

# **A HISTORY OF PROPERTY TAX AND PROPERTY TAX RELIEF IN WISCONSIN**

**by Jack Stark  
Legislative Reference Bureau**

PREFACE NOTE: Although this document has been reformatted for electronic publication, the content has not been altered from the original.

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# **A HISTORY OF THE PROPERTY TAX AND PROPERTY TAX RELIEF IN WISCONSIN**

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A Wisconsin governor once announced to the legislature that the property tax "is considered unequal, illegal and highly oppressive. Large sums of money are collected in each county, but few if any improvements are constructed, and the people very justly complain that they are burdened with heavy taxes, without receiving any apparent benefit from their expenditure."<sup>1</sup> That governor was James Doty and the year was 1842; Wisconsin did not become a state for another 6 years. Doty's statement sounds contemporary because the property tax has continued to be a troublesome problem. Understanding the history of the property tax and property tax relief may make it easier to solve that problem.

To understand that history one first must know a little about the way the property tax works. Its administration consists of 2 processes that eventually converge. One of those processes begins when each unit of government that is authorized to levy (charge) a property tax determines the amount of money it needs to spend during the next year. Towns, cities, villages, counties, school districts, special districts (such as sewerage districts) and vocational, technical and adult education districts may levy property taxes. The state also levies a relatively minor property tax of 0.2 mills for forestry.<sup>2</sup> Each local unit of government then calculates the revenue it expects to receive from other sources and subtracts that total from its estimated spending. The resulting difference is the amount that it must raise in property taxes. The property tax thus is a revenue source of last resort; it fills the gap between expenses and other revenues.

Meanwhile, the companion process begins with assessors evaluating each piece of taxable property in the unit of government. After officials have determined the property tax revenue they need and the value of all taxable property in their taxing jurisdiction, they divide the former by the latter to determine the tax rate. Multiplying that rate by the value of each property owner's taxable property determines the amount of property taxes owed to that jurisdiction. The taxpayer's gross property tax liability is the sum of property taxes levied on the property by all jurisdictions. The gross tax minus any credits equals the owner's net liability (the amount that must be paid to the taxing jurisdictions).

Several features make the property tax unusual. First, government officials can accurately predict the amount of money the tax will raise because they set its rate after they determine the amount of revenue they need from it. That helps them plan. Second, a taxpayer has no control of the tax liability. An assessor determines the property's value, and the taxing jurisdiction determines the tax rate. (In contrast, a person can determine sales tax liability by controlling the amount of purchases.) Third, a mathematician would call the property tax a "zero-sum" game. That is, because taxing jurisdictions determine in advance the total amount of property taxes they will collect, if an owner can reduce by \$100 the amount owed to a jurisdiction (for example, by securing a tax exemption), all owners of taxable property in that jurisdiction will have to make up the \$100 among themselves. The taxpayer's lack of control and the need to pay more taxes because

someone else is paying less cause dissatisfaction with the property tax and, therefore, increase the demand for property tax relief.

There are various kinds of property tax relief. When the state pays money to taxing jurisdictions and directs them to subtract from each property tax bill an amount reflecting that payment, the result certainly is property tax relief. This is often called "direct property tax relief". In addition, credits against another tax and direct payments to taxpayers, if based at least in part on property taxes owed, are usually considered to be property tax relief and are often called "indirect property tax relief". The State of Wisconsin spends large sums of money on both types of property tax relief, and this article will describe their history.

The state also has a variety of aid programs to assist local units of government that depend on property tax revenues for much of their funding. The amount of the aid payment may be based, in part, on the property tax base (the value of taxable property) of the local unit. Although aids can ease local property taxes, they are not as obviously a form of property tax relief as are the tax credits just described, because the local unit can use aid payments either to lower property taxes or to increase spending. For example, during the 1985-86 legislative session, state aids to schools, which are based in part on property tax bases, were increased by 16.8%. For the same period, school districts increased their spending by an average of 8.2% but, because many of them spent large amounts of their surplus funds, the increase in school property taxes averaged only 1.1%.<sup>3</sup> That is, rather than substantially lowering taxes to reflect completely the increase in aids, the districts spent a large portion of the increased aids, and the use of surplus funds made it difficult to detect those actions. The Legislative Fiscal Bureau reported in 1979 that, on average, when school aids are increased, roughly 69% of the new aid goes to reduce property taxes and 31% is spent.<sup>4</sup> This article will describe the history of those aids to local units of government that are calculated in part on the units' property tax bases. (State aid to local units of government that does not relate to the property tax base is not considered property tax relief and will not be discussed.)

## I. THE PROPERTY TAX BEFORE STATEHOOD

The property tax and property tax relief have existed for a long time in Wisconsin. Even before the Territory of Wisconsin was formed in 1836, property taxes were levied in the area. In fact, the Northwest Ordinance of 1787, the first document organizing the land area that is present-day Wisconsin as part of the United States, set certain conditions for a property tax in that area: "No tax shall be imposed on lands the property of the United States, and in no case shall non-resident proprietors be taxed higher than residents" (Article IV). In fact, the property tax has a long tradition. It stretches back through the history of the Territory of Michigan (which included much of current Wisconsin), of the colonial United States, of England and even of the Near East during the era chronicled in the Bible. The property tax also made sense for the territorial economy. Many of the residents of the territory lived on farms, and others lived in buildings where they also produced goods or services for sale. That is, much of the property created income, and the value of the property reflected that income, which could be used to pay taxes. Because of the close relation between the value of property and the income created by it, the Territory of Wisconsin followed the centuries-old practice and imposed a property tax. Also because of that long tradition, the territorial

legislature could, by borrowing ideas from other parts of the country, establish an elaborate property tax system (e.g., Laws of 1837-38, No. 63).

### **Territorial Tax Issues**

The territorial property tax law dealt with several issues that continue to be important. One example is exemptions (by which the legislature provides that certain kinds of property will not be taxed). An early law taxed all real property (land and buildings) and all personal property (everything but land and buildings) but exempted \$75 worth of household furniture, libraries, mechanics' tools and agricultural implements (Laws of 1837-38, No. 63, Section 1). In contrast, a later law taxed land, merchandise, and stock in corporations, but not buildings (Laws of 1845, p. 1). Another continuing property tax issue is tax limits. The first limits on the tax rate appeared during the territorial era (e.g., Laws of 1842-43, No. 65). It also was clear then that property tax assessments were likely to be inaccurate. One cause of that problem was that assessors were elected at that time and, thus, perhaps tempted to please certain constituents. They also were not required to meet any qualifications, except that they be eligible to vote in the county where they assessed property (Laws of 1837-38, No. 68, Section 3). Because of assessment inaccuracies, the county boards were directed to compare the assessments of the property in the county's towns and then to adjust them to approximate equality, a process called "equalization" (Laws of 1841, Chapter IX, Part 4, Section 1).

Financing public schools by taxing property raises major policy questions. The property tax has partially funded public schools ever since Wisconsin was a territory. At that time, schools were supported in a variety of ways: payments by the families of students in money or goods (often in firewood), voluntary contributions, and public money (property taxes and revenue from leasing and selling public land). Public money soon became the major source of funds.<sup>5</sup> At first, local units of government could choose any combination of methods for funding schools, but in 1840 a law was enacted that required counties to levy a property tax of 2.5 mills to be used for schools (Laws of 1839-40, pp. 80-84). During the next legislative session, however, severe restrictions were imposed on school taxes: no more than \$200 could be spent per year for buildings and no tax money could be allocated for teachers' salaries unless 75% of the voters approved (Laws of 1840-41, pp. 2-14). During the next several years the legislature was besieged with requests to pass laws granting exceptions to those limits, and finally, in 1848, the limit on taxes for school buildings was repealed (Laws of 1848, p. 133).

### **Drafting a State Constitution — The Uniformity Clause**

In order to become a state, the Territory of Wisconsin had to draft a constitution and the voters had to approve it. The voters rejected the first constitutional draft in 1846 and approved the second in 1848. Each version included only one provision about the property tax, a "uniformity clause" stating that taxation must be uniform. When the first constitutional convention met in 1846, 10 states had uniformity clauses in their

constitutions. The 1846 convention eventually inserted as Article 12, Section 1 of its proposed constitution a statement that: "All taxes to be levied in this state, at any time, shall be as nearly equal as may be."

The delegates at both conventions seem to have insisted on a uniformity clause in order to promote social, political and economic equality. As reported in the 1848 convention journal, delegate John Rountree "considered it a matter of very great importance. Our present laws did not secure a just and equitable valuation of property as the rule of taxation, and it was this kind of partiality and favoritism extended to particular kinds of property that he wished to see prohibited by the constitution."<sup>6</sup> His colleague Warren Chase, alluding to the convention's rejection of a motion to include a property tax exemption for real estate, remarked that the delegates "had already successfully combatted the principle of exempting certain privileged kinds of property from taxation, and he trusted, they would not now undo their rule [by creating exceptions]."<sup>7</sup> The second constitutional convention also included a uniformity clause in the 1848 document (Article VIII, Section 1) that, as originally presented to and ratified by the voters, read: "The rule of taxation shall be uniform, and taxes shall be levied upon such property as the legislature shall prescribe." The brevity and generality of the clause are major reasons why more than 120 Wisconsin Supreme Court cases have interpreted it. As will be seen, the uniformity clause has been expanded several times. Since its ratification in 1848, it has significantly influenced the property tax and property tax relief in Wisconsin, because courts may invalidate any law that does not conform to the constitution. As one example, the clause has been important because it has restricted the kinds of property tax relief the legislature may enact.

## II. THE EARLY YEARS OF STATEHOOD

### **The Revised Statutes of 1849**

The first major legislation after statehood was the Revised Statutes of 1849, which collected, organized and significantly modified the laws that the territorial legislature had enacted. The 1849 Legislature borrowed many of the modifications from the New York statutes. Chapter 15 of the Revised Statutes, in 29 closely-printed pages, created a surprisingly detailed system for the administration of the property tax.

All property was taxed with the following exceptions: 1) governmental property; 2) up to \$200 worth of personal property that could not be seized to satisfy a judgment in a legal case; 3) the property of literary, benevolent, charitable and scientific institutions, and public libraries; 4) the property of Indians who were not citizens; and 5) the personal property of individuals whom the assessor considered to be too poor to afford taxes (Section 4). The law taxed debts and stock in corporations, both of which are intangible, that is, their value depends not on their intrinsic worth as physical items but on a right or an ownership interest that they represent.

Certain administrative details virtually guaranteed that the system established by the 1849 Revised Statutes would be less than completely fair. Each town and village and each ward in the cities elected an assessor, who was not required to have any qualifications or training, except he must be a voter in the

municipality he served (Section 38). Since women were not permitted to vote in 1849, they were also not permitted to serve as assessors. Although county boards were authorized to equalize the valuations of the towns, villages, and city wards (Section 37), the members of the boards had no specific training either. They may have been tempted to minimize the total assessed value in the units that elected them or in which they owned property. An even more important cause of inequity was a requirement that assessors accept the value of personal property as sworn to by its owner in an affidavit and the value of real property as sworn to by its owner and an unrelated property owner in an affidavit (Section 26). The assessment rolls, which were supposed to list all taxable property and its value, were, therefore, often inaccurate.

The Revised Statutes also specified the units of government that could impose the property tax. The state was one, although the statutes did not require a state tax in a specific amount or for a specific purpose (Section 42). Counties were required to determine the amount of tax that each ward and town must levy for schools. That amount had to be at least half of the amount of the money that the ward or town received from the state school fund but not more than 3 mills per dollar of value (Section 43). Counties were allowed to levy a property tax, without a limit, for their own uses (Section 46). That is, school districts had neither direct taxing authority nor the right to tell other units of government the amount of property taxes to raise for them. The county was the major administrative unit for the property tax, perhaps because at that time many of the residents of Wisconsin had migrated from the South, where the county was the most important unit of government.

Some of the flaws in the property tax scheme established by the Revised Statutes of 1849 quickly became evident. A law enacted in 1854 directed a state board composed of the governor, the lieutenant governor, the secretary of state, the state treasurer, the attorney general, the state superintendent of public instruction and the state bank comptroller to equalize the total value of the property in the individual counties for state tax purposes (Chapter 73). The high level of officials assigned to do that task indicates the importance of equalization and of the property tax. They were probably more objective than the county boards, but they were no better trained for the job and were not as familiar with the property they had to evaluate. That law also indicates that it has always been difficult to regulate the details of property tax administration. For example, it did not specify the methods that the officials should use. It also required them not to reduce the total value of the taxable property in the state, as determined by the county boards. The latter requirement makes little sense in light of the way the property tax operates. Because the amount of property taxes to be raised in the state is determined before the rate is set, the total state value can be any amount. The tax rate can be adjusted to produce the desired revenue from any size base.

In Chapter 115, Laws of 1858, the system was improved by requiring property owners, upon request by the assessor, to provide a statement listing their taxable property (Sections 2 and 3). That law specified certain kinds of personal property that had to be reported, thus indicating a problem that has been important throughout most of the history of the property tax: assessors have difficulty finding and assessing personal property. Chapter 115 also established boards of equalization in towns, villages and cities, thereby adding a way for taxpayers to correct assessments (Sections 19 and 20). The economic devastation that the Panic of 1857 caused in Wisconsin made it even more important than before that the property tax be as equitable as possible and that those who were already financially distressed not be burdened by unfair taxes because someone else's personal property escaped assessment or was underassessed.

### **Early Legal Cases**

While the legislature and the governor were having difficulty improving property tax administration, the courts were having difficulty interpreting the uniformity clause. In the first published case on that clause, *Knowlton v. Rock County*, 9 Wis. 410 (1859), the issue was the restriction in the Janesville city charter on taxes that could be imposed on agricultural property. The facts seemed to be exactly the kind that the authors of the clause sought to prevent. That charter established different rules of taxation so that owners of agricultural property would pay less than their share of taxes. The Wisconsin Supreme Court decided that this preferential treatment violated the uniformity clause, saying: "The valuation must be uniform, the rate must be uniform." (p. 421) Thus, the court took seriously the distaste for favoritism embodied in the uniformity clause.

However, the dissenting justices claimed that the *Milwaukee and Mississippi R.R. Co. v. Waukesha* case, which had been decided in 1855 but not published, ought to be followed. (Unpublished opinions may not be used as precedents in deciding later cases.) The *Waukesha* case involved a group of rich men, including Hercules Dousman, Wisconsin's first millionaire, who owned a railroad that was to connect Milwaukee and the Mississippi River. The issue was whether taxing railroads on the basis of their revenue, but exempting them from the property tax, violated the uniformity clause. The court decided that uniformity within each class of property was enough to satisfy the uniformity clause. If all railroads were treated the same, that was sufficient uniformity.

This case is the first good example in the history of the Wisconsin property tax of concern for economic development, something which has been very important in recent decades. To follow the *Waukesha* decision over the years would have allowed flexible taxation responding to new economic conditions, but it also would have gutted the uniformity clause and allowed politically powerful groups to gain tax advantages at the expense of the politically powerless.

## **III. THE POST-CIVIL WAR ERA**

### **Exemptions**

In 1868 the property tax portion of the 1849 Revised Statutes was rewritten for the first time (Chapter 130, Laws of 1868). Among the more important changes was the adding of exemptions for the property of agricultural societies, fire engines, federal pensions, stock in corporations that paid property taxes, property used in the operation of railroads and the property of insurance companies (Section 2). The latter 2 exemptions were granted because railroads and insurers paid other taxes. The exemptions for certain intangible property reflected the difficulty of finding it and the argument that in some cases taxing it was double taxation (e.g., a corporation's tangible property creates some of the value of its stock). The 1868 law also exempted specified tangible personal property, rather than stating that property exempt from execution would also be exempt from property taxes. Thus, the list of exemptions grew significantly, although the

exemption for the property of persons whom the assessor thought were too poor to pay taxes was deleted.

The property tax exemptions for railroads and insurance companies indicated that the state's economy had become so complex that the property tax was becoming less appropriate. The property that the railroads owned was dispersed, so they paid taxes to many units of government, and concentrations of their property, for example in yards and depots, created windfalls for certain units of government. Railroads were systems, so it made some sense to tax the entire system rather than pieces of it. By far the most valuable kind of property owned by insurance companies was intangible property: investment income and the right to receive premiums. Because intangible property was difficult to tax and because the value of their tangible property did not reflect their actual value, insurers were taxed on the basis of their income, not their property's value.

Just as they had earlier with telegraph companies and insurers, in 1883 the legislature and the governor enacted a special tax for telephone companies (Chapter 345). That act imposed an annual license fee of 1% of each telephone company's gross receipts. Failure to pay that fee had severe consequences: a fine of \$5,000 and loss of the right to operate. This act also exempted telephone companies from all other taxes except the tax on real property that it owned but did not use in its business. In 1848, when a reference to "taxation" was put into the state constitution, that term meant the property tax, but in 1883 there were other taxes. More significantly, by that later time certain valuable kinds of property were exempted. The changes in the taxation of telephone companies did not seriously affect state revenue because one change added a license fee, which was paid to the state treasury. However, there was no replacement for the revenue that other units of government lost because of the exemption. This problem continued because the state relied only minimally on property tax revenue due to the productive special taxes on railroads and insurance companies, but other units of government that were heavily dependent on the property tax found that the exemptions seriously disrupted local finance.

### **Property Tax Administration**

The 1868 act created changes in property tax administrative procedures. For example, it shifted the responsibility for assessment to the county board, perhaps making assessments more objective but not necessarily more professional (Section 7). The changes in the assessment of personal property were a mixed bag. The provision that had allowed owners to assess their own property was discontinued. So was the requirement that owners, upon request, give a statement about their property to an assessor, probably because many of the statements were incomplete. At this point in history the legislature and the governor were still very concerned about the tax's administrative details. Later their attention focused much more on the issues of exemption and tax relief.

During this era many practices justified the concern about the administration of the property tax. In making assessments, county boards frequently appeared to favor certain groups over others. For example, the boards in northern Wisconsin often overassessed forest lands owned by nonresidents.<sup>8</sup> Sometimes the inequities that resulted from board action gave the appearance that those in office were taking financial advantage of their political power. For example, in 1867 the Door County Board, in its equalization, raised



the value of the Town of Liberty Grove, a Norwegian settlement, from \$33,192 to \$83,481 and lowered the value of the Town of Brussels, a Belgian settlement, from \$27,736 to \$24,200. Liberty Grove residents did not think it a coincidence that of the board's 3 members one was Belgian and none was Norwegian.<sup>9</sup> One can imagine that municipal assessors might be doing similar things on a smaller scale.

### **The Effects of the Economy on Property Taxes — 1870-1890**

At this point it is useful to pause and put the developments so far in the context of economic history by looking at the period between 1870 and 1890, which was turbulent. At the beginning of that period the state and nation were in a slump that began in 1867, a slump that was, to a large extent, caused by rapid shifts from a peace economy to a war economy and back again. That slump led into the Panic of 1873, the worst economic crisis in the nation's history to that point. The 1880s, however, were prosperous, as the increase in property values suggests. The assessed value of all of the property in the state was less in 1880 than it had been in 1870, but it increased by about 40% between 1880 and 1890. However, it is necessary to remember that during that era the assessed values were not very reliable.<sup>10</sup> All units of government collected about \$8 million in property taxes during 1875 and about \$11 million in 1885. The state's share of these collections was only 11.5% and 14.5%, respectively.<sup>11</sup> In fact, in 1885 Governor Jeremiah Rusk declared a moratorium on state property taxes for the next year, mainly because the special taxes on railroads and insurers were bringing in large sums of money.<sup>12</sup>

During this era Wisconsin's economy changed substantially. In 1870 the state's population was 19.6% urban, but by 1890 that figure had almost doubled to 38.2%.<sup>13</sup> During those 20 years, both the number of farms and the number of acres of land in the state devoted to farming increased by about 50%.<sup>14</sup> Because of mechanization, farms needed fewer workers, which caused a migration to urban areas, and more newcomers to the state settled in cities than in rural areas. Throughout that period Wisconsin industry was composed mainly of enterprises that processed the state's raw materials. In 1880 flour mills and lumber mills were by far the leading industries; 10 years later they still held the first 2 positions but other industries were beginning to narrow the gap. The value of industrial products increased dramatically during the 1880s. For example, the value of the products of flour mills increased from \$27,639,430 to \$60,966,444 between 1880 and 1890.<sup>15</sup>

These economic developments caused the property tax burden to shift from homeowners to industrial concerns. That trend was reinforced by Chapter 361, Laws of 1891, which created property tax exemptions for wearing apparel, personal libraries, kitchen furniture, growing crops and \$200 worth of household furniture and other personal property. These exemptions also reflect the continuing difficulty of finding and assessing personal property. At first glance, it might appear that the new law exempted property which had generated considerable tax revenue, but much of it was not being taxed anyway. In practice, Chapter 361 really removed from the tax rolls property owned by persons who either voluntarily revealed its existence or lived in municipalities that had zealous assessors. Helping them by officially exempting those types of property made the property tax more fair.

#### IV. TAX REFORM IN THE 1890s

The year that marked Wisconsin's 50th anniversary of statehood, 1898, is a logical point at which to reflect on the history of the property tax. On the one hand, the fact that there were few changes during those 50 years suggests that it was working well enough. After 1898 significant changes occurred with increasing frequency. On the other hand, Wisconsin's society and economy experienced considerable change, primarily in ways that made the property tax less suitable. Moreover, certain problems that resisted solution had emerged. Among them were ensuring fair assessments, rationally dealing with personal property, and taxing businesses that either operated over wide areas or had mainly intangible property. In short, although the property tax was still working, its defects were beginning to be troublesome, and perhaps reform had been delayed for too long.

The force that finally set property tax reform in motion was economic, specifically the Panic of 1893 and the depression that ensued.<sup>16</sup> The panic caused a precipitous drop in the gross receipts taxes paid by railroads and insurance companies, which, in turn, greatly increased the revenue that the property tax was required to generate. Rich persons could easily conceal intangible property from the assessors, and many of them simply did not pay taxes, thus increasing the burden on others.<sup>17</sup> In 1898 Governor Edward Scofield, a conservative, advocated tax reform and asserted that the goal should be to ensure that each citizen pay a fair share.<sup>18</sup> At that point, many felt that something dramatic had to be done about taxes, especially about the property tax.

As early as 1889, the legislature had before it a proposal that would lead to tax reform. During that year K.K. Kennan, an attorney who was the tax commissioner for the Wisconsin Central Railroad, drafted a bill that would have created a state tax commission, and he convinced a legislator to introduce it. At that time only Indiana and Massachusetts had professional tax commissions. Kennan advanced this idea unsuccessfully for several sessions, but by 1897 only reluctance to appropriate \$6,000 to pay for the commission stood in the way of the bill's passage. After Kennan promised to raise the money privately, the appropriation was deleted and the bill was enacted as Chapter 340. It authorized the governor to appoint 3 tax commissioners, who were to begin meeting on June 10, 1897, and were to conclude their business by December 31, 1898. They were directed to compile the state's tax laws and statistics, investigate complaints, review the laws of other states, recommend changes and prepare a report. The governor appointed Kennan, Burr W. Jones and George Curtis, Jr.

The Tax Commission's report, which appeared in 1898, did the things that the act creating it directed and also chronicled the history of taxation in Wisconsin. The report expressed some of the concerns that have been mentioned in this article and convincingly documented their existence. For example, it proved, partly by comparing assessed values with U.S. Census data, that assessors undervalued property, and it explained why. It reported that the commissioners "found frequent instances of an almost open and avowed practice of favoring particular interests and industries or classes of property."<sup>19</sup> Specifically, it argued that the property tax system exploited the poor, especially farmers, because most of their property was tangible and in plain sight, unlike much of the property of the rich. The report discussed at length the taxation of

mortgages, securities and other intangible property and concluded that "the omission of this kind of property from assessment is perhaps the most noticeable of all defects in the administration of our tax laws."<sup>20</sup> The commission also showed that assessors valued bank deposits at only about 5% of their real value.

To cure these and other defects in a system of taxation that the commission thought fell "far short of what the intelligent and progressive people of this state have a right to demand", the report presented a number of recommendations.<sup>21</sup> Among them was limiting town taxes to 2% of the assessed value established in the previous year. The purpose was not so much to limit taxes as to force assessment at full value in order to generate the revenue that the town needed. To combat inaccurate assessing, the commission wanted to make it easier for citizens to force reassessment of their municipalities. It hit at the heart of the assessment problem by asserting that the operation, or at least the supervision, of tax administration should be placed in the hands of objective, trained, nonelected state officials. The commission also pointed out that corporations that paid gross receipts taxes instead of property taxes were benefiting from that arrangement, which was not fair.

### **Genesis of a Professional Tax Commission**

The commission's report itself is a convincing argument for its recommendation that professional state employees should play a greater role in administering the property tax. That report is a marvel: a lengthy, intellectually sophisticated document produced by a small number of persons who worked together for a short time. It was felt that if a temporary commission could do first-rate work certainly a permanent state body that operated free of political pressure and existed long enough to recruit and train able employees and to collect data would greatly improve the administration of the state's taxes and could guide politicians who wished to reform those taxes. The commission's report began a new era in the history of this state's property tax. Moreover, Commissioners Kennan, Jones and Curtis are unsung heroes in the history of Wisconsin government.

The legislature and Governor Scofield gradually became convinced that they should create a professional agency to administer taxes. Chapter 206, Laws of 1899, authorized the governor to appoint, with senate approval, a 3-member tax commission for a term of 10 years. The law allowed the commission to investigate and supervise the tax system. Two years later, Chapter 237, Laws of 1901, expanded the commission's duties to include equalization for purposes of the state tax. Finally, Chapter 380, Laws of 1905, created a permanent tax commission, consisting of 3 commissioners, who served 8-year terms, and provided for a staff. The permanent commission had more power to investigate and supervise tax administration than did the temporary commission. It could, for example, begin legal proceedings against any local assessor or other tax officer and, if the complaint was valid, remove the person from office. The commission also advised the governor on tax policy and investigated other tax systems.

Directing the tax commissioners to supervise assessment had an immediate, positive effect. In 1902, the year after that expansion of their duties, local assessment was, on the average, at 78% of the full value of property. This was about twice the level of the previous year. George Curtis thought that the commission's

work caused the improvement. He also believed that "the requirement of the law that assessments shall be made at true value is the most vital thing in the general property [tax] system."<sup>22</sup> Unfortunately, as Curtis conceded, the level fell to 62% in 1907. Old habits die hard. The Tax Commission could exert pressure on the local officials who assessed and equalized, but, unless those office holders were professional and objective, assessment would not reach and stay at the 100% level required by law.

## V. THE PROGRESSIVE ERA

In 1901 there occurred a major political event and, in its wake, an appointment, both of which significantly influenced the history of the property tax. Robert La Follette, Sr., perhaps Wisconsin's most famous governor and certainly one of its more significant politicians, became governor in that year. Moreover, he was the first in a series of 3 Progressive governors who held office through 1914. One of La Follette's first important actions was to appoint Nels Haugen to the Tax Commission to replace K.K. Kennan. Haugen, a vital ally of La Follette, had served in the state assembly, in the U.S. House of Representatives, and on the Railroad Commission. That appointment at first glance appears to be merely political, but Haugen became an expert on taxation, and during his 20 years on the commission he performed admirably.

Haugen took his place on the Tax Commission in time to help prepare its report to the 1903 Legislature. This report, like the 1898 report, is very impressive. Emanuel Philipp, whose election in 1915 broke the series of 3 Progressive governors, wrote that the 1903 report "justly has been regarded as one of the most valuable contributions to taxation literature in print" and that in 3 of its sections "the treatment was so exhaustive, the analyses so clear and convincing that they carried conviction to the minds of the legislators, or at least, to the minds of all members who permitted sound reason to control their official actions."<sup>23</sup> Parts of the report were descriptive or made relatively noncontroversial recommendations, but the parts on taxing credits and railroads mapped areas that soon became major legislative battlegrounds.

One less controversial aspect of the commission's report dealt with the state property tax of one mill that had been enacted in 1898 to help finance local schools by distributing state dollars to the districts on the basis of the number of school-age children they contained. In 1901 there was a substantial increase statewide in the assessed value of taxable property due to legislation that required county boards to elect supervisors of assessments and directed the Tax Commission to become more involved in assessing property. As a consequence of this, the one mill tax generated more than \$1.4 million, which, when added to the income from the school fund, provided over \$1.6 million for the schools regardless of local tax efforts. The Tax Commission approved the equalizing effect of the law, which shifted revenue from areas that had strong tax bases to areas that needed help raising revenue, but it recommended that the state tax be adjusted so that it provided only \$700,000 per year, rather than giving some school districts more money than they could sensibly spend.

**GENERAL PROPERTY ASSESSMENTS AND TAX LEVIES  
IN WISCONSIN, 1900 TO 1989**

Calendar Year	Total Full Value Assessment of All Property		Total State and Local Property Taxes Levied		Average Full Value Tax Rate		Average Full Value Effective Tax Rate	
	Amount	Percent Change*	Amount	Percent Change*	Amount	Percent Change*	Amount	Percent Change*
1900	\$630,000,000	---	\$19,376,442	---	0.03075	---	---	---
1910	2,743,189,404	335.43	30,675,518	58.31	0.01118	-63.64	---	---
1920	4,570,698,530	66.62	96,268,625	213.83	0.02106	88.37	---	---
1930	5,896,431,628	29.01	120,855,119	25.54	0.02049	-2.71	---	---
1940	4,353,503,414	-26.17	109,998,693	-8.98	0.02526	23.28	---	---
1950	9,200,753,935	111.34	225,610,004	105.10	0.02452	-2.93	---	---
1960	18,844,251,120	104.81	481,382,273	113.37	0.02555	4.20	---	---
1970	34,790,499,300	84.62	1,178,975,199	144.91	0.03388	32.60	---	---
1971	37,262,654,900	7.11	1,301,043,414	10.35	0.03491	3.04	---	---
1972	40,833,250,300	9.58	1,326,681,029	1.97	0.03249	-6.93	---	---
1973	45,512,995,100	11.46	1,323,785,467	-0.22	0.02908	-10.50	---	---
1974	51,522,983,530	13.20	1,462,290,295	10.46	0.02838	-2.41	---	---
1975	58,549,890,092	13.64	1,601,263,271	9.50	0.02734	-3.66	---	---
1976	65,653,648,256	12.13	1,735,487,737	8.38	0.02643	-3.33	---	---
1977	73,530,548,014	12.00	1,856,188,602	6.95	0.02524	-4.50	---	---
1978	84,139,837,774	14.43	1,912,923,122	3.06	0.02273	-9.94	---	---
1979	96,722,610,405	14.95	2,010,364,766	5.09	0.02078	-8.58	---	---
1980	108,480,469,889	12.16	2,210,004,212	9.93	0.02037	-1.97	---	---
1981	112,874,220,070	4.05	2,439,618,623	10.39	0.02161	6.09	0.01931	---
1982	118,159,120,779	4.68	2,560,761,397	4.97	0.02167	0.28	0.01868	-3.26%
1983	119,751,383,830	1.35	2,762,001,103	7.86	0.02306	6.41	0.02071	10.87
1984	122,060,946,775	1.93	2,939,981,261	6.44	0.02408	4.42	0.02171	4.83
1985	123,021,487,280	0.79	3,203,487,573	8.96	0.02604	8.14	0.02230	2.72
1986	120,574,776,770	-1.99	3,489,361,148	8.92	0.02893	11.10	0.02464	10.49
1987	121,883,655,590	1.09	3,499,211,213	0.28	0.02870	-0.80	0.02608	5.84
1988	126,587,557,530	3.86	3,755,365,497	7.32	0.02966	3.34	0.02714	4.06
1989	133,206,184,580	5.23	4,078,930,415	8.62	0.03062	3.24	0.02822	3.98

\*Percentage change from previous year entered on table.

Source: Wisconsin Department of Revenue, Division of State and Local Finance, *Town, Village, and City Taxes -- 1989: Taxes Levied 1989 -- Collected 1990*, 1990, and prior issues; percentages calculated by the Wisconsin Legislative Reference Bureau

The report included an impressive section about taxing shares in banking corporations and the property of banks. The owners of those shares paid the tax on them, and banks paid the tax on their real property. The report lists the 12 questions that the commission submitted to each bank in order to obtain information relevant to the value of its shares. Those questions indicate the commission's considerable knowledge of banking and its determination to ensure an accurate assessment. Moreover, the commission recommended that assessors subtract the value of the real property used in a bank's operation from the bank's total value. The commission believed that the value of the bank's shares included the value of the bank's real property, so that taxing both was double taxation. However, it did recommend continuing to include in a bank's total value any real property that was not used in the bank's operation, because the commission wanted to discourage banks from holding property that could not easily be converted into money.

## Taxation of Credits

One of the 2 battlegrounds that the report mapped concerned intangible property: credits, which it defined as "a right on the part of the creditor to receive and enforce payment of an obligation due from some other person."<sup>24</sup> The commission recommended that the state stop taxing credits because it was difficult to collect the tax on them and because they were not distinct from other property. If someone took out a loan to buy a house, the resulting credit did not add to the wealth in the state, so taxing both it and the house was double taxation. Also, the commission argued, if credits were taxed, creditors would add more than the amount of the tax to the interest charges, so that debtors would be even worse off. The commission drafted a bill that reflected its position.

Nels Haugen, who had written a brief dissent to the commission's report, delivered a long paper, "The Exemption of Credits", before the Assembly Committee on the Assessment and Collection of Taxes, which considered the commission's bill. He argued mainly that the credits were a form of wealth, that most persons who owned them were well-to-do, and that they should be paying their share of taxes. He echoed the position that Governor La Follette had taken a few months earlier in his executive message. La Follette, in discussing the addition of intangible wealth to the property rolls, had said: "That vast accumulations of wealth may be invested in interest bearing securities, insuring [sic] large incomes to the holders, who throw their share of the expense of .... municipal and State government upon the owners of factories and shops and stores and farms and homes, violates every principle of equal rights and equal responsibilities guaranteed to each American citizen."<sup>25</sup> Both sides made good sense, and in the 1903 Tax Commission report Haugen identified a way of resolving the issue when he suggested creating an income tax.

As one would expect from the fact that conservatives, most of whom wanted to exempt credits, controlled the assembly and Progressives, most of whom agreed with Haugen and La Follette, controlled the senate, the bill on the taxation of credits went to a conference committee (a small committee made up of members from each house appointed to resolve differences between the 2 houses and to recommend a compromise, which the houses can accept or reject but cannot change). The committee's version of the bill dealt only with mortgages, not with all credits, and it provided that the unpaid amount of a loan could be assessed to the creditor and the value of the real estate minus the unpaid amount of a loan assessed to the debtor or, if the debtor agreed, both amounts could be assessed to the debtor. This rule is not what it first appears to be. In either case, only the value of the property, not the value of the property and the value of the loan, would be taxed. Since it was likely that all creditors would insist that their debtors agree to pay the tax on the real property's total value, the practical effect was that creditors would not pay a tax on mortgages.

## Taxation of Railroads

Another battleground that the 1903 Tax Commission report mapped was the taxation of railroads. Since enactment of Chapter 71, Laws of 1854, they had been exempt from property taxes and instead assessed a tax equal to a percentage of their earnings. Although by 1903 that percentage had been increased several times and they were paying a large share of the state's taxes, considerable resentment had built up against them. Many persons remembered the large subsidies that the state and many municipalities had given the railroads in their early years and the large reductions in their taxes that occurred during the depression of the mid-1890s, when their earnings declined. In 1901, Governor La Follette, angry because the legislature had failed to increase railroad taxes as he had advocated in his inaugural address earlier that year, lashed out against them in a veto message on a bill about dog licenses, claiming that ordinary persons should not have to buy those licenses until the railroads paid their share of taxes.

In its report, the commission presented the results of its painstaking assessment of railroad property values. Using a generally accepted ratio, the commission estimated that value on the basis of the railroads' earnings. If the railroads had been taxed on the commission's estimate at the average tax rate in the state, they would have paid approximately \$2.6 million in taxes in 1902, whereas they had actually paid a little more than \$1.7 million on their earnings. The commission advocated replacing the gross receipts tax with "the more reasonable and efficient method of the *ad valorem* [based on value, as is the property tax] taxation."

A law discontinuing the gross receipts tax on railroads and subjecting them to a property tax at the average state rate of taxation was enacted in Chapter 315, Laws of 1903. The tax was imposed not only on the tangible property used by the railroads in their business but also on their franchises, which are intangible rights to do business. For 1904 and 1905 the railroads were to be charged a gross receipts tax, which was to be credited against their property taxes. That transitional provision ensured that if a court declared the property tax imposed on them invalid the state would continue to collect the gross receipts tax. The railroads soon attacked the new law in court, raising so many issues that the opinion justifying the Wisconsin Supreme Court's validation of that law is 120 pages long.<sup>26</sup> The law also required railroads to provide a good deal of financial information, which indicated that the Tax Commission anticipated the assessment of their property would require much more than merely viewing it.

The battles over the taxation of credits and railroads changed the history of the property tax in Wisconsin because they were more politicized than were earlier considerations of possible changes in the property tax laws. The debate about taxation of credits which developed between Haugen and the other 2 commissioners in the 1903 Tax Commission Report provides an example. The majority report, like earlier documents about the property tax, was impersonal, analytical and dispassionate. Haugen's voice was unfamiliar; it was personal, emotional, and passionate. More to the point, Commissioners Norman Gilson and Curtis considered taxes in general terms, whereas Haugen wanted one socioeconomic group to pay more taxes and wanted to reform the tax system. Gilson and Curtis took a technical view of the property tax, attempting to repair the system. Haugen wrote in partisan terms. This is not to say that one side was completely right or that Haugen's approach replaced that of Gilson and Curtis. Nevertheless, Haugen's perspective on taxation received increasing support, and it led to special treatments and uses of the property

tax system for nontax purposes, which perhaps make that system less equitable and less internally consistent today.

The same year that the state discontinued the gross receipts tax on railroads and instead imposed the property tax on them, it similarly changed the taxation of 2 other businesses that were difficult to assess because of the property they owned and the infrequency with which they were sold. One was the telegraph companies, which had been taxed on the basis of their miles of wire (Statutes of 1898, Section 1216) and were now subjected instead to the property tax by Chapter 494, Laws of 1905. The other business, street railway companies (trolley lines), which had been taxed on the basis of gross receipts (Statutes of 1898, Section 1222d), also became subject to the property tax (Chapter 493, Laws of 1905). These changes were made much more smoothly than the changes in the taxation of railroads, partly because there was much less tax money at stake and partly because the issue was not as politicized.

### **Problems with Local Assessments**

While the legislature and the governor waged ideological wars about what property should be taxed and the way to do it, the Tax Commission was carrying on its much quieter battle to make the administration of the property tax more equitable. It proceeded as it had since 1898, carefully accumulating information so that it could make rational recommendations. In early 1904 it published a study it had commissioned of the assessment of real property.<sup>27</sup> The authors of that study concluded that assessors were valuing real property at an average of no more than half its value. They were also disturbed to learn that the records of the sales prices of land, which the registers of deeds were required to send to the Secretary of State, were so inaccurate as to be almost useless for property tax assessors. The pressure from the Tax Commission was improving assessments somewhat, but local officials continued to resist that pressure.

One way to minimize the damage caused by that resistance was to make it easier to appeal decisions that local officials had made. Chapter 474, Laws of 1905, allowed the governing body of any municipality to appeal a county board's equalization of property values to the state board of assessors (at that time, the Tax Commission). This procedural change was a step in the right direction, but it did not address the fundamental problems that made the change desirable: most of the officials who assessed property and did the first round of equalization were not well trained, and many of them ignored the relevant laws.



**PROPERTY ASSESSMENTS, TAXES AND RATES - By County, 1989**

County	Full Value Assessment <sup>1</sup>	Total Property Tax <sup>2</sup>	State Property Tax Relief <sup>3</sup>	Average Full Value Tax Rate <sup>4</sup>	
				Gross	Effective
Adams	\$585,894,920	\$16,825,648	\$1,291,647	\$28.71	\$26.51
Ashland	306,109,200	10,259,097	821,035	33.51	30.83
Barron	970,736,300	27,101,412	2,190,004	27.91	25.66
Bayfield	446,091,120	13,514,669	1,059,358	30.29	27.92
Brown	5,158,600,900	152,553,824	11,777,618	29.57	27.28
Buffalo	310,603,470	9,554,838	798,047	30.76	28.19
Burnett	486,939,900	12,128,985	979,698	24.90	22.89
Calumet	846,282,700	23,078,176	1,776,895	27.27	25.17
Chippewa	1,151,123,710	32,638,823	2,619,017	28.35	26.07
Clark	587,908,550	19,379,615	1,619,047	32.96	30.20
Columbia	1,249,969,100	32,171,656	2,565,240	25.73	23.68
Crawford	349,804,950	10,715,959	905,614	30.63	28.04
Dane	11,106,568,400	352,114,647	26,479,535	31.70	29.32
Dodge	1,765,891,200	54,808,522	4,437,901	31.03	28.52
Door	1,597,984,500	32,103,934	2,436,586	20.09	18.56
Douglas	792,010,430	25,108,582	2,026,266	31.70	29.14
Dunn	689,061,100	21,424,648	1,724,562	31.09	28.58
Eau Claire	1,810,834,400	54,666,788	4,231,778	30.18	27.85
Florence	137,683,300	4,212,578	352,809	30.59	28.03
Fond du Lac	2,181,255,600	58,118,402	4,648,157	26.64	24.51
Forest	238,985,800	6,438,682	505,343	26.94	24.82
Grant	985,487,500	30,068,293	2,547,846	30.51	27.92
Green	834,287,600	25,621,696	2,089,951	30.71	28.20
Green Lake	600,174,200	16,205,707	1,334,827	27.00	24.77
Iowa	570,904,500	17,647,888	1,421,188	30.91	28.42
Iron	164,466,200	6,080,325	454,031	36.97	34.20
Jackson	356,008,020	10,422,485	835,400	29.27	26.92
Jefferson	1,594,401,300	47,941,320	3,771,591	30.06	27.70
Juneau	522,233,830	14,391,727	1,179,423	27.55	25.29
Kenosha	3,249,900,900	91,521,862	7,168,928	28.16	25.95
Kewaunee	436,214,500	12,744,738	1,063,233	29.21	26.77
La Crosse	2,274,143,950	74,335,022	5,666,159	32.68	30.19
Lafayette	441,762,800	14,154,125	1,233,048	32.04	29.24
Langlade	434,265,800	12,331,888	1,058,448	28.39	25.95
Lincoln	565,890,100	17,852,631	1,383,293	31.54	29.10
Manitowoc	1,728,798,600	49,729,528	3,910,758	28.76	26.50
Marathon	2,775,939,600	85,289,839	6,875,282	30.72	28.24
Marinette	1,033,492,200	29,747,888	2,479,441	28.78	26.38
Marquette	395,205,500	10,087,740	797,157	25.52	23.50
Menominee	54,808,400	1,344,939	103,530	24.53	22.64
Milwaukee	24,441,595,500	928,635,976	73,853,914	37.99	34.97
Monroe	735,177,270	20,678,441	1,556,174	28.12	26.01
Oconto	803,606,300	22,912,202	1,770,421	28.51	26.30
Oneida	1,268,442,000	31,691,436	2,499,957	24.98	23.01
Outagamie	3,811,124,300	109,857,326	8,203,722	28.82	26.67
Ozaukee	2,802,242,100	81,394,084	6,005,438	29.04	26.90
Pepin	159,470,600	5,484,001	468,800	34.38	31.44
Pierce	768,220,400	21,798,277	1,781,961	28.37	26.05
Polk	957,131,000	25,984,222	2,092,512	27.14	24.96
Portage	1,617,672,200	42,397,573	3,364,593	26.20	24.12
Price	360,291,200	11,633,806	925,446	32.29	29.72
Racine	4,361,867,900	136,302,807	10,591,967	31.24	28.82
Richland	368,501,850	12,282,656	1,012,346	33.33	30.58
Rock	3,149,445,000	94,773,236	7,653,445	30.09	27.66
Rusk	288,202,950	8,639,453	793,628	29.97	27.22
St. Croix	1,503,891,200	43,779,174	3,302,535	29.11	26.91
Sauk	1,365,826,200	41,060,628	3,090,956	30.06	27.79
Sawyer	540,361,940	13,187,834	1,056,906	24.40	22.44
Shawano	877,015,800	23,067,288	1,835,365	26.30	24.20
Sheboygan	2,640,714,400	87,110,372	6,633,274	32.98	30.47
Taylor	371,429,760	10,417,745	896,799	28.04	25.63
Trempealeau	503,867,390	17,798,120	1,405,999	35.32	32.53
Vernon	522,549,220	16,638,964	1,424,065	31.84	29.11
Vilas	1,130,192,500	22,892,479	1,791,250	20.25	18.67
Walworth	3,120,983,300	75,977,233	5,768,478	24.34	22.49
Washburn	413,090,350	11,725,489	941,283	28.38	26.10
Washington	2,870,237,700	79,649,802	5,977,299	27.75	25.66
Waukesha	12,298,687,100	331,206,856	25,238,855	26.93	24.87
Waupaca	1,126,866,600	30,360,281	2,384,309	26.94	24.82
Waushara	658,115,400	17,104,498	1,313,617	25.99	23.99
Winnebago	3,819,851,500	110,717,976	8,521,442	28.98	26.75
Wood	1,760,788,600	55,331,491	4,528,518	31.42	28.85
<b>TOTAL</b>	<b>\$133,206,184,580</b>	<b>\$4,078,930,415</b>	<b>\$319,305,000</b>	<b>\$30.62</b>	<b>\$28.22</b>

<sup>1</sup>Reflects actual market value of all taxable general property as determined by the Wisconsin Department of Revenue independent of locally assessed values, which vary substantially from full value (from less than 74% to more than 146%).

<sup>2</sup>Includes taxes and special charges levied by school districts, vocational school districts, counties, cities, villages, towns, special purpose districts, and the State of Wisconsin.

<sup>3</sup>Total amount of general property tax credit paid by the state to taxing districts and credited to taxpayers on their tax bills.

<sup>4</sup>Average tax per \$1,000 of assessed valuation (determined by dividing total taxes by full value and multiplying by 1,000), the preferred figure for comparison purposes. "Effective" rate is after state property tax relief is applied.

Source: Wisconsin Department of Revenue, Division of State and Local Finance, *Town, Village, and City Taxes -- 1989: Taxes Levied 1989 -- Collected 1990, 1990.*

### **The Nation's First Workable Income Tax**

At the time the legislature passed that procedural law, it was also engaged in a much more significant and laborious effort to bring about property tax reform, that of amending the uniformity clause to allow an income tax. An amendment to the state constitution becomes effective only after the legislature passes it in exactly the same wording in 2 consecutive sessions and the voters of the state then approve it. The legislature passed such an amendment during the 1903 session, but an error nullified that effort. Valid passage occurred during the 1905 and 1907 sessions, and in November 1908 the voters approved the amendment, which added to the uniformity clause (Article VIII, Section I) a statement that: "Taxes may also be imposed on incomes, privileges and occupations, which taxes may be graduated and progressive, and reasonable exemptions may be provided." This amendment allowed more flexibility in tax policy and, thus, made it easier to modify the property tax and create property tax relief.

After a false start during the 1909 session, mainly due to drafting flaws, the legislature began serious efforts to pass an income tax bill during the 1911 session. The desire to help certain socioeconomic classes at the expense of others, a motive evident in Haugen's dissent in the 1903 Tax Commission report, apparently was not very important during the deliberations.<sup>28</sup> Rather, the legislature concentrated on creating a workable income tax and rationally relating it to the property tax. The lawmakers took a big step toward making the income tax workable when they enlisted the help of Charles McCarthy, chief of legislative reference at the capitol, who in turn found Delos Kinsman, a professor who had the necessary technical knowledge. Those who worked on the technical details succeeded. They created this country's first workable income tax.

In that act, income tax liability related to property tax liability in 3 ways. First, in computing their income tax liability, corporations and individuals could reduce their incomes by deducting taxes paid on property used to produce that income (Chapter 658, Laws of 1911, Sections 1087m-3(d) and 1087m-4(h)). That is, taxes on a business, including property taxes, were considered to be part of the cost of producing income and thus deductible. To the extent that the property tax was a tax on income because it was imposed on property that produced income, those deductions made sense because they prevented double taxation. By 1911, however, the property tax was much less of an indirect tax on income than it had been in 1848. Most importantly, persons who resided in housing that was not the place where they produced income now suffered in comparison to other persons; justifying the property tax as a tax on income still did not make sense in regard to them, and they were not able to deduct property taxes from income when they calculated their income taxes.

Second, unlike the rates for individuals, which increased as taxable income (total income minus deductions) increased, the rates for corporations increased as the ratio of taxable income to the assessed value of income-producing property increased (Section 1087m-6). At first glance, that ratio would seem to favor businesses, such as heavy manufacturers, that are dependent on valuable capital property compared to businesses, such as many service industries, that make money primarily by means of human labor. If that appearance were accurate, it would be evidence that the income tax act was designed to favor certain interests. That appearance, however, rests on the premise that assessors were doing a good job. By now it

should be clear that premise was invalid. In fact, the drafter of the income tax bill explained that the rates were designed to help corporations that had been assessed more accurately and to increase liability for those who had benefited from underassessment.<sup>29</sup> The intent, as was often the case with the income tax, was to equalize the tax burden.

Third, the act allowed all taxpayers to subtract from their income tax liability the amount of taxes that they paid during the year on their personal property (Section 1087m-26). This was a valuable benefit because it was a tax credit that directly reduced the tax owed, whereas a deduction merely reduces the income level to which the tax rate is applied. A deduction is worth only a credit of the same amount multiplied by the tax rate applicable to the taxpayer. In fact, this credit reduced the state's income tax revenues by nearly 50% in the tax's first year. The act also provided a second benefit for taxes paid on personal property used in a business. Like the corporate rates, this provision was more helpful to taxpayers whose property had been assessed at a higher percentage of its value, as compared to those taxpayers whose property had escaped assessment or had been assessed at a low percentage. Because the state was willing to forego so much revenue to create those results, one can deduce that the income tax was considered primarily to be a solution to property tax problems rather than a major new revenue source.

The income tax act also exempted from the property tax certain portions of 2 classes of personal property that, as we have seen, had for the most part been escaping taxation. One class was intangible property; the act exempted money and "stocks and bonds not otherwise specially provided for". The other class was personal possessions; the act exempted personal ornaments, "jewelry habitually worn and household furnishings". It also repealed dollar limits that applied to watches, mechanics' tools and the sum of the value of certain musical instruments and household furniture. Because of the offset of personal property taxes against income taxes and the difficulty that assessors had discovering personal property, these exemptions had little effect on most persons. They merely recognized the fact that the assessment of personal property was seriously deficient.

Although the legislature and the governor had taken a bold step by enacting the nation's first workable income tax, they could have made an even bolder move for the times by entirely repealing the tax on personal property. The Tax Commission in its 1912 report pointed out that in 1911 the personal property tax collections that would still exist after offsets against the new income tax had produced only a modest \$250,000 in additional revenue. This meant that if the income tax were collected in full without allowing offsets and if the income tax were adjusted to bring in slightly more revenue (i.e., \$250,000), no revenue would be lost by exempting all personal property from taxation. In fact, the commission thought that a drought had caused an unusual reduction in income in 1911. It predicted that, in a normal year, the \$250,000 would be made up without any adjustment to the income tax.

Indeed, in 1911 the legislature and the governor could have been even more bold. They could have adjusted the income tax to make it generate significantly more revenue and repealed all property taxes, both on real estate and personal property. In 1912, its first year, the income tax would have brought in \$3,482,883 if there had been no offset of personal property taxes. That year the property tax brought in \$33,623,412. The gap between the 2 taxes was thus great, and replacing the property tax with another tax would have been almost impossible politically. On the other hand, property tax collections continued to grow, making it even

more unlikely that another revenue source could replace that tax. Perhaps if the income tax had been enacted earlier it could have replaced the property tax, because even less revenue would have been needed to take the place of property tax revenue. In any case, one can only wonder what the state's finances would be like today if, at an early point, the state's policymakers had decided that the property tax no longer suited the state's economy and had replaced it with another tax. The last chance — and a very slim chance at that — to do so probably occurred in 1911; after that the only possible approach was to apply patch after patch to a property tax structure that was leaking badly.

### Henry George and the Single Tax Theory

A recurring theme in the history of the property tax in Wisconsin, the single tax, first prominently appeared in 1913. This was the idea of Henry George (1839-1897), a lecturer, journalist and politician. He developed this idea most extensively in *Progress and Poverty* (1879). Beginning with some ideas of another economist, David Ricardo, he argued that because the supply of land was constant, its value would rise as demand increased, even if no one developed it. George asserted that, in order to promote equity and stimulate development, governments should tax land at a rate high enough to cancel that unearned increase in value. That is, he believed that owners should be forced to use their land to earn income to pay their taxes. He thought that such a tax would be so lucrative that no other tax would be needed; hence, he called it "the single tax". Because *Progress and Poverty* appeared one year after the conclusion of the 1873-1878 depression, and because it attacked speculators, who were a favorite target at that time, it was enormously popular. In fact, it was one of the best selling books of the 19th century.

In 1913 Edward Nordman, who represented Langlade County in the assembly, introduced a joint resolution, based on George's ideas, to amend the uniformity clause to allow municipalities and counties to exempt whole classes of property while continuing to tax other classes. He wanted to impose the property tax only on land in order to penalize speculators who held land in northern Wisconsin and did not develop it.<sup>30</sup> The *Milwaukee Journal* also reported that John R. Commons, an eminent University of Wisconsin economist, agreed with Nordman and recommended that if only land were taxed, it should be assessed according to its location and speculative value. The legislature passed Nordman's joint resolution on first consideration. When that resolution was introduced for second consideration in the 1915 Legislature, Thomas Adams, a former University of Wisconsin economist and at the time a tax commissioner, announced his support of it.<sup>31</sup> However, the assembly defeated the joint resolution. Nordman reintroduced his joint resolution in 1917, but it failed to pass. Nordman persisted. In 1924 he was still advocating a single tax.<sup>32</sup> Two years later, when he was the director of the state Department of Markets, he argued for a variation of the single tax — a tax on unearned income (income from investments, not from labor) — but, in order to help farmers, he disagreed with Professor Commons by urging the assessment of farmland on the basis of the income it produced rather than on its market value.<sup>33</sup>

Nordman was not the only follower of George to serve in state government. During the 1921 session Representative Carl Grimstad introduced a bill (Assembly Bill 504), designed by Commons, that was intended to tax only the site value of land, thus coming close to George's concept. During the Depression,

C.B. Whitnall, the secretary of the Land Commission, argued that improvements should be assessed at only 50% of their value,<sup>34</sup> and Edward Kiefer, a Socialist, introduced a single tax bill (1933 Assembly Bill 662). Most recently, in the 1985 legislative session, Senator John Norquist, who was later elected mayor of Milwaukee, introduced a joint resolution that would have amended the uniformity clause to allow cities and villages to tax improvements at a lower rate than they taxed land (Senate Joint Resolution 31). He also proposed another joint resolution requesting the Legislative Council to study the advisability of taxing only land and exempting buildings (Senate Joint Resolution 32). Whatever their practicality, George's single tax idea and the variations of it that have been advanced in this state are interesting because they base property taxation on social and economic theory.

The Tax Commission in its 1916 report, instead of merely indicating that the personal property tax could be repealed without loss of revenue, vigorously argued for repeal. In addition to repeating some of the familiar arguments against the tax, the commission pointed out that designating the same date for the assessment of all personal property produced inequitable and random results. For example, it noted, on the May 1 assessment date "coal docks are empty, and grain elevators are full". The commission cited a number of authorities who agreed with its position. Although by 1916 the gap between the revenue from the income tax and the revenue from the tax on personal property had grown to more than \$2 million, the commission believed that the latter tax could be repealed without a loss of revenue. It suggested that certain property (which it did not specify) that was actually real property be classified that way and thus made taxable and the income tax be adjusted. By this time, however, it no longer was possible to discontinue the tax on personal property and easily recover the lost revenue by means of the income tax.

The 1916 Tax Commission report also advocated repealing the offset of personal property taxes against income taxes. It argued that if the personal property tax were discontinued, that offset would be irrelevant. If the personal property tax were continued, the offset should be repealed because its purpose was to facilitate the transition to a tax system that included an income tax, and the transition period was over.<sup>35</sup> The offset was repealed 9 years later (Chapter 57, Laws of 1925). The resulting increase in income tax revenue was dramatic. In 1924 almost \$14 million in income taxes was assessed, but that amount was offset by more than \$6 million, so the net collection was \$7,333,283. In 1925 about \$12,450,000 was assessed and the offset was less than \$100,000 (apparently an offset against income from earlier years, before the repeal became effective), so that \$11,936,952 was collected. However, repealing the offset increased the temptation for owners of personal property to hide it from assessors because their taxes paid on it would no longer reduce their income taxes. Repeal of the offset also increased pressure to exempt personal property.

**COMPLETE ANNUAL SCHOOL COSTS, REVENUE SOURCES, 1972-73 to 1989-90**  
**(In Millions)**

School Year	Complete Annual School Cost <sup>1</sup>	Federal Funds	% of Total Cost	State Aids	Type <sup>2</sup>	% of Total Cost	Local Sources	Type <sup>3</sup>	% of Total Cost	CASC per Member
1972-73	\$1,169.4	\$50.1	4.3%	\$339.0		29.0%	\$780.3		66.7%	\$1,223
				236.3	G	20.2	719.5	T	61.5	
				102.8	C	8.8	60.8	O	5.2	
1973-74	1,244.0	45.3	3.6	461.7		37.1	737.0		59.3	1,314
				418.0	G	33.6	673.3	T	54.2	
				43.7	C	3.5	63.7	O	5.1	
1974-75	1,420.6	52.7	3.7	505.2		35.6	862.8		60.7	1,520
				448.3	G	31.6	795.2	T	56.0	
				56.9	C	4.0	67.5	O	4.7	
1975-76	1,546.5	70.2	4.5	550.0		35.6	926.3		59.9	1,675
				484.3	G	31.3	861.9	T	55.7	
				65.7	C	4.3	64.4	O	4.2	
1976-77	1,658.6	80.1	4.8	589.0		35.5	989.5		59.7	1,816
				502.2	G	30.3	925.4	T	55.8	
				86.8	C	5.2	64.2	O	3.9	
1977-78	1,799.9	91.2	5.1	629.6		35.0	1,079.1		59.9	2,031
				530.8	G	29.5	1,007.4	T	55.9	
				98.8	C	5.5	71.6	O	4.0	
1978-79	1,937.8	93.5	4.8	700.9		36.2	1,143.4		59.0	2,256
				587.0	G	30.3	1,060.7	T	54.7	
				113.9	C	5.9	82.6	O	4.3	
1979-80	2,097.1	102.2	4.9	787.6		37.5	1,207.2		57.6	2,530
				655.4	G	31.2	1,109.6	T	52.9	
				132.3	C	6.3	97.7	O	4.7	
1980-81	2,293.6	132.3	5.8	827.2		36.0	1,334.2		58.2	2,858
				682.4	G	29.7	1,201.4	T	52.4	
				144.8	C	6.3	132.7	O	5.8	
1981-82	2,430.9	122.9	5.0	888.6		36.6	1,419.4		58.4	3,136
				731.7	G	30.1	1,283.4	T	52.8	
				156.9	C	6.5	136.0	O	5.6	
1982-83	2,559.2	111.6	4.4	998.8		39.0	1,448.8		56.6	3,386
				832.9	G	32.5	1,316.8	T	51.4	
				165.8	C	6.5	132.0	O	5.2	
1983-84	2,700.2	107.9	4.0	1,042.5		38.6	1,549.8		57.4	3,619
				862.0	G	31.9	1,418.4	T	52.5	
				180.5	C	6.7	131.3	O	4.9	
1984-85	2,895.1	134.4	4.6	1,102.0		38.1	1,658.7		57.3	3,921
				906.3	G	31.3	1,513.6	T	52.3	
				195.7	C	6.8	145.0	O	5.0	
1985-86	3,136.0	146.9	4.7	1,131.3		36.1	1,857.7		59.2	4,233
				919.4	G	29.3	1,715.3	T	54.7	
				212.0	C	6.8	142.4	O	4.5	
1986-87	3,325.0	154.3	4.6	1,145.7		34.5	2,025.0		60.9	4,483
				913.3	G	27.5	1,886.2	T	56.7	
				232.3	C	7.0	138.8	O	4.2	
1987-88	3,569.8	154.3	4.3	1,467.8		41.1	1,947.7		54.6	4,781
				1,207.6	G	33.7	1,809.5	T	50.7	
				260.2	C	7.3	138.1	O	3.9	
1988-89	3,832.4	167.7	4.4	1,551.8		40.5	2,115.9		55.2	5,105
				1,271.4	G	33.2	1,956.2	T	51.0	
				280.4	C	7.3	159.7	O	4.2	
1989-90	4,120.6	170.2	4.1	1,674.2		40.6	2,276.1		55.2	5,425
				1,355.7	G	32.9	2,095.5	T	50.9	
				318.5	C	7.7	180.6	O	4.4	

<sup>1</sup>Due to changes in accounting practice, data prior to 1981 may not be strictly comparable to the data for 1981 and later.

<sup>2</sup>General Aid (G) is state aid which is not limited to any specific program. Categorical Aid (C) is state or federal aid intended to finance or reimburse some specific category of instructional or supporting program or to aid a particular target group of pupils. It may only be used for the designated purpose.

<sup>3</sup>Taxes (T) are local property taxes. Other (O) includes miscellaneous local receipts, such as student fees.

Source: Wisconsin Department of Public Instruction, departmental data, April 1991.

### **Financing Education — The Case for Equalization**

In 1924, the state Department of Public Instruction published *Education in Wisconsin*, its 1922-24 biennial report. Like the 1898 Tax Commission report, this document is a landmark because of its high quality and influence. It was prepared under the direction of S.M. Thomas and issued by State Superintendent John Callahan. It is part of this story because it analyzed state aid to schools, which, along with property tax revenue, constituted most of the money available to schools at that time. As increasing enrollments and other factors drove up school costs, the amount and the distribution mechanism for state aid to schools had an increasingly significant effect on the property tax system.

The state constitution established the framework for school finance. Since statehood it has provided: "The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years...." (Article X, Section 3).

Originally, Article X, Section 2, created "the school fund", which consisted of the proceeds from the sale of certain public lands and property acquired by forfeiture or escheat, money paid to avoid military service, fines, and unspecified grants. The constitution required that the interest on the school fund be distributed in proportion to the number of children between the ages of 4 and 20 in the school districts and required towns and cities to collect school taxes annually equaling at least half the amount they received from the school fund (Article X, Sections 4 and 5). Thus, the partnership between state aid and the property tax in funding schools is long-standing and mandated by the constitution. (Today the school fund supports school libraries, and the vast bulk of state school aids comes from state budget appropriations.)

Because of the constitutional requirements, whether or not to appropriate state revenues for school aids was not an issue in 1924, but the amount of that aid and the distribution formulas certainly were. That year, in addition to the earnings on the school fund, the state allocated to the schools \$200,000 in taxes on corporations and a property tax of 0.7 of a mill. At the time of the report, the state was spending about \$4.5 million annually for schools. The share of school expenses that the state paid reveals more about the early funding of schools than does the amount of money it paid.

During the 1870s and 1880s, the state provided 8 to 10% of total school expenses. In 1890, this figure more than doubled to 22.9%. For the next 3 decades state aid ranged between 15 and 20%, but by 1923 had dropped back to 9.7%. Thus, the state's efforts to finance education were erratic and after 1905 decreased rapidly, which was probably the major reason for the Department of Public Instruction's lengthy report on financing that was published in 1924. In that year, the major portion of state aid was paid on the basis of specified amounts per student or per school. Only \$12,000 of the payments was calculated according to property assessments. (This amount was paid to districts that had an assessed value of less than \$75,000.)

It is difficult to make a convincing argument that the state should pay one specific percentage of school costs rather than another. It is possible, however, to argue the merits of various plans to distribute aid to schools. The 1924 report did exactly that: it devastated the existing plan.

It should first be pointed out that one cause of the shocking figures that the department presented was the existence in 1924 in Wisconsin of 7,329 school districts, many of them having only a single one-room

school. The economic inefficiency of such tiny districts distorted the spending statistics, and the vast number of districts increased the differences among districts in regard to some of the other statistics.<sup>36</sup>

The report presented "indisputable evidence that the present method of distributing our state school fund does not furnish adequate financial support for all the common school districts of the state without excessive taxation in the poorer districts."<sup>37</sup> The evidence was indeed indisputable. For example, the report indicated that for the 29 districts that had enrollments of 33 students each, the assessed property value per student varied from \$1,163 to \$26,515. The report also documented an enormous variation in spending. Surprisingly, high spending did not correlate very well with strong property tax bases. One district that had a true valuation of less than \$75,000 raised \$1,000 in property taxes, whereas another district that had a true valuation of \$780,000 raised only \$500 in property taxes for schools. According to the report, it was abundantly clear that the interrelation of state aid and the other principal source of school revenue, the property tax, was irrational.

For the most part, the department's recommendations followed logically from its analysis. To raise the necessary state money to distribute as school aid, it suggested discontinuing the 0.7 mill state tax and substituting inheritance tax revenue, as well as other unspecified revenue. After comparing district expenses, the department calculated that spending \$1,500 per classroom would provide an adequate education. At a property tax rate of 6 mills, which the department thought was reasonable, it would take \$250,000 of value to generate that \$1,500. That is, property owners would make a reasonable contribution, and the state would pay the rest of the amount needed to provide an acceptable education. This idea, known as an equalizing formula (because it gave more money to districts that had weak property tax bases) or a "foundation plan" (because it guaranteed an adequate base level of spending), created a logical interrelation between the property tax and state aid, and it is the basis for the state's current funding of schools.

For some time before the Department of Public Instruction issued its report, others had advocated equalization of school aids. Early in 1923 Edward A. Fitzpatrick of the State Board of Education had written an article supporting it.<sup>38</sup> In the same month that his article appeared, Assemblyman Arvid B. Blomberg of Price County introduced a bill that would have distributed state aid on an equalizing basis. State Superintendent Callahan had also been speaking in favor of the concept. Thus, the department's report did not offer a new idea, but it clearly presented overwhelming evidence to support an idea that others were proposing.

The report made 2 suggestions that would have resulted in less than complete equalization of the school aid formula. One was to pay no aid to districts that had fewer than 10 pupils or less than \$100,000 in property value. The assumption was that this would increase efficiency by encouraging consolidation of school districts. The other suggestion, which does not appear to follow logically from the department's analysis, was that the state should pay \$3.5 million annually in the form of a \$250 guaranteed payment for each elementary classroom. That made less than perfect sense because the state would be giving money to districts with strong property tax bases that did not need it. In doing so, it would have to forego paying more aid to needy districts or else collect additional taxes to cover higher aid costs. In any case, school aid would not be integrated into the property tax system as well as it would be without guaranteed payments.

In 1927 the legislature and the governor enacted a law that resembled the one recommended by the Department of Public Instruction (Chapter 536, Laws of 1927). That act increased the rate of the state



property tax allocated to the schools from 0.7 of a mill to 1.1 mills. More money was needed for the school fund partly because the proceeds of property that accrued to the state by forfeiture were decreasing as municipalities began to pass and enforce their own Prohibition ordinances, rather than the state laws. The act provided money for the salaries and expenses of supervising teachers and for certain transportation and tuition costs. As the report recommended, the act distributed some state aid to schools on the basis of \$250 for each elementary teacher. After that distribution and certain others for specified purposes, the remainder of the income from the school fund was disbursed on an equalizing basis, using \$250,000 per elementary classroom as the standard property value. If the fund did not have enough money to make all of the payments that the formula required, the payments were prorated. To qualify for payments, counties were required to levy a tax equal to at least \$250 per elementary teacher in the county and municipalities were required to pay teachers a minimum salary.

As reported by the *Wisconsin State Journal* (March 31, 1927), at the hearing preceding enactment of Chapter 536, a representative of the Milwaukee School Board and others pointed out that, under the law then in effect, state aid for Milwaukee schools annually exceeded by \$50,000 to \$80,000 the amount that its citizens paid for the state taxes that funded school aid, whereas under the proposed bill Milwaukee would be a net loser of about \$941,000 annually. In contrast, rural interests, as represented for instance by *The Wisconsin Farmer* (April 18, 1927), thought the bill was a good idea. At some point in the debate, the politics took a very strange turn when viewed by a present-day observer. The *Wisconsin State Journal*, which was published in Madison, an urban area that stood to lose aid, asserted that the bill had passed because the Department of Public Instruction offered a rational analysis and recommendations and did not ask for more money than the state could afford (August 28, 1927). The *Milwaukee Journal*, which had been reporting on the monetary loss that the bill would inflict on Milwaukee, admitted that an equalizing formula was fair and sensible and reported that the Milwaukee School Board had eventually stopped opposing it (September 4, 1927).

### **The Forest Cropland Act**

During the 1927 session the legislature and the governor also enacted several laws, including a property tax act, in response to the crisis in state forestry. Predatory logging practices had created profits but had devastated the forests. In 1809, when the first sawmill in the area that would become Wisconsin began operations, there were about 30 million acres of timber in that area, but by 1923 there were fewer than 2 million acres remaining in the state.<sup>39</sup> By the 1920s logging had taken such a toll on the state's forests that it was not very profitable compared to other industries. Wisconsin, which had ranked first nationally in logging proceeds in 1890, 1900 and 1910, fell to 7th in 1920. Those statistics on shrinking acreage and dropping profits point out that action was needed to save Wisconsin's forests.

The wisdom of doing something by means of the property tax system was, however, open to question. To make possible such a solution, the legislature twice approved and the voters ratified in April 1927 an amendment to the uniformity clause of the state constitution changing the opening wording of Article VIII, Section 1, to: "The rule of taxation shall be uniform, and taxes shall be levied upon such property

with such classifications as to forests and minerals, including or separate or severed from the land, as the legislature shall prescribe."

This was the second amendment to the uniformity clause. The first, authorizing an income tax, was needed to allow graduated and progressive income taxes. That income tax amendment had not disturbed the ideal of property tax uniformity. The 1927 amendment, however, did create an exception to uniformity. It was, in fact, designed to allow preferential treatment. Moreover, it and the law that it authorized marked a major turning point in the history of the property tax because they were the first important instances of using the property tax system to accomplish policy objectives that were not directly related to improving state taxation. Once that corner was turned the way lay open to a long series of requests for preferential treatment. The requests that were granted, regardless of the other policy objectives they accomplished, made the system less internally consistent and, one could argue, less fair.

The law enacted in the wake of that constitutional amendment, the forest cropland act (Chapter 454, Laws of 1927), was concerned more with forestry than taxation, as evidenced by the fact it was administered by the Conservation Commission, not the Tax Commission. The state entered into a contract with each applicant who was accepted. The applicant was required to own forest land and to intend to hold it permanently for growing timber. That land was exempted from property taxes, and both the owner and the state paid to the town where the land was located 10 cents per acre. An owner who wished to harvest some of the timber had to notify the Conservation Commission and after the harvest had to pay a tax equal to 10% of the timber's value. In short, the state benefited by gaining some control over logging. The owner of the forest benefited by paying lower property taxes. Other owners of forests apparently benefited because the dwindling supply of timber on the market due to the act probably raised prices. The towns that included land in the program benefited because of the new forest taxes and the state payments. There being no free lunch, surely someone paid. It was the other property owners in the towns that included forest croplands; they made up for the property taxes that landowners in the program did not pay.

## **VI. EFFECTS OF THE 1920s AND THE DEPRESSION YEARS**

The real estate market altered the effects of the forest cropland law. From 1917 to 1927 property values were very unstable, and the values of rural and urban property changed in different ways. In its 1928 report the Tax Commission attributed the instability to rapid inflation in the price of personal property during World War I due to increased demand and diminished supply. Soon after the war ended, the price of real property also rose sharply. The commission stated that, although its statistics were not totally reliable, they did reveal such a startling contrast that there must have been a significant difference between rural and urban property values. After the first rapid increase, the value of rural personal property declined and did not recover. The value of urban personal property also declined, but it then recovered. By 1922 the value of rural real property began to decline. The net effect of these developments is that in this 10-year period the value of rural real and personal property increased 15.2%, and the value of urban real and personal property increased 104.4%.

In units of government that included both rural and urban property, these changes in value shifted the property tax burden dramatically from the owners of rural property to the owners of urban property. However, during the 1920s the farm population in the state diminished, and the ability of farmers to pay taxes declined. Total farm income in the state decreased from \$549 million in 1919 to \$439 million in 1929 and had dropped as low as \$320 million in 1921.<sup>40</sup> At the end of this era, in 1927, Charles Rosa, one of the tax commissioners, delivered a paper in which he described the property tax situation of farmers as "a staggering burden".<sup>41</sup> Rosa thought that rapidly increasing school costs were a major cause of the problem and, although he did not mention the equalizing act passed earlier in that year, he indicated that paying all school costs from the revenue of a state property tax would make things worse for farmers.

Chapter 67, Laws of 1931, altered the property tax system in 2 ways. The one that at the time probably seemed less important, because of its small fiscal effect, imposed a state property tax of 0.05 of a mill for "acquiring, preserving and developing the forests of the state". That tax, now at 0.2 of a mill, is the only surviving state property tax (Section 71.58, Wisconsin Statutes). The other property tax provision in Chapter 67 imposed a state tax sufficient to ensure that the balance in the state treasury would not fall below \$2 million. It indicates the property tax's flexibility when viewed from the perspective of a unit of government and its rigidity from the perspective of a taxpayer. Governments find the property tax useful because its rate can be adjusted to generate the amount of money that they need. During a depression year, such as 1931, that feature is invaluable, because revenues from other taxes, such as sales and income taxes, depend on the economy and thus are unreliable and unpredictable. A taxpayer has to pay a specified amount of property taxes regardless of the amount of his or her extra cash, but income tax liability decreases when income decreases, as it usually does during a depression.

Also during 1931 the amount of taxable personal property was again reduced, this time substantially, by exempting motor vehicles (Chapter 68). That action also related to Chapter 22, Laws of 1931, which transferred to municipalities some of the money that the state collected in motor vehicle registration fees. Under Chapter 22, during 1932 each municipality received from the shared registration fees an amount equal to the property taxes it had collected in 1930 on motor vehicles. In later years, a municipality received the greater of 20% of registration fees collected on the vehicles kept within its boundaries or the amount it received during 1932. Together these 2 acts relieved local units of government of the burden of assessing motor vehicles and required the state to share some of its revenue. One could argue that municipalities should be able to tax motor vehicles because they spend a lot of money on streets, law enforcement and other costs created by vehicle operation. This sharing of revenue was eliminated in 1957. Although municipalities and counties were later allowed by Chapter 209, Laws of 1967, to charge a vehicle registration fee, sometimes referred to as a "wheel tax", none currently does. Chapter 22 required the City of Milwaukee to transmit to the Milwaukee schools some of the registration fees it received, but that act did not require any other municipalities to share that revenue with other units of government.

In 1931 the assessed value of the taxable property in Wisconsin dropped by about \$645 million, the largest reduction to that point, and the exemption of motor vehicles caused about \$200 million of that reduction. The rapid rise in the value of motor vehicles in this state has, of course, exacerbated the problems that the exemption created.

As the Depression continued and many persons had difficulty paying their property taxes, groups that had similar interests organized in an attempt to lower their taxes. We have already seen that farmers did so in the single tax movement and at the very beginning of the debate over an equalizing school aid formula. By 1933 a group of farmers had formed a Tax Relief League to publicize their concern that their property was being overassessed (*Farm Relief News*, January and February 1933). There were several reasons for the problems with assessment of farmland. One was the instability of the value of rural real estate during the 1920s. The other was a problem that continues today. Because property must be assessed at the price at which it could be sold, some farms are assessed according to the price they would bring if sold for nonfarm purposes, such as housing or commercial development. This may make them appear overassessed to the farming owner. The proliferation of groups seeking property tax reductions frequently meant one interest group was pitted against another and debate was becoming more political and less analytical.

Pressure from farmers during the 1930s resulted in enactment of several property tax laws that helped them. They won exemptions for horses, mules, wagons, carriages, sleighs and harnesses (Chapter 423, Laws of 1923); for hay, feed and grain (Chapter 129, Laws of 1937); and for farm machinery owned by retailers (Chapter 120, Laws of 1941). The last exemption would, however, help farmers only if a retailer lowered prices because the exemption lowered costs. Another law to help farmers of that era directed assessors to exclude from tax rolls for 3 years any value added to land by clearing stumps, stones and timber if that clearing occurred before January 1, 1935 (Chapter 423, Laws of 1933). This law actually created a partial exemption by requiring that property be assessed at less than full value, so it probably would not have survived a legal challenge based on the uniformity clause of the state constitution.

During the Depression, persons who wanted uniform property tax reduction for everyone, rather than unique exemptions at the expense of others, began to form interest groups. In 1934 the Property Owners' Association asked the legislature to pass a law that would limit the total property tax rate to 15 mills.<sup>42</sup> The Tax Limitation League, including 2,000 persons who came from Milwaukee, mainly on special trains, converged on Madison during the 1935 legislative session to support a bill that would impose limits on property tax levies and would pay for schools and roads by means other than the property tax.<sup>43</sup> The League of Wisconsin Municipalities, however, opposed levy limits.<sup>44</sup>

The legislature, as well as the governors of opposing parties, Albert Schmedeman (Democrat) and Philip La Follette (Progressive), showed concern for persons burdened by property taxes when they enacted laws that allowed municipalities to accept late payments (e.g., Chapter 16, Laws of 1933 and Chapter 7, Laws of 1935). A law was also enacted that directed assessors, for the 1936 and 1937 assessments, to exclude the value of buildings constructed after the 1935 assessment (Chapter 97, Laws of 1935). That act, too, would probably have been vulnerable to a legal challenge.

## VII. POSTWAR DEVELOPMENTS

After surviving the financial emergency of the Depression, the property tax system entered the World War II era, when it worked well enough that it did not require major changes. The next major crisis occurred soon after the war ended and it involved school finance. During the 1946-47 school year, despite a

large increase in aid, the state paid only 13% of the schools' costs, because those costs had risen by about 22%.<sup>45</sup> Thus, because local property taxes paid the vast percentage of school costs and because few school aid payments were equalizing, education was consuming a major portion of the property tax. Property tax bases in the various school districts continued to vary substantially. For example, of the school districts in Milwaukee County, Greendale's value of taxable property per pupil was \$7,900 and West Milwaukee's was \$58,124. Most importantly, school finance would soon become much more difficult. By 1948 it was clear that the enormous increase in the birth rate that occurred soon after the war ended would, in the near future, cause corresponding increases in school enrollments.

One response to the imminent crisis was the formation of the Wisconsin Commission for the Improvement of the Educational System with Marinus G. Toepel, later chief of the Legislative Reference Library, as its executive secretary. After meeting for about 2 years, the commission issued a report in December 1948 that advocated 1) replacing the school aid distribution scheme, which had both a per pupil component and an equalizing component, with a scheme that came closer to being purely equalizing; 2) modestly increasing the amount of state school aid; and 3) creating 3 levels of funding based on the quality of a district's program. The small increase in cost and the incentives offered to school districts for improvement made this proposal popular. Minor opposition came from taxpayer groups that did not want any increase in spending and those that preferred local control of schools to state incentives for improvement.<sup>46</sup> In response, the legislature weakened the proposed incentives, partly by reducing the funding categories from 3 to 2, but the bill which was passed and was signed by the governor was very similar to the one that the commission had drafted.

That law, Chapter 600, Laws of 1949, required the state to pay "basic districts" (those that fulfilled minimal requirements) a sum equal to their levy rates multiplied by the amount the value of property in the district fell short of \$15,000 per pupil, subject to certain upper and lower limits. An additional \$30 was added for each high school pupil. Chapter 600 required the state to pay "integrated districts" (those that fulfilled more stringent requirements) a sum equal to their levy rates multiplied by the amount the value of property in the district fell short of \$17,000 per pupil, subject to certain upper and lower limits. It also allowed the state superintendent of public instruction to adjust aids to reflect circumstances that made it difficult for districts to fulfill the requirements for more generous funding. This act expressed the state's intention, by means of school aid, to provide property tax relief and to equalize educational opportunities. It fulfilled both intentions fairly well. Its tax relief efforts, particularly its integration of school aid with the property tax system, give it major significance in this history.

Although state school aids are designed to accomplish many policy objectives, this discussion will focus on their relation to property tax relief. Thus, the history of school aids since 1949 will be sketched quickly from that limited perspective. Over the years, certain changes in the aid formula have more carefully integrated the property tax and state spending for schools. For example, the formula no longer creates 2 categories of school districts that are funded differently. Per capita payments (payments based simply on the number of pupils in a district and not related to the district's property tax base) have been eliminated although there is a per pupil component in the school aid formula. The state no longer requires counties to make per pupil payments to school districts. All of these changes have helped the property tax system.

In contrast, many changes in the distribution of state aid to schools, whatever their merits on other grounds, have weakened its ties to the property tax. For example, in order to promote the equality of education that the state constitution requires, a component that discourages excessive spending has been added to the school aid formula. Another change is the development of "categorical aids" designed to reimburse certain kinds of expenses. Transportation aids are one example. These formulas are often affected by circumstances unrelated to the property tax, such as the number of miles covered by buses, and, thus, do nothing to equalize property tax bases. From the perspective of the property tax, many adjustments that were designed to help certain kinds of school districts, regardless of their property tax base, have proved harmful to efforts to equalize the property tax burden. *Disequalizing Factors in Wisconsin's School Aid Formula*, which the Department of Public Instruction published in 1983, explains those changes and their distortion of the formula. Moreover, since that report was written, the law has been changed to require aid payments to districts that would otherwise be disqualified due to a strong property tax base and expenditures above certain maximum limits. In 1990-91 the state paid \$1,408,922,100 in general equalization aid to school districts, in addition to categorical aid. As state aid has very significantly increased, the effect of the factors that distort the property tax system — regardless of their merits on other grounds — has also increased.

Another postwar development that distorts the property tax system is the proliferation of exemptions. Defenders of property tax exemptions often argue that they encourage individuals or groups to perform functions that a unit of government would otherwise have to perform. For example, Chapter 149, Laws of 1957, exempted nonprofit hospitals from the property tax. Most people agree that units of government ought to protect their citizens' health. However, by 1957 many hospitals already existed. Also, although hospitals could respond to a property tax exemption by lowering their charges, they could also buy equipment or increase salaries without producing any savings for their patients. Whatever the merits of this exemption were, it is another instance of the property tax system being used to promote policy outcomes unrelated to fair and efficient collection of revenue, and it exempted property worth millions of dollars, thus shifting a significant tax burden to others.

Another act of the same year was much less fiscally significant than the act that exempted hospitals, but more open to question on policy grounds. A petroleum company lobbied for a bill that would exempt oil refineries from the property tax and subject them instead to an occupational tax (a tax on the right to engage in a certain business).<sup>47</sup> The bill was enacted as Chapter 297, Laws of 1957. Sheboygan, the site of the refinery, received the revenue from the new tax, which was 2.5 cents per ton of crude oil that was refined. In the first year that the new law was in effect, that company paid \$6,000 less in occupational taxes than it would have paid in property taxes, and the other property owners in the taxing jurisdictions where the refinery was located had to make up the difference.

### VIII. A TWO-PARTY ERA DAWNS — 1959-1970

The 1958 elections had a profound effect on Wisconsin state government generally and on the property tax specifically. Gaylord Nelson became the first Democrat to be elected governor since 1932, and Wisconsin again became a 2-party state. Governor Philip La Follette, whose third term ended in 1935, was probably the last governor of either party who had a political philosophy similar to Nelson's.

In a similarly stunning reversal, the Democrats won control of the 1959 Assembly 55 to 45; in the 1957 session they had held only 33 seats and as recently as 1947 only 11 seats. The Democrats gained 2 senate seats in the 1959 Legislature but that gave them only 12 of the 33. From that session to the present, partisan political considerations have played an important part in every major debate about the property tax, and, perhaps as a result, major changes have occurred much more frequently.

Because 1959 marks the beginning of an era in Wisconsin political history, it is a logical point at which to stop to examine the financial burden that the property tax caused. Between the end of World War II and 1957 rapidly increasing property values had allowed property tax collections to grow without significant increases in rates. However, in 1957 the increase in values began to slow down considerably, putting more pressure on tax rates. That year \$414.2 million was raised in property taxes, more than double the amount of 10 years earlier.<sup>48</sup> That amounted to \$112.75 per person for 1957. To understand the change in the tax burden better, one should adjust for inflation. Keeping the value of the dollar constant, the per capita cost of property taxes rose from \$56.38 in 1949, to \$67.56 in 1954 and to \$83.03 in 1959. Obviously, average income also rose during that timespan. To compare rising incomes with property tax increases one can look at property taxes paid per \$1,000 of personal income. That figure rose from \$42.18 in 1949, to \$45.77 in 1954 and to \$51.99 in 1959. These figures indicate that the property tax burden was increasing at an accelerating rate.

Because the property tax is only one of the state and local taxes, its effect can be changed by using other taxes more or less extensively to pay the costs of government. Between 1946 and 1959 the property tax's share of state and local taxes in Wisconsin varied only between 49.6% and 53.45%. During that era the total of state and local taxes expressed as a percentage of personal income fluctuated, but the trend was sharply up, beginning at 6.5% in 1946 and ending at 9.91% in 1959. Thus, the increase in property taxes was part of a general rise in taxes. The general rise, in turn, made it difficult to decrease the property tax burden by relying more heavily on other existing taxes. The options were not very feasible: shifting the burden among taxpayers (which would tend to politicize decisions), lowering expenditures, and finding nontax sources of revenue. Not surprisingly, from that point to the present, attempts to deliver property tax relief have involved painful struggle.

#### **Revising the Personal Property Tax**

The first major property tax issue to arise during the Nelson administration was an old one: the tax on personal property. At that time owners of livestock, merchants' inventory, manufacturers' stock and

finished products, manufacturing machinery and equipment and tools paid 97% of the taxes on personal property. Personal property taxes constituted 18%, about \$68 million, of all property taxes. The Wisconsin Committee on Revenue Sources had argued in 1956 that the personal property tax should be discontinued as soon as possible. This issue came to the forefront when the Legislative Council directed its Urban Problems Committee to study the tax on personal property. During the autumn of 1959 the governor announced that he planned to support a bill that would gradually eliminate the tax on personal property.<sup>49</sup> Shortly thereafter the Governor's Advisory Committee on Tax Policy (which was also known as the Citizens Blue Ribbon Tax Committee and the Continuing Revenue Survey Commission) also assailed that tax.<sup>50</sup> Thus, by the end of 1959 the pressure to exempt all personal property was strong.

By the beginning of 1960, however, the unanimity on the issue was dissolving. The Governor's Advisory Committee reversed itself, claiming that exempting personal property would favor business; would disrupt state finance; and, if it were done in phases, would require amendment of the uniformity clause, because a phaseout would create partial exemptions. Late in 1960 the committee took yet another position, advocating a gradual elimination of the tax on inventories, livestock and manufacturers' stock and finished products, but the governor disagreed.<sup>51</sup> The committee had approved its report by one vote, and shortly afterward one member reversed his position so the committee ended up opposing those exemptions and siding with Governor Nelson. Despite the early momentum and probably due in large measure to the committee's vacillation, nothing was done on this matter during the 1961 legislative session.

However, considerable pressure from outside state government ensured this issue's continued life. During the 1950s business and industrial interests, aided by professors at the University of Wisconsin and the state Division of Industrial Development, used the long-standing disapproval of the tax on personal property as a base from which to mount a campaign against it.<sup>52</sup> Their strategy was to describe exhaustively the problems of Wisconsin business and industry and to argue that the state's tax policy was a major cause of those problems. Their argument probably would not have been successful if they had not also suggested a way to raise money that could be used for property tax relief. They advocated creating a sales tax as a substitute for the revenue that would be lost by exempting manufacturing and business property.

The voters prepared the way for granting the proposed exemptions by ratifying a constitutional amendment that allowed the nonuniform taxation of merchants' stock in trade, manufacturers' materials and finished products and livestock. (This property was called "Line A personal property" because of its position on the property tax assessment form.) Under the resulting law, Chapter 620, Laws of 1961, owners of Line A property paid only 50% of their tax on that property. The state reimbursed the local jurisdictions \$55 million to cover the taxes that they lost because of the partial exemption. All taxpayers in the local jurisdiction then received a credit corresponding to that reimbursement. That is, the state paid half of the taxes on that kind of property.

Chapter 620 also provided \$55 million annually to be used as tax credits to certain utilities that paid utility taxes or license fees in lieu of property taxes. In addition, the law authorized payments to municipalities that levied a property tax of at least 14 mills; the higher a municipality's tax rate the greater its payment. The large sums of money needed for these 3 types of payments came from changing the income tax's rates and brackets, requiring withholding for income tax purposes from wages and salaries (which would allow the state to get its tax money earlier and thus earn more interest on it and also to collect taxes it



might not otherwise collect), and imposing a sales tax of 3% of purchase price. The sales tax, which had the support of business and manufacturing interests, applied to 10 categories of goods and 4 categories of services.

The credit paid to owners of Line A property became known as personal property tax relief (PPTR). Because it was a credit against property tax liability, it was clearly property tax relief and it did not create funding that a unit of government could allocate for any purpose, including increasing its spending levels. However, it helped only merchants, manufacturers and farmers. In addition to their argument that high taxes were ruining the business climate, the merchants and manufacturers justified their special treatment by arguing that in periods when the economy was doing poorly they could not easily sell Line A property. As this property accumulated, their tax liability increased, thereby absorbing cash needed for expansion. In bad times they were thus hurt in 2 ways. There are some inconsistencies in the PPTR, however. When 2 owners of Line A property are compared, the one with the more expensive inventory is probably better off with the credit than the one with the less expensive collection. Moreover, if the goal is to relieve owners of Line A property when sales are slow, it may not be wise to finance the credit through the sales tax, which will decline when sales drop.

The relief that was paid to municipalities under Chapter 620 came to be known as general property tax relief (GPTR). It created several problems. One was that, unlike the system used to distribute schools aids, its formula was not equalizing. It did not give money to municipalities because they had weaker property tax bases, but rather encouraged spending by aiding those that taxed more, regardless of tax base. In fact, much of the money went to rich suburban municipalities. Another problem was that GPTR was paid only to municipalities. Other units of government, most notably school districts, also levied property taxes but got no relief. Taxpayers in rural areas received little benefit from GPTR for 2 reasons: most towns levied property taxes at too low a rate to receive payments, and the bulk of the property tax bill in rural areas was for schools, not for municipalities. Further difficulties arose because the GPTR was paid to units of government, not credited to taxpayers, so that units of government could spend it, rather than using it to reduce property taxes.

The accompanying table presents the growth of these 2 types of credits over the first 13 years they were paid. It shows state expenditures in dollars and gives the percentage of local property taxes that they covered.

Fiscally, these 2 programs were particularly significant from 1973 to 1975. Because they paid large sums of money, it is important to determine which groups benefited the most from them. Everyone who paid property taxes benefited from GPTR, but only merchants, manufacturers and farmers benefited from PPTR. In the beginning, it was easy to determine which groups were paying the most to fund the programs. The sales tax is ultimately paid by the purchasers of taxable goods and services. In the case of the income tax changes, payments of estimated taxes and withholding of income taxes from salaries and wages were required only for individuals, not for corporations. Similarly, the PPTR and GPTR programs raised income tax rates for individuals, but not for corporations. As the years went on, the connection between these 2 property relief programs and their funding sources became less clear-cut, but, in general, the total tax burden

of individuals who earned wages and salaries was increased so that the total tax burden of merchants, manufacturers and, to a lesser extent, farmers could be reduced.

### STATE-PAID PROPERTY TAX CREDITS 1963-1975

Year	Personal Property Tax Relief		General Property Tax Relief	
	Amount Paid (in millions)	% of Local Property Tax	Amount Paid (in millions)	% of Local Property Tax
1963.....	\$30	5.40%	\$50	9.05%
1964.....	32	5.42	50	8.67
1965.....	33	5.32	46	7.37
1966.....	39	5.92	49	7.31
1967.....	49	6.79	49	6.73
1968.....	58	6.95	52	6.21
1969.....	65	6.83	52	5.40
1970.....	70	6.68	60	5.65
1971.....	80	6.79	60	5.05
1972.....	86	6.58	88	6.80
1973.....	92	6.94	140	10.59
1974.....	117	8.81	184	13.92
1975.....	148	10.11	179	12.26

Source: Commission on State-Local Relations, "An Overview of Wisconsin's General and Personal Property Tax Relief Programs", 1976.

During the next legislative session, Chapter 153, Laws of 1963, addressed the property tax problem, as well as other tax questions. It created a Joint Survey Committee on Tax Exemptions that consisted of 4 legislators, who, because of the way they were appointed, would all be members of the majority party of their houses; a representative of the attorney general's office; the commissioner of taxation or the commissioner's representative; and a public member. The most important provision of this law required the committee to consider any proposal that affected an existing tax exemption or created a new one before the matter was introduced in the legislature. Because nearly all proposals about tax exemptions create new ones or expand existing ones, establishing this committee protected the property tax base by making it more difficult to exempt property. This committee probably has reduced the number of property tax exemptions enacted, but even so, those exemptions have increased at an accelerating rate since its establishment.

Property tax exemptions have a greater effect than other kinds of tax exemptions. We have already seen that exempting property shifts the tax burden, rather than reducing tax revenue, thereby increasing the possibility of unfairness. Moreover, the amount of land is constant and the number of buildings expands slowly. For that reason, if buyers and sellers of real property act rationally, high tax rates in a municipality will reduce the price of real property there.<sup>53</sup> The reverse is also true. The reason for these phenomena is that buyers know they will be paying higher (or lower) taxes, so they are determined to pay a lower price (or willing to pay a higher price) for the property. Because exemptions reduce the tax base, they increase tax rates. That, in turn, lowers the price of real property. The lower prices then entice buyers, including some who will be eligible for tax exemptions. That kind of buyer will cause the tax rate to rise again, so the cycle continues. Therefore, a municipality that has a lot of tax-exempt real property is likely to get more. However, the equalizing effect of some state aid programs minimizes the effect that tax-exempt land has on property tax rates. The Department of Revenue described this in its 1984 publication, "The Effect of Tax Exempt Land on Tax Rates: An Analysis of Wisconsin Towns".

Controlling exemptions helps to equalize property tax burdens. So does careful assessment of the property that is subject to taxation. The next step in Wisconsin's continuing attempts to improve the assessment of property occurred in 1963, when Chapter 279 was enacted to require the Department of Taxation (the current Department of Revenue) to publish and distribute to each municipality an assessment manual. The first version of the manual merely described assessment practices, but later versions also included summaries of relevant legal opinions and statistics. The manual has become a 2-volume set in a loose-leaf form that facilitates revision. It clearly presents much information that aids assessors, and, along with the training provided by the department, has gone a long way toward improving assessments and thereby making the property tax system, in a sense, more fair.

**The Homestead Credit**

By the mid-1960s, however, it was acknowledged that the property tax was, in another sense, anything but fair. It was regressive; that is, persons who had low incomes paid a higher proportion of their incomes for that tax. Instead, it is generally agreed that taxes ought to be progressive with tax burdens falling on those better able to pay. A study of the United States in 1970 by the Advisory Commission on Intergovernmental Relations provided data indicating a pattern that is probably similar to Wisconsin's today. The study results are shown in the following table.

**REAL PROPERTY TAX AS PERCENT OF INCOME  
United States Average - 1970**

Income Group	% of Income Paid as Tax on Real Property
\$ 0 to 1,999	16.6%
2,000 to 2,999	9.7
3,000 to 3,999	7.7
4,000 to 4,999	6.4
5,000 to 5,999	5.5
6,000 to 6,999	4.7
7,000 to 9,999	4.2
10,000 to 14,999	3.7
15,000 to 24,999	3.3
25,000 and over	2.9

Source: Advisory Commission on Intergovernmental Relations, "Financing Schools and Property Tax Relief - A State Responsibility" (Washington, D.C., 1973), 17-19.

Recently some economists have argued that if one looks at the persons on whom the tax is imposed the property tax is progressive, but that view is certainly open to considerable debate.<sup>54</sup>

In its 1963 session the legislature considered a proposal to assist some of those harmed by the property tax's regressive nature. During the autumn of 1962 the newly created State Commission on Aging had held 24 hearings around the state. The chief concerns expressed by the elderly persons appearing before the commission related to health care and property taxes. In response to the latter concern, the commission

proposed a bill, possibly drafted by Harold Groves, a University of Wisconsin economist, that would relieve the property tax burden of elderly persons who had low incomes. At first the bill languished, but in April Governor John Reynolds announced that the state had a surplus of more than \$50 million, about twice the amount earlier forecast, and argued that the state should spend a large portion of it to fund the commission's bill.

The bill's main premise was that elderly persons should not pay more than a specified percentage of their income for property taxes. As enacted in Chapter 566, Laws of 1963, it created a credit, later called the homestead credit, against income taxes for 50% (75% if the person's income was \$1,000 or less) of property taxes or rent constituting property taxes that exceeded 5% of the person's income. This credit could not exceed \$300, but it was refundable. That is, if the credit owed to the taxpayer exceeded the amount of income tax owed to the state, the person would receive a check for the difference between the credit and the taxes due.

The act declared that its purpose was "to provide property tax relief to persons 65 years of age and over through a system of income tax credits and refunds". It did that, and it attacked the problem of regressivity by treating more generously persons whose income was \$1,000 or less and by paying the credit only to persons whose income did not exceed \$3,000. However, the original version of the homestead credit was narrow because it applied only to the elderly. The original design of the credit later resulted in 2 problems. First, it added one more type of property tax relief. In future years, as the types of relief multiplied, it became nearly impossible to coordinate them and even to think coherently about the problem of tax relief. Second, it intertwined the property tax system with the income tax system, which also caused conceptual problems. It was difficult for taxpayers to recognize that certain tax benefits that appeared to be related to income taxes were actually intended as property tax relief. Nevertheless, the homestead credit was bold public policy.

The argument over the size of the state's surplus in 1964 turned out to be moot, because the homestead credit cost only \$1,829,000 in 1964-65, whereas it was expected to cost about \$10 million. This credit's cost grew fairly slowly until 1973-74, when it increased from about \$9 million to approximately \$35 million in one year. In the next decade it grew quite quickly until it reached about \$127 million in 1984-85. Some of the growth spurts were caused by increased eligibility, particularly a 1973 change that lowered the minimum eligible age from 62 to 18 (Chapter 90, Laws of 1973). The limit on household income has been raised several times, and other changes have broadened application of the credit.<sup>55</sup> During 1987-88 slightly more than \$100 million was paid to the more than 250,000 persons who received homestead credits.

Because the homestead credit was an innovation, it is not surprising that its constitutionality was challenged in court.<sup>56</sup> The bases of the challenge were the equal protection clause of the federal constitution and the uniformity clause of the state constitution. A statute will withstand the former challenge if it makes a reasonable classification that is related to its purpose. The Wisconsin Supreme Court found that it is reasonable to limit the credit to persons who are at least 65 years of age because many persons retire at that age, thus reducing their income. (This argument could be questioned as a bit odd because the formula in the statute had an income limitation, which could have been applied to all adults, thereby eliminating the need for such a rough measure of income as age.)

The court made 2 principal arguments for its position that the statute creating the homestead credit did not violate the uniformity clause. One was that it is a "relief" (i.e., welfare) statute, not a tax statute, so the uniformity clause did not apply. The court's main support for that analysis was the law's statement of intent as it was revised by Chapter 580, Laws of 1963, about 6 months after the credit was enacted in Chapter 566. The new wording stated that the credit's purpose was to "provide relief to certain persons". The intent statement in Chapter 566 had specifically declared that the purpose was to "provide property tax relief", which would have made it difficult to conclude that the statute was not a tax statute. Apparently, the legislature wanted to draw a distinction between "property tax relief" and "relief" and the court accepted its revision.

The other argument was that the credit was part of the income tax system, not part of the property tax system. In a sense, that is correct, but one element in the formula used to calculate the credit is the amount of property taxes or rent constituting property taxes charged to the claimant. The court refused to use a decision from the previous year, *Ehrlich v. Racine*, 26 Wis. 2d 352 (1965), as a precedent for this case. In the earlier case it had looked at the final economic result of several transactions involving the property tax. If the court had done that in *Harvey v. Morgan*, it might have found that the final result was that the state was paying part of some elderly persons' property tax bills and, therefore, the statute that created the credit was a property tax measure.

The precedent established by *Harvey v. Morgan* suggests that property tax relief distributed only to the needy is much more likely to be found constitutional than is general property tax relief. The strategy has limitations because no one knows the income level at which a court would draw the line between needy and non-needy persons. In fact, if the income limit for the homestead credit were raised so much that the credit no longer provided "relief", *Harvey v. Morgan* would no longer be a precedent and the credit would be vulnerable to a legal challenge. That case also suggests that property tax relief directed through the income tax system is on firmer constitutional ground than are some other kinds of property tax relief.

### ***Gottlieb v. Milwaukee***

The state supreme court issued one of the more important decisions involving the uniformity clause in 1967 in *Gottlieb v. Milwaukee*, 33 Wis. 2d 408. This case involved a challenge to the Urban Redevelopment Law, which had been in effect since 1943. This law allowed a city to enter into contracts with private groups to construct buildings in blighted areas of the city, and in return the city agreed to freeze the property's assessed value.

The court pointed out one reason why this case is important: its dramatization of the fact that "the rigors of the uniformity clause have on occasion prevented the passage of socially desirable legislation" (p. 426). In this instance that clause prevented the further implementation of the redevelopment law, because the court declared it unconstitutional. The court thought that this case resembled the first uniformity clause case, *Knowlton v. Supervisors of Rock County*, 9 Wis. 378 (1859). The earlier case was about a statute that

required agricultural land to be taxed at half the rate of urban land. Both that statute and the one at issue in *Gottlieb* created partial exemptions, which the uniformity clause forbids.

*Gottlieb* is also important because it summarized the previous important cases on the uniformity clause and distilled from them the following 6 principles (p. 424):

1. For direct taxation of property, under the uniformity rule there can be but one constitutional class.
2. All within that class must be taxed on a basis of equality so far as practicable and all property taxed must bear its burden equally on an *ad valorem* basis.
3. All property not included in that class must be absolutely exempt from property taxation.
4. Privilege taxes are not direct taxes on property and are not subject to the uniformity rule.
5. While there can be no classification of property for different rules or rates of property taxation, the legislature can classify as between property that is to be taxed and that which is to be wholly exempt, and the test of such classification is reasonableness.
6. There can be variations in the mechanics of property assessment or tax imposition so long as the resulting taxation shall be borne with as nearly as practicable equality on an *ad valorem* basis with other taxable property.

Because of its summary and that statement of principles, this opinion offers the best brief introduction to the legal decisions on the uniformity clause.

### **The Tarr Task Force**

At this point in history, although one aspect of the property tax, application of the uniformity clause, had been clarified by *Gottlieb*, the tax as a whole was in disarray. During November 1968 the *Milwaukee Journal* printed a series of articles on taxes in Wisconsin.<sup>57</sup> The prestige and large circulation of the *Journal* attracted attention to that topic, and the articles' clarity made a complicated subject more understandable. As evidence of that subject's difficulty, the *Journal* mentioned that it had been studied by 6 different committees during the previous 15 years. Actually, those groups were only the most recent of a long line, beginning with a legislative study group that was requested by Governor Doty in 1842, in the speech quoted in the first paragraph of this history. The *Journal* series was published about 2 months in advance of the final report of the Task Force on Local Government Finance and Organization, commonly known as the Tarr Task Force for its chairperson, Curtis Tarr. Presumably it influenced the committee and also put pressure on the governor and legislature to do something about property taxes.

**GENERAL PROPERTY TAX LEVIES  
By Type of Property in Municipalities, 1989**

Type of Property	Towns	Villages	Cities	Total
<b>Real Estate</b> .....	\$1,181,016,286	\$478,798,912	\$2,197,315,514	\$3,857,130,714
Residential .....	679,746,449	352,374,526	1,426,962,364	2,459,083,341
Commercial .....	83,400,213	94,502,659	641,406,873	819,309,746
Agricultural .....	343,817,978	5,533,372	6,541,602	355,892,953
Manufacturing .....	18,531,268	26,285,103	122,370,719	167,187,090
Forest lands .....	51,969,117	86,468	25,231	52,080,817
Swamp and waste land .....	3,551,259	16,782	8,723	3,576,765
<b>Personal Property</b> .....	27,330,724	26,347,645	168,121,333	221,799,703
Furniture, fixtures and equipment .....	11,093,988	15,713,846	98,182,240	124,990,075
Machinery, tools and patterns .....	9,079,385	8,292,148	50,867,354	68,238,888
Boats and other watercraft .....	163,965	26,811	133,714	324,491
Logs, timber and lumber .....	5,829	7	10	5,846
All other personal property .....	6,987,555	2,314,831	18,938,014	28,240,401
Total general property taxes .....	\$1,208,347,012	\$505,146,563	\$2,365,436,840	\$4,078,930,415
Less state property tax relief <sup>d</sup> .....	95,884,981	38,434,338	184,985,680	319,305,000
<b>TOTAL EFFECTIVE TAXES</b> .....	<b>\$1,112,462,030</b>	<b>\$466,712,224</b>	<b>\$2,180,451,159</b>	<b>\$3,759,625,414</b>

<sup>d</sup>Credits under Wisconsin State Property Tax Relief program.  
Source: Wisconsin Department of Revenue, Division of State and Local Finance, *Town, Village, and City Taxes - 1989: Taxes Levied 1989 - Collected 1990, 1990.*

The *Journal* articles demonstrated that there was considerable reason for concern. One of their more telling points was that Wisconsin's taxes did not constitute a system but a haphazard assortment. In other words, they were the result not of careful balancing and interrelating but of hundreds of decisions made with too little regard for earlier decisions. For example, the series pointed out, the percentage of tax revenue generated by the sales tax was much smaller than it was in most other states, which increased the property tax's burden. For that reason and others, total property taxes increased by 15.6% from 1967 to 1968. The *Journal* showed that elementary, secondary and higher education were the major expenses for which tax revenue had to be collected. The increased school-age population caused by the post-World War II "baby boom" had begun putting more pressure on state and local taxes in 1953.<sup>58</sup> The growing tendency to stay in school and college longer exacerbated the problem that the increasing number of persons of school age created. In short, the *Journal* drew a vivid picture of a patched-together structure undergoing considerable stress — stress that was bound to increase.

The Tarr Task Force issued its report early in 1969. Two of its recommendations on property tax administration were enacted during the 1969 session. One was to direct counties, rather than municipalities, to administer the tax. (The Tax Commission had offered the same suggestion in its 1916 report.) By making this change, the task force hoped to make administration more economical and more professional. This change was made optional by Chapter 433, Laws of 1969, and, so far, only Kenosha County has instituted a county system. The task force also recommended creating a real estate transfer fee, which was done by Chapter 154, Laws of 1969. This fee generated revenue: 10 cents for each \$100 of value of the property transferred. Half of this revenue went to the county that collected it and half went to the state. The importance of the transfer fee for the property tax system is that in order to pay the fee the seller of the property has to reveal the sales price, which is very useful information for assessors.

In the next legislative session, the lawmakers debated a much more important recommendation that the Tarr Task Force made about the distribution of state tax revenue to municipalities and counties. The resulting law helped to coordinate that distribution with the property tax system. Previously, the state's shared tax program had simply returned a percentage of the revenue from certain taxes to the local unit of government where it was collected. The calculation had nothing to do with revenue needs, and the result was, in rough terms, to give the most money to wealthy units of government. The Tarr Task Force suggested instead that the state use some of its tax revenue to pay to each municipality an amount based on population and another amount that would help municipalities finance their expenditures above the level that they could fund by levying a property tax at the rate of 20 mills. In addition, municipalities that contained utility plants would receive payments to lessen the effect of the tax exemption for that kind of property.

A law that was very close to the Tarr Task Force's recommendations was enacted in 1971 (Chapter 125, Section 418). It established 3 payments. One was to be made to municipalities, counties and school districts and was designed to compensate for the exemption of utility property. Another was based on population and was made to municipalities which, in turn, were to transfer 16.25% to the counties where they were located. The third payment was calculated by first subtracting 17 mills from each municipality's mill rate and then multiplying the result by the full value of the municipality's taxable property. That dollar amount was then expressed as a percentage of the total dollar amount derived from those calculations for all municipalities in the state. The legislature created a shared revenue appropriation, from which it first subtracted the amounts needed for the payments related to utility property and population. The percentages calculated from the municipal tax rates were then applied to the remainder to calculate the third type of payment. The formula for the third payment was not equalizing. Instead it gave more money to municipalities that had high tax rates and a high total value of taxable property.

### **The Doyle Commission on Educational Financing**

Two years after the Tarr Task Force's report, the Governor's Task Force on Educational Financing and Property Tax Reform, also called the Doyle Commission for its chairperson, Ruth Doyle, was created by Governor Patrick Lucey in January 1972. It issued its report in February 1973. As was the case with the Tarr Task Force, many of the recommendations of the Doyle Commission were enacted.

The Doyle Commission pointed out that, in effect, 3 aspects of the school aid formula prevented it from achieving complete equalization. First, there were 30 districts that had an equalized value per pupil that was higher than the guaranteed valuation per pupil used by the state to determine state aids. These 30 received payments on a per pupil basis that were unrelated to their tax base. Second, money needed to repay loans was not included in the aid calculations. Finally, aid was decreased if a district's spending exceeded a certain level.<sup>59</sup> The commission made a predictable suggestion, that the school aid formula should be made more nearly equalizing. It also made a bold and unforeseen suggestion: that school districts that had a very high ratio of equalized value to number of pupils should be required to pay to the state money that could then be transferred to districts that had a low ratio of equalized value to number of pupils. This concept, which is usually called "negative aid", is the ultimate form of equalization.



The state rewrote its school aid formula in 1973 (Chapter 90, Section 456) in response to the Doyle Commission's recommendation that the school aid formula should be completely equalizing. According to the commission, the state should redesign its aid program to strengthen weak property tax bases, so that districts that taxed at the same rate would receive the same amount of money from a combination of property taxes and state aid. Among its other features, the new formula partially followed the commission's suggestion to include loan expenses in the formula (up to \$100 per pupil). As described below, the formula discouraged high spending by retaining the provision that reduced aid if a district spent more than a certain amount. It also discontinued minimum payments.

Somewhat surprisingly, the new formula included a negative aid component that was a mirror image of the positive aid component. Beginning in the 1977-78 school year, each district that had a total equalized valuation above the guaranteed valuation would pay to the state a sum equal to that difference multiplied by its levy rate.<sup>60</sup> From an abstractly logical point of view, this new formula made school aid mesh perfectly with the property tax system. Negative aid was litigated before the Wisconsin Supreme Court in *Busé v. Smith*, 74 Wis. 2d 550 (1976). The court decided that the uniformity clause applied to the negative aid provision and had been violated. Most of the cases that the court cited in its opinion were not about the uniformity clause, and in one that did relate to the clause an earlier court had found a similar law to be constitutional. More importantly, the court ignored a group of cases in which the state supreme court had held that the uniformity clause did not apply to the use of property tax revenue, and another group of cases that held that in determining whether or not there is uniformity, the relevant geographical area is the unit of government that imposed the tax.<sup>61</sup> Despite these cases, the negative aid portion of the school aid formula was invalidated. In fact, because the law creating it had a delayed effective date, it never went into effect. As a result, the school aid formula became less equalizing than it would have been had negative aid been found to be constitutional.

The Doyle Commission also recommended that limits be placed on school district spending, both to provide property tax relief and to decrease the differences in spending. Limiting spending or taxing by local units of government began when Wisconsin was a territory. For example, an early law limited the tax rates of school districts to 5% (Territorial Laws, 1839-40, pp. 80-84), and a later law limited the taxes that a town could levy for bridges and roads to \$1,000 (Chapter 158, Laws of 1861). Chapter 90, Laws of 1973, went beyond the Doyle Commission's suggestion by imposing a one-year limit on the property tax levy of each city, village, town and county. With certain exceptions, the levy of each of those units of government could not exceed the previous year's levy rate multiplied by its current year's valuation. School districts were limited for one year to an increase of \$55 per pupil, subject to certain adjustments and a possible exemption granted by the state superintendent of public instruction (Section 550).

The commission believed that property taxes were regressive. To minimize that effect, it proposed a credit for persons who paid property taxes directly or as a part of rent payments. The credit was calculated as a percentage of the property tax or rent constituting property taxes paid, but that percentage decreased as income increased. The maximum credit would be 80% and no family that had an income higher than \$16,000 would be eligible. This proposal amounted to modifying the homestead credit and extending it to persons who were not elderly. In fact, the legislative response was to expand the homestead credit to persons 18

years old and older who fulfilled the other requirements, to increase the maximum income limit, and to increase the maximum percentage of property taxes paid that could be reimbursed by the credit. During the first year that those changes applied, they increased the total amount of homestead credits from about \$9 million to approximately \$35 million and increased the number of persons who received the credit from about 82,000 to about 193,000.<sup>62</sup>

Finally, the Doyle Commission recognized that, in spite of many reforms, property tax assessment still needed improvement. Like the Tarr Task Force, it proposed that counties be required to assume the responsibility from municipalities, but again that did not happen. The commission's recommendation that the state assess manufacturing property, however, was adopted (Chapter 90, Laws of 1973). That was a step forward because the complexity of manufacturing property and the infrequency of its sale make it difficult to assess and because its high value makes accurate assessment necessary. Therefore, the commission felt it was a good idea to let specialists in that kind of assessment do the work. In fact, the commission acknowledged that it wished that the state would gradually take over the assessment of all taxable property. In the meantime, however, it recommended that assessors be required to be certified and that they be supervised more closely by state officials. A law requiring certification was enacted in the following session (Chapter 39, Laws of 1975).

## IX. INNOVATIONS AND REFORMS — 1971-1982

### Property Tax and the Business Climate

The condition of Wisconsin's economy during the late 1960s and the early 1970s influenced Governor Lucey's decision to make economic development a priority of his administration. The state's economy, particularly in the manufacturing sector, was sluggish during the second half of the 1960s, when the number of jobs in manufacturing grew at about 25% of the national rate.<sup>63</sup> That comparison suggested the need for economic development, but during the first 3 years of Governor Lucey's tenure (1971-73) the growth in manufacturing jobs in this state substantially exceeded the growth in the nation, which made stimulation of the economy appear less urgent.<sup>64</sup> During the early 1970s Wisconsin's taxes were burdensome. In fact, the ratio of state and local taxes to average personal income was higher in Wisconsin than in any other state.<sup>65</sup> Much of that burden was caused by the property tax, which became increasingly onerous during the second half of the 1960s.<sup>66</sup> An argument could be made that high taxes and low growth were related because high taxes absorb capital that could be used for expansion. Like most problems, this one was also an opportunity. The high taxes were bringing into the state treasury money that could be used to promote economic growth.

Some Wisconsinites, especially members of the business community, claimed that the state's economy needed stimulation and that the best stimulant was a tax reduction. The *Milwaukee Journal* commissioned Jon Udell, a professor of business at the University of Wisconsin-Madison, to write a major series of articles about the state's economy, which it titled "Wisconsin's Economy as Seen by Industry, Labor and the General Public". Udell's articles were a major factor in the political events that were soon to occur. According to Udell, who conducted extensive surveys, many persons believed that Wisconsin state

government was antibusiness and that taxes in this state were too high. He also claimed that taxes were an important factor in decisions about locating and expanding businesses. Udell cited a number of solutions that were offered by the Metropolitan Milwaukee Association of Commerce, which he described as one of the more influential business organizations in Wisconsin. Those solutions were to create an investment tax credit for manufacturing machinery and equipment used in Wisconsin, to freeze the property tax on industrial facilities that needed repair, to repeal the property tax on inventories (65% of the tax was already being rebated), and to exempt manufacturing machinery and equipment from the property tax. Although Udell did not discuss constitutionality, the first solution probably would violate the commerce clause of the U.S. Constitution by favoring local business as compared to businesses operating in interstate commerce, and it appears that the second solution would probably violate the uniformity clause of the state constitution by creating a partial exemption.

A number of innovations and statutory revisions by the legislature created new tax relief for businesses and private property owners in the following years. In December 1975 the Department of Revenue issued a study, *Corporate Tax Climate: A Comparison of Fifteen States*, which offered a different picture of Wisconsin than the one the Udell series had painted. That document presented the department's calculation of the taxes that would be owed to those states by 6 hypothetical corporations. Wisconsin ranked in the lower 4 states for all 6 corporations in regard to both total taxes and property taxes. Enactment of the exemption for machinery and equipment was followed by, and probably was one of the causes of, an increase in manufacturers' investment in this state.<sup>67</sup> That increase was a major reason why the *Wall Street Journal* called Wisconsin "The Star of the Snow Belt" (September 16, 1977). Early in 1974 the Metropolitan Milwaukee Association of Commerce and the Milwaukee County Labor Council, AFL-CIO, published a joint brochure arguing that Wisconsin industry had just received a 50% tax reduction and quoting Governor Lucey: "[T]ax relief and reform plus a curb on government growth is an attitude that 'we can make it work.' That's our simple but successful formula for a better business climate. Now, more than ever, Wisconsin means business."

### **The M&E Exemption**

The vehicle for the economic development measures was the 1973-74 state budget, specifically the decisions of the conference committee. During that session the Republicans controlled the senate, and the Democrats controlled the assembly. At an unusually early point in the budget process, on May 23, 1973, a conference committee was appointed, and it met over a very long period of time, making an unusually high number of major decisions on its own initiative rather than merely mediating between the positions of the 2 houses. It consisted of Democratic Representatives Anthony Earl (later governor), Herbert Grover (current state superintendent of public instruction), and Dennis Conta and Republican Senators Raymond Johnson, Walter Hollander, and Robert Kasten (now U.S. Senator). They added to the budget bill a number of tax benefits for businesses and industries: an income and franchise tax deduction for sales taxes paid for energy used in manufacturing; an increase in the rebate for property taxes paid on Line A property from 60% to

90%; and an exemption for manufacturing machinery and specific processing equipment, which was a very important turning point in the history of the property tax. These and other tax measures were included in a motion offered on June 22, 1973, by Representative Earl, who played an important role in the Lucey administration's economic development proposals.<sup>68</sup>

The "M&E exemption", as it was popularly called, was for "manufacturing machinery and specific processing equipment, exclusively and directly used by a manufacturer in manufacturing tangible personal property" (Section 322m). The budget bill also created a payment to municipalities and counties that during 1975 compensated them fully for the revenue supposedly lost because of the M&E exemption. This payment was phased out during the following 9 years (Section 348a). That compensation, unfortunately, was based on the notion that those local units of government lost revenue due to the exemption, whereas in fact other property taxpayers paid the taxes that manufacturers would have paid. On the other hand, the state aids that were paid on an equalizing basis to units of government that contained machinery and equipment increased as the value of the taxable property in them decreased, thereby reducing the exemption's effect on the property taxpayers there but also taking money from persons who paid state taxes. Other units of government that levied property taxes, most notably the school districts, were not compensated.

Between 1980 and 1985, there were 4 court cases that significantly expanded the property tax exemption for manufacturing machinery and equipment, thereby taking property valued at \$31.4 million off the tax rolls and resulting in tax refunds of \$6.5 million.<sup>69</sup> The courts negated the parts of the relevant statute that denied the exemption for buildings, for property used to make repairs, and for property used less than exclusively for manufacturing. They interpreted the exemption almost as broadly as possible, partly by creating an "integrated plant test" under which all property included in a system of manufacturing is exempt. These cases resulted in reduced property tax bills for persons who owned the same kind of property but had not litigated, and they probably also resulted in similar property receiving exemptions.

Governor Tommy G. Thompson appointed an advisory committee on the M&E exemption, which issued its report during 1989. The committee recommended tightening the exemption and aiding municipalities that had to refund taxes paid on machinery and equipment later determined to be exempt. Several amendments to the statute granting the exemption were proposed during the 1989-90 legislative session, but the only one enacted directed courts to interpret it narrowly (1989 Wisconsin Act 31, Section 1778b).

**STATE PAYMENTS TO LOCALITIES  
FOR PROPERTY TAX RELIEF AND SHARED REVENUES  
By County, Fiscal Year 1989-90**

County	Est. Total Population 1/1/89	Levies-Based Tax Credit (Gen. Govt. and School)	Shared Revenue Payment	County Total	Per Capita	
					Amount	Rank
Adams	15,577	\$1,285,130	\$1,111,859	\$2,396,989	\$153.88	65
Ashland	16,969	827,721	4,020,958	4,848,679	285.74	2
Barron	41,143	2,289,574	6,038,791	8,328,365	202.42	36
Bayfield	14,429	1,058,684	1,241,669	2,300,353	159.43	63
Brown	194,146	11,518,492	34,912,676	46,431,168	239.16	11
Buffalo	14,242	833,369	2,119,610	2,952,979	207.34	30
Burnett	13,267	1,008,731	1,044,924	2,053,655	154.79	64
Calumet	34,729	1,813,713	5,397,583	7,211,297	207.64	29
Chippewa	54,695	2,624,624	10,458,609	13,083,232	239.20	10
Clark	32,749	1,654,069	4,995,458	6,649,528	203.05	33
Columbia	44,983	2,582,839	6,194,435	8,777,274	195.12	40
Crawford	16,608	943,485	2,422,991	3,366,476	202.70	35
Dane	352,999	26,315,274	34,660,398	60,975,671	172.74	53
Dodge	76,509	4,544,264	11,999,761	16,544,025	216.24	22
Door	27,125	2,390,737	1,946,212	4,336,949	159.89	62
Douglas	41,829	2,060,243	9,837,908	11,898,150	284.45	3
Dunn	35,615	1,763,829	6,285,401	8,049,230	226.01	17
Eau Claire	84,269	4,279,966	16,594,659	20,874,625	247.71	7
Florence	4,437	345,924	225,237	571,161	128.73	72
Fond du Lac	90,683	4,673,050	14,396,867	19,069,917	210.29	28
Forest	9,227	500,682	884,380	1,385,062	150.11	66
Grant	51,114	2,671,632	8,385,025	11,056,656	216.31	21
Green	30,515	2,165,447	3,479,808	5,645,255	185.00	49
Green Lake	18,982	1,337,992	2,684,893	4,022,885	211.93	27
Iowa	20,327	1,487,082	2,349,810	3,836,893	188.76	44
Iron	6,436	464,683	912,910	1,377,593	214.04	24
Jackson	16,746	864,184	2,219,026	3,083,209	184.12	50
Jefferson	67,530	3,883,737	10,469,698	14,353,435	212.55	25
Juneau	22,174	1,240,326	3,464,279	4,704,605	212.17	26
Kenosha	124,876	7,147,214	23,622,716	30,769,930	246.40	8
Kewaunee	20,095	1,103,043	3,637,578	4,740,622	235.91	14
La Crosse	97,453	5,579,543	13,522,570	19,102,114	196.01	38
Lafayette	16,921	1,318,564	1,928,706	3,247,270	191.91	42
Langlade	20,352	1,123,150	3,616,780	4,739,931	232.90	15
Lincoln	27,142	1,404,615	5,517,540	6,922,155	255.03	5
Manitowoc	82,767	4,043,317	17,205,565	21,248,882	256.73	4
Marathon	114,171	6,891,808	16,300,751	23,192,560	203.14	32
Marinette	41,298	2,514,988	6,495,086	9,010,074	218.17	20
Marquette	12,872	799,828	1,061,822	1,861,650	144.63	68
Menominee	4,111	105,490	609,155	714,645	173.84	52
Milwaukee	932,959	73,983,340	255,705,610	329,688,950	353.38	1
Monroe	37,268	1,574,599	5,844,279	7,418,878	199.07	37
Oconto	31,333	1,769,768	4,098,317	5,868,085	187.28	46
Oneida	32,781	2,493,185	2,867,421	5,360,607	163.53	59
Outagamie	139,769	7,932,922	20,429,189	28,362,111	202.92	34
Ozaukee	70,424	5,878,205	5,849,691	11,727,895	166.53	58
Pepin	7,374	488,916	1,204,410	1,693,327	229.63	16
Pierce	33,635	1,813,724	4,468,503	6,282,227	186.78	47
Polk	35,371	2,130,766	3,944,892	6,075,659	171.77	54
Portage	62,454	3,367,559	7,806,519	11,174,078	178.92	51
Price	16,279	908,727	2,131,767	3,040,494	186.77	48
Racine	171,873	10,656,924	32,222,430	42,879,354	249.48	6
Richland	17,228	1,064,064	2,464,655	3,528,720	204.82	31
Rock	139,977	7,805,116	26,601,999	34,407,115	245.81	9
Rusk	15,582	852,209	2,641,652	3,493,861	224.22	18
St. Croix	49,696	3,252,380	5,030,878	8,283,258	166.68	57
Sauk	46,423	3,096,004	5,788,526	8,884,530	191.38	43
Sawyer	14,180	1,048,034	833,513	1,881,547	132.69	70
Shawano	37,134	1,894,771	4,396,543	6,291,314	169.42	55
Sheboygan	103,895	6,562,652	18,230,521	24,793,173	238.64	12
Taylor	19,450	925,537	2,814,986	3,740,523	192.31	41
Trempealeau	26,487	1,420,265	4,512,426	5,932,692	223.99	19
Vernon	26,402	1,495,688	3,676,261	5,171,948	195.89	39
Vilas	18,178	1,762,764	626,609	2,389,373	131.44	71
Walworth	74,282	5,785,425	6,718,334	12,503,759	168.33	56
Washburn	14,456	951,856	1,401,035	2,352,891	162.76	60
Washington	92,971	5,904,605	9,124,040	15,028,646	161.65	61
Waukesha	300,372	24,354,693	19,598,858	43,953,551	146.33	67
Waupaca	45,457	2,356,030	6,162,246	8,518,276	187.39	45
Waushara	20,026	1,344,546	1,532,595	2,877,141	143.67	69
Winnebago	140,781	8,413,826	21,836,530	30,250,357	214.88	23
Wood	76,545	4,554,855	13,520,658	18,075,513	236.14	13
TOTAL	---	\$319,305,000	\$808,360,000	\$1,127,665,000	---	---
GRAND TOTAL	---	---	---	\$1,279,964,974*	---	---

\*Includes homestead tax credit \$106,410,166; farm property tax credit \$25,951,754; earned income tax credit \$15,666,453; cigarette tax refunds \$3,310,159; and farmers drought property tax credit \$961,442.

Source: Wisconsin Department of Administration, State Bureau of Financial Operations, 1990 Wisconsin Annual Fiscal Report, October 1990. Per capita amount and rank calculated by Wisconsin Legislative Reference Bureau.

### **Tax Incremental Financing**

During the 1975-76 legislative session, a major law that used the property tax system for economic development purposes, the tax incremental financing law, was enacted (Chapter 105, Laws of 1975). The recession of 1974-75 was one motive for the continued interest in economic development. Also, the decrease in federal funds available to urban areas made some states more eager to stimulate economic development there.<sup>70</sup> The Department of Administration of the City of Madison was the first to suggest that Wisconsin follow the lead of the 4 states that had enacted tax incremental financing laws.<sup>71</sup> The Wisconsin Department of Local Affairs and Development spent \$5,000 for legal research on the project and advocated passage in its July 1975 newsletter.<sup>72</sup> After a failed attempt in 1974, the legislature did pass such a law in 1975.

The basic idea of tax incremental financing is that, after a city or village creates a tax incremental district, the units of government that can tax the property in it continue to collect their taxes based on the value of the property at the time the district was created, but the tax revenue based on the increase in the value after the district's creation goes into a fund that pays the costs of developing the district. All of the taxpayers in the taxing jurisdictions that include the tax incremental district, not only the owners of property in the district, provide that revenue.<sup>73</sup> At first school districts were reimbursed for the taxes they had foregone on the increments. Later tax incremental financing harmed school districts because they could not tax the increase in value, but the increased property tax base when used in the school aid calculation reduced their aid (still later legislation made adjustments for this problem). The law specifies that only certain kinds of areas may be declared tax incremental districts, and it establishes procedures that must be followed before such a declaration may be made. After a district terminates, all of the units of government in which it lies begin to tax the full value of the property in it.

The law that created tax incremental financing directed the attorney general to arrange a case to test its constitutionality. Attorney General Bronson C. La Follette on October 4, 1976, declared that, lacking an actual case he could take to court, he would, instead, issue an opinion that the law was constitutional so the Department of Revenue could proceed to administer it (*Opinions of the Attorney General*, vol. 65, pp. 194-207). The Wisconsin Supreme Court did not have occasion to rule on that issue until 1980 in *Sigma Tau Gamma Fraternity House v. Menomonie*, 93 Wis. 2d 392. The court tersely asserted that, because all the units of government that could tax property in a tax incremental district treated all of their taxpayers alike in regard to their tax base and rates, the law did not violate the uniformity clause. The court did not mention that other taxpayers in effect pay the taxes on the incremental part of the value of property in a district. The court's analysis is debatable also because of 2 kinds of costs that the tax incremental fund may pay. One category covers improvements, such as streets and sidewalks, that are usually financed by special assessments on the owner of the property benefited by the expenditure. The other kind is costs, such as those made to purchase real property, that the developer would ordinarily pay. Thus, it can be argued that payments into the fund are, in part, not property taxes at all, but are the equivalent of grants. The result, as far as economic reality goes, is that developers receive a partial property tax exemption, so the tax incremental law is in its essence identical to the law litigated in *Gottlieb* and arguably unconstitutional. It is, however, constitutional because that is what the court ruled in 1980.

Tax incremental financing has had important effects. At first cities and villages used it sparingly. Between 1976 and 1978 they formed only 46 districts.<sup>74</sup> However, between 1979 and 1981 they created 222 districts. In the 6 years that followed, the rate again decreased, and only 174 were created. Recently some cities and villages have been prevented from creating new districts because no more than 5% of the value of a city or village may be in a district.

More important for the purposes of this history is the effect of the tax incremental financing law on the property tax system. The most relevant statistic is the percentage of the value of cities and villages that is attributable to tax increments. From 1982 to 1988 that percentage rose from 0.8% to 2.8%. Opponents of tax incremental financing, who contend that it merely shifts part of the tax burden of developers to others, would conclude from that last statistic that the program now adds an average of 2.8% to the property tax bills of persons who own fully taxable property in cities and villages. Proponents of the program would conclude that it adds nothing to anyone's bill because the increments would not exist unless the program existed.

### **Levy Limits and Shared Revenues**

During the 1975-76 session the legislature reconsidered imposing levy limits and cost controls on local units of government. The cost controls imposed on school districts for 1973-74 only were primarily responsible for a reduction of 2% in school property taxes that year, but the following year, when the controls no longer applied, school property taxes rose 14%.<sup>75</sup> Imposing and lifting levy limits on local units of government had a similar effect during those years. Limits were imposed again in 1975, but the allowable increase was based not on the growth in local equalized values but on the growth of the equalized value of the state (Chapter 39, Laws of 1975). Certain adjustments, both increases and decreases, were specified, and local units of government could exceed the limit if the voters approved that action at a referendum. However, no penalties were provided if the limits were exceeded without a referendum. This approach proved ineffective because property values were increasing so rapidly in the late 1970s. For example, the allowable increase in 1979 was 22.5%. Also, later amendments added even more allowable increases. Nevertheless, these limits remained in effect until 1983.

During the same (1975) legislative session, a different approach to property tax relief was tried. In its original form, shared revenue was imperfectly integrated into the property tax system because its payments were calculated on the basis of population and tax rates. That is, one of its effects was to reward high spending, an effect that is the opposite of providing property tax relief. In the 1975 revision, part of the shared revenue formula was replaced by a calculation using tax base and the amount of revenue, including property taxes, collected (Chapter 39, Laws of 1975, Section 517m). That part of the formula resulted in municipalities and counties that collected a lot of revenue per capita from their local tax base and those that had weak tax bases getting more shared revenue. In short, shared revenue became in part equalizing.

### **Equalizing VTAE Aids**

Sometimes major reorganization of an existing program that may appear unrelated to the property tax significantly affects local expenditures and tax levies. Chapter 292, Laws of 1965, although it had kept the levy limit for vocational, technical and adult education at 2 mills, had redesigned that kind of education so significantly that it stimulated explosive growth. Much of the revenue for the VTAE schools comes from property taxes, but for decades that burden had been relatively light because school operations were limited. However, from 1965 to 1975 expenditures for vocational, technical and adult education rose from \$29.9 million to \$116.4 million and the associated property tax collections climbed from \$14.4 million to \$60.8 million. Both increases were roughly 400%, and the property tax's share of the system's funding also increased. By the end of that 10-year period, the VTAE system was a significant expense for persons who paid property taxes. (In 1987-88 that tax contributed about \$190 million to the VTAE system.)

By 1975 it was clear that the financing of vocational, technical and adult education required reform. In Chapter 39, Laws of 1975, the formula for distributing aid to VTAE districts was also made equalizing in part (Sections 290 and 293). The state paid 35% of the system's total cost (less certain fees collected). The state aid was then allocated to each district according to a formula that gave more aid to the districts that had more students and those that had less equalized value. The number of students was a rough measure of each district's need for revenue, and equalized value was an exact measure of the ability of each district to raise revenue from its primary source. The roughness that resulted from using the number of students instead of the actual expenses as a measure of need was justified because it did not encourage spending; in fact, the number of a district's students was to a large extent beyond its control. In short, this change integrated VTAE aids much more neatly into the property tax system.

### **The Wallace Commission**

The second major group that Governor Lucey appointed to study property tax issues, the Commission on State-Local Relations and Financing Policy, which was usually referred to as the Wallace Commission because of Harry Wallace, its chairperson, issued its report at the end of 1976. Its most interesting recommendations reflect its concern that exemptions were distorting the property tax. It suggested that all exemptions be discontinued in 1980 unless they were reenacted, that municipalities be authorized to impose fees to recover the value of services provided to tax-exempt property, that exempt property be assessed so that the fiscal effect of the exemptions would be known, and that municipalities be fully reimbursed by the state for the revenue lost because of the exemption for machinery and equipment. On the last point the commission repeated a mistake we have seen before: believing that an exemption reduces revenue, rather than shifting part of the tax burden. The commission undercut its position on exemptions by urging the exemption of Line A property on the grounds that the tax on it was difficult to administer and somewhat random because inventories may be unusually high or low on the date when the assessment is made.



The commission also made a number of other suggestions. Like earlier groups, the Wallace Commission advocated county assessment of property, and it suggested that the law on the subject be changed so that a simple majority, rather than 60%, of the county board would be enough to create such an arrangement. It also argued for allowing quarterly payments of property taxes. A few of its recommendations are vague. For example, it wanted to spend more money on the homestead credit and to change shared revenue so that it would "more nearly equalize disparities between municipalities in the relationship between their available revenue sources and their financial requirements" ("Final Report", p. 9-4). The change in the formula that had occurred in 1975 appears to have done just that. The study group also recommended that yet another study group be formed. Despite an enormous commitment of time, the commission's work had a minimal influence on policy decisions.

### **Line A Revisited**

Pressure to exempt Line A property began to increase again in 1977. Advocates of the exemption offered many of the same arguments that for decades had been made against taxing personal property in general. For example, they pointed out, this property was difficult to find and assess, an argument which is not as convincing for Line A property as it is for, say, bank accounts and jewelry. The Department of Revenue also argued that the tax on Line A property had little relation to profitability (which is even more appropriate as an argument against the property tax as a whole). The department felt that assessing this type of property as of a certain date was capricious.<sup>76</sup> The department claimed that only 11% (actually, 11.4%) of the taxable property was Line A. Since its owners were currently receiving an 80% credit, this meant only 2.2% of the total tax burden would be shifted from them by an exemption, assuming that the money spent on personal property tax relief continued to be used for that purpose. The latter calculation is questionable because some of the new relief would benefit owners of Line A property. The department estimated that, after the exemption took effect, residential property would be 56.5% of the total tax base, so residential property owners would pay only "an additional 1% or so" (again this probably understated the actual percentage). The department also claimed that increased state aid would relieve some of that 1% burden. However, that would happen only for owners of residences in municipalities that had a higher than average value of Line A property. The department concluded that, for a small price, equity could be obtained.

Over the years, the legislature debated a number of solutions for taxation of Line A personal property. In 1962, a law had been enacted that provided a 50% tax credit for owners of Line A property. By 1973, the legislature decided to phase in a tax exemption over the following 5 years. (Thus, this type of property would have been entirely exempt as of 1978.) However, in 1977, the lawmakers repealed the exemption before it was fully effective and set a credit level of 80% instead. The 1977 state budget bill specified that Line A property would be assessed at a decreasing percentage of its value until it was exempt beginning in 1981 (Chapter 29, Laws of 1977, Section 760). To compensate for the exemption that act also increased funding for the personal property tax relief program, school aid, and shared revenue.<sup>77</sup> Several aspects of the compensation scheme reduced its equity for persons who did not own Line A property. For

example, it was distributed to local units of government, not to individual taxpayers, so some of the compensation resulted in increased spending, rather than relieving tax burdens. Also, much of the money was not distributed on the basis of the value of the property that was exempted, and some of the money was merely shifted from other tax relief programs.

In short, although the stated motive for this exemption was fairness, its result, and perhaps the real motive for it, was economic development based on shifting part of the property tax burden from business and industry to the owners of residential property. That is, this exemption continued a trend begun in 1973, when manufacturing machinery and equipment were exempted. The results can be seen by comparing the percentages that the owners of various kinds of property paid of the total property taxes collected before the trend began and after its full effects were felt.

**PROPERTY TAXES PAID, BY PROPERTY TYPE, 1970 AND 1987**

Type of Property	Percentage of Property Tax Paid By Type of Property	
	1970	1987
Residential .....	47.3%	60.3%
Commercial .....	15.2	19.0
Manufacturing .....	10.4	4.3
Line A .....	11.4	0.0
Agricultural .....	9.7	9.7
Other .....	5.9	6.7
	100.0%	100.0%

Source: Wisconsin Legislative Fiscal Bureau, *Residential Property Taxes in Wisconsin* (January 1989).

**Tax Relief for Homeowners and Renters**

Business and industry were not the only recipients of property tax benefits during the 1970s. The 1977 state budget bill included a credit that would reimburse the owners of houses and rental units for the property taxes attributable to improvements made to them.

This act imposed limits on the property's value, the credit's value and the credit's duration. Not only did this credit give relief to homeowners, but it also nullified part of the property tax imposed on persons because they improved their property. Some property tax reformers, such as the advocates of the single tax, wanted to eliminate that penalty. Governor Lucey vetoed the credit, objecting to its cost, its rewards for persons who would have made improvements without the credit (a common flaw of incentives), its lack of integration with other aid programs, and its possible unconstitutionality. The Democrats controlled the senate 23 to 10 and the assembly 66 to 33, so ordinarily there would have been little chance that a Democratic governor's veto would be overridden.<sup>78</sup> This, however, was not an ordinary veto situation. The budget bill was published on June 29, and before the legislature met to consider Governor Lucey's vetoes, he had resigned to become U.S. Ambassador to Mexico. Because of his resignation, it was much easier to overturn his actions, and the legislature did so in regard to the improvements tax credit.

The legislature's override proved useless, however, because Governor Lucey's warning that the credit might be unconstitutional was well taken. The state supreme court declared it unconstitutional in *State ex rel. La Follette v. Torphy*, 85 Wis. 2d 94 (1978). The court decided that the improvements credit, unlike the homestead credit, was a tax statute, so the uniformity clause applied to it. Ordinarily the uniformity clause does not apply to the use of tax revenue, but using revenue to reduce property tax obligations is an exception. In other words, the court looked at the financial result of the credit, not at the means by which it was accomplished, and decided that the credit produced a partial exemption and therefore violated the uniformity clause. This decision seems to make it impossible to nullify tax increases caused by improving property, even when the intent is to promote positive developments, such as rehabilitation of housing in blighted areas.

Near the end of the 1977-78 legislative session a large budget surplus made possible another property tax benefit for homeowners and renters: a credit against 1978 income taxes for property taxes paid during 1978 (Chapter 418, Laws of 1977, Section 923 (42)). The credit was limited to \$100 or 10% of the property taxes paid, whichever was lower, except that all claimants received at least \$40. The minimum payment ensured that renters would get a credit. This credit served as a model for later legislation that took advantage of a budget surplus to provide a temporary property tax relief credit. An example is the 1990 supplement to the school property tax credit in 1989 Wisconsin Act 31.

### **Farmland Preservation Credit**

In 1974, Wisconsin voters approved, by the narrow margin of 353,377 to 340,518, an amendment to the uniformity clause to allow nonuniform taxation of agricultural land. This permitted another major change to the property tax system during the 1977-78 legislative session. The 1977 state budget bill created an income tax credit for property taxes paid on certain farmland (Chapter 29, Laws of 1977, Section 799m). Known as the farmland preservation credit, this credit addressed several problems that confront farmers. As we have seen, their land is assessed at the value for which it could be sold, and, because that value may reflect possible sales to developers, it may be more than the value of the land for farming. Also, because of increased mechanization the amount of land that could be profitably farmed has greatly increased. Farmers who bought more land increased their property tax liability, sometimes beyond their ability to pay those taxes from farm income.<sup>79</sup> Both of these problems highlight the broader reality that today's property values often do not reflect the income produced by the property, as it was assumed they did in the early years of the property tax. The final problem is that low income and other factors have tempted farmers, with increasing frequency, to sell their farms to developers.

The farmland preservation credit attempted to solve those problems by means of an ingenious formula, and it is another instance of using the property tax system — in this case a property tax relief program — for a nontax purpose. The credit was based on 2 beliefs. First, if the goal was to preserve farmland, the credit should make it difficult to convert the land to nonfarm uses. The credit was limited to persons whose land was either zoned for exclusive agricultural use or subject to a farmland preservation

agreement (a contract between the owner and the state). These limitations would ensure that the property would continue to be used for farming. The size of the credit should relate to the strength of the controls and the difficulty of converting land use. Thus, the more stringent the control, the higher the credit. The relation of the credit to restrictions on land use also encouraged farmers to try to convince local officials to extend agricultural zoning, which served the credit's purpose. The second belief underlying the farmland preservation credit was that persons should not be forced to pay an unreasonable portion of their income for property taxes. (That was, of course, also the basis of the homestead credit.) Because of the second belief, part of the formula for the credit related income to property taxes in order to determine "excessive property taxes".

### **The 1979 Tax Reform Commission**

Since 1950 nearly every governor, shortly after taking office, has appointed a commission to study the property tax. Governor Lee Sherman Dreyfus, who assumed office in January 1979, was no exception. He appointed the Tax Reform Commission, with Robert Knowles, a former state senator, as chairperson. Oddly enough, the commission asserted that there was no need for substantially more property tax relief, because property taxes had decreased from 50.5% of total state and local taxes in 1960-61 to 30.9% in 1977-78. Besides that, Wisconsin's property taxes in 1976-77 were exactly at the nation's average.<sup>80</sup> The commission even had some kind words for the property tax. The report continued that, if the governor and the legislature wished to increase property tax relief anyway, the best options were to increase school aid; to stop using the property tax to finance the vocational, technical and adult education system; and to devote more funds to the homestead credit.

Two problems with the property tax bothered the commission. One was the effect of exemptions. During its meetings the commission discussed several solutions: replacing the exemptions with subsidies, authorizing municipalities to charge fees for the services they provide to the owners of tax-exempt property or requiring payments in lieu of taxes, and periodically reviewing all of the exemptions. The commission decided that it could not address this problem in a reasonable length of time, so it recommended that the Department of Revenue complete its next report on property tax exemptions earlier than it had planned and that the governor appoint a commission that would study only that issue.

The other problem that the commission noted, inaccurate assessment, has vexed the property tax system since its beginning. The root of the problem was assessment at less than fair market value. Although a statute required assessment at fair market value, courts had declined to enforce it, and the commission discovered that only 15% of the local units that assessed property did so even within 20% of fair value. Assessment at less than fair market value not only confuses property owners but also, as many studies have indicated, increases the number of unfair assessments. The commission found that inexpensive property was more likely to be overassessed than was expensive property, and it cited several disturbing examples of inaccurate assessment.

The solutions recommended by the commission included one that 4 earlier commissions had made: the requirement for assessment at fair market value should be enforced. It suggested that the state pay part

of the cost of reassessments. It also repeated another familiar recommendation: assessments by counties, rather than by municipalities, should be encouraged. A law was later enacted that required municipalities and counties to assess at fair market value at least once every 5 years and directed the Department of Revenue to supervise the 1987 assessment of any municipality or county that did not assess within 10% of fair market value in 1986 (Chapter 20, Laws of 1981, Section 1038m).

### **Income Tax Credits for Property Taxes**

Immediately after they took office, the Dreyfus administration and the 1979 Legislature began to consider ways to deal with the huge surplus in the state treasury that had been the major issue in the 1978 gubernatorial election. They agreed to replace the income tax deduction for property taxes paid with a 12% income tax credit. Because the highest rate for the income tax was 10% (for taxable income over \$40,000), the old deduction did not nullify more than 10% of any individual's property taxes. The new credit was thus more generous than the deduction. The credit was also broader than the itemized deduction because it applied to renters (for that portion of the rent constituting property taxes) and to persons who did not itemize deductions. This expansion also made it more expensive. The Department of Revenue estimated that the credit would cost the state \$115 million in 1980-81, whereas the deduction would have cost \$48 million.<sup>81</sup> The new credit was thus slightly more expensive than the homestead credit and personal property tax relief, but \$90 million less expensive than general property tax relief. It was not progressive but, because they claimed it on a separate line near the end of the income tax form, taxpayers were more likely to realize that they were receiving property tax relief than they had been when they deducted property taxes. Also, the value of the old itemized deduction had depended on the income tax rates and brackets, but the value of the new credit could be directly controlled by changing its rate.

### **Property Tax Deferral**

A much more narrow property tax relief law was enacted during the next legislative session (Chapter 20, Laws of 1981, Section 1125m). For a long time it had been clear that many older persons who had low incomes had trouble paying property taxes on their homes and thus were in danger of losing them. The homestead credit was an attempt to solve that problem, but when it was made available to nonelderly persons its generosity had to be more strictly limited than it would have been had only elderly persons been able to claim it. The new program, property tax deferral, allowed persons who were at least 65 years of age, who had an annual income of no more than \$20,000 and who owed no more than \$5,000 on their homes to give the Department of Revenue a lien (a right to take possession if an amount owed is not paid) on their homes in return for a series of annual loans that they could use to pay property taxes. The loan was due upon transfer of the home, except to a co-owner, or upon death of the last remaining co-owner. When the program began, interest rates were high, so the rate that the department had to charge limited the number of applicants, but as the rate decreased the number of applicants grew.

### **1981 Revision of State Property Tax Credits**

A major revision of state property tax credits also occurred during the 1981 legislative session. After 1981, personal property tax relief no longer was appropriate because Line A stock was exempt. Policymakers responded to that fact not only by discontinuing those payments but also by reconsidering all of the credits. They were beginning to see the flaws in general property tax relief. It rewarded municipalities that had high levies (which usually reflected high spending), and it directed a disproportionate share of the payments to municipalities that had many wealthy residents and to cities.<sup>82</sup> This meant that rural areas were placed at a disadvantage because of the GPTR formula at the same time that the rapidly increasing value of agricultural property was forcing its owners to pay a larger share of property taxes. Dissatisfaction about using property tax money to finance schools was especially strong in rural areas, where the school levy usually comprises the largest share of the total property tax bill. Between 1982 and 1983, both GPTR and PPTR were replaced by the Wisconsin state property tax relief program (WSPTR). In 1982, \$54,417,900 was distributed according to the old PPTR formula and \$118,729,900 was paid according to the old GPTR formula. According to a new WSPTR formula based on the share of school property taxes collected, municipalities were to be paid the following amounts: \$59.4 million in 1982, \$105 million in 1983, and \$195 million in 1984 and thereafter. The rest of the WSPTR payment, which was to increase annually, was to be paid to municipalities according to the school aid formula, thereby adding an element of equalization to shared revenue. Current credits are paid on 2 bases: property taxes levied for school districts and property taxes levied for municipalities.

Early in 1982, only a few years after its treasury was so full that large sums of money were returned to the taxpayers, Wisconsin was in the midst of a financial crisis. After a number of disagreements between the governor and the legislature, which ended with a partial veto by the governor, the response was to add \$75 million to WSPTR and increase the sales tax rate from 4% to 5% to cover the cost. The 5% rate would

require voter approval to become permanent (Chapter 317, Laws of 1981, Section 64m). These changes could have made a major change in property tax relief by using large amounts of sales tax revenue for that purpose. For example, 20% of the annual sales tax revenue collected in 1990 equals about \$400 million. (Twenty percent being the amount attributable to the change in rates.) This could be used, for example, to increase shared revenue payments by about 50%. However, the state's financial difficulties continued, so that, although the 5% sales tax rate was made permanent without voter approval, the money generated by that increase was no longer designated for property tax relief (1983 Wisconsin Act 2).

## X. RECENT DEVELOPMENTS

The period from 1980 to 1985 provides an example of the effects that the national economy in general and the real estate market specifically can have on property taxes. Between 1973 and 1981 the percentage of total property taxes that was paid by owners of farms had increased from 9.3% to 13%, partly due to the strength of the market for that kind of property and partly because of the exemptions granted to owners of manufacturing property.<sup>83</sup> This shifting of the burden increased the intensity of farmers' traditional complaints about property taxes. During 1981 the price of agricultural land began to fall drastically. For example, between 1984 and 1986 the value of agricultural property in the state declined by about 30%.<sup>84</sup> Such a long, severe decline in value reduces property taxes, but its effect is delayed because assessments as of January 1 (the date as of which assessments are to be made) are reflected in the property tax bill issued almost a year later in December. A 1985 act directed that changes in the value of agricultural land from January 1 to the date the assessor finishes work must result in changes in assessed and equalized values, and it altered the law in other ways to make the assessment of that kind of property more responsive to the real estate market (1985 Wisconsin Act 54).

The next major study group that included property tax issues on its agenda, the Wisconsin Expenditure Commission, issued its report during December 1986. That report's main point was that state and local taxes in Wisconsin ought to be reduced toward the national average. For example, the commission pointed out that the ratio of property taxes to personal income in Wisconsin was significantly higher than the national average. Among its recommendations were imposing limits on state and local spending (including state spending for property tax relief and aids to local units of government) and imposing limits on the salary awards that arbitrators grant to employees of local units of government. This commission's significance for the property tax is not in any statutory change it influenced but the repetition of some of its recommendations by a later study group that was able to get the legislature's attention.

The issue of property tax exemptions arose again when the Legislative Audit Bureau published a study on that topic in January 1987. It found that real property having a value of 29% of the value of the real property in the state was exempt. However, within that category of exempt property, 67% of the value was attributable to governmental property, and 10% was property owned by nonprofit charities. The remaining 23% of exempt real property was valued at about \$8 billion. Taxing all of the \$8 billion worth would reduce property tax bills by an average of 6.2%. In the case of personal property, 95.3% of the total value was

exempt. The report indicated that in recent years exemptions had been granted with increasing frequency. The committee's finding did not deter the creation of more exemptions. During the 1987-88 legislative session 2 real property exemptions and 2 personal property exemptions were created. During the 1989-90 session, 5 personal property exemptions were created. The Legislative Audit Bureau recognized that repealing tax exemptions was politically difficult. It suggested, instead, narrowing the exemptions for manufacturing machinery and equipment and the property of educational and benevolent associations. Part of the problem was that courts and assessors had broadened these categories over the years. The bureau also raised the issue of allowing municipalities to charge service fees to the owners of exempt property, although the uniformity clause may preclude that.<sup>85</sup> In addition, it pointed out that the owners of property that was exempt because it was subject to a license fee, such as airplanes and automobiles, were paying much less for the license than they would pay in taxes on the property.

An unusual way to give property tax relief — creating a new source of revenue for that purpose — was devised at about the time that the Expenditure Commission was meeting. The legislature, in proposing a constitutional amendment to allow a state lottery, added a requirement that the proceeds were to be used for property tax relief. In April 1987 the voters ratified the amendment, and a law was soon enacted to establish the lottery (1987 Wisconsin Act 119). That act also created a property tax credit funded with lottery proceeds, but the governor vetoed the credit. Later the lottery proceeds were used for aid to units of government that levied property taxes (such as school aid and payments for district attorneys' salaries) and for a farmland tax credit.

Governor Thompson appointed the Local Property Tax Relief Commission, known as the Barry Commission for its chairperson, Jonathan Barry, a former state representative, and this group issued its report in September 1987. It repeated the Expenditure Commission's suggestion that the mediation and arbitration rules that applied to public employe salary disputes be made more stringent to control local costs that had to be funded to a large extent by the property tax. It expanded the Expenditure Commission's earlier recommendation on imposing spending limits by recommending 3-year limits on spending, compensation paid to government employes, and property tax rates. The commission wanted to limit levy rate increases to 4% a year and spending and compensation increases to the growth in personal income in the state. Its most important recommendation was a "foundation plan", under which school aids would increase by \$1.1 billion annually and would be paid on the basis of the difference between the amount of money a school district could raise by levying a tax at the rate of 4 mills and the amount needed to educate its pupils. The additional money needed for school aid would be raised by discontinuing the school property tax credit and the per capita portion of shared revenue, using the lottery proceeds, and either expanding the sales tax base or raising its rate or both.

The Barry Commission worked out many of these proposals in great detail, for example proposing adjustments to the limits applied to local units of government (see its final recommendations for details).<sup>86</sup> In some cases, its proposals were also bold, such as recommending shifting much of the responsibility for financing schools from the local districts to the state. The legislature responded by passing a bill, which among other changes, imposed the 3 kinds of fiscal restraints that the commission suggested and modified the mediation and arbitration laws along the lines that the commission suggested (November 1987 Special



Session Senate Bill 9). However, the governor vetoed that bill, partly because it also modified the state retirement system.

The 1980s were thus fairly significant for the property tax, although much of the action that occurred related to the courts or the economy, rather than the legislature. Some recent trends in the property tax are shown in the accompanying table.

**PROPERTY TAX TRENDS IN WISCONSIN**

	1980	1985	1987
<b>Type of Taxpayer and Percent of Tax Paid</b>			
Residential .....	57.7%	58.9%	60.3%
Commercial .....	16.2	17.7	19.0
Manufacturing .....	4.8	4.7	4.3
Agricultural .....	12.5	12.4	9.7
Other .....	8.8	6.4	6.7
<b>Unit of Government and Percent of Tax Levied</b>			
Schools .....	55.2%	53.6%	52.6%
Local .....	21.7	23.9	25.3
County .....	16.1	15.3	15.8
VTAE .....	6.0	5.8	5.6
State .....	1.0	0.8	0.7
<b>Property Tax as Percent of State and Local Taxes .....</b>	<b>33.4%</b>	<b>31.4%</b>	<b>32.8%</b>

Source: The American Federation of State, County and Municipal Employees, "Farms, Homes Carrying Tax Burden for Manufacturers", *Wisconsin AFSCME Report* (April 1987) and the Wisconsin Legislative Fiscal Bureau, *Residential Property Taxes in Wisconsin* (January 1989) and *Property Taxation in Wisconsin* (January 1989).

Between 1980 and 1987 net property taxes (property taxes billed minus state property tax credits) increased from \$1,666,300,000 to \$2,971,600,000, a jump of 78.3%. However, for the same period Wisconsin per capita personal income rose from \$9,814 to \$14,742, an increase of only 50.2%.<sup>87</sup> Thus, it became increasingly difficult to pay property taxes. The accompanying table shows the state's attempt to ease that burden through property tax relief.

**PROPERTY TAX RELIEF IN WISCONSIN, 1980 and 1987**  
(In Millions)

	1980	1987	% change
Aids to counties and municipalities .....	\$528.5	\$779.4	47.47%
Tax credits .....	344.0	319.3	-7.18
School aids .....	801.6	1,358.2	69.56
<b>Total indirect and direct relief .....</b>	<b>\$1,674.1</b>	<b>\$2,456.9</b>	<b>46.76%</b>

Source: Wisconsin Legislative Fiscal Bureau, *State Property Tax Credits* (January 1989).

## XI. CONCLUSION

In short, despite enormous state spending and hundreds of changes to the property tax system, that system still lacks the equity its proponents and opponents have sought over the years. In part, this is due to social and economic changes that have made the system less appropriate. Many persons have noted that 150 years ago property, especially agricultural property, was the main source of income, so the property tax was virtually an income tax, but that is no longer true. The relation of the property tax to income is actually more complex than is commonly realized. Some income that was produced in part by taxable property is itself taxed. As the state has created property tax relief programs that have income factors, such as the homestead credit, the relation between the property tax and income has become even more complicated.

Frequent use of the property tax to further nontax goals and for political advantage has also made it less rational, coherent and equitable. As the tax has become more burdensome, more kinds of tax relief have been established, making the system even less coherent. Finally, a fairly large number of often conflicting court cases that take lightly the clear meaning of statutes or are logically suspect make it more difficult for the legislature and the governor to predict how a court will react to a change in the law, which in turn makes it more difficult to solve the tax's problems.

There are 2 options. One is to try to make the tax a little better. Possible small changes include improving the administration of the tax. For example, assessment might be improved by allowing municipalities to escape state supervision of assessment only by assessing at an average very close to 100% of full value every year, rather than by assessing at an average within 10% of full value every 5 years, as is the current law (Section 70.05 (5)). Other possible adjustments are discontinuing exemptions, controlling spending by units of government that levy property taxes, and tinkering with the relief programs (e.g., changing the mix of direct and indirect programs, making more of the relief equalizing, and reducing the number of relief programs). More than one of these changes can, of course, be made. Modest goals create modest risks, and those who think that the tax is only a little off the mark would probably advocate this option.

On the other hand, those who think that tinkering cannot save the property tax and who are more daring are tempted to try major reforms. One possible major reform is to create a new source of local revenue to replace the property tax or significantly reduce the need to depend on it. The obvious possibilities are a local income tax and a local sales tax (counties currently may impose a sales tax at the rate of 0.5%). Another bold option is a large increase in property tax relief financed by a correspondingly large increase in state taxes. The obvious possibilities for financing the relief again are the sales tax and the income tax. A less obvious possibility is a state property tax. Making that tax a state tax, rather than a local tax, would go a long way toward solving the administrative problems of the tax and toward equalizing the tax base, because the state would determine the revenue it needed and then apply the same rate to all the taxable property in the state. Also, in establishing it, some of the exemptions could perhaps be eliminated. A bold reform could be combined with some of the less bold changes. For example, those who wish to increase direct aid to local units of government in order to reduce their dependence on the property tax may also want to impose spending limits to ensure that relief, not higher spending, results.

Because these options exist, the situation is not hopeless. Moreover, there are indications in the history of the property tax and of property tax relief that progress can be made. Citizen committees and state employes have developed sophisticated analyses of property tax issues; legislators and governors have made wise decisions about them. If enough wise decisions are made in the future, perhaps at some time a governor can announce not that Wisconsinites are upset with the property tax, as Governor Doty announced in 1842, but that they have finally judged it to be equitable.

## ENDNOTES

<sup>1</sup>*Wisconsin Council Journal* (1842), 30.

<sup>2</sup>Property taxes are calculated in mills of tax per dollar of assessed valuation (a mill equals one-tenth of a cent). For easier understanding, this may be translated to dollars per \$1,000 of assessed valuation. Thus, a \$2,400 tax on a \$100,000 residence represents a 24-mill tax rate.

<sup>3</sup>Wisconsin Legislative Audit Bureau, *1985-86 School Aid Credits and Expenditures* (1986), 3.

<sup>4</sup>Wisconsin Legislative Fiscal Bureau, *Wisconsin State School Aid: A Comparative Analysis of its Effectiveness in Providing Property Tax Relief* (1979), 63.

<sup>5</sup>On the financing of territorial schools, see Lloyd P. Jorgenson, *The Funding of Public Education in Wisconsin* (Madison: State Historical Society of Wisconsin, 1956) and "The Origins of Public Education in Wisconsin," *Wisconsin Magazine of History*, vol. 33, no. 1 (September 1949), 15-27.

<sup>6</sup>Milo Quaife, ed., *The Attainment of Statehood*, vol. 4 of *Constitutional Series* (Madison: State Historical Society of Wisconsin, 1928), 402.

<sup>7</sup>*Ibid.*, 413.

<sup>8</sup>Richard N. Current, *The Civil War Era, 1848-1873*, vol. 2 of *The History of Wisconsin* series (Madison: State Historical Society of Wisconsin, 1976), 492.

<sup>9</sup>*Ibid.*, 492.

<sup>10</sup>Wisconsin Department of Taxation, *Annual Report* (Madison: 1949), 26.

<sup>11</sup>*Ibid.*

<sup>12</sup>Robert C. Nesbit, *Urbanization and Industrialization, 1873-1893*, vol. 3 of *The History of Wisconsin* series (Madison: State Historical Society of Wisconsin, 1985), 594.

<sup>13</sup>U.S. Department of Commerce, Bureau of the Census, *1960 Census of Population* (Washington), vol. 1, 51-59.

<sup>14</sup>U.S. Department of Commerce, Bureau of the Census, *Eleventh Census of the United States, 1890* (Washington, 1893), vols. 5, 74, 75, 92 and 93.

<sup>15</sup>All these industrial statistics appear in the *Wisconsin Blue Book, 1929*, compiled and published by the State Printing Board (Madison: Democrat Printing Company, 1929), 34, 36.

<sup>16</sup>Two books present drastically different views of the politics of the debate over taxation in the era between 1893 and the end of the gubernatorial term of Robert M. La Follette, Sr. In *Political Reform in Wisconsin* (Madison: State Historical Society of Wisconsin, 1973), Emanuel L. Philipp, who succeeded 3 Progressives (La Follette, Davidson and McGovern) as governor, tells a story of gradual, rational and bipartisan tax reform. In *The New Citizenship: Origins of Progressivism in Wisconsin 1885-1900* (Columbia, Missouri: University of Missouri Press, 1972), David P. Thelen argues that a class-based group of reformers, led mainly by city officials, began the movement that was transformed into La Follette's Progressivism, the tax policy of which was to favor the economically disadvantaged at the expense of the rich.

<sup>17</sup>E.g., see *Appleton Weekly Post*, 14 September 1899, *Ashland Daily News*, 13 February and 30 March 1895, and *Ashland Weekly Press*, 16 February and 16 March 1895, all as cited by Thelen.

<sup>18</sup>*Milwaukee Sentinel*, 10 and 14 March 1898. Scofield's position supports Philipp's view, just as the previous note supports Thelen's. The truth lies somewhere between.

<sup>19</sup>Wisconsin State Tax Commission, "Report" (1898), 78.

<sup>20</sup>*Ibid.*, 109.

<sup>21</sup>*Ibid.*, 69.

- <sup>22</sup>George Curtis, "Tax Reforms versus Local Self-Government" (Madison: Democrat Printing Company, 1908), 18.
- <sup>23</sup>Philipp, 139-140.
- <sup>24</sup>1903 Report, 116.
- <sup>25</sup>Wisconsin Legislature, Senate, *1903 Senate Journal* (15 January 1903), 20.
- <sup>26</sup>*C. & N.W. Ry. Co. vs. State*, 128 Wis. 553 (1906).
- <sup>27</sup>Thomas H. Brown, *An Analysis of the Reports of Land Sales Made by the Registers of Deeds to the Secretary of State, Showing the Unreliability of These Reports as a Basis for Determining the True Value of the Real Estate in Wisconsin*, submitted to the State Board of Assessments, 1904.
- <sup>28</sup>Historians David P. Thelen and W. Elliott Brownlee have argued that the income tax was enacted mainly to help farmers and other economically disadvantaged persons and to hurt the rich. For example, the first \$800 of an individual's income and the first \$1,200 of a married couple's income were exempt. (Thelen's book, *The New Citizenship*, is cited in note 16. The Brownlee article is "Income Taxation and the Political Economy of Wisconsin, 1890-1930," *Wisconsin Magazine of History*, vol. 59 (Summer 1976), 299-324.) A different view is set forth in John Stark, "The Establishment of Wisconsin's Income Tax," *Wisconsin Magazine of History*, vol. 71, no. 1 (Autumn 1987), 27-45.
- <sup>29</sup>Delos Kinsman, "Genesis of Wisconsin's Income Tax Law: An Interview with D.O. Kinsman," *Wisconsin Magazine of History*, vol. 21, no. 11 (September 1937), 9.
- <sup>30</sup>*Milwaukee Journal*, 5 May 1913.
- <sup>31</sup>*Milwaukee Free Press*, 26 February 1915.
- <sup>32</sup>*Madison Capital Times*, 27 March 1924.
- <sup>33</sup>*Chicago Tribune*, 5 March 1926.
- <sup>34</sup>*Milwaukee Sentinel*, 19 September 1930.
- <sup>35</sup>In *Wisconsin: A History* (Madison: University of Wisconsin Press, 1973), Robert C. Nesbit, on page 472, attributes the repeal to a desire to tax manufacturers more heavily, but his only evidence is an uncited report claiming that Wisconsin did not overtax manufacturers. His interpretation seems to be based on Thelen's and Brownlee's view of Progressive tax policy, even though the Progressives' heyday was over in 1925. The reason given in the 1916 Tax Commission report, and the desire for more revenue, are more likely to be the motives.
- <sup>36</sup>That is not to say that a one-room school is educationally inefficient. See, for example, Ben Logan, *The Land Remembers* (New York: Viking Press, 1975).
- <sup>37</sup>Wisconsin Department of Public Instruction, *Education in Wisconsin, 1922-24 Biennial Report*, (Madison: 1924), 28.
- <sup>38</sup>Edward A. Fitzpatrick, "A Financial Program for Education in Wisconsin," *School and Society*, vol. 17, no. 420 (13 January 1923), 40.
- <sup>39</sup>Raleigh Barlow, "Forest Policy in Wisconsin," *Wisconsin Magazine of History*, vol. 26, no. 3 (March 1943), 261.
- <sup>40</sup>Robert C. Nesbit, *Wisconsin, A History*, 2d. ed., revised by William F. Thompson (Madison: University of Wisconsin Press, 1989), 459.
- <sup>41</sup>Charles Rosa, "The Farmer in Wisconsin's System of Taxation," paper delivered to the Society of Equity (1 December 1927), 24.
- <sup>42</sup>*Green Bay Press-Gazette*, 24 November 1924.
- <sup>43</sup>*Madison Capital Times*, 16 April 1935.
- <sup>44</sup>*The Municipality*, April 1935.
- <sup>45</sup>Wisconsin Taxpayers Alliance, *Wisconsin Taxpayer*, March 1948; League of Wisconsin Municipalities, "Financing Public Education," *The Municipality*, 16 March 1949.

<sup>46</sup> *Milwaukee Journal*, 23 June 1949, and *Madison Capital Times*, 28 April 1949.

<sup>47</sup> *Milwaukee Journal*, 26 May 1958.

<sup>48</sup> The statistics in the rest of this paragraph and in the next one are from *Wisconsin Commerce Reports*, vol. 5, no. 6 (September 1960).

<sup>49</sup> *La Crosse Tribune*, 13 September 1959.

<sup>50</sup> *Milwaukee Sentinel*, 18 October 1959.

<sup>51</sup> *Madison Capital Times*, 16 December 1960.

<sup>52</sup> This campaign is described in detail in William F. Thompson, *Continuity and Change, 1940-1965*, vol. 4 of *The History of Wisconsin* series (Madison: State Historical Society of Wisconsin, 1988), 200-206. Thompson argues that forces beyond the control of state government were much more significant causes of the condition of Wisconsin's business and industry than was state tax policy.

<sup>53</sup> See, for example, William A. McEachern, "Tax-Exempt Property, Tax Capitalization, and the Cumulative-Urban-Decay Hypothesis," *National Tax Journal* (June 1981), 185-191.

<sup>54</sup> For a brief summary of this view see Wisconsin Legislative Fiscal Bureau, *Residential Property Taxes in Wisconsin* (January 1989).

<sup>55</sup> For a summary of these changes see Wisconsin Legislative Fiscal Bureau, *Homestead Tax Credit* (January 1989).

<sup>56</sup> *State ex rel. Harvey v. Morgan*, 30 Wis. 2d 1 (1966).

<sup>57</sup> *Milwaukee Journal*, "Showdown on Taxes," a reprint of a series of articles originally printed during November 1968, 60.

<sup>58</sup> Similarly, as is well known, the children of the "baby boomers" are now about to put increased pressure on state and local taxes.

<sup>59</sup> They actually listed 4 impurities, but 2 of them are essentially the same: that districts for which the equalized value per pupil was above the guaranteed valuation received payments on a per pupil basis.

<sup>60</sup> This is a somewhat simplified description. Actually, like the positive aid part of the formula, the negative aid part of the formula had 2 calculations, one of which was the mechanism that discouraged too much spending.

<sup>61</sup> The first group is *State ex rel. Town of Baraboo v. Sauk County*, 70 Wis. 485 (1888); *Lund v. Chippewa County*, 93 Wis. 640 (1896); *State ex rel. New Richmond v. Davidson*, 114 Wis. 563 (1902); *Rinder v. Madison*, 163 Wis. 525 (1916); *State ex rel. Owen v. Stevenson*, 164 Wis. 569 (1917); and *Columbia County v. Wisconsin Retirement Fund*, 17 Wis. 2d 310 (1962). The principle becomes more explicit in the later cases and is bluntly stated in the last one in the group. The court has made an exception when tax revenue is used to bring about a partial exemption of property taxes. The second group is *Knowlton v. Rock County*, 9 Wis. 410 (1859); *Jensen v. Polk County*, 47 Wis. 298 (1879); *Lund v. Chippewa County*, 97 Wis. 640 (1896); and *West Milwaukee v. Area Bd., Vocational, T. and A. Ed.*, 51 Wis. 2d 356 (1971). There are a few cases that do not follow these trends, as there are in regard to many of the issues about the uniformity clause, but the trends are clear, certainly clear enough to require the attention of the court in the *Busé* case.

<sup>62</sup> Wisconsin Department of Revenue, Tax Burden Study Team, *The Homestead Credit Program* (1978).

<sup>63</sup> Wisconsin Department of Revenue, *Machinery and Equipment Property Tax Exemption and its Impact on Local Units of Government* (1974).

<sup>64</sup> *Ibid.*

<sup>65</sup> Advisory Commission on Intergovernmental Relations, *State and Local Finances: Significant Features and Selected Legislation*, (Washington, D.C.: United States Government Printing Office, 1972).

<sup>66</sup> Wisconsin Department of Revenue, *Machinery and Equipment Property Tax Exemption and its Impact on Local Units of Government*.

<sup>67</sup> Thompson, 185. Thompson also points out that the delight of business persons about the machinery and equipment

exemption eventually ended and that they began to complain about other taxes. Jon Udell argues in "The Impact of Recent Legislation on Wisconsin Manufacturers and Employment Growth" (University of Wisconsin-Madison, Graduate School of Business, 1977) that during the 12 months after the exemption took effect, Wisconsin, although it had only 2.1% of the nation's population, produced 13.4% of the nation's growth in manufacturing employment.

<sup>68</sup>Drafting record for Chapter 90, Laws of 1973, available at the Wisconsin Legislative Reference Bureau.

<sup>69</sup>*Ladish Malting Co. v. Dept. of Revenue*, 98 Wis. 2d 496 (1980); *G. Heileman Brewing Co., Inc. v. City of La Crosse*, 105 Wis. 2d 152 (1981); *Manitowoc Co., Inc. v. Sturgeon Bay*, 122 Wis. 2d 406 (1984); and *Pabst Brewing Co. v. Milwaukee*, 125 Wis. 2d 437 (1985).

<sup>70</sup>For a more extensive treatment of this background, see Wisconsin Legislative Fiscal Bureau, *Tax Incremental Financing* (January 1989).

<sup>71</sup>*Wisconsin State Journal*, 25 June 1975.

<sup>72</sup>*Ibid.*

<sup>73</sup>For an excellent analysis of this law and its relation to property taxes, see Richard Stauber and Mike Wyatt, "Property Tax Relief and Tax Incremental Financing" in *Dollars and Sense* (Madison: The La Follette Institute, 1990), 75-94.

<sup>74</sup>Wisconsin Legislative Fiscal Bureau, *Tax Incremental Financing*.

<sup>75</sup>The statistics in this paragraph are from a report prepared by John Koskinen for the Barry Commission, "Why Will These Controls Work When the Others Failed?", 1987.

<sup>76</sup>Wisconsin Department of Revenue, *Elimination of the Personal Property Tax on Business Inventories and Livestock* (15 April 1977).

<sup>77</sup>A clear summary of these changes appears in the report to Governor Lee Sherman Dreyfus by the Committee on Personal Property Taxation Phaseout on March 16, 1979.

<sup>78</sup>Two-thirds of the members of each house of the legislature must vote against a governor's veto in order to override it.

<sup>79</sup>For a detailed account of the rapidly increasing need for capital investments by farmers during the second half of this century, see Thompson, 102-113.

<sup>80</sup>Tax Reform Commission, *Report* (1979), 66.

<sup>81</sup>Potential tax revenue that the state chooses not to collect, such as revenue lost because of a credit against income taxes, is considered a cost. The estimate is from the Department of Revenue's *Analysis of Shared Revenue and Property Tax Relief Programs* (4 September 1980).

<sup>82</sup>For an elaboration of some of these points, see Wisconsin Legislative Fiscal Bureau, *State Property Tax Credits* (January 1989).

<sup>83</sup>Richard Barrows, *The Property Tax and Agriculture*, University of Wisconsin-Madison, Department of Agricultural Economics (1986), 6.

<sup>84</sup>Wisconsin Department of Revenue, *Equalized and Assessed Value Report* (1986).

<sup>85</sup>A recent (April 4, 1990) opinion of the attorney general asserts that a service fee may violate the uniformity clause of the state constitution and the equal protection clause of the federal constitution. However, the Wisconsin Supreme Court has ruled that the uniformity clause does not apply to fees: *Wadham's Oil Company v. Tracy*, 141 Wis. 150 (1909) and *Jordan v. Menomonee Falls*, 28 Wis. 2d (1965). That opinion of the attorney general also concedes that there is a reason for the classification made by a bill that would authorize service fees, and one rational reason for a classification is enough to defeat a challenge to a statute on equal protection grounds. It could be cogently argued that a carefully constructed service fee would be constitutional.

<sup>86</sup>"Findings and Recommendations of the Local Property Tax Relief Commission".

<sup>87</sup>*Madison Capital Times*, 13 January 1990.