported in his State of the State message to the Sixty-Second Legislature,

> It is evident that the passage of this amendment [Better School Buildings Amendment] has served as a catalyst for county school systems to modernize their facilities and enhance the quality of education where before, many were not, for various reasons, able to do so.[212]

A reversal of the national trend of defeating school elections was emerging as West Virginians started voicing favorable support by passing school bonds and levies in great numbers.[213]

Between the years, 1972-1976, nearly 57 percent of the bond elections were successful compared with only 29 percent during the previous five-year period. With the addition of county and other funds, the $200,000,000 in State funds helped facilitate a total of over $500,000,000 of school construction.[214] (see Appendix C). However, the

success of county school bond issues began to subside in the period 1977-79 when only 47 percent were passed. As the economic conditions worsened in West Virginia, fewer elections were successful. During the period of 1980-84 only 27 percent of the bond elections were passed.[215] Although the West Virginia Constitution was amended in 1982, requiring only a simple majority vote for passage, approval of bond elections decreased significantly.

School Support Revisions and Reinforcements

The year, 1973, witnessed another change in the school support plan with a thrust favoring the service (see Glossary) personnel. Section five, article nine-a of chapter eighteen of the West Virginia Code was amended and reenacted for the purpose of increasing the state basic foundation allowance for auxiliary and service personnel. The act[216] established a minimum pay schedule and employment term for auxiliary and service personnel in addition to providing methods of allocation of funds for said personnel.

Legislation during the years, 1974 through 1978, focused on article four, chapter eighteen-a [217] whereby the state minimum salary schedules, definitions, wages, employment terms, and other benefits were addressed on behalf of the professional and/or the service and auxiliary personnel. It should be noted, however, that the 1975

enabling act,[218] section two-a, article four, of chapter eighteen-a, was newly added and related the provisions for a salary increase for teachers outside the West Virginia public school support plan and the payment of the increased fixed charges as required. The salary increase, of $500 for each teacher, was designed so that an increase would not be required in any of the amounts computed in the total basic foundation program. [This section was repealed by the Acts of 1981, First Executive Session, chapter 5].

Legislation in the 1970's[219] and into 1980[220] continued to provide statutory revisions, though non-major, in the areas of job classifications, salaries, pay raises for teachers, principals, and auxiliary and service personnel. The public school support plan, article nine-a of chapter eighteen, underwent slight revisions affecting sections twelve, fourteen, and fifteen. These revisions in the basic county foundation and in the incentive for staffing improvement, were affected by basic changes in the computation. Relating to new and adjusted enrollment, as well as the number of professional educators and/or additional staff, the computations were to be based upon the second instead of the third month of the prior school term. Revised in section fifteen of the same article was the process for computing the State allocation for increased enrollment. This computation also was based upon

the second instead of the third school month and was compared to the previous year reports for the same school month.[221]

Influencing Factors for School Finance Reform

Information throughtout the chapter gives witness to a history of significant developmental changes in the education operations in West Virginia. To recapitulate those significant happenings warrants the mentioning of improved taxing procedures, a building construction program, increases in teachers' salaries, and a newly progression of legislative acts leading toward the establishment of what seemed to be a more viable school support plan. More recently education in West Virginia during the 1970's began to experience more concerted effort and positive support by the executive and legislative branches of the State government than any of the previous periods in the history of public schools of West Virginia.

Pauley v. Kelly, A State Landmark Decision

Emerging to the forefront in the late 1960's and continuing into the 1970's and 1980's there was a series of court cases on the subject of school finance inequities both across the nation and within West Virginia. Inequitable conditions appeared to have existed for years in view of the case of Serrano v. Priest, whereby,

expenditures per pupil differed significantly among the county school districts within the state.[222] These per pupil expenditure differences had been found to have direct association with differences in local property wealth per pupil. Furthering the inequity argument was the emergence of the recognition of differences in the educational needs of various students.[223]

State school finance systems, such as New Jersey and California, became faced with school finance litigation which served as a catalyst for securing greater equalization of educational opportunities for all students. The State of West Virginia also became engulfed in the school finance reform movement which, in 1975, resulted in the Pauley v. Kelly case. The State of West Virginia's public school system was brought before the court for alleged failure to carry out the constitutional provisions found in Articles III and XII. In 1975, the Pauleys, parents of five children who attended the Lincoln County Public Schools, filed for declaratory judgment and sought relief for having been denied a thorough and efficient system of education,[224] and denied equal protection.[225] The plaintiffs alleged that the system of financing schools in West Virginia was in violation of the West Virginia Constitution; that the West Virginia school support plan favored property rich counties and placed poor counties

such as Lincoln County, at a disadvantage. The Kanawha County Circuit Court dismissed the complaint saying that the state government was meeting its constitutional mandate of a thorough and efficient system in some counties, though not necessarily in Lincoln.[226] The case was appealed and as a result of alleged inequities in educational opportunities for the youth of the State of West Virginia, the Pauley v. Kelly suit was filed with the West Virginia Supreme Court of Appeals. The Supreme Court reversed and remanded the case back to the Kanawha County Circuit Court, on February 20, 1979, for further evidentiary development. The Supreme Court of Appeals then named the Honorable Arthur M. Recht as a special judge to the Kanawha County Circuit Court to hear the Pauley v. Kelly case which later became entitled, Pauley v. Bailey,[227] due to a change in the office of State Treasurer. The State's highest court provided specific guidelines for the lower court to follow.

The West Virginia high court noted that the State's Equal Protection clause of the State's constitution guaranteed education as a constitutionally derived right in the State of West Virginia. Therefore, the court directed that greater demand for strict scrutiny in meeting the requirements of a thorough and efficient system be thrust upon the State. The lower court was instructed to review the State's foundation program, building provisions and

funding, taxation and appraising procedures, and the local and state administrative roles.

Pauley et al. v. Bailey et al.

The Kanawha County Circuit Court, in carrying out its responsibilities within the language of Pauley et al. v. Kelly et al., conducted a forty day non-jury trial. Following the guidelines established by the West Virginia Supreme Court of Appeals and based upon the testimony at the trial, Judge Recht ruled the State's school support plan as being unconstitutional. The following is a summary of the conclusions of the law:

> 1. The system of financing public schools in West Virginia is unconstitutional in that the system (a) violates the provisions of Article XII, Section one of the constitution, on the basis that the Legislature has not provided for a "thorough and efficient" system of free schools and (b) the system violates the provisions of Article III, Sections ten and seventeen of the constitution relating to equal protection on the basis that the system permits to exist discriminatory classifications in financing educational offerings.
>
> 2. That in an effort to bring the public school system in West Virginia into constitutional conformity, a master plan shall be developed with the assistance of the commissioner appointed hereunder. The Master Plan shall include all aspects of a high quality education system including curriculum, personnel, facilities, and materials and equipment.
>
> 3. That the Tax Commissioner of the State of West Virginia shall cause a plan to be developed to provide remedial action for all the deficiencies identified in the findings of the Court. The State Tax Commissioner is charged with establishing effective methods of appraisal and enforcing uniform and equitable standards in taxation and property valuation so that the deficiencies cited by the Court may be overcome.

4. The State has a legal duty to provide equal educational opportunity by allocating resources to counties according to the criteria substantially related to educational needs and cost.

5. The system fails to provide an ongoing program for adequate funding of school construction. The Better School Building Amendment, West Virginia Code article nine-c, chapter eighteen, section one, does not begin to meet current facility needs in the State. Because the financial capacity of a county to construct facilities depends on the county's bonding capacity (local property wealth) and on voter willingness to pass bond issues instead of criteria related to educational needs, the current method of funding facility construction violates the equal protection and thorough and efficient guarantees of the West Virginia Constitution.

6. The reliance on locally funded excess levies to provide educational programs essential to a thorough and efficient system of education is in violation of the constitution of West Virginia. The amount of revenue that is raised through the excess levy varies dramatically among counties based upon the local property wealth of the county and the ability of the voters to approve an excess levy. Therefore, the local excess levy may not be relied upon for significant revenue for support of public schools. All direct and indirect costs must be included in the State financing structure.

7. The State Board of Education must carry out the statutes and education policies of the state in providing a thorough and efficient system of education. The State Board is charged with monitoring and providing adequate assistance in the area of facility planning, transportation routing and curriculum support and development.

8. The State Board of Education of West Virginia has a duty to provide a grievance mechanism and remedy at the state level for citizens to pursue grievance against county school board members, county superintendent, or other administrative officials for failure to provide elements of a high quality education that resources permit them to provide or for violation of any other legal duty, and to assure a remedy is provided for failure to perform such legal duties.[228]

The Court, having discharged its duties within the contours of Pauley, et al. v. Kelly, et al., noted that, "The result is no less than a call to the Legislature to completely reconstruct the entire system of education in West Virginia." The court order was handed down on May 11, 1982.[229]

Responses and Reactions To The Court Order

The anticipated increased cost which would be necessary to implement both the standards of quality education and a new system of financing schools came about at a time when the State was experiencing severe fiscal strain. A question of the State's ability to satisfy the court order caused varied concerns and a sense of urgency on the part of the education and legislative leaders. Roy Truby, then State Superintendent of Schools, stated that,

> The timing was bad, however, in the sense that the master plan for high quality education [had to be] developed when West Virginia was in the middle of a depression. During the last year, West Virginia had the highest percentage of unemployed workers in the nation. It is unfortunate that the Recht decision, which could have helped West Virginia to become a "Mayo Clinic of education" for the rest of the United States, came at a time when nearly 20 percent of West Virginians were out of work. Yet West Virginia has tried to avoid succumbing to the depression mentality and has looked beyond the boom-and-bust cycles that are always present in a state with a coal based economy.[230]

"Members of the Legislature reacted quickly,"

reported Meckley, "particularly with respect to the increased financial burden which they believed the decision would place on the state at a time of economic recession." House Majority Leader Roger Tompkins concluded that the decision could "wreck the state budget and increase property taxes 400 percent or more."[231]

Legislative Action, Early 1980's

The Legislators, in their attempts to suppress a possibly unfavorable decision and to later come into compliance with the court order, enacted, in the early 1980's, legislation which addressed school finance, special levies, property tax limitations, facilities planning, and standards of quality. The ensuing years witnessed additional legislative revisions pertaining to school finance and a proposed amendment to the State constitution to improve and increase the State's fiscal ability to support schools.

The Legislature was charged to seek new and additional revenues. One such revenue source currently places emphasis upon the implementation of the property reappraisal program in order to bring increased revenue to the local level. The following information provides a summary of the pertinent legislative action during the early 1980's.

Revised School Aid Formula, 1981 (Senate Bill 15)

Legislative acts, in 1981, originating from Senate Bill 15, addressed revisions in school finances, personnel, salary schedules, and employment terms. By repealing, amending, or reenacting specific sections of article nine-a, chapter eighteen as well as sections and articles within chapter eighteen-a, Senate Bill 15 was passed by the Legislature, on March 11, 1981.[232] This legislation contained two new sections, twenty-one and twenty-two, article nine-a of chapter eighteen and related, respectively, to provisions for facilities and planning in addition to requiring standards of quality education.

Senate Bill 15 was put into effect on July 1, 1981. The following identifies and explains specific sections pertaining to the state aid formula, facility planning, and the educational quality standards. Sections one through twenty, article nine-a, chapter eighteen relate to the Public School Support Plan within the West Virginia Code. The portion of the support plan making up the basic foundation program, however, is contained in seven "steps" within the foundation plan. Sections four through ten are provided as follows:[233]

I. Revisions in the State Aid Formula

A. Step 1. State allowance for a minimum ratio of forty-nine Professional Educators personnel per one thousand in adjusted enrollment must be maintained (§18-9A-4).

B. Step 2. State allowance for a limit of thirty-four Service Personnel per one thousand in adjusted enrollment (§18-9A-5).

C. Step 3. State allowance for Fixed Charges based on the social security rate plus workman's compensation rate plus unemployment rate (§18-9A-6).

D. Step 4. State allowance for Transportation at 80 percent of the maintenance and operation cost and a replacement cost of 12 percent of the current replacement value in 1982 and 12.5 percent in 1983 and thereafter (§18-9A-7).

E. Step 5. State allowance for Administrative Costs computed at a rate of seven-tenths of 1 percent of the total allowance for professional educators. Each county receives an equal share of the total (§18-9A-8).

F. Step 6. State allowance for Other Current Expense(s) and Substitute Employees provided (a) 4 percent distribution on the basis of adjusted enrollment relating to the funding of Steps I and II; (b) further multiplied by 2.5 percent and distributed to counties on the basis of each county's share of Steps I and II (§18-9A-9).

G. Step 7. State allowance to Improve Instructional Programs provided that any increases in years after 1981-82, in local share computation, would be distributed back to the counties in this allowance with twenty percent allocated proportion to adjusted enrollment and 80 percent allocated to the counties having the lowest average expenditure per pupil. Further provided that a county was eligible for its 80 percent share only if it lay the maximum regular levy rate, and files, by August 1, with the State Board of Education, an approved instructional improvement plan (§18-9A-10).

II. Provided a new section of the West Virginia Code on the subject of facility planning. A newly established division of the State Department of Education was

designated to study approaches for financing and establishing standards for the provision of an ongoing comprehensive facilities program, based on need (§18-9A-21).

III.A new section of the West Virginia Code, provided for in the standards, called upon each county school district to submit by July 1, 1982, program plans with built-in flexibility allowing for the development of school improvement plans based on local needs. On-site reviews of each county's educational program to be conducted every four years. Standards to be met in the areas of curriculum, finance, transportation, special education, facilities, textbooks, personnel qualifications and any other areas as determined by the State Board of Education (§18-9A-22).

As was previously noted, the 1981 plan's structure stems directly from the former 1971 plan. It was generally stated that the new changes caused within the 1981 plan were an attempt by the Legislature to appease the Court, before an unfavorable ruling could be handed down regarding the case of Pauley v. Bailey.

Other School Related Legislation

A concentrated focus on education quality standards and finance was continued, as the year, 1982, witnessed significant happenings on the part of the voters of the State as well as within the confines of the legislative and judicial arenas. A proposal to amend the State Constitution was adopted by the Legislature, on March 6, 1982. The Fair Educational Opportunity Amendment called for the reduction from 60 percent to a simple majority the number of votes required for approval of an excess levy for

school purposes, the incurring of indebtedness by a county board of education, and the issuance of bonds.[234] The wording in the existing Constitution had provided that excess levies and bond referenda must be approved by three-fifths of all votes cast for and against. The proposed amendment was ratified by the electorate on November 2, 1982, during the general election. Other legislative action, in 1982, related to the allocation of state public school support based upon increase in a county's net enrollment, amending and reenacting section fifteen, article nine-a, of chapter eighteen of the Code of West Virginia.[235]

A Master Plan for Educational Improvement

In addition, and resulting from the original order of the Circuit Court in the Pauley v. Bailey opinion, the Master Plan for Public Education in West Virginia was ordered to be developed. From within the court decision, McNeel reported that,

> Direction was given for the appointment of a commissioner who was to develop a Master Plan for public education according to the court's definition of what constituted a "thorough and efficient" system. This Master Plan was to include high quality educational standards, as well as proposals for educational financing and facility construction.
>
> In lieu of the role of a commissioner, a supplemental order, issued on September 1, 1982, appointed in its stead, the State Superintendent of Schools and the West Virginia Board of

> Education who were to be permitted to form a ninety-nine member advisory committee to work under the aegis of the court in developing the Master Plan. Persons appointed to the advisory committee were to be agreed upon by the State Superintendent of Schools, the State Board of Education and the plaintiffs, under supervision of the Court. Persons on the advisory committee were representives of the public and private sectors including educators and members of the general public. The committee formed into three sub-committees for the three areas of education standards, finance, facilities/service. The recommendations of the advisory committee were received by the State Board of Education and with a few minor changes were then the form of a final document was submitted to the Court on December 28, 1982.[236]

The purpose of the Master Plan for a thorough and efficient system of education was to improve the quality of learning and teaching in West Virginia public schools and to assure all public school students equal educational opportunities. The plan provided that all educational programs, activities, and services required by a thorough and efficient system of education must be available to all students. The plan identified and described the following elements of a thorough and efficient system of education:

1. high quality educational programs and services.

2. required administrative and instructional practices, personnel, facilities and materials, supplies and equipment.

3. possible methods of funding.

4. accountability measures needed to assure the public that a thorough and efficient system of education is being provided students enrolled in the public schools of West Virginia.[237]

With regard to the school finance program, the Master Plan had as its primary purpose the development of an equitable system of financing public education in West Virginia. The recommended school finance plan was designed to correct the constitutional deficiencies cited in the current funding system, e.g., increase and secure new sources of taxation; eliminate excess levy on local level; remove transportation allowance from Step Seven computation; use net enrollment instead of adjusted enrollment in formula calculations; transfer funding for substitute personnel to Steps One and Two. The goals for providing an equitable, yet thorough and efficient system were identified as follows: (1) correcting the constitutional deficiencies of the present funding system; (2) providing direct and indirect costs toward a high quality education program; (3) addressing the funding needs of specific education programs and services.[238]

The plan addressed the inequity that was cited by the Court and pertaining to the use of local excess levies. The Court, in agreement with the plan, realized that the substantial funding presently being provided from local excess levies could not immediately be cast aside. Even so, it was emphasized by the court that the use of these funds must be altered to remedy the wealth disparities that exist among the county school districts.[239]

Following are the major fiscal areas that were addressed in the plan:[240]

1. Salaries - The plan established a statewide salary schedule and equalized the salaries of professional and of service personnel. It eliminated the authority of county boards to supplement salaries beyond present levels.

2. Other Current Expenses - Full funding for current expenses will include those costs necessary for instructional materials and equipment. The cost for substitutes will be transferred to formula steps 1 and 2.

3. Funds for implementing new standards - The legislature is being called upon to appropriate money as each new standard required by the Master Plan is put into place. Allocations would be made to the counties on the basis of need.

4. Local share - All possible local revenue is to be secured so as to devote the money equitably in funding a thorough and efficient education program. There is provision for full utilization of funds available from the reappraisal of property and will charge back all county funds deriving from local excess levies.

5. Excess levies - The excess levy is to be utilized for funding public schools, with a statewide 100 percent excess levy being offered to the voters as soon as possible. The statewide excess levy would replace and eliminate the reliance upon the local levies, thus enhancing more equalized funding.

6. Staff - The staffing ratios for professional and service personnel relate directly to the quality standards; these ratios will annually be assessed and established by the legislature.

Additionally, the Master Plan contained school facilities standards which would provide the high quality facilities necessary to complement a thorough and efficient system of education. The plan called for the establishment

of a state school building authority or similar organization to be responsible for determining school facility needs. The plan, in its call for high quality standards in school facilities, recommended that the state establish an on-going statewide method of financing school facility construction.

In its proposal to implement a comprehensive school financing system the Master Plan identified those existing statutes[241] necessitating amendment or repeal in order to bring about an equitable system. The statutory changes, which were recommended for implementation in the second phase of the over all Master Plan, were purported to provide a funding mechanism as the standards are adopted into statute or policy.

Legal Actions: A Spinoff from Pauley v. Bailey

The case of Pauley v. Bailey acted as a catalytic agent in furthering legal actions within the State. The years, 1981 and 1982, witnessed court cases which had a defined relatedness to said case, before and following the decision handed down by Judge Arthur Recht, special appointed judge to the Kanawha County Circuit Court.

State ex rel. Bd. of Ed. v. Rockefeller

Education continued to enjoy significant recognition in the early 1980's, wherein, the State's

responsibility for providing a thorough and efficient public education system in West Virginia gained renewed emphasis. Education's importance gained notoriety when in 1981, Governor Rockefeller was caused to cut budgets in the various State executive agencies, due to a national coal strike and economic decline in the State. The education department, not exempted, was given a 2 percent reduction in expenditures. In its response, the State Board of Education, in the suit entitled State ex rel Bd. of Ed. v. Rockefeller, 281 S.E. 2d 131 (West Virginia 1981), sought to have the Governor compelled to restore the 2 percent cut. The West Virginia Supreme Court of Appeals held that (1) State constitutional provisions give a constitutional preferred status to public education and (2) expenditures for public education could not be reduced under certain statute [W. Va. Code ch. 5a, art. 2 § 23], without a compelling factual record demonstrating a deficit in the general revenue fund, sufficient enough to reduce the expenditures for public education.

Thus, public education came into the highlight as being exempt from the Governor's ability to require public education, along with other executive agencies, to accept prorata reductions in expenditures. The action by the court reemphasized the plenary power, as well as the obligation of the Legislature, to provide for the support

of free schools and gave reinforcement to the constitutional preference for public education in West Virginia.

Rose v. Fewell

On July 2, 1982, in Rose[242] v. Fewell, 294 S.E. 2d 434 (West Virginia 1982), the court ruled that it is the state tax commissioner, not the local assessor, who has the authority to determine actual values of county properties. In many counties, appraisals are much below actual values and assessments are as low as 20 percent. Until this decision by the State Supreme Court, local officials had been able to resist the State Tax Commissioner's efforts to raise the appraisals for taxation purposes.[243]

Killen v. Logan County Commission.

On September 3, 1982, the Supreme Court of Appeals affirmed the trial court's decision in Killen v. Logan County Commission, 295 S.E. 2d 689 (West Virginia 1982). Killen, who was then president of the Logan County Board of Education, claimed that the county's assessor had undervalued property in Logan County. The property values did not comply according to West Virginia Code, section three, article one of chapter eleven, wherein, property shall be assessed at its true and actual value, or article ten, section one of the West Virginia Constitution, calling

for equal and uniform taxation.

Referring to the West Virginia Code, section eleven, article nine-a, of chapter eighteen, the trial court held that the statute was unconstitutional, wherein, said statute allowed county assessors to assess the value of property anywhere within a range of 50 percent to 100 percent of the property's appraised valuation. The court stated that said statute allowed for fractional assessments and therefore violated the state's constitutional guarantee of "equal and uniform taxation" throughout the State.[244]

The court's ruling included:

> 1. All property be reappraised in all counties with reference to its value in an identical year. The decision required that this be done "with all deliberate speed."
>
> 2. The decision required that beginning in 1983, all property be given an assessed valuation of 100 percent of its "appraised value" under existing appraisals, and 100 percent of "market value" determined by a new reappraisal as soon as that reappraisal is completed.
>
> 3. The decision effectively withdrew from the Legislature any right to define "value" any way other than "market value," or to assign duties to the tax commissioner or county assessors different from those fixed by the Court.[245]

The Property Tax Limitation and Homestead Exemption Amendment

The Court's decision in Killen v. Logan County Commission resulted in and was altered by the Property Tax Limitation and Homestead Exemption Amendment of 1982,[246]

whereby ad valorem taxation would be assessed at 60 percent of its value. Appearing on the ballot as the proposed Amendment Number 3, at the General Election, November 2, 1982, the Property Tax Limitation and Homestead Amendment called for a uniform assessment ratio applied against "fair market value," (see Glossary). Key features of the amendment were:

1. For the years 1983-85, there would be no change in property tax law or practice.

2. By March 31, 1985, a new and complete statewide reappraisal of all property would be completed. Results of the reappraisal would begin to appear in the 1986 tax year, pending the legislature's determination.

3. All property would be assessed at a flat 60 percent of its full fair market value and would be subject to change by the Legislature.

4. The difference between the old assessed value and 60 percent of the new appraised value would be phased-in with ten equal installments over ten years beginning not sooner than 1986.

5. There would be an increase in the Homestead Exemption for the elderly and the disabled ranging from ten thousand dollars of the assessed value in 1982 to twenty thousand dollars in 1983. A reduction up to twenty thousand dollars in the appraised value for special cases could be granted by the Legislature.

6. The Legislature may require local school districts to levy all or any portion of the maximum levy rates for all classes of property.

7. The Legislature, in lieu of the powers exercised by local school districts, may submit a statewide excess levy which could increase the levy rates of all property classes up to a level that is 100 percent greater than the maximum levy rate. Any school district without the full portion of an already

existing excess levy may submit the remaining portion of the maximum excess levy rate to the voters of that particular county.[247]

School Support Reform, Senate Bill 131

The legislature, in 1984, was confronted with education demands in the form of attempts to implement the requirements specified in the Pauley v. Bailey decision. During the legislative session, Senate Bill 131,[248] in a major attempt to achieve greater equity, was passed on March 10, 1984, and put into effect, July 1, of that year. This bill included the topics of salaries for teachers, school principals, service personnel, new and redefined class titles, and provisions for high quality standards. Following is a summary of the provisions of the bill:

1. new state minimum salary schedule for teachers. (§18a-4-2).

2. a minimum salary increment for principals and assistant principals (§18a-4-3).

3. a minimum monthly salary for service personnel (§18a-4-8a). New and redefined class titles of service personnel pertained to Aides.

4. a supplemental salary for all teachers and service personnel in addition to the state minimum salary based on the funds appropriated by the legislature (§ 18a-4-5).

5. a county salary supplement for teachers (§18a-4-5a) and a county salary supplement for service personnel (18a-4-5b). The provision allowed for a county's reduction with cause.

6. a county's authority to engage in benefit programs for teachers and service personnel. Employee benefits provided must be reported to the State Board

of Education so that benefit equity may be measured.

7. a reference to educational quality stated in the West Virginia Code, § 18-9a-22 or Senate Bill 15, enacted by the 1981 Legislature. Wherein, said statute referred to minimal standards, the new Senate Bill 131 changed these minimal standards to high quality standards to be established and adopted by the State Board of Education, by January 1, 1985.

Better Schools, Roads, and Public Works Construction Amendment

Further legislative action was taken during the 1984 session, proposing an amendment to the Constitution to provide for a state wide excess levy of ad valorem taxes and a consumers sales tax increase. Designated portions of the total receipts were to be used for the support of free schools. The proposed constitutional amendment addressed West Virginia's needs for schools, roads, water and sewer systems. However, for the purpose of this document, only the portion of the amendment providing for better schools will be described.

Senate Joint Resolution Number 4, the proposed amendment to the West Virginia Constitution, was placed before the voters in the November 6, 1984, general election. This action was an attempt for compliance with the court order to ascertain a thorough and efficient system of public schools and to follow the recommendations within Phase I of the Master Plan. A summary of the amendment, as issued, related as follows:

> To impose a statewide levy for schools beginning on the first day of July, one thousand nine hundred eighty-five, first to provide funds equal to local excess levies for schools replaced, and then to effectuate a thorough and efficient system of free schools and equality of substantive educational opportunity for all state citizens and to direct the legislature to implement a plan of infrastructure improvements through the imposition of an additional one cent in the general consumers sales and service tax and use tax for at least fifteen years which is to be kept in a separate fund; that forty million dollars to be first appropriated annually for school construction and/or renovation;.....[249]

The purpose of the amendment was to provide for a statewide excess levy designed to fund quality education on an equal basis for all of West Virginia's children and youth. These funds were scheduled to be secured through a statewide 100 percent excess school levy which would have replaced local excess levies applied to the several classes of property and through a one cent dedicated general consumers' sales and service tax. The amendment was designed to equalize the tax rate so that all taxpayers would pay "their fair share." The amendment was defeated by 54 percent[250] of the West Virginia voters after the pre-election polls showed that most voters had favored the amendment.

With the defeat of the amendment on November 6, 1984, West Virginia continues to remain under a court order demanding reform in the public school support scheme, but without an adequate funding mechanism. The Legislature is,

again, charged with finding a new and workable plan for equalized and improved schools for the children of West Virginia. State Senator John (Si) Boettner, co-sponsor of the amendment, remarked that the Legislature would have to find a way to finance education projects with existing revenues. "It is going to require us to do a lot of soul searching and a lot of planning to recover from this and do it the way the people want it. It's going to take some imagination."[251] Governor-elect Arch A. Moore stated that, "no court order would "bulldoze" him into accepting a tax increase; however, the schools must be improved."[252]

Summary

The historical tracing of the gradual development of public school support in West Virginia has provided both a composite and comprehensive picture of significant educational growth. Through the comparison of the earlier years of education to education today, the changes in the line of improvement are identified with available evidence. The information in chapter two relates the developmental changes as they occur in the areas of public school organization and administration, per pupil expenditure, salaries for personnel, local levy rates, and fiscal resources. The historic progression, in terms of public school support, has left a record for the future that

reveals a positive growth in the State's education system.

Before the territorial division of Virginia, the citizens of the western sector had contended that an equal share of the schools had never been granted to them. With the drafting and adoption of their first constitution, in 1863, West Virginians, maintaining their interest in free schools, declared that, "the legislature shall provide, as soon as practicable, for the establishment of a thorough and efficient system of free schools." On December 10, 1863, the Legislature inaugurated the public school board and trustees of each township, the general and county superintendents, and a means for school finance resources from the state and local levels.

In 1872, the second constitutional convention further extended the education plan by offering more clarity and definition within the organization and administrative realm. The title of general superintendent was converted to state superintendent and a Board of the School Fund was created. This Board was charged with managing and investing the school fund in interest-bearing securities. The accrued interest was applied, annually, to the support of free schools. Other enabling legislation pertaining to the support of free schools authorized districts to impose a local levy, by the authority of the people to pay teachers' salaries and to maintain school

buildings. Additionally, a state levy for schools placed an ad valorem tax on property valuation; however, this tax was eliminated by 1907.

In the initial years of statehood, there was little evidence of an incorporative system of education. Instead, each school district was a "system" in itself. Revenues for the support of free schools became an early concern and problem as there was objection to the local levy in some districts and, oftentimes, the funds raised were not sufficient to support the schools for a given minimum term.

Through the next few decades and until 1932, only slight changes were made in the principles of the State's revenue laws. However, as occurrences within the industrial, business, and professional factions created annoying conditions under the restraints of the old laws, it soon became evident that changes in the taxing procedures were needed.

Also contributing to the State's fiscal concerns, was the fact that the nation was in the throes of a depression and owners of real and personal property were in need of relief from their disproportionate share in the payments going toward public revenues. To alleviate the burden being carried by the property owners, a constitutional amendment was submitted to the electorate, in 1931, which placed a ceiling on the rate of taxation on

real and personal property. The amendment, as approved by the voters, resulted in a marked decrease in local and state revenues at a time in which the State was concurrently facing a concurrent increase in expenses.

Attempting to meet the fiscal needs, Governor Kump pressed for and the Legislature responded with a consumer's sales tax. Other taxes were the chain-store and the privilege tax law of coal, on the sale of oil, gas, coal, electric power, and manufactured products. This legislative action was followed by placing a levy on gross incomes and enacting other taxes on beer, racing, etc.

In the early 1930's, the Legislature abolished all school districts inside the counties and made each of the fifty-five counties a unit of school administration. The county unit system, established in 1933, allowed the county board of education to lay uniform levies on the properties within the county. In the event the amount accumulated from this source did not sustain the expenses, the State supplemented the sum to a point considered by the State Superintendent as a fair portion of the available money. This supplementary amount was supplied by a general school fund accumulated from taxes, fines, licenses and other sources.

The history of the development of the public school support plan showed that the State of West Virginia

adopted, in 1939, a plan thereby described and known as a basic foundation program. The intent of the Legislature, through the provisions of the enabling acts, was an attempt to bring greater equalization among the school districts. State aid to the schools was based upon a computed plan and was established to eliminate the exercise of state administrative discretion in the distribution of funds. The state aid formula, however, did not prove wholly satisfactory and was cited as causing inequitable differences and hardships on the counties.

The country's entry into World War II caused the State of West Virginia to initiate significant legislation in order to comply with wartime pressures. It became necessary to address such issues as abnormal absences of pupils from school, teachers' salaries, free textbooks, and the hot lunch program, among the legislative proceedings. The education program encountered many serious problems caused by the war and the Legislature continued to face the familiar problem of providing an equitable system of school finance.

The Legislature hired George D. Strayer to study and report on the administrative and financial aspects of the West Virginia public education system. Advocating greater popular control and local support, the Strayer report caused the citizens of the rural and small counties

to fear that possible shift of the school tax burden back onto the counties was forthcoming. Another weakness cited in the report was inadequate expenditures for education. This prompted the Legislature to appropriate funds for salaries and school maintenance. However, there was still no fiscal margin for building purposes.

Due to the backlog of accumulated needs, partially caused by the war, buildings had become depreciated and obsolete. Addressing this situation, in the late forties, funds were appropriated by the Legislature. Additional money was made available, but necessitated increased local effort. To meet the counties' need to incur increased debts, an amendment to the constitution was proposed. The School Bond Amendment required that (1) the issue be submitted for voter approval and (2) the levy could not exceed an aggregate amount of 3 percent on the assessed value of the taxable property in the county.

Pertinent legislation, in the late 1950's and through the earlier 1960's, took the form of proposed constitutional amendments. One such proposal authorized the counties to lay a special levy up to a maximum of 100 percent of the regular levy rate and increased the amount of bonded indebtedness allowed to be served by county systems. This was made possible through the Better Schools Amendment of 1958. Additionally, the State Superintendent

of Free Schools Amendment, ratified in 1958, placed the general supervision of the schools in the hands of the West Virginia Board of Education. This body was thereafter charged with appointing the State Superintendent. Other legislation pertained to the continuous need for increased revenue for state services. Toward this end, proposals for additional taxes were initiated and specific revenues were earmarked for the support of free schools. Minor revisions in state aid and school personnel legislation were enacted.

Throughout the 1970's and continuing until 1984, the State witnessed considerable progress as well as upheaval, within the public education system. Through a determination displayed by Governor Moore, the lackluster image of the State was reversed in that teachers' salaries showed an upward trend in the national ranking among states. Population and economic growth was evident, and greater educational undertakings were placed into motion.

A major revision of the school support plan was enacted, in 1971 and, in addition, school facility improvement became a key issue. School improvements were reflected through the constitutional amendment for Better School Buildings, whereby, money was made available and provided much needed incentive for counties in passing their bond levies. Additionally, salaries for professional and service personnel continued to retain the attention of

the State government's executive and legislative branches.

On the heels of the national reform movement, West Virginia became engulfed in legal proceedings regarding the constitutionality of the State's school support plan. The Pauley v. Kelly case, filed in 1975, was concluded in May, 1982, with the court ruling that the state system of financing public schools was unconstitutional.

Prior to this ruling, in 1982, the Legislature had enacted revisions in the school support plan. Also, in 1981, Senate Bill 15 addressed the state aid formula, facility planning, and educational quality standards. Following the court order and complying with the decisions, the West Virginia Department of Education formed a ninety-nine member advisory committee to develop a Master Plan for Public Education in West Virginia. The plan, conforming to the court's definition of what constituted a "thorough and efficient" system, was to include high quality educational standards, as well as proposals for educational financing and facility construction.

During the ensuing years, the State witnessed significant judicial proceedings which had a direct relatedness to the case of Pauley v. Bailey. The case of State Board of Education v. Rockefeller had a significant impact on the status of education in West Virginia, as the court decision caused Governor Rockefeller to be compelled

to withdraw the cut placed on the education budget. The cases of Rose v. Fewell and Killen v. Logan County Commission, dealt with the assessing of property values. The litigation led the State to updating the property appraisal process along with revising the statute which had formerly allowed for great margin of variance in assessing a property's appraised valuation.

Additionally, the Legislature, in its attempt to comply with the court order to bring about greater equity, passed Senate Bill 131. This bill addressed the topics of salaries, class titles for service personnel, and provisions for high quality standards for education. Other legislative action taken was in the form of the proposed constitutional amendment, Better Schools, Roads, and Public Works Construction. The amendment was designed to provide a 100 percent statewide excess levy and an added one cent general consumers' sales tax to fund quality education for all West Virginia children. The amendment was defeated in the general election on November 6, 1984.

End Notes

Chapter 2

Part 1

1. W. Va. Const. art. XII, § 1, (1872).

2. Thomas C. Miller, History of Education in West Virginia, (Charleston: Tribune Printing Company, 1904), p. 1.

3. Ibid.

4. M. P. Shawkey, "Later Progress," History of Education in West Virginia, Thomas C. Miller (Charleston: Tribune Printing Company 1904), p. 59.

5. Miller, p. 1.

6. Acts of the Legislature of West Virginia, 1984, Senate Joint Resolution No. 4: Designated as Better Schools, Roads and Public Works Construction Amendment.

7. Miller, p. 1.

8. Ibid., p. 50.

9. W. Va. Const. art. X, § 2 (1863).

10. The basis of this fund was formed, in February, 1863, when the Commonwealth of Virginia passed the title to all bank stocks owned by her and within the bounds of the proposed State of West Virginia. These and other stocks were vested in the latter named State to form the Invested School Fund. On October 1, 1865, this fund amounted to $106,122.78 of which $100,000.00 were derived from the former literary fund of Virginia. Source: Charles H. Ambler, A History of Education in W. Va. , (Huntington: Standard, Printing and Publishing Company, 1951), p. 144.

11. Miller, p. 51.

12. W. Va. Const. art. X, § 2 (1863).

13. Virginia Code Title 23, ch. 82, § 14 (1860).

14. Claude J. Davis, W. Va. State and Local Government, Bureau for Government Research, West Virginia University, (Morgantown: Morgantown Printing and Binding Company, 1963), p. 167.

15. Miller, p.52.

16. W. Va. Const. art. X, §1 (1863).

17. Charles A. Ambler, A History of Education in West Virginia From Early Colonial Times to 1949, (Huntington: Standard Printing and Publishing Company, 1951), p. 143.

18. W. Va. Const. art. VIII, §1 (1863).

19. W. Va. Code ch. 45, § 44 (1868). In October, 1863, the Legislature appointed Daniel Lamb, Esquire, to prepare the code of the statutory laws then in force in the State of West Virginia. Mr. Lamb reported, during the legislative session in January, 1867, the printed form of Chapters One to Fifty-two. Due to failing health, Mr. Lamb requested to be relieved of further performance of his contract. The Code was completed and scheduled for adoption at a special session in June, 1868. Due to other pressing matters, the Code was not passed until the twenty-ninth day of December, 1868.

20. Ibid.

21. Charles A. Ambler, p.143.

22. W. Va. Const. art. VIII, § 1 (1863).

23. Ambler, p.143.

24. Ibid.(Data are not available to verify that all townships complied with laying the fifty cent levy.)

25. W. Va. Code ch. 45, §§1-22 (1868).

26. W. Va. Const. art. X, § 3 (1863).

27. W. Va. Code ch. 45, §51 (1868).

28. J, M. Callahan, Semi-Centennial History of West Virginia, (Morgantown: West Virginia, 1913) pp. 170-173.

29. The Virginia debt arose with the formation of the new state. At the time, it was agreed that West Virginia would assume its proportionate share of the public debt of

Virginia, prior to 1861. The issue of the amount and the extent of obligation was negotiated and litigated over a period of many years and was not finally settled until the year, 1919.

30. W. Va. Const. art. III (1872).

31. W. Va. Const. art. XII, § 1 (1872).

32. W. Va. Const. art. XII,§12 (1872).

33. W. Va. Const. art. XII (1872).

34. W. Va. Const. art. XII, § 4 (1872).

35. Virgil A. Lewis, West Virginia Heritage Encyclopedia, vol.18 (Richwood: Jim Comstock, Publisher, 1974), p.261.

36. Ambler, p.150.

37. J. M. Callahan, Semi-Centennial History of West Virginia, (Morgantown: West Virginia University, 1913), p.230.

38. Ambler, p.151.

39. Ambler, p. 152.

40. Callahan, p.230.

41. Ambler, p.152.

42. Ibid., p.236.

43. Ibid., p.152.

44. The Honorable Judge George W. Atkinson, "Legislative History of West Virginia," Semi-Centennial History of West Virginia, J. M. Callahan, (Morgantown: West Virginia University, 1913), pp.473-490.

45. Ambler, p.236.

46. Atkinson, p.481.

47. Ibid., p.483.

48. Ibid., p.486.

49. Ambler, p.205.

50. Ibid., p.236.

51. Ibid.

52. Ibid.

53. W. Va. Const. art. X, §1 (1863).

54. W. Va. Const. art. XII, § 4 (1872).

55. Ambler, p.237.

56. Acts of the Legislature of West Virginia, 1901, c.153, p.465. House Joint Resolution No.11.

57. W. Va. Const. art. XII, § 4 (1872).

58. The School Law of West Virginia, ch. XLV, 60 (1903), pp.72-73.

59. Lewis, pp. 187-263.

60. Ambler, p.235.

61. Thomas C. Miller, The History of Education in West Virginia, (Charleston: Tribune Printing Company, 1907), p.12.

62. Ibid.

63. Acts of the Legislature of West Virginia, 1904, c.19, p.145.

64. Biennial Report of the State Superintendent of Free Schools of West Virginia, 1910, p.32-A.

End Notes

Chapter 2

Part 2

65. M. P. Shawkey, Biennial Report of the State Superintendent of Free Schools of West Virginia, (Charleston: Union Publishing Company, 1912), pp. 31-32.

66. M. P. Shawkey, Biennial Report of the State Superintendent of Free Schools of West Virginia, (Charleston: Department of Free Schools, 1914), pp. 8-9.

67. Acts of the Legislature of West Virginia, 1921, c. 8, p. 288.

68. Eugene D. Thoenen, History of the Oil and Gas Industry in West Virginia, (Charleston: Education Foundation, Inc., 1964), p. 318.

69. Elizabeth Cometti, E. P. Summers, eds. The Thirty-Fifth State: A Documentary History of West Virginia, (Morgantown: West Virginia University Library, 1966, p. 555.)

70. Hope Natural Gas Company v. Hall, State Tax Comissioner et al., 274 U.S. (1927), pp. 284-289.

71. Shawkey (1914), pp. 28-29.

72. G. M. Ford, Biennial Report of the State Superintendent of Free Schools of West Virginia, (Charleston: Department of Free Schools, 1924), p.8.

73. Ibid.

74. Shawkey (1914), pp. 39-40.

75. G. M. Ford, Biennial Report of the State Superintendent of Free Schools of West Virginia, (Charleston: Department of Free Schools, 1922), p.11.

76. Act of the West Virginia Legislature, 1921, c. 18, pp. 36 - 37.

77. Ibid., pp.98-99.

78. Ambler, p. 419.

79. Ninety-five percent of the school revenues had been from taxes on general property. The average for the nation was 74 percent. Source: Ambler, p. 606.

80. Cometti, pp. 612-613.

81. Jim Comstock, ed., The West Virginia Heritage Encyclopedia, Vols. 10 and 11, (Richwood, WV: Jim Comstock, Publisher, 1974), p. 118.

82. Oscar D. Lambert, West Virginia and Its Government, (Boston: D.C.Heath and Company, ND), p.368.

83. Ambler, p. 607.

84. W. Va. Const. art. X, § 1.

85. Acts of the Legislature of West Virginia, Extra Ordinary Session, 1932, c. 9, p. 72. House Joint Resolution No. 3.

86. Davis, p. 171.

87. Thirty - Sixth Biennial Report of the Tax Commissioner of West Virginia, (Richard L. Dailey), 1974, p.1.

88. The consumers sales tax was initiated primarily as an emergency measure to assist schools. The tax became a permanent tax in 1937. Source: W. Va. Code ch. 11, §1.

89. Lambert, pp. 368-369. Ibid., p. 369.

90. Thirty - Sixth Biennial Report of the Tax Commissioner of West Virginia, (Richard L. Dailey), 1974, p.1.

91. Ambler, p. 655.

92. Two Hundred Years of Public Education in West Virginia, Daniel Taylor, State Superintendent of Schools, West Virginia Dept. of Education, 1976, p. 6.

93. Contradictions in the number of school districts were reported as follows: Comstock reported 397; Ambler reported 398; Daniel Taylor reported 413.

94. Acts of the Legislature of West Virginia, 1933, Extra Ordinary Session, c. 8, pp. 73-74.

95. Acts of the Legislature of West Virginia, 1933, Extra Session, c. 13, pp. 108-109.

96. West Virginia A Guide To The Mountain State, American Guide Series (New York: Oxford University Press, 1941), pp.118-119.

97. It is to be noted that State Aid varied from approximately 30 percent in Ohio County to 92 percent in Pendleton County, with an average of 55 percent for all counties. Source: West Virginia A Guide , p. 119.

98. Acts of the Legislature of West Virginia, 1933, Extra Ordinary Session, c. 9, pp. 92-96. (Amended in 1934 by House Bill No. 278).

99. Proceeds from the capitation tax, income of the schools funds, proceeds from fines and forfeitures, monies previously earmarked for school funds as named in the Constitution of West Virginia, Article XII, 4, heretofore going to the "school fund" but now amended as going to the "general school fund," interest on public money from State depositories, State tax on licenses, except on motor vehicles, chauffeurs, hunting and fishing licenses paid directly to the State Auditor or Secretary of State, funds paid into the treasury for school purposes, and funds not otherwise appropriated. Source: Acts of the Legislature of West Virginia, 1933, Extra Ordinary Session.

100. Acts of the Legislature of West Virginia, 1933, Extra Ordinary Session, c.9, pp. 92-96.

101. Acts of the Legislature of West Virginia, 1933, Second Extra Ordinary Session, c.39, p. 71. (The session ran from November 21, 1933 to March 24, 1934).

102. Acts of the Legislature of West Virginia, 1933, Second Extra Ordinary Session, c. 6, p. 13.

103. In the year, 1933, revenues collected by the tax department were less than 7.5 million dollars. Source: Thirty-Sixth Biennial Report of the Tax Commissioner of West Virginia, 1974-76, p. 2.

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105. George D. Strayer, A Report of a Survey of Public Education in the State of West Virginia, Legislative Interim Committee, State of WV, 1945, p. 503.

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125. Acts of the Legislature of West Virginia, 1941, c.35, pp.158-159.

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142. Ibid., p.23.

143. Thirty-Ninth Biennial Report of the State Superintendent of Free Schools, (Charleston: Department of Education 1950), p.17.

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145 School Law of West Virginia (Charlottesville: The Michie Company, 1984 ed.), p.392.

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148. Acts of the Legislature of West Virginia, 1949, c.51, p.206.(Amended chapter 18 of the W. Va. Code by adding the new article 9-c).

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210. Acts of the Legislature of West Virginia, 1973, First Extra Ordinary Session, c. 31, p. 665.

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Chapter 3

WEST VIRGINIA SCHOOL FUNDING ELEMENTS AND THEIR APPLICATION

The questioned legitimacy of the West Virginia foundation plan has been brought to the forefront among the concerns of the state's leaders. The West Virginia Constitution stipulates that the Legislature shall establish a thorough and efficient system of free schools and provide for their support.[1] This mandate has been tested and decided within the courts, whereby, the state must assume responsibility in providing for high quality education. The State is charged with the responsibility of providing not for a minimum level of educational opportunities, but for the best the State can provide.[2]

In West Virginia, the school support plan functions as an equalization program supplemented through local leeway funds. In essence, the required state-local funding for each county may be supplemented by an additional levy of county property taxes.[3] The bulk of state funding is distributed to the counties through the statutory public school support plan, known as the state aid formula.[4] The objective is to fix both the state and local responsibility for the funding of a basic foundation program, which will assure the most equitable education possible for all children irrespective of residence."[5] A discussion follows

regarding the process through which the county and State governments, within West Virginia, facilitate funding for public schools.

Analysis of the West Virginia Schools Finance Structure

Within the West Virginia school finance support plan, the State provides education funding through the State Aid to Education Formula, outlined in the West Virginia Code , article nine-a of chapter eighteen. "The formula outlines specific costs involved in public education at the county level and seeks to divide these costs between the State General Revenue Fund appropriations and local property taxes."[6] The State Aid Formula is designed to equalize, on a per pupil basis, the implied local share amount of property taxes. Other collected property taxes in the form of excess levies, however, are not equalized through the formula.[7]

The funding formula is indirectly influenced by the assessment of real and personal property taxes through the inclusion of a statewide system of property appraisal by the State Tax Commissioner. On the basis of the most recent survey of property valuations, the state board computes for each county, by application of the levies for general current expense purposes, the amount of revenue which such levies would produce if levied on 100 percent of

the appraised value of each of the several classes of property. The state board first takes 97.5 percent of the amount ascertained by applying these rates to the total assessed public utility valuation in each property classification within the county. The state board, then, applies these rates to the appraised value of other property in each classification and deducts 5 percent as an allowance for usual losses, e.g., collections, discounts, or delinquencies. [As of July 1, 1982, 55 percent instead of the former 50 percent of the amount so determined is added to the 97.5 percent of the computed public utility taxes].[8]

County

In West Virginia, the property tax on real and personal property is administered directly by each of the fifty-five counties with assistance provided by the State Tax Department. All taxable property, not including public utility property, is given an appraised value, based upon its true and actual value,[9] as determined by the State Tax Department. The final valuation on public utility property is approved by the Board of Public Works and allocated to the counties in which the public utility property is located.[10] The county assessor and county commission, serving as an equalization and review board, use such appraisal valuations as a basis for determining the true

and actual value for assessment purposes. Since the 1982 Tax Limitation Amendment, property in each of the four classes must be assessed at a flat rate of 60 percent its full, fair market value.[11] The designated levy for school purposes is then applied to the assessed valuation in each class of property, thus, resulting in a working figure for school operations (see Appendix D).

Property in West Virginia is classified into four categories, whereby, the law provides for three different rates for school support within the four property classifications. [The current rates for levying a tax for general school purposes are 22.5, 45.0 and 90.0 cents per one hundred dollars of assessed valuation on property classes I, II, III/IV, respectively]. West Virginia law authorizes each county school district to levy a tax on county property for the purpose of securing funds for school operation. The local school district must submit to levying this tax for general school purposes. This regular levy does not require voter approval and all fifty-five counties have placed the minimum levy rate upon themselves.

The levy rates per one hundred dollars of assessed valuation are set by the county board of education and, in turn, determine the amount of property tax revenue available each year for operation of the local school system. Revenue from the levies is used by the boards of

education to pay for current expenditures of the county's schools, e.g., instructional supplies, salary supplements, and utilities.

Additionally, since 1958, statutory law has allowed the local boards of education to seek voter approval for a tax levy not to exceed 100 percent of the maximum rate structure permitted for school purposes, as shown in Table 13. This is called an excess levy and its application may not exceed a period of five years. A simple majority favorable vote of the qualified voters is required for passage of an excess levy.[12] At this writing, twenty-eight county school districts presently lay an excess levy. Based upon 1983-84 data for levy rates, fifteen counties have less than 100 percent and twelve counties have chosen not to submit to any portion of an excess levy.

Table 13.

Current Maximum Levy Rate Structure

and Property Classification

(Cents Per $100 Assessed Valuation)

Property Classification	Regular	Excess	Total
I	22.95	22.95	45.90
II	45.90	45.90	91.80
III/IV	91.80	91.80	183.60

Source: W.Va.Code ch.11, art.8, § 6c.

A means for capital outlay is provided the county districts through the School Bond Amendment of 1950,[13] wherein, the acquisition of capital outlay funds is obtained through the sale of voter authorized bonds. A school bond issue must receive a simple majority of voter approval [instead of the former 60 percent voter approval] and the school district is prohibited from issuing bonds in an amount in excess of 5 percent of the assessed valuation of all taxable property in the county. Funds from this source are used for capital outlay, including expenditures for building construction, renovation, and equipment. Local district spending for public education is managed through each of the State's fifty-five county units, which have the ability to adopt, without voter approval, the special tax levies, as well as, to issue bonds for capital outlay. Illustrated in Table 14 is information showing the differences of assessed valuation of property among the fifty-five counties, the regular and excess levy rates applied by the county school districts, as well as, the assessed value per pupil.

State

The State's school revenues are obtained, principally, through taxes on sales, personal income, and the gross receipts of businesses and occupations. [The Business and Occupation Tax has since been repealed,

Table 14.

Assessed Values, Assessed Value Per Pupil, and Levy Rates
1983-84

	Total Assessed Valuations	Per Pupil Assessed Valuations	Regular Levy Class I Tax Rates	Excess Levy Class I Tax Rates	Total Regular and Excess Levy Tax Rates
Barbour	$141,533,600	$42,837	22.95	--	22.95
Berkeley	370,108,696	38,460	22.95	20.00	42.95
Boone	349,281,455	52,264	22.95	22.95	45.90
Braxton	150,758,580	51,208	21.45	--	21.45
Brooke	223,714,450	42,571	22.95	22.95	45.90
Cabell	879,875,530	51,454	21.45	22.95	44.40
Calhoun	76,283,390	43,690	22.95	--	22.95
Clay	111,249,900	43,203	22.95	--	22.95
Doddridge	108,833,710	73,586	22.95	22.95	45.90
Fayette	409,749,745	35,811	22.95	22.95	45.90
Gilmer	121,907,530	84,074	22.95	--	22.95
Grant	178,555,801	86,846	22.95	19.51	42.46
Greenbrier	269,289,175	38,757	22.95	11.475	34.425
Hampshire	133,210,170	44,851	22.95	11.48	34.43
Hancock	331,171,694	47,636	22.95	22.95	45.90
Hardy	98,121,455	48,743	22.95	--	22.95
Harrison	735,400,860	54,037	22.95	22.95	45.90
Jackson	276,888,120	52,490	22.95	22.95	45.90
Jefferson	228,688,160	37,479	22.95	20.00	42.95
Kanawha	2,480,253,236	64,074	22.95	22.95	45.90
Lewis	202,414,300	56,905	22.95	11.475	34.425
Lincoln	149,874,245	28,082	22.95	22.95	45.90
Logan	399,703,500	35,500	22.95	22.95	45.90
Marion	598,638,850	54,555	22.95	22.95	45.90
Marshall	599,549,050	81,482	22.95	22.95	45.90
Mason	313,746,727	61,266	22.95	22.95	45.90
Mercer	513,384,543	37,519	22.95	22.95	45.90
Mineral	184,100,903	34,514	22.95	22.95	45.90
Mingo	247,480,500	26,550	21.45	22.95	44.40
Monongalia	489,777,026	46,406	22.95	22.95	45.90
Monroe	72,318,506	31,144	21.45	16.08	37.53
Morgan	86,528,790	40,566	22.95	20.00	42.95
McDowell	331,024,150	30,071	22.95	22.95	45.90
Nicholas	251,769,850	42,137	22.95	10.00	32.95
Ohio	464,700,875	63,753	22.95	22.95	45.90
Pendleton	59,211,730	41,610	22.95	--	22.95
Pleasants	261,913,970	160,192	22.95	19.95	42.90
Pocahontas	98,526,633	55,289	22.95	--	22.95
Preston	214,744,533	33,428	22.95	22.95	45.90
Putnam	580,909,460	69,420	22.95	22.95	45.90
Raleigh	618,229,150	35,544	22.95	22.95	45.90
Randolph	187,874,982	34,485	22.95	14.00	36.95
Ritchie	96,165,780	45,858	22.95	14.9175	37.8675
Roane	133,756,613	40,680	22.95	--	22.95
Summers	94,640,360	36,498	22.95	--	22.95
Taylor	112,474,680	35,280	22.95	11.475	34.425
Tucker	58,955,320	36,102	22.95	--	22.95
Tyler	92,521,550	39,438	22.95	22.95	45.90
Upshur	212,244,515	44,645	22.95	22.95	45.90
Wayne	298,540,940	30,688	22.95	22.95	45.90
Webster	127,646,580	47,487	22.95	--	22.95
Wetzel	190,521,010	41,060	22.95	17.21	40.16
Wirt	35,552,915	31,023	22.95	20.66	43.61
Wood	627,670,520	36,422	22.95	22.95	45.90
Wyoming	265,568,290	31,104	21.45	22.95	44.40
Total	$16,947,556,603	2,630,774	1049.46	880.81	2135.46
Average		47,832	19.08	16.01	38.83

Source: Public Education Source Book , West Virginia Department of Education, 1985.

effective July 1, 1987; a corporate tax has been imposed in its place]. Each year, nearly 50 percent of the State General Revenue Fund is appropriated for the support of public education grades Kindergarten through Twelve (see Appendix E).

The state share of support for public education is determined through the use of a school aid formula found in the West Virginia Code, article nine-a of chapter eighteen. This formula has been called a demand formula because State minimum salaries for school personnel, paid through the formula, serve as a basic building block for calculating state support for the succeeding school year.[15] The state aid formula (see Appendix F) allocates funds approximately in inverse proportion to a county's wealth.[16] The resulting effect of the State aid allows the funding to subsidize local resources and to, concurrently, attempt to equalize the fiscal resources among the county school systems.

Formula Calculation[17]

The first two steps of the seven step formula series are primary ones in that they contain personnel to student ratios and are key factors in a county's total allowance from State aid. It is upon these two steps that a basic building block is established for determining the

allocations for public school support in West Virginia. The fallacies of Steps One and Two are exacerbated in the fact that the professional and service personnel salary allowance is used as a basis for other formula calculations. Those steps for which allowances are based upon a percentage of the total cost or upon a percentage of state allocation include (1) fixed charges, or Step Three, (2) transportation, or Step Four, (3) administrative cost or Step Five, and (4) other current expense and substitute employees or Step Six. This situation may be regarded as contrary to recommended procedures for providing education adequacy and equity. Johns and Salmon recommended that in order to achieve greater equalization, "consideration must be given to the educational needs of the student population before allocations are made".[18] The West Virginia plan, using personnel salaries as its base, shows little direct relationship toward providing for pupil-oriented needs. The personnel-driven basis results in those county school districts having more experienced, highly trained personnel receiving a greater proportionate amount of the foundation program.

Steps I and II: Personnel

The 1977 Report to the Education Finance Study Commission of the West Virginia Legislature[19] cited deficiencies in the funding program. The study recognized

the program as being non-student oriented and operating on a non-programmatic method for state aid allocations. The report stated that, rather than measuring the children's educational needs for allocation purposes, the finance system failed to recognize cost variances among children having different needs. The report cited that (1) the West Virginia formula neglected to encompass and utilize a student oriented base, (2) the state allocation should recognize students with exceptional and high cost educational needs, (3) funds might be allocated to the county school districts on the basis of the targeted population, (4) the method of funding should be pupil oriented.[20] Particular reference was made to "outside the formula" [21] allocations as well as to the utilization of a funding procedure whereby, allowances were based upon general percentages of the total cost.

The 1977 study further claimed that the "well trained and experienced teachers were most likely to be found in school districts which were financially capable of attracting them with better salaries and working conditions."[22] This statement is directly related to the formula's first two steps, regarding personnel salaries, in that those county school districts which attract and retain the more experienced and highly trained personnel receive a greater proportional share of the state money. Provided in

Table 15 is the average annual salary for the school year, 1983-84 for instructional personnel, as well as, a reflection of higher salary averages within some of the counties. This single factor may be regarded as having been more favorable in in attracting highly qualified personnel. It is shown in Table 15 that while Pleasants County was paying an average annual salary of $21,764 and Calhoun was paying $15,035, a considerable variance in the salary for instructional personnel was in great evidence. [The salary equity plan in Senate Bill 131, 1984, has made substantial progress to amend and to equalize said salary imbalance]. The fact remains, however, that other allowances structured within the formula and based upon Steps One and Two, compounded the impracticality and disequalizing nature of the present West Virginia support plan.

Additionally, and with regard to personnel salaries, a fiscal hardship is placed upon those county school districts with low resources and limited funds. The state exercises the policy of a one year delay between the school year upon which salaries and related costs are budgeted for state allocations and the year in which the actual amount is required to be paid by the county. For example, the state's allocation is based upon a teacher's experience and training for a given year. However, the

Table 15.

Average Annual Salary for
Instructional Personnel
By Counties
1983-84

County	Average Annual Salary (All Instructional Personnel)
Barbour	$ 16,308.57
Berkeley	18,830.22*
Boone	18,818.63
Braxton	16,130.87
Brooke	19,725.58*
Cabell	19,521.35*
Calhoun	15,035.52
Clay	16,163.12
Doddridge	20,305.09*
Fayette	18,257.24
Gilmer	15,867.14
Grant	18,376.20
Greenbrier	17,824.05
Hampshire	16,304.31
Hancock	21,488.78
Hardy	17,010.84
Harrison	19,691.56*
Jackson	21,609.97*
Jefferson	18,495.79
Kanawha	19,944.25*
Lewis	17,760.57
Lincoln	17,097.91
Logan	17,480.10
Marion	20,091.49*
Marshall	21,751.50*
Mason	19,288.88*
Mercer	18,348.10
Mineral	18,489.71
Mingo	17,770.97
Monongalia	19,527.28*
Monroe	16,726.68
Morgan	18,587.67
McDowell	17,590.87
Nicholas	17,086.65
Ohio	20,794.26*
Pendleton	15,712.73
Pleasants	21,764.77*
Pocahontas	16,524.24
Preston	16,924.38
Putnam	20,651.44*
Raleigh	18,685.48
Randolph	17,404.43
Ritchie	16,770.88
Roane	16,280.37
Summers	16,397.64
Taylor	16,795.09
Tucker	16,427.20
Tyler	17,123.16
Upshur	17,528.32
Wayne	20,333.25*
Webster	15,285.63
Wetzel	18,200.77
Wirt	17,863.46
Wood	19,360.35*
Wyoming	18,139.18
State Average	18,782.81

* Exceeds State Average

Source: Educational Statistical Summary, West Virginia Department of Education, 1983-84.

county school district receives that predetermined allocation one year later, whereby, the teacher, by then, has acquired an additional year of experience and possible additional training. Thus, the county is required to pay personnel for current levels of experience and education from funds allocated and based upon the previous year's level of experience and educational training. Other county school district expenditures which are related to the salary item and which are, also, affected by the delayed receipt of allowances are fixed costs, administrative allowance, and other current expense and substitute employees.

The burden upon some county school districts is further enhanced, in that, county funds must be used for salaries of all first year employees. Counties experiencing the hiring of new teachers because of heavy turnover, may be regarded as having a disadvantage. Following the initial year of service, the employee, thereafter, qualifies under the state minimum salary program. However, those counties having fewer resources often have difficulty securing local revenues to meet the expenditures such as this, so prescribed within the present funding structure.

Step IV: Transportation

The state aid allowance for transportation, or Step

Four of the formula, reimburses county school districts with an amount equal to 80 percent of their transportation costs, excluding salaries for bus drivers and maintenance staff which are calculated in Step Two or the Allowance for Service Personnel. The transportation reimbursement has a built-in limitation, wherein, the allowance may be no greater than one third above the computed state average allowance per mile multiplied by the total mileage in the county. The remaining 20 percent of the local district's transportation cost for maintenance, supplies, and other operational purposes, is borne by the local school district.

The bus replacement factor, included in the State Aid formula, provides for a 12.5 percent replacement cost of the active fleet. Considered to be a liberal depreciation schedule, a complete replacement cycle every eight years is contained within the State's transportation allowance. State Aid provides for the total cost of insurance premiums on buses, buildings, and equipment used for transportation purposes.

The bus replacement allocation, provided through the State formula funding, may be recognized as resulting in disequalizing proportions, however. It should be noted that the State allows a turnover of the bus fleet every eight years with the cost for a ninety passenger bus

ranging between $48,000.00 to $50,000.00. The present formula provides for 12.5 percent replacement cost of the active fleet; however, the replacement cost factor would proportionally be much greater for some counties depending upon the wear and tear factors involved. The number of students transported and the condition of the roads traveled could result in extraordinary wear and tear on the vehicles, thus, causing more frequent replacement.

The transportation allowance, in its present form, results in having adverse effects on some counties. In order to depict the inequities and fiscal burdens borne by local districts, comparative data have been utilized exemplifying a comparison of the two counties, Pendleton and Pleasants.

Pendleton County,[23] a rural, sparsely populated county, having a low property tax base, is the fifth largest county in geographic size. The county contains large areas of rough terrain and poor road conditions. Because of the sparse population and dispersion of schools, approximately 96 percent of the 1423 net enrollment required transportation services in the 1983-84 school year.

Transportation maintenance is an item of great cost for Pendleton County due to some roads being unpaved, unkept, and sometimes impassable. Pendleton County's

transportation routes involve as many as 40 miles, one way. Three mountain ranges and three valleys are traveled to deliver students to two high schools and five elementary schools spread over an area of 696.88 square miles. The total number of miles traveled by approximately thirty-four regular and four contracted buses is approximately 337,253 miles per year. The topography of the land and the cost for running the buses prohibits a dual system bus run. Thus, the kindergarten and elementary children must remain in school equal to the three hundred and forty-five minute time required for the secondary students. To make a separate bus run, at noon time, is financially prohibited.

In order to transport the approximately 1,400 students, the Pendleton County school district employed thirty-four regular and four contracted drivers. This situation presents a handicap in that the required number of bus drivers consumes a great portion of the maximum ratio allowance of thirty-four service personnel per one thousand students. Thus, hiring additional service personnel as cooks, aides, secretaries, custodians, and mechanics becomes extremely limited. If the county exceeds the allowed personnel/student ratio, money for those additional salaries must be fully expended from county funds.

The approximate transportation cost per net

enrollment for Pendleton County during the school year 1983-84 was approximately $150.00. Of this amount, $133.00 per pupil was reimbursed through the State's transportation allowance. The remaining cost of $17.00 per pupil was borne through the local district's funds. This high cost or state allowance for transportation was calculated into the county school district's State aid figure. The high figure reflected a false perception of Pendleton County's basic resources per pupil figure and ultimately affected the local school district's ranking in allowances for improving instructional programs or Step Seven money.[24]

Pleasants County,[25] in contrast with Pendleton, is the third smallest county with a geographic area of 134.65 square miles. Located along the Ohio River, Pleasants County is one of the wealthiest counties of the State which benefits from large local tax revenue,[26] due to its valuable industrial and utility property. Eighteen regular and five spare bus drivers were employed, to transport a student enrollment of approximately 1600. The regular bus fleet traveled 190,373 miles compared to 337,253 miles traveled in Pendleton County. Pleasants County operated three schools, each within three miles of each other. An approximate per pupil expenditure of $130.00 for transportation included $95.00 from State Aid, while the remaining $35.00 was supplied from local funds.[27] Other

noted differences existed in the expenditure capabilities between the two county school districts for such items as maintenance shelters, repair parts and supplies, expenses for garage operations, and garage equipment repairs. Where Pendleton expended $13,240.00 for the items named, Pleasants County expended $55,508.00 for the same transportation maintenance items. (see Appendix G). In essence, the fiscal capability of poorer counties to provide preventive type maintenance is limited.

Steps III, V, VI: Fixed Charges, Administrative Costs, and Other Current Expense and Substitute Employees

Other segments of the school support plan are based merely on fixed rates, with Steps One and/or Two serving as the building blocks of the foundation program. As allowances are proportionally made to the county schools districts' total allocations for both the professional and service personnel, inequities and inadequacies immediately surface. This is due to the fact that counties employing a greater number of personnel, with more years of experience and higher levels of training, receive a greater proportional sum of the State allowance as a result of these steps. This has a reactionary and in some instances a disequalizing effect on the steps listed below:

1. The fixed charges allowance in Step Three is based upon the foundation's allowance for professional

educators and service personnel. This step's concept may, superficially, be considered as equitable. However, there arises the question of each county's needs, e.g., additional personnel, heavy turnover in personnel, and the county's fiscal ability to meet these needs. A county required to hire additional or new personnel must also have the extra burden of bearing the additional fixed cost.

2. A flat percentage rate of seven-tenths of one percent for administrative costs within Step Five is based upon the county's allocation for professional educators and distribution to the counties is granted in equal amounts. This percentage based allocation and equal distribution may possibly bring question upon the procedural intent.

3. Other current expense and substitute employee allowance, within Step Six, computes a rate of of 2.5 percent for substitute personnel based on the State's allocation for professional educators and service personnel. A direct relationship between the fixed rate of 2.5 percent for substitutes and the state allowance for personnel, is present within this step. However, those counties having more experienced and highly trained personnel receive a greater proportionate amount of the foundation program. A

second phase of Step Six, the current expense allocation of 4 percent, is computed on the sum of the State allocation for personnel and seemingly lacks logical relationship with the current operational needs of the county school district. The current expense allocation provides state aid toward maintenance operations, utilities, supplies, equipment, and other expenditures applicable to the day to day school system operations. This formula relationship of the personnel salaries to these types of expenditures lacks justification and practicality. It is, also, somewhat unrealistic to assume that salary schedules and current expenses increase at a same rate over an extended period of time. The fixed rate dependency in Step Six contains limited features and a basis of unrelatedness in providing for the designated operational needs of a school district. All additional money needed for day to day operational purposes is caused to be provided through local funds. [Specific formula allocations for textbooks or for other instructional material and equipment are non-existent with the exception of allowances through Step Six and Step Seven, or Allowance for Instructional Improvement].

The practice of a fixed percentage rate within a fixed formula prohibits the flexibility needed to

counteract any inflationary factor encountered in the cost of supplies, utilities, etc. The use of the fixed percentage rate is also questionable because of such variables as (1) current general condition of schools and classrooms, (2) varying costs of supplies and utilities, (3) varying utility rates throughout the State's regions, (4) the means of heating by coal, gas, oil or electric and the accessibility of the types of fuel supply.[28] Provided in Table 16 is an example of variation in the utility service costs of the five major electric power companies serving West Virginia, and thus, affecting cost differentials among the county school districts throughout the State. An approximate twenty-one dollar cost differential per 1500 kilowatt hours is evidenced between the Appalachian and Wheeling Power Companies.

Table 16.

Typical Commercial Service Costs
(In Dollars)
January 1, 1983

Five Major Electric Power Companies Serving West Virginia	KW	or	KWHR
	12		1500
Monongahela Power	80.11		
Potomac Edison Power	87.30		
Appalachian Power	71.47		
Wheeling Power	91.00		
Virginia Electric Power	84.35		
Average	82.84		

Source: Edison Electric Institute, Rate Regulation Department, 1983.

Step VII: Instructional Improvement

The foundation allowance to improve instructional programs, found in Step Seven, contains a 20 percent allocation to counties proportional to the adjusted enrollment. An 80 percent allocation is distributed based on the county school districts' basic resources per pupil and is designed to attain greater equity in per pupil allocation. The plan provides allocations beginning with the county having the lowest basic resources per pupil (see Glossary) and progresses, successively, to the county having the highest basic resources per pupil. The county school district with the lowest level of basic resources per pupil is provided the funds needed to place that county on the level with the county having the next higher level of basic resources per pupil.

Step Seven was enacted by the Legislature to equalize the instructional programs and educational opportunities for the students. This step was derived from the former step known as the Foundation Allowance for National Average Attainment, enacted in 1971.[29] The revision of Step Seven came about during the period of the Pauley v. Bailey case and major changes in this step of the former formula were enacted in 1981,[30] with slight revisions in 1982.[31]

This step of the formula takes into account the

school district's basic resource per pupil, which includes the revenue from each district's regular levy and state aid, Steps One through Six. The Step Seven calculation does not take into account and, therefore, does not equalize the money received from excess levies. Since the basic resource per pupil is the basis for determining the amounts a county is to receive of the 80 percent equalization funds and since the revenue from excess levies is not used in the calculations, a major inequity seemingly remains in the Step Seven allowance.

Additionally, a fallacy exists regarding the effect of the transportation allowance upon Step Seven in that the money received by each county school district for its transportation costs affects the county's Step Seven ranking and, thus, the receipt of funds. This disequalizing feature was previously described using the examples of Pendleton and Pleasants Counties. Shown in Table 17 are rural, less wealthy counties, i.e., Pendleton, Hardy, Gilmer, Braxton, Calhoun, Pocahontas, and Clay, as having relatively higher per pupil transportation costs. Since each county receives 80 percent of its operation costs for transportation through the foundation program, rural counties having a much higher transportation cost per pupil receive a higher per pupil reimbursement. This allowance, plus local expenditures for transportation, are

Table 17.

State Allowance for Transportation
Based on Net Enrollment

County	1983-84 Net Enrollment	State's Cost Per Pupil (Rounded)	State Allowance
Barbour	3,304	$ 87.50	$ 289,708
Berkeley	9,623	62.00	598,351
Boone	6,683	87.00	582,781
Braxton	2,944	134.50*	396,064
Brooke	5,255	75.00	396,416
Cabell	17,100	47.00	803,807
Calhoun	1,746	129.00*	225,041
Clay	2,575	148.00*	379,484
Doddridge	1,479	115.00	170,687
Fayette	11,442	61.00	699,223
Gilmer	1,450	116.50*	168,924
Grant	2,056	88.50	182,356
Greenbrier	6,948	76.00	529,627
Hampshire	2,970	98.50	293,193
Hancock	6,952	62.00	433,450
Hardy	2,013	126.00*	256,743
Harrison	13,609	61.00	829,753
Jackson	5,275	93.00	492,911
Jefferson	6,058	63.00	382,780
Kanawha	38,709	48.50	1,877,179
Lewis	3,557	77.50	276,008
Lincoln	5,337	92.00	493,325
Logan	11,259	76.00	861,839
Marion	10,973	63.50	699,394
Marshall	7,358	90.00	661,200
Mason	5,121	80.00	410,202
Mercer	13,683	59.00	811,470
Mineral	5,334	76.00	406,672
Mingo	9,321	56.00	523,5[illegible]
Monongalia	10,554	66.50	702,[illegible]10
Monroe	2,322	108.00	252,[illegible]2
Morgan	2,133	73.00	156,[illegible]4
McDowell	11,008	65.00	719,[illegible]2
Nicholas	5,975	87.00	522,[illegible]1
Ohio	7,299	56.50	414,189
Pendleton	1,423	133.00*	189,[illegible]2
Pleasants	1,635	[illegible].50	154,[illegible]9
Pocahontas	1,782	136.00*	243,044
Preston	6,424	87.00	558,418
Putnam	8,368	67.00	560,430
Raleigh	17,393	66.00	1,146,[illegible]3
Randolph	5,448	79.00	431,[illegible]8
Ritchie	2,097	118.00	247,[illegible]4
Roane	3,288	106.50	350,[illegible]4
Summers	2,593	83.50	217,[illegible]8
Taylor	3,188	89.00	284,402
Tucker	1,633	81.00	132,[illegible]5
Tyler	2,346		245,132
Upshur	4,754	104.50	356,814
Wayne	9,728	75.00	659,[illegible]9
Webster	2,688	87.50	235,[illegible]0
Wetzel	4,640	70.00	328,[illegible]6
Wirt	1,146	93.50	107,[illegible]9
Wood	17,233	51.00	865,517
Wyoming	8,538	[illegible].50	680,[illegible]1
Total		4,537.50	25,900,909
State Average		82.50	470,925.62

Source: West Virginia Blue Book , Vol. 68, 1984.

calculated into the "basic resources per pupil" figures. This results in a false perception of per pupil expenditure and county wealth, and in turn, decreases the county's allocation of Step Seven money.

In Table 18, six of the above named county school districts rank in the top portion of the Step Seven allocation and do not qualify for the 80 percent allocation.[32] This method of calculating and ranking the counties according to basic resources per pupil does not actually show a consistent relationship to the county school districts' needs for instructional money. As recently as the school year 1984-85, twenty-three of the fifty-five counties were receiving approximately $11.23 per adjusted enrollment from the Step Seven 20 percent allocation and received no benefits of the 80 percent portion, based upon Basic Resources Per Pupil. Among the non-wealthier counties falling into this category was Pendleton. Ultimately, counties which necessitate higher per pupil allocations, due to the sparsity factor requiring greater transportation costs and personnel, are actually penalized. Rather than meeting the goal of greater equalization per pupil, Step Seven maintains a disequalizing effect within the State Aid plan.

Furthering the questionable distribution of Step Seven money, a county school district's dependency upon

Table 18.

Allocation of "Step 7" for 1984-85
Based on "Basic Resources Per Pupil" of 1983-84

County	1983-84 Basic Resources Per Pupil	Rank
Doddridge	$1,754.36	1
Pleasants	1,692.05	2
Pocahontas	1,687.83	3
Grant	1,665.66	4
Marshall	1,655.93	5
Braxton	1,628.12	6
Gilmer	1,605.75	7
Clay	1,599.07	8
Hardy	1,586.19	9
Mason	1,565.52	10
Kanawha	1,538.43	11
Boone	1,531.28	12
Barbour	1,530.61	13
Tucker	1,530.10	14
Monroe	1,524.74	15
Tyler	1,522.54	16
Pendleton	1,520.79	17
Ritchie	1,516.72	18
Greenbrier	1,515.29	19
Lewis	1,514.13	20
Hampshire	1,512.38	21
Marion	1,512.20	22
Wirt	1,510.58	23
Hancock	1,498.64	24
Taylor	1,498.21	25
Putnam	1,495.22	26
Wayne	1,494.79	27
Monongalia	1,483.52	28
Harrison	1,481.50	29
Jackson	1,467.27	30
McDowell	1,467.04	31
Ohio	1,464.34	32
Mercer	1,462.91	33
Brooke	1,461.00	34
Nicholas	1,457.62	35
Morgan	1,456.91	36
Calhoun	1,451.09	37
Summers	1,450.53	38
Lincoln	1,448.70	39
Wyoming	1,448.58	40
Cabell	1,439.60	41
Upshur	1,432.07	42
Webster	1,428.93	43
Raleigh	1,427.31	44
Wood	1,425.02	45
Wetzel	1,413.06	46
Fayette	1,404.42	47
Mineral	1,399.29	48
Berkeley	1,394.32	49
Preston	1,389.21	50
Jefferson	1,383.64	51
Roane	1,382.58	52
Logan	1,375.66	53
Mingo	1,331.11	54
Randolph	1,295.37	55
Average	$1,472.21	

Source: Public Education Source Book , West Virginia Department of Education, 1985.

these funds may result in the fragmentation of program or curricular offerings. This situation becomes probable due to the year-to-year fluctuation in the amount of funds available for distribution and the varying amounts received by the counties. A county school district receiving Step Seven funds in any one given year may initiate innovative or expanded learning opportunities. However, any guarantee for receiving the same level of funding and, therefore, continuing the new and improved program(s) is unlikely unless the county school district assumes the increased fiscal responsibility. To reflect the variation in the distributable amount, Table 19 shows the fluctuation in levels of funding for specified county school districts or the school years 1982-83 through 1984-85. Nicholas County, as an example, received an increase of 60.5 percent in its amount of Step Seven allocation between the years 1983-84. However, in 1985, this county's amount was cut by more than 50 percent.

The amount of funds available for distribution varies due to the means of securing funds. Step Seven money is determined by funds accrued from allocations due to increase in local share over and above that computed for the school year, the General School Fund balances and other appropriations by the Legislature. Considered as a minor source of funding, the amount available distribution from

TABLE 19.

ALLOCATION OF STEP VII FOR 1982-83
BASED ON (PROPOSED) BASIC RESOURCES PER PUPIL OF 1981-82

COUNTY		BASIC RESOURCES PER PUPIL	ALLOCATION OF 20% BY ENROLLMENT	ALLOCATION OF 80% TO HIGHEST POSSIBLE PER PUPIL LEVEL	TOTAL ALLOCATION
HANCOCK	(HI)	$1,438.34	57,789	925,326	57,789
PUTMAN	(MED TO HI)	1,426.06	69,009	-	69,009
MONROE	(MED)	1,394.74	22,686	72,269	94,955
HARRISON	(MED TO LO)	1,343.29	119,199	1,256,939	1,376,138
NICHOLAS	(LO)	1,359.68	50,839	416,909	467,748

ALLOCATION OF STEP VII FOR 1983-84
BASED ON(PROPOSED)BASIC RESOURCES PER PUPIL OF 1982-83

HANCOCK	(HI)	1,513.58	79,877	-	79,877
PUTMAN	(MED TO HI)	1,411.53	98,147	69,313	167,460
MONROE	(MED)	1,398.66	31,983	63,951	95,934
HARRISON	(MED TO LO)	1,371.12	170,441	812,510	983,599
NICHOLAS	(LO)	1,360.94	72,493	419,744	722,084

ALLOCATION OF STEP VII FOR 1984-85
BASED ON (PROPOSED) BASIC RESOURCES PER PUPIL OF 1983-84

HANCOCK	(HI)	1,498.64	88,531	11,650	100,181
PUTMAN	(MED TO HI)	1,495.22	111,998	48,835	160,833
MONROE	(MED)	1,524.74	35,150	-	35,150
HARRISON	(MED TO LO)	1,481.50	191,700	317,720	509,420
NICHOLAS	(LO)	1,457.62	82,117	310,662	392,779

SOURCE: WEST VIRGINIA DEPARTMENT OF EDUCATION

the General School Fund is approximately 1.5 million dollars.

Data reveal that Step Seven of the formula features non-dependability of sources, inadequate and fluctuating levels of funding, and an inequitable distribution design. In its present form, while being affected by other steps of the state aid formula, Step Seven fails fully to achieve its intended purpose of equalizing basic resources per pupil and financial parity among the counties. [Since 1986, each county school district has been guaranteed no less than $100,000.00 per annum].

Funding for Capital Improvements

Outside the formula, but still a critical aspect in the total school funding picture, is the State's prescription for facilities and construction. Improving school facilities has, historically, been a responsibility of local effort as West Virginia is without a state funding mechanism for constructing or renovating school facilities.

The State aid formula makes no specific provision for capital improvements which would allow county school districts to maintain adequate school facilities. Physical plant expansion and modernization have been, traditionally, accomplished through the use of general obligation bonds issued by the county school boards, or through revenues

from excess levies.[33]

A significant and major means of State support for capital improvements was realized through the 1972, voter approved, Better School Buildings Amendment . Through this amendment, the State sold bonds in the amount of two-hundred million dollars for the construction and/or renovation of school facilities. The funds distributed to the county school districts included a flat grant of $200,000.00 plus additional money based upon, (1) county school net enrollment and (2) the county's local assessed valuation per pupil or bonding potential. This amendment provided an incentive for counties to seek additional local funds.[34]

Prior to the 1972 Better School Buildings Amendment, only a few county school districts were able to pass local bond elections for school construction.[35] The Better School Building Program assisted in promoting local funding to improve inadequate school facilities. Millions of dollars were spent for school facilities improvement throughout the State between the years 1972 to 1982.[36] Though significant progress was made through the Better School Building Program, many needs remain to be met. The ability of a county school district to provide facilities has depended not only upon the willingness of the board and the people, but also upon the county's wealth or tax base

which is directly related to the county's bond potential. This relationship is realized by the fact that the issuance of bonds for school construction may not exceed 5 percent of the county's total assessed value of the taxable property.[37] When put before the people, the bond issue must receive an approval of a simple majority.[38] Based upon the taxable property wealth, there is great variation in the bonding potential among the West Virginia counties. It becomes evident that disequalization in educational opportunities surfaces, due to the inability of those counties with a low property tax base to finance the construction of school facilities. Even where school construction bonds are successful, the low tax base in poorer counties often does not provide sufficient funding to meet the total needs.

Pendleton County, for example, is made up of farms and has one factory located within its boundary. This results in a critical dependence on the farmers to pay the bonds and to provide money for improving and building school facilities. In addition, the percent that is allowed especially affects a county with a low tax base and prohibits raising sufficient amounts of construction and renovation money through a bonding program. Shown in Table 20 is the bonding potential based upon the 1983-84 assessed value for each of the fifty-five counties. Wirt County,

Table 20.

Bonding Potential
1983-1984

	1983-84 Assessed Property Value	Bond Potential @ 5% of Assessed Property Value
Barbour	$141,513,600	$7,076,680
Berkeley	370,108,696	18,505,435
Boone	349,281,455	17,464,073
Braxton	150,758,580	7,537,929
Brooke	223,714,450	11,185,723
Cabell	879,875,530	43,993,777
Calhoun	76,283,390	3,814,170
Clay	111,249,900	5,562,495
Doddridge	108,833,710	5,441,686
Fayette	409,749,745	20,487,487
Gilmer	121,907,530	6,095,377
Grant	178,555,801	8,927,790
Greenbrier	269,289,175	13,464,459
Hampshire	133,210,170	6,660,509
Hancock	331,171,694	16,558,585
Hardy	98,121,455	4,906,073
Harrison	735,400,860	36,770,043
Jackson	276,888,120	13,844,406
Jefferson	228,688,160	11,434,408
Kanawha	2,480,253,236	124,012,662
Lewis	202,414,300	10,120,715
Lincoln	149,874,245	7,493,712
Logan	399,703,500	19,985,175
Marion	598,638,850	29,931,943
Marshall	599,549,050	29,977,453
Mason	313,746,727	15,687,336
Mercer	513,384,543	25,669,227
Mineral	184,100,903	9,205,045
Mingo	247,480,500	12,374,025
Monongalia	489,777,026	24,488,851
Monroe	72,318,506	3,615,925
Morgan	86,528,790	4,326,440
McDowell	331,024,150	16,551,208
Nicholas	251,769,850	12,588,493
Ohio	464,700,875	23,235,044
Pendleton	59,211,730	2,960,587
Pleasants	261,913,970	13,095,699
Pocahontas	98,526,633	4,926,332
Preston	214,744,533	10,737,227
Putnam	580,909,460	29,045,473
Raleigh	618,229,150	30,911,458
Randolph	187,874,982	9,393,749
Ritchie	96,165,780	4,808,289
Roane	133,756,613	6,687,831
Summers	94,640,360	4,732,018
Taylor	112,474,680	5,623,734
Tucker	58,955,320	2,947,766
Tyler	92,521,550	4,626,078
Upshur	212,244,515	10,612,226
Wayne	298,540,940	14,927,047
Webster	127,646,580	6,382,229
Wetzel	190,521,010	9,526,051
Wirt	35,552,915	1,777,646
Wood	627,670,520	31,383,526
Wyoming	265,568,290	13,278,415
	$16,947,556,603	$847,377,840

Source: West Virginia Department of Education
West Virginia Blue Book , Vol. 68, 1984.

having the lowest assessed property value, has a bonding potential of less than two million dollars. Kanawha County's assessed property value is over two billion dollars with a bonding potential of one hundred twenty-four million.

It was not until 1981 that the State law included a provision for the establishment of a State division of facilities planning.[39] The division of facilities planning is charged with providing the state board of education with an annual report of its assessments and recommendations. A 1981 state-wide assessment of school facilities identified the need for additional resources for school construction and renovation. The school facilities survey,[40] updated in 1983 and validated by the West Virginia Department of Education, provided for a statewide study, in order to verify that the standards of the Master Plan were being incorporated into the assessment process. Utilizing the 1983 update data as a base, an estimate of the 1984 school facilities needs was established.

Based upon the judgment of public school officials within the counties, using comprehensive analysis of the existing facilities, the needs for housing a quality education program were identified and were ranked according to areas of priority. An estimated cost of the 1984 school facility total needs was approximated at $875,450,000.[41]

Provided in Table 21 are the survey data utilizing those areas of priority included in the Master Plan . The data reflect the areas of modernization/renovation and new construction as having the greater levels of priority.

Table 21.

1983 Survey Data On Areas of Priority for the Master Plan

	PRIORITY AREA	NEED $	% OF TOTAL
1.	Health and Safety	$127,730,000	14.6
2.	Severe Overcrowding	134,060,000	15.3
3.	Modernization/Renovation	303,650,000	34.7
4.	New Construction	210,650,000	24.1
5.	Support Facilities	48,250,000	5.5
6.	Site Improvement	51,110,000	5.8
		875,450,000	100.0

Source: Don R. Richardson Associates, Inc.

Summary

The West Virginia school support plan and related factors, as taxing and appraising procedures, have been identified as possessing features which diminish the State's ability to provide a thorough and efficient system of education. Additionally, the authorization for a county board of education to impose a special levy upon the local property has been cited by the court as a primary cause of inequalities among the counties.

Steps of the West Virginia State Aid Formula have been described and reference was given to the existing fallacies of the formula, as interpreted by the writer. Among those steps cited as needing modification were:

1. Steps One and Two - Allowance for Salaries for Professional and Service Personnel.
2. Step Four - Allowance for Transportation.
3. Step Six - Allowance for Other Current Expense and Substitute Employees.
4. Step Seven - Allowance for Improved Instructional Programs.

Additionally, funding for capital improvements was noted as a critical factor within the total school funding program. West Virginia is without statutory provision allowing for ongoing State support in the area of capital improvements. Improving facilities has been the

responsibility of each local school district. The districts, in passing a bond election for school improvements, are dependent upon the willingness of the majority of voters to support the issue. The non-wealthy counties, having an extremely low property tax base, have not only been unable to pass school bond elections but have such little bonding potential that the additional revenue would not adequately meet the facility improvement needs.

In 1972, State support for Better School Buildings became possible through a constitutional amendment. The $200,000,000.00, which was appropriated, provided incentive to the county school districts to pass their bond elections and to improve their school facilities.

Additionally, a state division of facility planning was established by law, in 1981. This committee was charged with supplying the state board of education with an annual assessment and recommendation report on the facility needs.

End Notes

Chapter 3

1. W. Va. Const. art. XII, §1.

2. Pauley, et al. v. Kelly, et al.

3. Governor's Survey On School Management, (State of West Virginia, 1974), p. 2.

4. W. Va. Code ch. 18, art. 9a, §§ 4-10.

5. Governor's Survey..., p. 2.

6. Governor's Educational Policy Task Force, (State of West Virginia, 1981), p.11.

7. Ibid., p.12.

8. W. Va. Code ch. 18, art. 9a, § 11.

9. W. Va. Code ch. 11, art. 3, § 1.

10. W. Va. Code ch. 11, art. 6, §§ 1-25.

11. School Laws of West Virginia, chapter 18, article 9a, 11 (1984). Prior to the 1982 Tax Limitation and Homestead Exemption Amendment, property in each county could be assessed at a rate varying anywhere from 50 percent to 100 percent of the property's appraised value. The 1982 Amendment calling for more uniform assessments, stated that all property would be assessed at a flat 60 percent of its full, fair market value. The value, thus obtained, called the "assessed valuation", is that value on which levying bodies may set a rate of taxation or levy rate. The "excess levy" is also levied on this same assessed valuation property.

12. W. Va. Const. art. X, §10. (House Joint Resolution No. 14, 1982).

13. W. Va. Const. art. X, § 8.

14. Governor's Educational Policy ..., p.13.

15. Ibid., p.27.

16. W. Va. Code ch. 18, art. 9a, §§ 1-20.

17. W. Va. Code ch.18, art. 9a, §§ 4-10.

18. Roe L. Johns and R. Salmon, The Financial Equalization of Public School Support Programs in the United States for the School Year, 1968-69, (Gainesville: National Education Finance Project, 1971), p. 122.

19. "Our Children's Educational Needs...," p. 3.

20. Ibid., p. 7.

21. "Outside the formula" reference was made to such items for programs as salary supplements, special education, vocational education, safety education. Prior to 1981, supplemental funds for personnel salaries were allocated according to experience and training, outside the basic aid formula.The 1981 legislature repealed section two-a, article four of chapter eighteen-a of the West Virginia Code in order to bring the minimum state salary under the public school support plan. Money for said programs are currently being allocated separately from the formula.

22. "Our Children's Educational Needs...," p. 9.

23. Pendleton County data is from the following sources: (a) John F. Bowers, Superintendent of Schools, Pendleton County, (b) Educational Statistical Summary, West Virginia Department of Education, 1982-83, (c) Public Education Source Book, West Virginia Department of Education, 1984, (d) West Virginia Blue Book, ed. Todd C. Willis, CXVII, 1983.

24. In the year, 1983-84, this high ranking allowed Pendleton County to be the recipient of $24,163 of Step Seven monies designated to improve instructional programs.

25. Pleasants County data are from the following sources: (a) Educational Statistical Summary , West Virginia Department of Education, 1983-84, (b) Public Education Source Book, West Virginia Department of Education, 1984, (c) West Virginia Blue Book, ed. Todd C. Willis, CXVII, CXVIII, 1983, 1984.

26. Pauley, et al v. Bailey, et al., Kanawha County Circuit Court, May 1982, Civil Action 75-1268, p.103.

27. Pleasants County ranked in the upper portion among those counties having the highest per pupil expenditure and was awarded $20,872 for improving instructional programs or Step Seven monies.

28. Coal mining is mostly concentrated in the southwestern portion of the State. Oil production is more concentrated in a strip from the Ohio River (Pleasants County) across the central portion of the State, including counties as Ritchie, Lewis, Upshur, and Randolph. Source: West Virginia Blue Book, CXVII, 1983.

29. Acts of the Legislature of West Virginia, c. 153, 1971.

30. Acts of the Legislature of West Virginia, c. 51, 1981.

31. Acts of the Legislature of West Virginia, c. 49, 1982.

32. The 1985 Legislature enacted a plan to allow each county to receive a minimum of $100,000.00 for the ensuing year(s). This is a much needed increase for many counties, but does not serve as the complete solution to the existing inequities.

33. An Assessment of the Current Statewide School Facilities Needs for the West Virginia Department of Education, (Don R. Richardson Associates, Inc., February 1, 1984.), p. 21.

34. W. Va. Const. (W. Va. Code ch 18, art. 9c).

35. Ibid.

36. Ibid., p. 3.

37. W. Va. Code ch. 13, art. 1,§ 3.

38. W. Va. Const. art. X, § 10. (House Joint Resolution No. 14, 1982).

39. W. Va. Code ch. 18, art. 9a, § 21.

40. An Assessment of the Current ..., p. 4.

41. Ibid., p. 1.

Chapter 4

SUMMARY

In this study, appropriate legislative acts and school laws of West Virginia have been examined to relate the historical and legal development of the State's school fiscal support plan. The statutory method of calculating state and local support, as well as the effects of the school support method upon the elements of adequacy and equity within the State's educational operation, have been described.

The historical facts found in the secondary research, which included court cases, historical studies, and legislative reports, have revealed that the initial legal base, from which the current school support plan stems, has been instrumental in inhibiting equal educational opportunities throughout the State. The various studies and cases relate that year after year the level of school support was inadequate as each township or school district was allowed, as well as strongly expected to support its schools through local taxation. State aid was available to the poorer districts, while the wealthier districts, prior to the depression years, were able to operate with less tax effort and were somewhat independent of State aid. This financial aid to the township districts

was provided through the school fund which was distributed to the districts based upon the enumeration of youth between the ages of six and twenty-one years. Sources for school funding varied over the years, as the increasing demand for State assistance required new and additional taxes to be channeled for the support of schools, as well as, for other public services.

The recurring problems of (1) inadaquate taxing procedures (2) insufficient revenue to support education, and (3) inequitable distribution design have been in existence from the State's earliest history stemming from the 1860's. The following discussion is a recapitulation of past events in education history and the evolution process by which the school finance structure arrived at its present state.

Review of Significant Educational Historical Happenings As They Affected the Current Funding System

A series of milestones in the evolution of the West Virginia public school finance system has occurred since the State's inception, in 1863. Each of these milestones has been identified in the previous chapters and will be succinctly reviewed.

1863 The constitutional provisions for establishing a thorough and efficient system of free schools and for supporting free schools included in the

organizational structure, a position of General Superintendent of Schools, elected by the two legislative branches; County Superintendents, elected by the qualified voters in each county; and other elected officers as needed. This included the election, by the people, of three Board of Education members from each township [school district], who in turn appointed three members as a Board of Trustees.

For the support of free schools, the 1863 West Virginia Constitution provided for an Invested School Fund consisting of grants for education, estates without Wills, a portion of the Virginia Literary Fund, and Legislative appropriations. The support for free schools was provided from two levels:

1. The State source for funding schools consisted of interest from the Invested School Fund, net proceeds from fines, forfeitures, and confiscations, and general taxation on persons [a capitation tax on white males over age 21 years] and property [a state property tax of ten cents on each $100 assessed valuation].

2. The District revenue source was derived from the authority given each township to place a tax on

property both real and personal [approved by vote of the people]. The levy imposed for both the teachers' fund and the building fund was not to exceed fifty cents on the $100 assessed valuation, in either case.

1872 Constitutional provisions, in 1872, were similar to those of 1863. There was a conversion of the title of General Superintendent to State Superintendent, who was thereafter to be elected by the people; also, provided was a Board of the School Fund to oversee the fiscal investments.

1902 The Invested School Fund became limited to one million dollars through an amendment to the Constitution known as the Irreducible School Fund Amendment. All proceeds exceeding one million dollars, including interest from the Fund, taxes, etc., being credited to the support of schools were to go to the newly established General School Fund. Fund disbursement in order of priority was to pay the salary and contingent expenses of the State Superintendent, and salaries of the County Superintendents. The remaining available money was distributed to the counties, whereby, the County Superintendent would distribute the same to each district based upon the number of youth between the

ages of six and twenty-one years. This amount was in addition to the money raised by local taxation for the Teachers' and the Building Funds.

1904 The maximum levy rate for the Teachers' salary remained at fifty cents per each $100 assessed valuation. The maximum levy rate allowed for the Building Fund had decreased [from fifty cents to forty cents in 1872] to twenty cents, in 1904.

1907 The State removed the school tax of ten cents on each $100 assessed valuation of real and personal property.

1908 Statutory law provided for the establishment of a State Board of Education.

1932 The General Classification of Property and Tax Limitation Amendment classified property into four broad categories and fixed ceilings on tax rates. The aggregate amount of taxes levied by all taxing bodies could not exceed: Class I property = fifty cents on the $100 assessed valuation; Class II = one dollar; Class III = one and one-half dollars; Class IV = two dollars. This act was designed to lighten the burden on property owners who found difficult times from the depression. It soon became realized, however, that the tax limitation on property caused a substantial decrease in the

ability of local units to generate sufficient revenue for schools and other public services. [With the approval of 60 percent of the voters, the people could vote to exceed the maximum levy rates, but never to exceed more than 50 percent of the maximum rate]. As a result of the tax limitation on property, there was evidenced a shift away from tax on property to indirect taxation. A compensatory measure was taken through the imposition of a 2 percent Consumer's Sales Tax [a temporary measure], along with a Business and Occupations Tax on gross sales, and taxes on licenses, franchises, etc.

1933 The County Unit System was established in order to provide more efficient school operations as the State had begun to have a greater investment in schools. The number of school districts was reduced from 397 to 55. Within this new law, authority was granted to the local boards to lay a levy on the property within the county, without voter approval. Also, authority was granted the local board to appoint the County Superintendent. The law changed the number of county board members from three to five members. State aid, depending upon the money available and decided as a fair

portion by the State Superintendent, was guaranteed in proportion to a county's needs and revenue raising ability.

A companion bill to the new law was the Primary and Secondary School Aid. This school fund act provided assistance to those county school districts which were unable to pay teachers' salaries for a minimum four month term. What the counties could not pay, the State provided the difference in the amount needed.

1939 A computed formula plan was initiated which was to bring about greater equalization and guaranteed to provide equitable distribution of State funds. The purpose was to remove the discretion of the distribution of State funds from the administration. A State Board of School Finance was established to distribute the amount that was available from the school fund and to provide sound and stable management for fiscal operations. The State was to fund at least 45 percent of the cost of the foundation program or an amount equal to the difference between the cost of the foundation program and the local share of revenue.

1949 The state aid plan for schools was revised and state aid was increased to 65 percent of the cost

of the foundation plan. This plan was developed by the county superintendents and the concept for local share computation was based upon the business indices within each respective county.

1950 State aid for construction was first initiated through a ten million dollar appropriation for a building program. Each county school district was to receive one-half of one percent of the total apropriation. Any additional money was available to those counties willing to generate funds over and above their current levy. In order to accomodate such an allowance, the legislature proposed the School Bond Amendment. This amendment allowed county school districts to incur debt and limited their power to incur debt. The amount of debt could not exceed three percent of the assessed valuation on taxable property within the county. Such action required 60 percent voter approval.

1953 The school support plan was revised and incorporated similar items of allowance which are in the current plan, i.e., allowances for salaries, transportation, other current expenses, and general improvement. The plan was claimed to be more adequate in keeping schools in operation for a nine month term. State aid was the difference between

the cost of the total foundation program and the local share of the county school district. Computation for the local share was computed as it is in the present structure. [Exception: The State Board of Education applied 50 percent instead of the present 55 percent to the 95 percent of the appraised value of non-utility property].

1958 The Cigarette Tax was imposed and directed to the General School Fund.

The State Superintendent of Schools Amendment was enacted and placed the supervision of free schools upon the West Virginia Board of Education. The Board was given authority to appoint the State Superintendent.

The Better Schools Amendment authorized the county school districts to lay a special levy up to a maximum 100 percent of the authorized rate for a period not to exceed five years. The amendment also increased from three to 5 percent of the county's assessed valuation for the amount of bonded indebtedness which could be served. Both of the above mentioned actions required 60 percent voter approval.

1961 State Taxes were added and/or increased in order to generate revenue for supporting public services.

The Consumer's Sales Tax, initiated as a temporary measure in 1931, was increased from two to 3 percent; the Use Tax was increased by 1 percent; the Excise Tax on cigarettes continued to increase and a new tax on Personal Income was imposed.

1965 A State minimum salary schedule was established with authority given to county school districts to exceed the State minimum level. [Said legislation was amended and replaced, in 1968, with chapter eighteen-a, dedicated solely to the topic on personnel].

1970 The State witnessed a 10 percent growth in tax yield due to the location of new industry and to a previously authorized state-wide reappraisal program and more effective assessment practices. As a result of the increased resources, education began to experience more positive support from both the Legislative and Executive branches of State government.

1971 The Capitation Tax was repealed.

A redirection of taxes and other funds previously earmarked for the General School Fund were to go to the General Revenue Fund. The functions and responsibilities of the Board of School Finance were to be assumed by the West Virginia Board of

Education. A revision in the state aid formula called for a plan containing seven basic steps. These steps [or allowances] included salaries, transportation, social security, administrative costs, other current expense, and national average attainment. Each step used a fixed percentage or ratio as a computation basis. The State's share was to be the difference between the cost of the total foundation program and the computed local share for each county school district. The format of the 1971 plan is nearly identical to the 1981 plan.

1972 The Better School Buildings Amendment allowed for $200,000,000 in State bonds to be sold. Money was made available to local boards of education for construction, renovation, remodeling, and equipment. This action provided incentive to the county school districts in passing their bond levies for school building purposes. A flat grant of $200,000.00, plus assistance based upon net enrollment was available to those counties which had a State approved comprehensive facility plan and which had the resources to supplement the State funding wherever the plan required such. As a result, the State witnessed the highest percentage

of passage of bond levies among the county school districts.

1975 In Pauley v. Kelly, the Pauleys sought relief for being denied a thorough and efficient system of education and for being denied equal protection. The case was dismissed by the lower court stating that the allegations were unfounded, as proof was not given to show that the existing poor conditions in the Lincoln County schools were as a result of the State's school finance system. The case was appealed and, in 1979, was remanded back to the Kanawha County Circuit Court with given directions by the State Supreme Court of Appeals to examine the State's funding system for schools and building construction, as well as, the excess levy, taxing procedures, and state and local administrative roles. Judge Arthur Recht was appointed as a special judge to the Kanawha County Circuit Court.

1981 Within the case of State ex rel. Board of Education, etc. v. Rockefeller the fact was reiterated that education has a constitutionally preferred status. The Governor was unable to force a prorata deduction in expenditures from the education budget.

A revision in the school aid formula, through

Senate Bill 15, changed the ratios and percentages within the then existing formula. This bill changed the name for Step Seven or Allowance for National Average Attainment to Allowance for Instructional Improvement. This Step was designed to equalize the educational opportunities among the fifty-five county school districts. Other noted changes were in the areas of fixed costs and for substitutes. Two new sections were added to include provisions for minimum standards of quality in education and for establishing a division for facilities and planning. The law also also prescribed that 55 percent instead of 50 percent of the 95 percent of the appraised value non-utility property be utilized in computing local share. The total bill, it is believed, was an attempt by the Legislature to appease the court before an unfavorable ruling could be handed down.

1982 In Pauley v. Bailey a forty day non-jury trial, stemming from the Pauley v. Kelly case, resulted in the court's declaration that the school support plan in West Virginia is unconstitutional. The court stated that:

1. The plan violates articles three and twelve of the West Virginia Constitution.

2. A Master Plan is needed to bring the school system into constitutional conformity.

3. The Tax Commissioner is to correct the deficiencies and inequitable standards in taxation.

4. The system fails to provide an ongoing program for funding school construction.

5. The State Board must have a grievance procedure whenever a district fails to provide a high quality education, resources being available.

6. The Legislature is called to reconstruct the entire system of education in West Virginia.

The Fair Educational Opportunity Amendment reduced from 60 percent to a simple majority vote required for approving an excess levy, the indebtedness by a Board of Education, and the issuance of bonds.

The Master Plan for a Thorough and Efficient System of Education was submitted to the Court, in December, 1982. The plan addressed quality standards for curriculum, instruction, personnel, facilities, food services, facilities, equipment, and supplies. The plan cited deficiencies in the present formula and the unfavorable use of the excess levy on the local level.

The case of Rose (State Tax Commissioner) v. Fewell related to the question of whether or not

the Tax Commissioner has the authority to direct county assessors to enter what he considers to be lawful assessments on property. The Tax Commissioner sought a writ of mandamus compelling the respondents (Putnam County assessor, et al.) to enter lawful property assessments for the 1982 tax year; that the respondents turn over the tax books to the Commissioner to make the necessary adjustments or that the respondents make the adjustments. A writ was granted by the State Supreme Court of Appeals on July 2, 1982, stating that the Tax Commissioner has the authority to proceed to enforce West Virginia Code provisions, §18-9a-11. The Tax Commissioner has the authority and duty to see that the laws concerning assessment and collection of all taxes and levies are faithfully enforced. West Virginia Code §11-1-2. In Killen v. Logan, the President of the Logan County Board of Education sought review of a decision by the county board of equalization and review, approving the assessment values set by the county assessor. The question arose pertaining to the constitutionality of the allowance of the West Virginia Code, § 18-9a-11. Said article which permitted a variance of property assessment ranging

from fifty to 100 percent of its appraised value was alleged to be contradictory to the consitutional guarantee of "equal and uniform taxation," West Virginia Constitution Art. X. The trial court held that the statute allowing for fractional assessments of properties' appraised value, was in violation of the State's constitutional guarantee. This decision was affirmed by the State Supreme Court of Appeals.

The Property Tax Limitation and Homestead Amendment stated that property would be assessed at a flat 60 percent of its full market value based upon the 1983 market value year. The law was to be implemented upon completion of the reappraisal program and upon approval by the Legislature.

Senate Bill 131 stated that the "minimum" standards, referred to in the 1981 Senate Bill 15, were to be changed to "high quality" standards for education. The bill also addressed salary increments for principals, assistant principals; state and county supplements for teachers and service personnel; and salary equity among the county school districts. Through this bill, the State made substantial progress toward equalizing

and correcting the salary imbalances for teachers and service personnel.

The Better Schools, Roads, and Public Works Amendment was an attempt by the Legislature to comply with the court order to provide a thorough and efficient system of education. This amendment proposed a statewide excess levy of ad valorem taxes and a one-cent Consumer's Sales tax increase. The amendment was designed to provide funds equal to the local excess levies; to appropriate, annually, for school construction; and to provide equality in educational opportunity. The amendment was defeated by the voters, in November, 1984.

The examination of the history substantiates the fact that inequities and inadequacies existed, stemming from the first constitutional allowances and stemming from State and local taxation practices. The initial structure set a precedent wherein the organization allowed, as well as, expected each school district to finance and to administer its schools according to the district's ability to pay and/or its willingness to pay. Because of the vast variation in taxable property wealth among the county or township districts, many school districts, over the years, maintained only a minimum of educational standards. Other

school districts were able to provide for schools in a more satisfactory manner.

The inequalities in the State and local funding processes and the inadequacies and variations in levels of opportunity for education started to appear early and continued through the years. The cited deficiencies which caused an inequitable education system and which contributed to the State's current educational dilemma, were the elements of variance in fiscal capacity, inequalities in formula design, unequalized appraisal and assessment practices. These matters continued to be areas of concern for the educational leaders, the Legislators, and the citizens of West Virginia. The following brief discussion provides further information on features of the school support system and the State's attempts to enhance equalization.

Recapitulating those identified areas which plagued the State in its attempts to provide educational equalization, the sources utilized in this study, consistently revealed that a vast disparity in taxable property wealth existed among the school districts, which affected their fiscal capacity to support schools. This unequalized distribution of property wealth presented an enormous problem from the beginning of education history in the State and has continued through the present time.

Additionally, the taxing structure and assessment practices were inadequate and lacked uniformity in application on both the State and local levels. This situation reflects back in history to the State's inception and, which to date, has not yet been fully corrected. Attempts to rectify the tax situation, with regard to tax collecting, property appraisal, and assessment practices, became futile as corporations, as well as, individual property owners often resorted to any means to find "loopholes" within the existing tax laws. Said practices inhibited the local districts in providing support for schools. Further, the Tax Limitation Amendment placed severe restrictions on the ability of local school districts to generate sufficient revenue.

Each of the two above mentioned factors contributed to the State's inability to provide a plan for bringing about an equitable and adequate system of education throughout the State. Additionally, the need for an equitable formula design, also, remained as a critically needed element for the State's education system. Even with the newly initiated computed formula plan in 1939 and other plans following, certain inadequate and inequitable elements of the different formulas continued to exist even through the current structure.

Features of the Current School Funding Plan

Within the current West Virginia school finance support plan, the state absorbs portions of the cost for education through the foundation plan, supplementing the revenue which is raised on the local level. To obtain local funds, each county school district is required to levy a property tax at a minimum level of effort, so specified by the Legislature. Additionally, the West Virginia plan allows for local leeway, whereby, a county school district may lay an excess levy. Disequalization in counties' expenditure capability is compounded when local leeway is permitted. This results in the State allotments having less effect in equalizing the expenditures among the poor versus the wealthy counties.

West Virginia has made progress toward identifying and attaining high quality standards as well as progress toward equalizing per pupil expenditure through the state aid formula. However, the present formula (see Appendix F) described in Chapter Three in its operative state, is recognized as containing non-flexible and restrictive elements which, in effect, work negatively in funds distribution for some county school districts. Because the formula requires each county to recognize and sustain the cost of any fiscal adjustment factors, [over and above the foundation plan] for emergencies, extra personnel, county

salary supplements, instructional materials and supplies, etc., counties which have limited local resources have difficulty in providing equal and adequate educational opportunities for their student population.

West Virginia made an attempt toward improving some of the fiscal disparities among the county school districts, prior to the court decision in Pauley v. Bailey. Among the State's more recently noted improvements were the 1972 Better School Buildings Amendment, as well as, the increased salary paid to professional personnel, which was an attempt to, at least, approach the national median salary. Additionally, the salary equity plan, of 1984, was effective in eliminating the imbalance of professional and service personnel salaries among the county school districts. The Tax Limitation Amendment, of 1982, assisted in minimizing taxation disparities by setting a flat 60 percent assessment rate on property.

The state aid formula, on the other hand, has fallen short of success in equalizing educational opportunities. The availability of school funds, as well as, per pupil expenditures, vary greatly among the fifty-five county school districts and expenditures have remained less than equal and less than adequate in some counties. This has largely been due to the variation in

fiscal capacity of some school districts, as well as, to the allowance of the excess levy.

Considerations for Funding West Virginia's School Finance Program

This study of the historical development of public school funding in West Virginia reveals a need for revamping the state aid plan in order to offer adequate and equal educational opportunities to all the children in West Virginia. Certain school finance issues emerge as being problematic for West Virginia and must be addressed by educational leaders and legislators so that the State may take the positive steps toward attaining equity and adequacy in educational opportunities. Such a factor as the variation in local ability to raise tax money for school purposes is a major concern to be addressed. Equalized and effective taxation procedures is an area which necessitates resolution, so that sufficient revenue may be generated to assure continued support for a thorough and efficient system of education. Additionally, the significant differences related to pupil needs, cost variations, sparsity of population, and district geographic size are deserving of attention, within the formula design. Thus, as a result of this study, the issues of variance in fiscal capacity, inequitable formula design, and inadequate

taxing structure are discussed in the following section and recommended as areas for further study.

Variance in Fiscal Capacity

The variance in fiscal capacity among the counties [or districts] was identified soon after West Virginia's initial establishment, in 1863, of a free public school system and has consistently been a problem within the funding process throughout the education history. The unequalized distribution of taxable property wealth and the necessity of the county school districts to depend upon this local wealth for school funding, in turn, has affected the county's ability to expend for current day-to-day operations, e.g., salaries, staffing [with regard to teacher/pupil ratio and special student populations], instructional supplies, equipment, utilities, and maintenance operations.

The actual costs for current expenses are not adequately provided for in the State aid formula and remains as an area of concern. Dependency upon local tax revenue for these types of expenditures prevents the poorer counties with limited fiscal capacity, from generating sufficient revenue to provide for a thorough and efficient system of education.

Further, the allowance for an excess levy compounds the inequitable conditions which currently exist among the

county school districts. Many counties substantially rely upon the excess levy to provide funding for day-to-day operations, salary supplements, textbooks, etc. The revenue generated from the excess levy, here again, is dependent upon the level of local taxable property wealth. Thus, poorer counties fall behind not only from the small amount of revenue generated from the regular levy, but fall behind as well, from the small amount generated whenever the excess levy is imposed. For example, Lincoln County, for over a decade, has imposed a 100 percent excess levy. However, the yield from the excess levy has been ineffective in providing sufficient revenue to advance the components needed for a thorough and efficient system of education.[1]

Additionally, a problem resulting from the variance in fiscal capacity lies in the area of capital outlay. Similar to the ability to generate current expenditure, the ability to construct safe and adequate facilities is correlated to the wealth of a county, as building construction is most often achieved through the issuance of bonds. A county school district's bonding potential is in direct relationship to the taxable property wealth within the county as a county is authorized to issue bonds for school construction in an amount not to exceed 5 percent of the county's assessed property valuation. This process

establishes a county school district's bonding potential and bonds may be issued upon a simple majority of voter approval.

Those county school districts having characteristics of being rural, sparsely populated, and having little industry are unable to raise a sufficient amount of funds to engage in a significant building program. Additionally, reliance upon county school bond elections, as a means for funding school construction, falls short of desirability in that, in addition to the above mentioned disadvantages, the issue often becomes involved in political issues, personality conflicts, or demographically related influences.

West Virginia's history of local bond elections for school facility improvements has revealed that the more affluent counties have had greater success in passing bond elections. An exception lies with the 1972 Better School Buildings Amendment, whereby, the availability of State funds for school construction enhanced the passage of local bonds. However, even with the passage of bond issues in the poorer counties, the lack of property wealth or low tax base has often failed to secure sufficient revenue necessary for upgrading the county's school facilities.

Potential Solutions:

1. Full State Funding

To implement a complete State support model, the State should assume the responsibility of administering, as well as financing the local schools. The funds utilized for the operation of the schools would be an accepted part of the annual budget submitted by the Governor to the State Legislature just as costs of other State functions are submitted.

With the State assuming full responsiblity for the support of schools, the local ability would no longer be an issue, as the property tax would become a State tax. It should be noted that at the present time, approximately, 97 percent of the property taxes collected remain on the local level to support various public services.[2] Employing a State-wide levy would be in lieu of the local levy and would effectively lend to diminishing the wealth disparities among the county school districts.

2. Full Equalization Foundation Program Without Local Leeway

To bring about full equalization within the foundation program, State aid would be similar to the current provision, whereby, the State's share would be an amount equal to the difference between the total

cost of the foundation program and that of the local share of revenue. The exception would lie in the area of providing 100 percent funding for each of the formula allowances instead of the fixed percentages or ratios which currently exist in the Seven Step plan of the basic foundation program. The present fixed amounts place considerable limitations on those counties having less resources. Concurrent with the suggestion provided above, the Legislature, in order to allow for increased revenue, may consider proposing an amendment to the West Virginia Constitution to allow for an increase in the maximum local levy rates.

Additionally, greater parity among the counties will be achieved by statutory elimination of the excess levy, on the local level. Both by decreasing the disparities caused by the excess levy and by increasing the county school district's fiscal capability through the local regular levy, greater equalization along with increased revenue potential for counties, may be improved. In essence, greater equalization in educational opportunities will be provided through a full equalization foundation program.

3. District Power Equalization

The power equalizing plan assures an equal yield for equal effort. Regardless of the district's

wealth, if its effort is high it will be assured of higher expenditures.[3] Under this model, there is no limit set on maximum or minimum local effort and county school districts may still receive a flat guarantee per pupil. If a county receives from its local levies more than the state guarantee per pupil, it is required to transfer the excess back to the State. Although this funding method serves to eliminate variance in fiscal capacity, it does not eliminate variance in aspiration of the local citizenry. Thus, power equalizing affords the county school districts the opportunity to remove disparities in funds per pupil and, at the same time, allows the citizens to decide the desired level of education.

To implement such a program, the State would need to focus on the wealthiest district in order to establish a per pupil expenditure. The county school district would lay a levy, to raise for example, 10 mills equaling one-hundred dollars per Average Daily Attendance; the State would then provide nine-hundred dollars per Average Daily Attendance in order to attain the State's guarantee per pupil, of one-hundred dollar per mill per Average Daily Attendance.

Formula Design Inequities

To bring about equity in the funding system, the

State may find it necessary to meet both individual student needs as well as county school district differential needs. The West Virginia foundation plan has been described as "not being based on actual educational needs and costs and provides insufficient funds to counties to develop a high quality system of education."[4]

The needs within each county school district are so varied that funding must be allocated according to each county's unique characteristics, e.g., dispersion of school locations, size of county, road and bus conditions, number of pupils transported, and special program needs. A State aid formula designed to fit a county's specific features necessitates extensive needs assessments and evaluations.

Among the chief concerns with the current formula is the State's flat limitation on the personnel allocation of fifty-five professional personnel and thirty-four service personnel per one-thousand adjusted enrollment. The personnel to pupil ratio places severe limitations on the county school district possessing the sparsity factor problem or having extraordinary needs for special student services, e.g., drop-out prevention or alternative school.

West Virginia's current plan provides several allocations based upon percentages of specified costs [personnel salaries] and fails to relate dollars directly to the students and to their individual educational needs.

The present formula gives emphasis to personnel salaries and it is upon this factor that several other formula steps are based.

By using the professional and service personnel salaries as a building block, upon which other formula steps are computed, the State ultimately results in rewarding high capacity districts. This is due to the fact that wealthier county school districts attract and retain more qualified teachers who, in turn, have a higher placement level on the State salary schedule.[5] This procedure allows those counties having teachers with higher levels of training and years of experience to receive a greater proportionate level of the foundation program.

Further, the present formula ignores special student populations with the exception of the special education student. Even within the special education allowance, a breakdown in allowances based upon categories of student placement is non- existent. All special education students, whether behavioral disorder or profoundly physically handicapped, are given a weighting of three. Vocational and compensatory education students have no recognized cost differentials, within the current funding scheme.

Potential Solutions:

The personnel factor deserves review, wherein,

greater flexibility may be incorporated into the formula so that the actual personnel needs of each county school district may be accomodated. The State may consider varying the personnel staffing in accordance with the size and location of the student body. Additionally, a funding allowance may be made available so that local districts would receive funds for those personnel whose employment term extends beyond the regular two-hundred day contract.

With regard to implementing a pupil-oriented type of funding, the State may consider utilizing a weighted pupil method[6] to accomodate the cost differences for special education, compensatory, vocational, and adult education, as well as, for grades kindergarten through twelve. The 1977 study[7] related that the secondary program requires greater costs than the basic program, kindergarten through grades six or through eight. Further, the early childhood program requires a high expenditure per pupil than either the basic or secondary programs.

The weighted pupil technique allows a weight within level "one" to be assigned to the low cost pupil, e.g., non-exceptional, non-vocational. A graduated weight level is then assigned to the pupils in the higher cost programs. The utilization of a pupil-oriented funding method will

eliminate a personnel driven formula and will, at the same time, eliminate rewarding high capacity county school districts.

Unequalized Property Appraisal and Assessment Practices

The study provides information that relates a strong dependence upon the local property tax for the support of schools. It should be noted that 97 percent of all real and personal property tax collected is retained within the county of which 70.5 percent goes for school purposes.[8]

Each county school district's tax base evolves around the appraised value of property and the assessed to appraised value ratio. This fact results in serious discrepancies, due to varying factors within the counties, e.g., the appraised and assessed valuations of the property, the location of commercial and industrial wealth, and local tax effort. These factors critically influence the amounts of revenue generated by the local school districts.

The vast disparity of property wealth among the counties, described in a previous section, is quite evident. Those counties lacking in wealth have greater difficulty in supporting public services, e.g., public education, than do the more wealthy counties. In essence, a situation is created, wherein, the county district in

which a child lives does affect the amount of per pupil expenditure.

Pauley v. Bailey stated that a strong relationship exists between a county's property wealth and its available state and local revenues for elementary and secondary education.[9] Further, the non-uniformity in appraising techniques and assessment practices among the fifty-five counties has been identified [in addition to the fiscal disparity] as compounding the inability of local districts to appropriately support their public schools. In Pauley v. Bailey, decided May 11, 1982, the court found that unequal and inadequate property assessments were partially to blame for some county school districts' insufficient funds to provide children a thorough and efficient education.

It should be noted that from the earliest period of the State's history, the subject of taxation was a critical issue, as tax avoidance, inadequate appraisals and non-uniformity in the assessment of property were in great evidence. For example, appraisals in some counties, on coal, oil, and timber reserves, limestone, and other minerals, have been negligible over the years, if non-existent.[10] A satisfactory procedure for updating both commercial and residential real property appraisals had not been implemented by the State Tax Department.[11] From this

situation arises the question as to whether the counties' true fiscal capacity could ever be measured in the absence of an equalized and uniform system for appraising and assessing property.

It is to be noted that the West Virginia State Tax Department has, over the years, been engaged in the appraisal of property for property tax purposes. Two recent court cases, however, significantly altered the course of property tax administration within the State.

In the case, entitled Pauley v. Bailey, the court cited the Tax Commissioner for failure to enforce the statutory standards of market value on all species of property throughout the State. The tax department appraisals were found to be a fraction of actual market value among the fifty-five counties.

Soon after the court's decision in Pauley v. Bailey, the State Supreme Court of Appeals issued its decision in the case of Killen v. Logan County Commission. The Supreme Court, in this case, held that all property assessments below 100 percent of the market value were in violation of the constitutional provisions. As it has been pointed out that the market year used for assessed values varied among the fifty-five counties by as much as twenty years, this situation created an unequal tax burden and concomitant inequities in funding levels for

schools.[12] Thus, all assessed values were ordered, by the Court, to be raised to 100 percent of the Tax Commissioner's full, appraised value.

Stemming from this court decision, the Legislature proposed the Tax Limitation and Homestead Amendment calling for a complete state-wide reappraisal program. Additionally, the amendment provided that all property be assessed at a flat rate of 60 percent, based upon the 1983 market value year. The proposed amendment was ratified by the voters, in November, 1982.

In the Spring of 1983, the Legislature enacted a statute to implement the constitutionally required reappraisal. The new law required all county assessors to participate in an on-line computer network system, to be devised by the Tax Commissioner's Office. The State bid a contract with a private company to design and to conduct a computer-assisted mass appraisal system [CAMA].[13] Upon the completion and implementation of the reappraisal program, the county assessor's responsibilities will focus on keeping an inventory and upgrading the value on all property within the county. The county assessor is charged with maintaining an update of the appraisals by conducting sales-ratio studies, annually, in order to establish values through a comparison of properties based upon recent sales of similar properties. The conduct of sales-ratio studies

is a current practice within the assessor's office; however, the schedule has not been applied on a regular, annual basis.

Potential Solutions:

The State has made substantial progress in attempting to provide an on-going method for a State-wide appraisal program. Thus, one of the main under-lying problems of the taxing system is presently being corrected.

Whereas, the State Tax Commissioner's role has been described to have "broad mandatory enforcement and penalty powers over the county assessor,"[14] it is recommended that the Tax Commissioner exercise the necessary authority in overseeing that appraisals are updated and assessment practices are in compliance with the constitutional provisions. Other noted suggestions charged to the Tax Commissioner pertain to the issuance of updated assessment manuals on both real and personal properties, relevant interpretations handed down by those in authority, and other critical information which may serve as guidelines to the county assessor, making possible for greater consistency in assessment practices.

Consideration may also be given to statutorily altering the manner in which the county assessor is named to said position. At the present time, the assessor is elected by the qualified voters of each county. The

election of the individual to this position, basically results in a political or personality based contest, as there are no qualifications specified for said position. Often the candidates are "party" designees. Certain competencies and skills should be required for the assessor's position.

Emphasis must be given to charge the State Tax Commissioner with providing the expertise and significant leadership from the State level in regard to conducting mandated training seminars for all newly elected assessors, as well as, for veteran assessors. The State Tax Commissioner's office is currently attempting to come into compliance with a court order and is concurrently, performing its duties in a somewhat experimental sense. [Even though the responsibilities and authority of the Tax Commissioner are clearly stated in the law, the office has, over the years, been ineffective in discharging its duties].[15] Further, in order to provide the necessary administration and monitoring of an on-going appraisal program and related assessments, the State, as well as the local governments, may need to realize additional expenditures for personnel, both in-house and in the field.

As the State of West Virginia presently finds itself in urgent need of sources for generating more revenue, the Tax Commissioner's office may do well to focus

its efforts on executing a devised plan and management process through which greater control and monitoring of taxation procedures may be exercised. The quantitative, long-term results will provide the State with the additional revenue that has been long over due.

The identified factors of variance in fiscal capacity, inequitable formula design, unequalized property appraisal and assessment practices are considered to be areas worthy of further consideration. The State's leaders are in the process of addressing these long-time problems and, hopefully, solutions for improving the above factors will be provided within the very near future.

Commentary

This inquiry has been designed to develop an awareness of past doctrines and practices and their relationship to the present situation. As a result of this study, stated areas have been cited for consideration so that inadequate and disequalizing features of the West Virginia support plan might be brought to the attention of the State's leaders.

It may be noted that the recommendations, as presented, serve as an attempt on the part of the researcher to highlight certain issues found to be essential to the State's school finance structure. The

recapitulation of history or historical inquiry does not necessarily result in a search of the past to bring solutions to present day problems. Thus, this study is without intention of providing a final solution. Rather, the study's intent is to identify certain aspects of school finance that may be worthy of further consideration. It is hoped that adequacy in educational opportunities and equity in funding educational opportunities for the children of the State will come closer to realization.

Further recommendation is given for the study to be updated on an ongoing basis to reflect the current status of legislative acts pertaining to school support. It is hoped that areas left unexplored in this study become topics for other dissertations regarding public school support in West Virginia.

End Notes

Chapter 4

1. Pauley, et al. v. Bailey, et al., Kanawha County Circuit Court, May 1982, Civil Action 75-1268, p.153.

2. Governor's Survey...., pp.2 - 3.

3. "Our Children's Educational Needs...," p. 25.

4. Pauley, et al. v. Bailey, et al., p. 224.

5. Ibid., p.174.

6. The weighted pupil technique, once established, allows for the educational needs unit to be more identifiable and interpretable. The number of students in each educational need category is multiplied by that category's index factor. A method of computing educational cost differentials may be found in Planning to Finance Education. vol. 3. (Gainesville: National Educational Finance Project, 1971.)

7. "Our Children's Educational Needs...," pp. 76 - 85.

8. Governor's Survey..., pp. 2 - 3.

9. Pauley, et al. v. Bailey, et al., p. 188.

10. Ibid., pp. 196 - 197.

11. Ibid., p. 197.

12. Governor's Educational Policy..., p. 28.

13. John Melton, "West Virginia's Centralized Computer-Assisted Appraisal and Assessment System," Assessment Digest 9 (Jan./Feb. 1987): 11.

14. Pauley, et al. v. Bailey, et al., p. 194.

15. Ibid.

Appendix

Appendix A. Selected Literature

B. Articles, Sections of Constitution and Statutes Pertaining to Public School Finance

C. State Assistance Provided to Implement Better School Buildings Amendment, 1972

D. Application of Levy Rate to Assessed Valuation of Property

E. State General Revenue Fund

F. State Aid Formula, 1983-84

G. Transportation, Select Expenses

Appendix A

Chronological Listing of Selected Literature

I. George D. Strayer, A Report of a Survey of Public Education in the State of West Virginia, Legislative Interim Committee, State of West Virginia, 1945.

The study reflects in its title the general contents of the study which contained a survey, published in 1945, pertaining to the conditions of varying elements of West Virginia's education system. Health programs, transportation, public relations, tax base, teacher training, and other phases of the State's school system were reviewed and recommendations were presented.

Dr. Strayer advocated major changes in areas of school finance and administration. He cited the county unit organization as one of the most important aspects leading to reform. This research in West Virginia began July 1 and was completed December 10, 1945.

II. Charles H. Ambler, A History of Education in West Virginia, From Early Colonial Years Through 1949, (Huntington: Standard Printing and Publishing Company, 1951).

The book is an extensive comprehensive review of education history in West Virginia including a pre-statehood period and through the statehood period to the year 1948. The author noted the difficulty in rescuing the history due to incomplete or nonexistent records, unpublished official reports of faculty records, as well as inaccessible information due to its being confined to the "admitted, treacherous memories of a few persons."

In addition to references to school finance, the study incorporated the many elements of education as personnel, higher education, elementary and secondary education, school buildings, student enrollment, salaries and libraries. Additionally, as the study depicted periods in history, the political, economic, and social conditions were reflected throughout the course of reporting.

III. "An Introduction to Today's Public School Financing Problem," A Preliminary Report to the Public School Support Committee of the Joint Committee on Government and Finance of the West Virginia Legislature, 1972.

This study was a preliminary work toward conducting research into alternate methods of financing public education in West Virginia. The study provided an overview of court decisions and statistics pertaining to school finance on the national level and proposed schemes for financing schools.

IV. Elba Gillenwater, Jr., G. R. Gorrell, "Constitutional Law - Taxation - Equal Protection: A Public School Financing Proposal for West Virginia," West Virginia Law Review Vol. 75, 1972-73.

The study incorporated constitutional issues as education as a fundamental interest, as well as opinions of the courts such as those reflected in Serrano v. Priest . The study further reviewed West Virginia's educational finance system, the administering of the property tax, and state aid. The interest for the study seemingly stemmed from the Serrano case in addition to the publication, Private Wealth and Public Education , (1970) by J. Coons, W. Clune, and S. Sugarman. A forerunner of the Pauley v. Kelly case, the inequities in West Virginia's school finance were cited within this study. The final portion of this review presented the authors' views on District Power Equalization, a model for school finance, and a suggested method of reforming local educational financing.

V. "The Status of the Present Method of Financing Public Education in West Virginia," A Report to the Public School Support Committee of the Joint Committee on Government and Finance of the West Virgnia Legislature, 1973.

The study contained similar material as in the previous study for the public school report committee, with additional emphasis given the Serrano v. Priest case and the U.S. Supreme Court's decision in the San Antonio v. Rodriguez case. The contents include a background of the legal responsibility for education, mounting expenses for the operation of schools, and proposals on funding schemes.

VI. Governor's Survey on School Management , State of West Virginia, 1974.

The survey was conducted as a result of Governor Arch A. Moore, Jr. recognizing a need to review management operations and to improve the economy and efficiency in the public schools. The survey findings and recommendations contained within the report are intended to assist in establishing control over disproportionate increases in expenditures. These contents included various aspects associated with school operations such as health, food, and library services, accounting and auditing, purchasing and warehousing, school construction and others.

The report includes statistical data on school expenditures and information on operational effectiveness. The report contains sound judgments and recommendations, many of which have been and are being implemented at the state level.

The study program was an undertaking of the business community; whereby twenty-four executives and management specialists were assigned to the project on a fulltime basis. The review involved approximately 12,000 man hours of loaned executive time.

VII. Two Hundred Years of Public Education in West Virginia , West Virginia Department of Education, 1976.

The report is a scant overview of the educational progress from 1776 to 1976, in the State of West Virginia. Beginning with the history stemming from the first half of the nineteenth century, the report gives scattered highlights on school population, teachers' salary, number of school buildings, and monetary grants. The report further provides information on the governance of the schools and the progress education has made in the various areas of education offerings incorporated into the State program, e.g., compensatory education, vocational education.

VIII. "Our Children's Educational Needs, Reforming School Finance in West Virginia". Report to the Education Finance Study Commission of the West Virginia Legislature, 1977.

The purpose of this comprehensive study was to analyze the system through which West Virginia financed its public schools and to propose solutions to the recognized problems of adequacy and equity. The study pertained to the education picture which existed in 1975-76 and employed three major criteria in judging the State's current school finance program:(1) full equalization among school districts,(2) reasonable standard of tax effort in local

school districts,(3) measure of pupil needs. As a result of the study, an entirely new approach was recommended for providing funds for the operation of the State's schools. The report included an in-depth survey and coverage of per capita income, population growth, economic picture, fiscal ability, student holding power, and demographic characteristics of West Virginia. The study also included various approaches for state funding distribution and some reference to legislation. The study began in March 1977 and ended in November 1977.

IX. The Governor's Educational Policy Task Force , State of West Virginia, 1981.

The report is based upon Governor John D. Rockefeller's request that the State's sphere of elementary and secondary education be reviewed and that specific recommendations for legislative and administrative changes be made.

The Task Force was directed to study educational standards and goals, the school calendar, school finance, school board operations and efficiency, and the State's continuing education program. The information contained in the report is sound and effective in recognizing the needs and in recommending general procedures to be considered by the State's leaders.

The Task Force's information was based on specific topics presented by invited speakers and submitted reports containing recommendations.

Appendix B

Constitution of West Virginia

Articles and Revisions
Pertaining to Public School Support

Article X	§ 1	Tax Limitation Amendment
	§ 1b	Property Tax Limitations and Homestead Exemption Amendment of 1982
	§ 2	Capitation Tax
	§ 8	School Bond Amendment
	§ 10	Better Schools Amendment
Article XII	§ 1	Provide for a "through and efficient" system
	§ 4	Invested School Fund
	§ 5	Support of Free Schools
	§ 6	School District Divisions

West Virginia Code

Sections Pertaining to Public School Support

Education	§ 18-9-1	School Levy
	§ 18-9-2a	Levies
	§ 18-9-2b	Transferred monies to Boards of Education
	§ 18-9-5	School Fund

	§ 18-9-C	State aid for construction, renovation
	§ 18-9A	Public School Support
	§ 18-9A-1	Public School Support Plan
	§ 18-9A-2	Definitions; effects of increases
	§ 18-9A-3	Total state basic foundation program
(Step 1)	§ 18-9A-4	Allowance for professional educators
(Step 2)	§ 18-9A-5	Allowance for other personnel
(Step 3)	§ 18-9A-6	Allowance for fixed charges
(Step 4)	§ 18-9A-7	Allowance for transportation cost
(Step 5)	§ 18-9A-8	Allowance for administrative costs
(Step 6)	§ 18-9A-9	Allowance for other current expense
(Step 7)	§ 18-9A-10	Allowance toward national average attainment
	§ 18-9A-11	Computation of local share, appraisal and assessment of property
	§ 18-9A-12	County basic foundation; total basic state aid allowance
	§ 18-9A-16	General School Fund to State General Fund
	§ 18-9B-3	State Board of Finance
Taxation	§ 11-5-30	Proceeds of tax for free schools (Consumers' Sales)
	§ 11-7-1	Capitation Tax
	§ 11-8-3	Provide for maximum rates for levies according to the Tax Limitation Amendment
	§ 11-8-5	Classification of property for levy purpose

§11-8-6 Aggregate of taxes on different classifications

§11-8-16 Election to increase levies

§11-15A-26 Proceeds of tax for free schools (Use Tax); goes into General Revenue Fund to be earmarked by Board of Public Works

§11-7-4 Additional Cigarette Tax for support of free schools (2 cents on each 10 cigarettes goes to school fund)

Appendix C

State Assistance Provided to Implement Better School Buildings Amendment, 1972

1. $200,000 FLAT GRANT

2. $239.2722 PER NET ENROLLED PUPIL (see Glossary)

3. ASSISTANCE RATIO (see Glossary) X 239.2722 PER NET ENROLLED PUPIL

	$200,000 Flat Grant	$239.2722 Per Pupil Net Enrollment	$239.2722 x Net Enrollment x Assistamce Ratio	Total
	(1)	(2)	(3)	(1)+(2)+(3)=
Barbour	$ 200,000	$ 768,398	$ 863,602	$ 1,832,000
Berkeley ...	200,000	2,081,277	1,911,352	4,192,629
Boone	200,000	1,499,237	1,589,491	3,288,728
Braxton	200,000	749,307	896,483	1,857,790
Brooke	200,000	1,501,868	1,190,067	2,891,935
Cabell	200,000	4,883,584	3,144,576	8,228,160
Calhoun	200,000	422,236	527,522	1,149,758
Clay	200,000	620,555	1,010,893	1,831,448
Doddridge ..	200,000	366,496	294,387	860,883
Fayette	200,000	3,028,855	3,916,366	7,145,221
Gilmer	200,000	367,931	258,536	826,467
Grant	200,000	490,176	231,279	921,455
Greenbrier .	200,000	1,805,687	1,878,263	3,883,950
Hampshire ..	200,000	629,646	480,793	1,310,439
Hancock	200,000	2,097,066	1,246,084	3,543,150
Hardy	200,000	494,961	407,968	1,102,929
Harrison ...	200,000	3,620,943	3,099,207	6,920,150
Jackson	200,000	1,392,302	958,346	2,550,648
Jefferson ..	200,000	1,237,044	1,120,397	2,557,441
Kanawa	200,000	11,874,042	7,801,321	19,875,363
Lewis	200,000	860,979	577,179	1,638,158
Lincoln	200,000	1,254,029	2,389,696	3,843,725
Logan	200,000	2,930,772	4,686,180	7,816,952
Marion	200,000	2,818,814	2,286,459	5,305,273
Marshall ...	200,000	1,860,948	903,926	2,964,874
Mason	200,000	1,420,770	1,321,981	2,942,751
Mercer	200,000	3,340,808	3,806,587	7,347,395
Mineral	200,000	1,289,195	1,709,402	3,198,597
Mingo	200,000	2,246,343	3,468,466	5,914,809
Monongalia .	200,000	2,484,135	1,632,315	4,315,450
Monroe	200,000	554,768	676,362	1,431,130
Morgan	200,000	506,683	491,681	1,198,364
McDowell ...	200,000	3,155,167	4,446,839	7,802,006
Nicholas ...	200,000	1,424,598	2,003,458	3,628,056
Ohio	200,000	2,257,826	1,219,055	3,676,881
Pendleton ..	200,000	374,869	344,061	918,930
Ritchie	200,000	537,543	541,642	1,279,185
Roane	200,000	747,106	656,013	1,603,119
Summers	200,000	722,944	881,788	1,804,732
Taylor	200,000	767,202	862,534	1,829,736
Tucker	200,000	399,968	504,273	1,104,261
Tyler	200,000	571,992	606,272	1,378,264
Upshur	200,000	1,021,500	991,530	2,213,030
Wayne	200,000	2,401,602	3,312,596	5,914,198
Webster	200,000	648,306	904,986	1,753,292
Wetzel	200,000	1,182,500	1,156,294	2,538,794
Wirt	200,000	280,613	427,868	908,481
Wood	200,000	4,875,689	5,152,582	10,228,271
Wyoming	200,000	2,033,431	2,519,438	4,752,869
Total	$ 11,000,000	$ 94,500,000	$ 94,500,000	$200,000,000

Source: School Laws of West Virginia, § 18-9c-5.

Acts of the Legislature of West Virginia, First Extra-Ordinary Session, c.31, 1973.

Appendix D

Tax Breakdown
Example
Single Property

Appraised Value	Assessed Value	Class II Rate	Tax Ticket
$36,700	$22,000 at 60%	00.45 (Per $100 Valuation)	= $99.00

1983-84
Assessed Property
Value

Barbour	$141,533,600	Mineral	184,100,903
Berkeley	370,108,696	Mingo	247,480,500
Boone	349,281,455	Monongalia	489,777,026
Braxton	150,758,580	Monroe	72,318,506
Brooke	223,714,450	Morgan	86,528,790
Cabell	879,875,530	McDowell	331,024,150
Calhoun	76,283,390	Nicholas	251,769,850
Clay	111,249,900	Ohio	464,700,875
Doddridge	108,833,710	Pendleton	59,211,730
Fayette	409,749,745	Pleasants	261,913,970
Gilmer	121,907,530	Pocahontas	98,526,633
Grant	178,555,801	Preston	214,744,533
Greenbrier	269,289,175	Putnam	580,909,460
Hampshire	133,210,170	Raleigh	618,229,150
Hancock	331,171,694	Randolph	187,874,982
Hardy	98,121,455	Ritchie	96,165,780
Harrison	735,400,860	Roane	133,756,613
Jackson	276,888,120	Summers	94,640,360
Jefferson	228,688,160	Taylor	112,474,680
Kanawha	2,480,253,236	Tucker	58,955,320
Lewis	202,414,300	Tyler	92,521,550
Lincoln	149,874,245	Upshur	212,244,515
Logan	399,703,500	Wayne	298,540,940
Marion	598,638,850	Webster	127,646,580
Marshall	599,549,050	Wetzel	190,521,010
Mason	313,746,727	Wirt	35,552,915
Mercer	513,384,543	Wood	627,670,520
		Wyoming	265,568,290
			$16,947,556,603

Source: Public School Finance, West Virginia Department of Education, 1983-84.

Appendix E

GENERAL REVENUE FUND EXPENDITURES

FY 1973 THROUGH FY 1983
(In Thousands)

FISCAL YEAR	TOTAL GENERAL REVENUE FUND	% INCREASE OVER PRIOR YEAR	APPROPRIATION FOR STATE AID TO SCHOOLS	% INCREASE OVER PRIOR YEAR
1972-73	$ 408,052	-	$ 156,346	-
1973-74	452,878	10.98	178,267	14.02
1974-75	519,026	14.61	193,946	8.80
1975-76	632,570	21.88	242,453	25.01
1976-77	774,550	22.44	295,761	21.99
1977-78	799,062	3.16	324,527	9.73
1978-79	933,751	16.86	354,790	9.33
1979-80	1,015,505	8.76	394,399	11.16
1980-81	1,108,278	9.14	443,624	12.48
1981-82	1,223,416	10.39	534,611	20.51
1982-83 (Estimate)	1,368,559	11.86	550,691	3.01

SOURCE: DEPARTMENT OF FINANCE AND ADMINISTRATION
ARNOLD T. MARGOLIN
COMMISSIONER

Appendix F

1983-84
PRESENT PUBLIC SCHOOL SUPPORT PROGRAM

1. Professional Educators: Allows to each county an amount based on the State's minimum salary schedule up to a ceiling of 55/1,000. Growth rate per year not to exceed 20% of potential increase or no fewer than 5. Beginning 7/1/82, each county must establish and maintain a minimum ratio of 49/1,000 professional instructional personnel or suffer a pro rata reduction.

2. Service Personnel: Allows to each county based on the State's minimum salary schedule up to a ceiling of 34/1,000. Growth rate per year not to exceed 10% of potential increase or no fewer than 2.

3. Fixed Charges: The sum of the current social security rate plus the current unemployment compensation contribution rate plus the most recent determined workmen's compensation contribution rate. (11.28%)

4. Pupil Transportation:
   (a) 80% of non-salary costs of operations, maintenance and related expense data of most recent year available.
   (b) Insurance costs on buses, buildings and equipment. Bidding is required.
   (c) Replacement cost on active bus fleet at 12% for 1982-83 and at 12.5% for 1983-84 and thereafter.
   (d) 80% of contracted and public utility transportation.
   (e) Average State per pupil cost of aid in lieu of transportation for each pupil.

   No county to receive an allowance per mile which is greater than one third above State average per mile cost.

5. Administrative Cost: 0.7 of 1 percent of the total State allocation for professional educators divided equally to the counties.

6. Other Current Expense and Substitutes: Each county receives for substitutes or other expense 2.5% of its state allocation for professional educators and service personnel. 4% of the state allocation for professional

educators and service personnel is allowed for other current expense and distributed to the counties on basis of adjusted enrollment.

7. Improve Instructional Programs: Increases in computed local share, General School fund balances, and other appropriations (if any) allocated to counties with 20% distributed on adjusted enrollment and 80% distributed beginning with the county that has the lowest basic resources per pupil.

8. Total Basic Foundation Program: Sum of the above seven allowances.

9. Computed Local Share: Uses rates of 22.5 cents/$100, etc. applied to 97 1/2% of assessed public utility valuations and applied to 55% of 95% (or 52.25%) of appraised valuations of other property.

10. Basic State Aid to the Counties: (8) - (9).

Source: Public Education Source Book, 1983-84.

Appendix G

Pupil Transportation Services

Select Operation and Maintenance Expenses

COUNTIES	REPAIR PARTS AND SUPPLIES	EXPENSES FOR GARAGE OPERATION	GARAGE EQUIPMENT REPAIRS	MAINTENANCE OF SHELTERS	TOTAL
PENDLETON	12,577.63	662.04	.00	.00	$13,239.67
PLEASANTS	22,008.39	20,671.01	11,252.50	1,576.56	55,508.46

SOURCE: EDUCATIONAL STATISTICAL SUMMARY, 1983-84.

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1. Hope Natural Gas Company v. Hall, State Tax Commissioner et al. , 274 U.S., (1927).

2. Killen v. Logan County Commission , 295 S.E. 2d 689 (WV 1982).

3. Pauley, et al. v. Bailey,et al. , Kanawha County Circuit Court, May 1982, Civil Action 75-1268.

4. Pauley, et al. v. Kelly, et al. , 255, S.E. 2d 859 (WV 1979).

5. Robinson v. Cahill , 287 A. 2d 187 (N.J. 1972), 303 A. 2d 273 (N.J. 1973).

6. Rose, State ex rel., v. Fewell , 294 S.E. 2d 434 (WV 1982).

7. San Antonio Independent School District v. Rodriguez , 411, U.S.

8. Serrano v. Priest , 487 P. 2d 1241 (Cal. 1971).

9. State ex rel. Board of Education., etc. v. Rockefeller , 281 S.E. 2d 131 (WV 1981).

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Acts of the Legislature of West Virginia, First Extra Ordinary Session, 1977

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Acts of the Legislature of West Virginia, 1980

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3. Biennial Report of the State Superintendent of Free Schools of West Virginia 1908
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5. Biennial Report of the State Superintendent of Free Schools of West Virginia 1912
6. Biennial Report of the State Superintendent of Free Schools of West Virginia 1914
7. Biennial Report of the State Superintendent of Free Schools of West Virginia 1916
8. Biennial Report of the State Superintendent of Free Schools of West Virginia 1918
9. Biennial Report of the State Superintendent of Free Schools of West Virginia 1920
10. Biennial Report of the State Superintendent of Free Schools of West Virginia 1922
11. Biennial Report of the State Superintendent of Free Schools of West Virginia 1924
12. Biennial Report of the State Superintendent of Free Schools of West Virginia 1926
13. Biennial Report of the State Superintendent of Free Schools of West Virginia 1928
14. Biennial Report of the State Superintendent of Free Schools of West Virginia 1930
15. Biennial Report of the State Superintendent of Free Schools of West Virginia 1932

16. Biennial Report of the State Superintendent of Free Schools of West Virginia 1934

17. Thirty-Fourth Biennial Report of the State Superintendent of Free Schools of the State of West Virginia 1940

18. Thirty-Fifth Biennial Report of the State Superintendent of Free Schools of the State of West Virginia 1942

19. Thirty-Sixth Biennial Report of the State Superintendent of Free Schools of the State of West Virginia 1944

20. Thirty-Seventh Biennial Report of the State Superintendent of Free Schools of the State of West Virginia 1946

21. Thirty-Eighth Biennial Report of the State Superintendent of Free Schools of the State of West Virginia 1948

22. Thirty-Ninth Biennial Report of the State Superintendent of Free Schools of the State of West Virginia 1950

23. Fortieth Biennial Report of the State Superintendent of Free Schools of the State of West Virginia 1952

24. Forty-First Biennial Report of the State Superintendent of Free Schools of the State of West Virginia 1954

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27. Forty-Fourth Report, Third Annual Report of the State Superintendent of Free Schools of the State of West Virginia 1957

28. Forty-Fifth Report, Fourth Annual Report of the State Superintendent of Free Schools of the State of West Virginia 1958

29. Forty-Seventh Report, Sixth Annual Report of the State Superintendent of Free Schools of the State of West Virginia 1960

30. Forty-Eighth Report, Seventh Annual Report of the State Superintendent of Free Schools of the State of West Virginia 1961

31. Forty-Ninth Report, Eighth Annual Report of the State Superintendent of Free Schools of the State of West Virginia 1962

32. Fiftieth Report, Ninth Annual Report of the State Superintendent of Free Schools of the State of West Virginia 1963

33. Fifty-First Report, Tenth Annual Report of the State Superintendent of Free Schools of the State of West Virginia 1964

34. Fifty-Second Report, Eleventh Annual Report of the State Superintendent of Free Schools of the State of West Virginia 1965

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Glossary

1. Adequacy (educational opportunity) refers to the state of being sufficient in achieving a given purpose with reference of school term to length of school term, facilities, supplies, equipment, offerings, educational offerings.

2. Adjusted Enrollment is the net enrollment plus the weighting for pupils enrolled for special education, all adjusted to the equivalent of the instructional term and in accordance with such eligibility requirements and regulations as established by the state board, but no pupil shall be counted more than once by reason of transfer within the county who attends school in this state from another state. Kindergarten pupils receiving less than a full day of instruction are counted according to the amount of instructional time received.

3. Appraised valuation is equal to 100 percent of the replacement cost of a piece of property.

4. Assessed valuation is a given percentage of the appraised value of property.

5. Assistance Ratio means the state bond potential per pupil divided by the county bond potential per pupil and the result multiplied by .8971819.(School Laws of West Virginia, 1984.)

6. Average Daily Attendance for the first distribution of aid under this article means the total daily attendance divided by the actual number of days of school during the term computed separately by individual schools. (School Law of West Virginia, 1939).

7. "Basic resources per pupil" for the state and the several counties means the total of (a) property tax revenues computed at the maximum regular levy rates as provided by section six-c [§ 11-8-6c], article eight, chapter eleven of this Code, at a uniform rate of ninety-five percent, but excluding revenues from increased levies as provided in section ten, article X of the Constitution of West Virginia, and (b) basic state aid as provided in sections twelve and thirteen [§ 18-9A-12 and §18-9A-13] of this article, but excluding the foundation allowance to improve

instructional programs as provided in section ten [§ 18-9A-10] of this article, and excluding any funds appropriated for the purpose of achieving salary equity among county board employees, this total divided by the number of students in adjusted enrollment. Provided, however, that any year's allocations to the counties of the eighty percent portion of the foundation allowance to improve instructional programs, as provided in section ten of this article, shall be determined on the basis of the immediately preceding school year's basic resources per pupil.(School Laws of West Virginia, 1984.)

8. Capitation Tax was a tax of one dollar levied upon each white male inhabitant who had attained the age of twenty-one years. Repealed: Acts of West Virginia Legislature, 1971, c. 168. Code of West Virginia, §11-7-1.

9. Equity [funding] is equalization among the fifty-five counties in per pupil expenditure, teacher salary scale, levies, pupil/teacher ratio.

10. Excise Tax refers to an internal tax levied on the manufacture, sale, or consumption of a commodity; various taxes on privileges. Webster's New Collegiate Dictionary. (Mass.: G. & C. Merriam Co., 1975.)

11. Fair Market Value infers that a residential property is to be the price that a willing buyer would pay a willing seller under current market conditions.(Cox, Allemong, and Company, Certified Public Accountants, "Plus", Vol. 3, No.3, p.1.)

12. Free Schools means a system of public schools into which all children, who are residents of the area and of prescribed school age, are admitted free and without discrimination. (School Laws of West Virginia, 1984, p.397.)

13. Indebtedness is the state of being by voluntary obligation expressed or implied, under legal liability to pay in the present or at some future time for something already received, or for something yet to be furnished or rendered (Spilman v. City of Parkersburg, 35 WV 605, 14 S.E. 279, 1891).

14. Index is a percentage figure representing average ability of a county to contribute to the foundation program. The economic factors used to prepare the

index are (a) the amount of retail sales for each county and for the entire state for the last year in which data with respect to the same are available, (b) the most recent registration showing the number of cars licensed by the state road commission from each county and the entire state, (c) the net levying power of each county or its people and the levying power of the entire state as the same appears in the annual survey published by the "Sales Management Magazine".(Cuts of the West Virginia Registry, 1947, c.79, p.303.)

15. Indirect Taxation has included regulatory license taxes, state inheritance tax, gross sales tax or business and occupation tax, gasoline tax, cigarette tax, soft drink tax, carrier income tax, corporation net income tax. (Tax Commissioner of West Virginia, Thirty-Seventh Biennial Report , 1977-78.)

16. Local Share reflects a computation of local taxes at the formula levy rate of (Class I = 22.5 cents; Class II = 45 cents; Classes III and IV = 90 cents), on 55 percent of property values appraised by the state Tax Commissioner, and on 97.5 percent of the Public Utility values assessed by the State Board of Public Works.(Acts of the West Virginia Legislature, 1st Extra Ordinary Session, 1981, c. 5, p. 1308.)

17. Net Enrollment is an unduplicated count of the pupils actively enrolled in the schools.(West Virginia Department of Education, Public Education Source Book , 1984.)

18. Public School relates to schools established and maintained at public expense, embracing elementary and secondary schools normally supported by county or local authorities, and does not include colleges and universities. (School Laws of West Virginia ,1984, p. 1.)

19. Service Personnel shall mean those who serve the school or schools as a whole, in a non-professional capacity, including such areas as secretarial, custodial, maintenance, transportation, school lunch, and as aides. (School Laws of West Virginia , 1984,p. 167.)

20. Sparsity Factor shall be a number derived as follows: The number five divided by the sum of (a) the weighted net enrollment divided by the total miles of designated roads in the county, and (b) the weighted net enrollment divided by the number of square miles of

area in the counties. (Acts of the West Virginia Legislature, 1947, c.79, p.303.)

21. State Aid Allowance means the total basic foundation program, a sum of the seven steps found in the code, sections four through ten [18-9a-4 through 10], article 9A, chapter eighteen, minus the local share. (School Laws of West Virginia , 1984.)

22. Statute is a law passed by the state legislature; Black's Law Dictionary defines statute as a particular law enacted and established by the will of the legislative department of government.

23. Taxable Property Valuation is any property regarded as having a value.

24. Thorough and efficient system of schools may be defined as developing, as best the state of education expertise allows, the minds, bodies and social morality of its charges to prepare them for useful and happy occupations, recreation, and citizenship, and doing so economically.(Pauley v. Kelly , West Virginia 255 S.E. 2d 859, 1979.)

25. Use Tax is the exercise by any person of any right or power over tangible personal property and used in the actual fabricating, compounding, manufacturing, or servicing of property intending to be sold at retail.(Acts of West Virginia Legislature, 1951, c. 183, p. 718.)

26. Weightings for Instruction (a) Weighting for elementary instruction shall be computed by adding together all the values assigned for experience and certification for all of the elementary teachers actually employed in the county during the preceding year and dividing the total by twenty-eight times the number of such teachers. (b) Weighting for high school instruction shall be computed by adding together all the values assigned for experience and certification for all of the high school teachers actually employed in the county during the preceding year and dividing the total by twenty-one times the number of such teachers.(Acts of the West Virginia Legislature, 1939, c. 46, p. 262.)

27. Weighting for Pupils (a) Elementary = Net enrollment multiplied by 1.8, but not more than thirty times the number of such schools; (b) High Schools = Net enrollment multiplied by 1.89. (Acts of the West Virginia Legislature, 1953, c. 84, pp. 255 - 256.)

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