

# The State of Wisconsin

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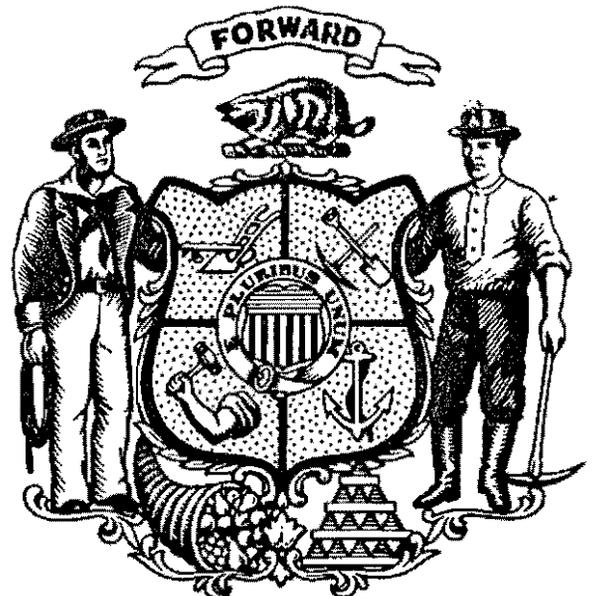
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## CONSTITUTIONAL AMENDMENTS GIVEN "FIRST CONSIDERATION" APPROVAL BY THE 1987 WISCONSIN LEGISLATURE

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**CONSTITUTIONAL AMENDMENTS GIVEN "FIRST  
CONSIDERATION" APPROVAL  
BY THE 1987 WISCONSIN LEGISLATURE**

**I. INTRODUCTION**

**A. Action by the 1987 Legislature**

Of a total of 44 constitutional amendment proposals introduced for first consideration in the 1987 Wisconsin Legislature, only 4 were adopted. The amendment proposals adopted relate to altering the partial veto process, codifying the method of selecting county surveyors, authorizing income tax credits or refunds for property taxes or sales taxes due, and abolishing the use of the property tax for school operations.

The 4 amendment proposals adopted by the 1987 Legislature are eligible for second consideration by the 1989 Legislature and affect the following sections of the Wisconsin Constitution.

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Sections Affected	Joint Resolution	Subject
Art. V, Sec. 10	SJR-71 (Enrolled JR-76)	Redefining the partial veto power of the governor
Art. VI, Sec. 4 (1), (2), (4) and (5)	SJR-53 (Enrolled JR-47)	Codifying the method in which county surveyors are selected
Art. VIII, Sec. 1	AJR-117 (Enrolled JR-74)	Authorizing income tax credits or refunds for property taxes or sales taxes due in this state
Art. VIII, Sec. 1; Art. X, Secs. 3 and 4; Art. XIV, Sec. 17	AJR-118 (Enrolled JR-75)	Abolishing the use of the property tax for school operations

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**B. Amendment Process**

Passage by the legislature of a constitutional amendment on first consideration represents only one-third of the enactment process. Amendments proposed to the Wisconsin Constitution require adoption by 2 successive legislatures and ratification by the electorate before becoming effective. A proposed change is introduced in the legislature in the form of a joint resolution for "first consideration." If the joint resolution is adopted by both houses, a new joint resolution embodying the identical text may be introduced on "second consideration" in the following legislative session. In order for the amendment to be placed on the ballot, that legislature must approve the proposed text again without amendment. The joint resolution adopted on second consideration also specifies the wording of the ballot question or questions and sets the date for submitting the question to the people at a statewide election. Joint resolutions are not submitted to the governor for approval.

The amendment procedure is provided by Article XII, Section 1 of the Wisconsin Constitution.

## II. REDEFINING THE PARTIAL VETO POWER OF THE GOVERNOR

### ART. V, Sec. 10

#### Amendment Proposed by 1987 SJR-71 (JR-76)

#### A. Analysis

1987 SJR-71 redefines the limits of the governor's power to veto appropriation bills in part. Although the governor would still have broad veto authority, including the authority to veto individual numbers to change numeric amounts and individual words to change sentences, the striking of letters to form new words would be prohibited.

The following extract is from the Legislative Reference Bureau analysis of SJR-71:

The governor's existing power to approve "appropriation bills ... in part" was added to the Wisconsin constitution by an amendment ratified in the election of November 1930. In the recent case of *State ex rel. Wisconsin Senate et al. v. Tommy G. Thompson et al.*, 144 Wis. 2d 429, decided on June 14, 1988, the supreme court held that its prior decisions on the partial veto power ... "have ineluctably led to this decision we reach today ... that the governor has the authority to veto sections, subsections, paragraphs, sentences, words, parts of words, letters, and digits (numbers) included in an appropriation bill...."

This proposal specifies that: "In approving an appropriation bill in part, the governor may not create a new word by rejecting individual letters in the words of the enrolled bill."

In addition to the substantive change, the proposed amendment also structures the existing constitutional section into subsections and paragraphs to facilitate future amendment.

#### B. Text

(NOTE: Scored material would be added; stricken material would be deleted.)

SECTION 1. Section 10 of article V of the constitution is amended to read:

[Article V] Section 10 (1) (a) Every bill which shall have passed the legislature shall, before it becomes a law, be presented to the governor; ~~if he approve, he shall sign it, but if not, he~~

(b) If the governor approves and signs the bill, the bill shall become law. Appropriation bills may be approved in whole or in part by the governor, and the part approved shall become law.

(c) In approving an appropriation bill in part, the governor may not create a new word by rejecting individual letters in the words of the enrolled bill.

(2) (a) If the governor rejects the bill, the governor shall return it the bill, together with his the objections in writing, to that the house in which it shall have the bill originated, who. The house of origin shall enter the objections at large upon the journal and proceed to reconsider it. Appropriation bills may be approved in whole or in part by the governor, and the part approved shall become law, and the part objected to shall be returned in the same manner as provided for other bills the bill. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, or the part of the bill objected to notwithstanding the objections of the governor, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present it shall become a law. But in

(b) The rejected part of an appropriation bill, together with the governor's objections in writing, shall be returned to the house in which the bill originated. The house of origin shall enter the objections at large upon the journal and proceed to reconsider the rejected part of the appropriation bill. If, after such reconsideration, two-thirds of the members present agree to approve the rejected part notwithstanding the objections of the governor, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present the rejected part shall become law.

(c) In all such cases the votes of both houses shall be determined by yeas ayes and nays noes, and the names of the members voting for or against passage of the bill or the rejected part of the bill objected to,

notwithstanding the objections of the governor shall be entered on the journal of each house respectively. ~~If any~~

(3) ~~Any bill shall not be returned by the governor within six 6 days (Sundays excepted) after it shall have been presented to him, the same~~ the governor shall be a law unless the legislature shall, by their final adjournment, prevent its ~~prevents the bill's~~ return, in which case it shall not be a law.

## C. Background

### 1. Origin of the Governor's Partial Veto Power

As early as 1913, Wisconsin Governor Francis E. McGovern urged the legislature to adopt a joint resolution amending the constitution to grant the executive the power to veto "separate" items in appropriation bills. In a special message to the legislature in August 1913, Governor McGovern noted that the practice of enacting omnibus appropriation bills (which was begun in the 1911 session and continued by the 1913 Legislature) had the effect of significantly weakening the executive veto. McGovern told the legislature that the end result was the removal of the governor from the budget process.

The 1927 and 1929 Legislatures adopted joint resolutions containing language giving the governor authority to veto "parts" of appropriation bills. The drafting record for the 1927 resolution (SJR-35) indicated that Senator William Titus requested the Reference Library to draft a joint resolution to "allow the Governor to veto items in appropriation bills". Nothing in the drafting record sheds any light on the use of the word "part" as opposed to "item" in reference to the veto power. Much of the subsequent controversy regarding exercise of the veto power has involved interpreting the legislative intent embodied by the phrase "in part."

There were several arguments advanced in support of, or opposition to, the proposed constitutional amendment prior to its submission to the electorate at the November 4, 1930 election. Proponents of the amendment argued that changes enacted by the 1929 Legislature which required the governor to submit a single budget bill to the legislature made the executive item veto authority mandatory. Senator Thomas Duncan, a primary supporter of the resolution, noted that under the newly adopted budget system, although the governor was responsible for introducing a budget bill, the legislature had the authority to increase individual appropriation items and could conceivably use this advantage to politically embarrass the governor. Thus, Duncan argued that the proposal to grant the governor power to veto separate appropriation items "would put both the governor and the legislature in the position in which the constitution intended they should be with reference to appropriations. The legislature holds the purse strings but cannot play politics and the governor is given a genuine veto power but he cannot dictate appropriations."

The leading opponent of the amendment was Philip La Follette, who made the issue part of his campaign for governor in 1930. La Follette claimed that the amendment "smacked of dictatorship" and would result in the centralization of too much power in the hands of the executive:

The effect of the amendment is to give the chief executive additional power in the general conduct and control of government. It is another step in the concentration of power in the executive office.... The whole tendency of the past two decades has been towards over concentration of authority. The powers of the several states over their own domestic matters have been increasingly undermined and concentrated in Washington. The powers of the legislatures and of congress have been encroached upon by the executive.

At the November 1930 general election, Section 10 of Article V of the Wisconsin Constitution was amended to permit the governor to approve appropriation bills in part. The original Constitution of 1848 made no mention of appropriation measures in

describing the governor's veto powers. Special treatment of appropriation bills was added by an amendment proposed by Joint Resolution 37 of 1927, approved a second time by 1929 Joint Resolution 43 and ratified by the electorate in November 1930 by a vote of 252,655 "for" and 153,703 "against." The amendment added the following language to Article V, Section 10:

Appropriation bills may be approved in whole or in part by the governor, and the part approved shall become law, and the part objected to shall be returned in the same manner as provided for other bills.

The ballot question considered by the electorate was "Shall the constitutional amendment proposed by Joint Resolution No. 43 of 1929, be ratified so as to authorize the Governor to approve appropriation bills in part and to veto them in part?" In the September 13, 1930, NOTICE OF ELECTION, Secretary of State Theodore Dammann explained the ballot question as follows: "If this amendment is ratified the Governor will be authorized to approve appropriation bills in part and to veto them in part."

At the time Wisconsin approved the amendment, 37 other states granted the executive the authority to veto single items in appropriation bills, but no other state constitution used the word "part" instead of "item."

## 2. Expanded Use of the Partial Veto by Wisconsin Governors

Wisconsin governors were slow to use their new partial veto power and showed no tendency to interpret the constitutional phrase "in part" broadly. In the first partial veto, exercised in 1931, the governor vetoed parts of a bill as small as a statute paragraph. One governor vetoed 2 sentences of a session law in 1935; another, one sentence in 2 separate statute subsections in 1953. In 1961, the governor vetoed a portion of a sentence in a statute section. In 1965, the governor deleted a complete multidigit figure appearing in an appropriation bill.

By authorizing the approval and veto of appropriation bills in part, it appears the 1930 constitutional amendment meant to provide a rational alternative to the all-or-nothing choice of the traditional veto. Particularly, the term "part" permits a Wisconsin governor to reach not only appropriation items, but also "riders" — issues of public policy that might be attached to an appropriation bill, sometimes without any relation to appropriations. Since 1971, however, governors have applied the partial veto more aggressively and their "creativity" in editing has led to concern that a development designed to restore the balance of power has gone too far.

In 1971, Governor Patrick J. Lucey became the first governor to apply the partial veto in an unconventional manner. Although previous governors used the partial veto to modify legislative policy or increase as well as decrease appropriations, none was as inventive in his use of the power as Governor Lucey. Governor Lucey was the first to use the partial veto to remove a single digit from an appropriation — thereby inventing the "digit veto." Governor Lucey also began to use the partial veto to accomplish detailed editing of statutory language.

In 1977, Acting Governor Martin J. Schreiber further refined and expanded the editing feature with a partial veto that not merely modified the intent of the legislature, but that changed the text so as to enact an alternative expressly rejected by the legislature.

In 1981, Governor Lee Sherman Dreyfus used both the "digit veto" and the "editing veto," and used them in a more extensive manner.

In 1983, Governor Anthony S. Earl continued the use of the "digit veto" and "editing veto," and invented a new precedent-setting version of the partial veto — the "pick-a-letter

veto" (the selective vetoing of letters to form a new word, or of digits to form a new number).

In 1987, Governor Tommy G. Thompson used all 3: the "digit," "editing" and "pick-a-letter" aspects of the partial veto.

For a brief overview of the use of the partial veto by recent governors, as well as 2 tables listing the number of partial vetoes of executive budget bills and executive vetoes from 1931-1987, see "The Partial Veto in Wisconsin — An Update," Revised August 1988, (pages 4-8), IB-87-3, Legislative Reference Bureau. Copies are available from the Legislative Reference Bureau.

### 3. The Legislature Responds

*a. Reactions to Partial Veto Use, 1935-1985 Sessions* — Since the partial veto authority was incorporated into the Wisconsin Constitution in 1930, 16 joint resolutions on first consideration and one joint resolution on second consideration have been introduced in the legislature to either clarify or limit the governor's power to veto appropriation bills in part. None of the attempts has been successful; altering the partial veto mechanism necessitates a constitutional amendment which requires 2 successive legislatures to approve the amendment.

Other than the adoption of 1987 SJR-71, the only other proposal that received adoption on first consideration was 1979 SJR-7. 1981 SJR-4, the joint resolution for the second consideration of 1979 SJR-7, was passed by the Senate but failed in the Assembly.

*b. Reactions to Partial Veto Use, 1987-88 Session* — On September 17, 1987, the Wisconsin Legislature petitioned the Wisconsin Supreme Court to take original jurisdiction in the legislature's challenge of Governor Tommy Thompson's 290 partial vetoes of the budget bill. The legislature, via their petition, claimed that Governor Thompson took the partial veto both beyond its intent and exceeded his constitutional authority as chief executive.

On June 14, 1988, the supreme court rendered its decision in *State ex rel. Wisconsin Senate v. Thompson*, 144 Wis. 2d 429. The decision upheld Governor Tommy G. Thompson's partial vetoes of the 1987-89 executive budget act.

*c. Interpretation of the Governor's Partial Veto Authority* — The June 1988 decision by the Wisconsin Supreme Court marked the sixth time that the court has upheld the governor's partial veto authority. With each decision, the court has broadened its interpretation of the language of Article V, Section 10, concerning the authority of the governor to veto parts of appropriation bills. The 1988 decision marked the first time that the court has approved the governor's use of the partial veto to create new words and new sentences in an appropriation bill. The court held that the constitution implies only 2 limitations on the partial veto power: 1) the part of an appropriation bill approved by the governor must be a complete, entire and workable law; and 2) the law resulting from a partial veto must be a law that is germane to the topic or subject matter of the appropriation bill passed by the legislature.

For a more complete discussion of these issues, see "The Partial Veto in Wisconsin — An Update," Revised August 1988, (pages 12-19), IB-87-3, Legislative Reference Bureau.

### 4. The Partial Veto in the Other States

The partial veto as used by Wisconsin governors appears to encompass a broader grant of authority than the power to veto "items of appropriation" available to the governors of other states.

According to the Council of State Governments' 1988-89 *The Book of the States*, only the governor of North Carolina does not have any veto authority. Of the 49 states which provide for a gubernatorial veto, 43 also allow the governor to item veto appropriation bills, while 6 states do not (Indiana, Maine, Nevada, New Hampshire, Rhode Island and Vermont). Of the 43 states with item veto authority, 24 restrict its use to "items of appropriations;" 19 (including Wisconsin) also permit the governor to veto language contained in appropriation bills; and 12 allow the governor to reduce amounts in appropriation bills (Hawaii limits the governor to reducing items in executive branch appropriation measures only).

For additional information on the item veto in other states (including pertinent constitutional citations), see Table 3 on pages 11 and 12 of the Legislative Reference Bureau's Informational Bulletin 87-3, Revised August 1988, "The Partial Veto in Wisconsin — An Update."

#### **D. Legislative Action**

1987 Senate Joint Resolution 71 was introduced on June 30, 1988, by the Committee on Senate Organization. The Senate Committee on Judiciary and Consumer Affairs reported adoption of the resolution without recommendation by a vote of 3 to 3 (June 30). Senate Amendment 1, introduced by Senator Davis, provided that the governor may reject the amount of any appropriation made in the enrolled bill and write in a lesser amount; the amendment was rejected. The Senate adopted the joint resolution by a vote of 18 to 14 (June 30, 1988; Senate Journal, p. 920).

Assembly Amendment 1, introduced by Representative Loftus, *et al.*, replaced the phrase "letters in the words of" with "letters from words, or create a new sentence by rejecting individual words, provided by"; the amendment was laid on the table. Assembly Amendment 2, introduced by Representative Underheim, provided that the governor "not delete less than a complete legislative concept"; this amendment was also laid on the table. The Assembly refused to refer the resolution to the Committee on Rules (ayes — 38, noes — 51). The Assembly concurred in the resolution by a vote of 55 to 35 (June 30, 1988; Assembly Journal, p. 1152).

### **III. CODIFYING THE METHOD OF SELECTING COUNTY SURVEYORS**

#### **ART. VI, Sec. 4**

#### **Amendment Proposed by 1987 SJR-53 (JR-47)**

##### **A. Analysis**

1987 SJR-53 makes changes in the constitutional text concerning the county office of surveyor, including the option of having the county surveyor appointed by the county board or elected by the voters. The office of surveyor exists only in counties of less than 500,000 population; in Milwaukee County, the office was abolished by a constitutional amendment ratified in April 1965.

The following extract is taken from the Legislative Reference Bureau analysis of 1987 SJR-53:

This constitutional amendment, proposed to the 1987 legislature on "first consideration", makes the following changes in the county office of surveyor:

*Appointive office.* Subject to procedures established by law and coinciding with the end of a term, the county board of any county may convert the office of surveyor to an office filled by appointment by the county board, assign additional duties to the surveyor or assign the duties of that office to any other appointive county office.

*Multicounty appointive surveyor.* Two or more counties with an appointive office of surveyor may establish a joint surveyor system. This is similar to the constitutional authorization for a joint appointive medical examiner system already contained in section 4 (2) of article VI of the constitution.

*Vacancy or removal from office.* At present, vacancies in the elected positions of county surveyor are filled by appointment by the governor. For elected surveyors, that system continues. For surveyors appointed by the county board, vacancies will be filled as provided by law. The governor continues to have the power to remove elected county surveyors for cause. For appointive county officers, including appointive surveyors, the power of removal will be exercised by the county board under procedures to be established by law.

## B. Text

(NOTE: Scored material would be added; stricken material would be deleted.)

SECTION 1. Section 4 (1), (2), (4) and (5) of article VI of the constitution are amended to read:

[Article VI] Section 4. (1) ~~Sheriffs~~ Except as provided in sub. (2), sheriffs, coroners, registers of deeds, surveyors, district attorneys, and all other elected county officers except judicial officers and chief executive officers, shall be chosen by the electors of the respective counties once in every 2 years.

(2) (a) The offices of coroner and surveyor in counties having a population of 500,000 or more are abolished. Counties not having a population of 500,000 ~~shall have the option of retaining~~ may convert the elective county office of coroner or instituting a to an appointive medical examiner system. Two or more counties may institute a joint medical examiner system.

(b) Subject to procedures established by law and coinciding with the end of an elected surveyor's term, the county board of any county may convert the office of surveyor to an office filled by appointment by the county board, assign additional duties to the surveyor or assign the duties of that office to any other appointive county office. Two or more counties with an appointive office of surveyor may institute a joint surveyor system.

(4) (a) The governor may remove any elected county officer mentioned in this section, giving to the officer a copy of the charges and an opportunity of being heard.

(b) Any county officer appointed by the county board may be removed by the county board as provided by law.

(5) ~~All vacancies~~ (a) Any vacancy in the offices an elected office of sheriff, coroner, register of deeds, surveyor or district attorney shall be filled by appointment by the governor. The person appointed to fill a vacancy in a county office filled by election shall hold office only for the unexpired portion of the term to which appointed and until a successor shall be elected and qualified.

(b) Any vacancy in a county office filled by appointment by the county board shall be filled as provided by law.

SECTION 2. **Text of section 4 (1) of article VI.** If, prior to or simultaneously with the ratification by the people of the amendment proposed in this joint resolution, any other ratified amendment changes the wording of section 4 (1) of article VI of the constitution, the chief of the legislative reference bureau shall incorporate the present amendment into the text of that section so that both amendments are given effect.

SECTION 3. **Numbering of new paragraph.** The new paragraph in subsection (2) of section 4 of article VI of the constitution, created in this joint resolution, shall be designated by the next open paragraph letter in that subsection if, prior to or simultaneously with the ratification by the people of the amendment proposed in this joint resolution, any other ratified amendment has created a paragraph "(b)" of subsection (2) of section 4 of article VI of the constitution of this state. If several joint resolutions simultaneously create section 4 (2) (b) of article VI, the chief of the legislative reference bureau shall determine the sequence and the numbering.

## C. Background

According to the drafting record of 1987 SJR-53, the purpose of this constitutional amendment proposal is to "explicitly allow counties to appoint county surveyors rather than elect them."

The draft was in response to a 1987 court of appeals decision, *Ripley v. Brown*, 141 Wis. 2d 447, 415 N.W. 2d 550 (Ct. App. 1987), which challenged as unconstitutional that part of

statute Section 59.12 which permits a county board to appoint surveyors. Had the decision been allowed to stand, it would have required that all surveyors be elected.

The decision of the court of appeals was subsequently reversed by the Wisconsin Supreme Court. The supreme court held that "a county may employ a qualified person to perform the statutorily mandated duties as a surveyor. That person need not be elected"; *Ripley v. Brown*, 143 Wis. 2d 686 (1988).

Some of the following information concerning the current status of the county surveyor and the issues raised by the appellate court's decision in *Ripley v. Brown*, was extracted from a Legislative Reference Bureau (LRB) drafter's note to 1987 SJR-53. A copy of the complete 8-page note is on file at the LRB.

According to the *1987-1988 Wisconsin Blue Book*, the county office of surveyor is filled by election in 21 counties and is filled by county board appointment in 34 counties. The office does not exist in 17 counties including Milwaukee County where the office was abolished by a constitutional amendment ratified in April 1965.

### 1. Office Created by Statute

Although the office of county surveyor was not specifically mentioned in Article VI, Section 4 of the 1848 Wisconsin Constitution, Section 127 of the 1849 Wisconsin Statutes provided for the biennial election of county surveyors.

The LRB drafter's note contains the following comments concerning this statutory creation:

The 1849 Wisconsin Statutes (see page 112, sec. 127) indicate that the first election of county surveyors was in 1850. The *Ripley* decision's premise that "the position of county surveyor had existed in Wisconsin as an elected county office since the state's first codification of its laws" is misleading. In addition, the 1849 Wisconsin Statutes (see page 113, sec. 137) fail to enumerate the surveyor as one of the county officers required to keep an office "at the seat of justice" in the county. This seems to indicate that the contemporaries who compiled the Wisconsin Statutes in 1849 did not consider the surveyor to be one of the traditional county officers. It is likely that the compilers of the 1849 Wisconsin Statutes considered the county surveyor to be an office created by statute, under the authority of Section 9 of Article XIII of the constitution.

### 2. Chapter 499, Laws of 1969

The election of county officers is governed by Section 4 of Article VI of the Wisconsin Constitution and further explained by statute Section 59.12. That statute reads, in part, as follows:

In lieu of electing a surveyor in any county, the county board may, by resolution designate that the duties under ss. 59.60 and 59.635 be performed by any registered land surveyor employed by the county.

The above phrase was added by Chapter 499, Laws of 1969 (1969 AB-533). 1969 AB-533 was introduced by Representative Stalbaum, at the request of Richard Batterman and the Wisconsin Society of Land Surveyors. According to the *1968 Wisconsin Blue Book*, Representative Stalbaum listed "surveyor" as one of his occupations.

### 3. *Ripley v. Brown*, 141 Wis. 2d 447 (Court of Appeals)

On September 15, 1987, the 3rd District Court of Appeals decided the case of *Rodney W. Ripley v. John L. Brown and Washburn County*, holding unconstitutional that part of Wisconsin statute Section 59.12 which permits county board appointment of surveyors. Mr. Ripley had sued to force the Washburn County clerk to put the office of county surveyor on the 1984 ballot but the district court had dismissed his suit.

In presenting his case to the appeals court, Ripley argued that an 1882 amendment to the Wisconsin Constitution requires the election of county surveyors because they are considered "county officers" under the constitution.

The court of appeals held that, under the 1907 case of *State ex rel. Williams v. Samuelson*, 131 Wis. 499 (1907), the question of whether a surveyor had to be elected or could be appointed was not in doubt. The court concluded that the appointment provision of statute Section 59.12 is unconstitutional because Article IV, Section 4, of the Wisconsin Constitution, as interpreted by the *Samuelson* decision requires the county surveyor to be elected.

In addition to citing the *Samuelson* case on several occasions to support its decision, the court of appeals also made reference to a 1965 constitutional amendment which abolished the office of county coroner and surveyor in counties over 500,000 population. The court contended that since this change had been made by constitutional amendment, the legislature must have decided that the office of county surveyor was a constitutionally elective office, or else it would have changed the law by statute.

In response to the court's reasoning and interpretation of this 1965 constitutional amendment, the LRB drafter's note made the following observation:

This premise is also misleading. The amendment was drafted in 1963 at the request of Rep. Frank G. Dionesopolous of Milwaukee-2 (AJR-14); an identical amendment was drafted for Rep. Mark W. Ryan of Milwaukee-5 (AJR-13). The instructions were to abolish the offices of coroner and surveyor in counties over 500,000. The coroner was one of the constitutional county officers enumerated in Section 4 of Article VI of the constitution. Abolishing the office of coroner in Milwaukee county could be accomplished only by constitutional amendment.

It does not follow that abolishing the surveyor also required a constitutional amendment. Including the surveyor in the coroner amendment permitted the simultaneous treatment of both offices, and was less cumbersome than passing a special law to abolish the office of surveyor in Milwaukee county and a constitutional amendment to abolish the office of coroner in Milwaukee county.

#### 4. *Ripley v. Brown*, 143 Wis. 2d 686 (1988)

On April 26, 1988, the Wisconsin Supreme Court decided the case of *Rodney Ripley v. John Brown and Washburn County*, ruling that county surveyors need not be elected officials. The court, in a unanimous decision, reversed the court of appeals decision that held that the Wisconsin Constitution requires elected county surveyors. Chief Justice Heffernan, author of the court's decision, stated the following: "A county may employ a qualified person to perform the statutorily mandated duties of surveyor. That person need not be elected."

The supreme court also noted that the appeals court had relied in part on an earlier decision, *State ex rel. Williams v. Samuelson*, 131 Wis. 499 (1907), that related to the office of county assessor. The 1907 decision appeared to classify the office of surveyor as among those the constitution says must be elected.

The supreme court refuted the appellate court's interpretation of the *Samuelson* case with the following:

Thus, *Samuelson* does not support the plaintiff's contention that the statute is unconstitutional beyond a reasonable doubt. It is persuasive to the contrary. *Samuelson*, after all, is about biennial elections and only incidentally about what positions must be elective. The case rejects the superficial interpretation of art. VI, sec. 4, that "all other county officers .... shall be chosen by the electors" means, without exception, that all "officers" other than certain judicial and executive officers must be elected. "Officers," in respect to those who must be elected, is treated in *Samuelson* as a word of art embracing only those functionaries of the county whose duties embrace the exercise of governmental power. Using this analysis of the rationale of *Samuelson*, rather than the literal interpretation urged on

us by the plaintiff and used by the court of appeals, we conclude that county surveyors are not the type of political or governmental officers required to be elected under the rationale of *Samuelson*.

The court of appeals decision also pointed to the 1965 abolition of the office of surveyors in counties over 500,000 by constitutional amendment as evidence that the "legislature itself apparently believed that the office of county surveyor was a constitutionally elected office, or it would have changed the law by statute." The supreme court disagreed and stated that the analysis was not persuasive:

First, there is no drafting record or history probative of that proposition. The court of appeals' analysis is based on speculation.

Second, an analysis of the 1965 amendment reveals that the amendment also required a referendum on abolishing the office of coroner in counties of over 500,000. The office of coroner is clearly one of the constitutional offices listed in all versions of art. VI, sec. 4 and therefore a constitutional amendment was required to alter the requirement for election to that office. Thus, the presence of the coroner provision in the amendment explains fully the need for a constitutional change, and the presence of county surveyors on the referendum ballot is only incidental.

Third, art. IV, sec. 23, of the Wisconsin Constitution, until amended in April of 1972, provided, "The legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable...." It appears, however, that it was the legislative intent originally to abolish by statute only the county surveyor's office in Milwaukee. Accordingly, the legislature could have initiated a constitutional amendment to make the uniformity question an unavailable ground for challenge. In addition, the legislature may have relied upon the dicta of *Samuelson* rather than upon substance. Even were we to assume that the legislature believed that under *Samuelson* a surveyor must be popularly elected does not make the view correct. We conclude that the provision of the 1965 amendment, to the extent it could be construed to have anything to do with the election of surveyors, was redundant.

In summary, the court ruled that statute Section 59.12 is constitutional, notwithstanding the *Samuelson* case and the constitutional amendment abolishing the county surveyor in counties of over 500,000 population. "*Samuelson* can be said to stand for the proposition that only county officers specifically named in the constitution and certain policy-making officers are required to be elected, and the 1965 amendment simply does not permit any conclusions regarding the constitutionality of sec. 59.12, Stats. It is substantially irrelevant."

**D. Legislative Action**

1987 Assembly Joint Resolution 117 was introduced on April 20, 1988, by the Committee on Assembly Organization. The Assembly adopted the resolution on a 68 to 31 vote (April 20, 1988; Assembly Journal, p. 1013).

On April 20, the resolution was referred to the Senate Committee on Aging, Banking, Commercial Credit and Taxation; on the same day the Senate withdrew the measure from committee on a 16 to 15 vote. The Senate, by a vote of 13 to 18, refused to refer the resolution to the Joint Committee on Finance (April 20). The Senate concurred in the resolution by an 18 to 13 vote (April 20, 1988; Senate Journal, p. 829).

**IV. AUTHORIZING INCOME TAX CREDITS OR REFUNDS FOR PROPERTY TAXES OR SALES TAXES DUE IN THIS STATE**

**ART. VIII, Sec. 1**

**Amendment Proposed by 1987 AJR-117 (JR-74)**

**A. Analysis**

1987 AJR-117 amends Section 1 of Article VIII of the Wisconsin Constitution, relating to state income tax credits or refunds for property or sales taxes due in this state.

The following extract is taken from the analysis to 1987 Assembly Joint Resolution 117:

This constitutional amendment, proposed to the 1987 legislature on "first consideration", permits the legislature to enact laws authorizing income tax credits or refunds for property taxes or sales taxes due in this state, subject to reasonable classification and progressive effect on the overall tax system.

In addition to the substantive change, this joint resolution also breaks the constitutional provision into subsections to facilitate future amendment and to avoid conflict with other proposed amendments to the provision which may be considered by this legislature.

As a constitutional amendment, the proposal requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective. The proposed amendment is not self-executing; consequently, even after ratification no change will occur until the legislature enacts laws authorizing the credits or refunds.

## B. Text

(NOTE: Scored material would be added; stricken material would be deleted.)

SECTION 1. Section 1 of article VIII of the constitution is amended to read:

[Article VIII] Section 1. The rule of taxation shall be uniform ~~but the~~ except as follows:

(1) ~~The legislature may empower by law authorize~~ cities, villages or towns to collect and return taxes on real estate located therein by optional methods.

(2) (a) ~~Taxes shall be levied upon such real property with such classifications as to forests and minerals including or separate or severed from the land, as the legislature shall prescribe~~ prescribes by law.

(b) ~~Taxation of agricultural land and undeveloped land, both as defined by law, need not be uniform with the taxation of each other nor with the taxation of other real property.~~

(3) ~~Taxation of merchants' stock-in-trade, manufacturers' materials and finished products, and livestock need not be uniform with the taxation of real property and other personal property, but the taxation of all such merchants' stock-in-trade, manufacturers' materials and finished products and livestock shall be uniform, except that the legislature may provide by law that the value thereof shall be determined on an average basis. Taxes may also be imposed~~

(4) ~~The legislature may by law impose taxes on incomes, privileges and occupations, which.~~ Such taxes may be graduated and progressive, and reasonable exemptions may be provided.

(5) ~~Subject to reasonable classification and to progressive effect on the tax system, the legislature may by law authorize credits or refunds for taxes due under property or sales taxes in this state from or against taxes, imposed by this state, on incomes, privileges and occupations.~~

## C. Background

1987 AJR-117 would allow the legislature to provide income tax, privilege tax or occupational tax credits or refunds to individual taxpayers for property or sales taxes imposed on them. This form of credit or refund is indirect tax relief because the taxpayer would have to pay certain taxes but would then be granted a credit for them against other taxes.

This constitutional amendment proposal would allow tax relief programs similar to, but more widely available than, the Homestead, Farmland Preservation and school property tax credit programs currently in effect. The Farmland Preservation Program was authorized by a constitutional amendment and implemented by legislation; the Homestead Property Tax Relief Program and the school property tax credit were created by legislation only. Farmland property tax relief consists of income tax credits paid to farmers based on a formula that considers a farmer's household income and the property taxes levied on the farmer's farm. The homestead tax credit is based on the claimant's household income in relation to property taxes levied on the claimant's household or rent charged to the claimant. A review of the homestead tax relief program may be found in the next section. The school property tax program allows credits against income taxes due based on a portion of property taxes paid, up to a limit.

The indirect method of providing tax relief (credits or refunds), as opposed to giving property tax relief payments directly to local units of governments that have the authority to levy property taxes, has traditionally received strong legislative support. The Wisconsin Taxpayers Alliance, in a July 1988 publication, noted:

State property tax relief payments to local units of governments, such as school aids, shared revenues and the credits appearing on the tax bill, are not recognized as being financed from state taxes. The legislators hope that indirect property tax relief through state checks to individual recipients will be.

### 1. Wisconsin's Homestead Property Tax Credit Program

In 1963, by means of the enactment of Chapters 566 and 580, Laws of 1963, Wisconsin became one of the first states to provide tax relief specifically for elderly, low-income property owners or renters. Although the program has been significantly expanded by subsequent legislation, it still represents one of only 2 state tax relief programs that make payments directly to individuals through the income tax system on the basis of property taxes owed and income. All other property tax relief programs involve payments to local units of government rather than to individuals.

Shortly after the program was established, its constitutionality was challenged in *Harvey v. Morgan*, 30 Wis. 2d 1 (1965). The petitioner alleged that the Wisconsin statute which provides property tax relief to persons over age 65 through a system of income tax credits and refunds is unconstitutional because it, "being a tax-relief measure, does not comply with the Wisconsin constitutional rule of uniformity of taxation" (Article VIII, Section 1). The suit also alleged that "the law is not uniform in that it grants a partial exemption of property taxes to some persons and not to others." The court ruled "that this enactment is a relief law in its purpose and in its operation and as such is not subject to the rule on uniform taxation."

Thus, property tax relief programs that benefit only low-income individuals are constitutional. Amendment of the state constitution in the manner proposed by this joint resolution would allow the enactment of property tax relief programs that benefit a wider range of individuals.

### 2. Prior Amendments to Article VIII, Section 1

1987 AJR-117 would amend Article VIII, Section 1 (the uniformity clause) of the Wisconsin Constitution. The purpose of the uniformity clause is to require that all property taxpayers be treated in a uniform manner. In other words, property taxes are to be imposed on taxable property equally, according to the value of the property and upon all taxpayers.

Article VIII, Section 1 appeared in the original 1848 Wisconsin Constitution as follows: "The rule of taxation shall be uniform, and taxes shall be levied upon such property as the legislature shall prescribe."

The uniformity clause has been amended on 5 occasions. It was initially amended in 1908 when the imposition of a progressive income tax was authorized. The second amendment, ratified by the electorate in 1927, authorized the legislature to establish special property tax classifications for forests and minerals. The resulting acts were the Woodland and Forest Crop laws. The third amendment, adopted in 1941, allowed municipalities to collect and return taxes by optional methods. This amendment enabled the legislature to enact, for example, laws authorizing municipalities to allow instalment payments of property taxes. The fourth amendment, adopted in 1961, provided that merchants' stock-in-trade, manufacturers' materials and finished products, and livestock need not be uniform with the taxation of real property and other personal property, but

must be uniform as a group. These kinds of property are now exempt from taxation. The fifth and most recent amendment, ratified in 1974, permitted nonuniform taxation of agricultural land and undeveloped land. This amendment resulted in the farmland preservation credit.

The current amendment proposal is not self-executing; consequently, even if it is ratified, no change will occur until the legislature enacts legislation authorizing the credits or refunds allowed by the amendment.

### 3. 1987 and 1988 Property Tax Relief Proposals

During the 1987-88 session, proposals to provide property tax relief came from both the legislature and the governor. Six bills, 1987 SB-100, SB-598, AB-677, AB-850 and 1987 November Special Session AB-1 and AB-2, would have reduced property taxes for low-income citizens and farmers by expanding the Homestead and Farmland Preservation tax credit programs. Although the bills were passed by the legislature, the measures were either vetoed or partially vetoed by the governor as being unaffordable.

In addition, 1987 SJR-51 and 1987 AJR-94, constitutional amendment proposals introduced on first consideration, would have amended the uniformity clause of the constitution by validating property tax credits for certain classes of residential property (i.e., primary personal residences and improvements to agricultural land). Senate Joint Resolution 51 was adopted in the Senate but died in the Assembly. The Assembly did not pass 1987 AJR-94.

Governor Tommy Thompson, in his January 1988 budget message, submitted his own property tax relief plan consisting of the following components:

1. A one-year freeze on local spending and property tax levies to provide immediate property tax relief.
2. Statutory limits on state and local spending and property tax levies after the freeze year to control future property tax growth.
3. Increased state school aids to reduce property taxes and decrease the reliance of schools on the property tax.
4. Arbitration should not be permitted unless an employer has submitted an offer that is less than inflation.
5. Arbitrators should also give greater weight to the private employment comparisons and to local economic conditions and the impact on property taxes.

#### **D. Legislative Action**

1987 Assembly Joint Resolution 117 was introduced on April 20, 1988, by the Committee on Assembly Organization. The Assembly adopted the resolution by a 68 to 31 vote (April 20, 1988; Assembly Journal, p. 1013).

The Senate withdrew the proposal from the Committee on Aging, Banking, Commercial Credit and Taxation by a 16 to 15 vote (April 20, 1988). A motion to refer the resolution to the Joint Committee on Finance failed by a 13 to 18 vote (April 20). The Senate concurred in the resolution by a vote of 18 to 13 (April 20, 1988; Senate Journal, p. 829).

### **V. ABOLISHING THE USE OF THE PROPERTY TAX, OVER A 10-YEAR PERIOD, FOR SCHOOL OPERATIONS**

ART. VIII, Sec. 1; ART. X, Secs. 3 and 4; ART. XIV, Sec. 17  
Amendment Proposed by 1987 AJR-118 (JR-75)

#### **A. Analysis**

1987 Assembly Joint Resolution 118 would gradually eliminate the use of the property tax for the operation of public schools.

The following extract is taken from the Legislative Reference Bureau analysis of AJR-118:

This constitutional amendment, proposed to the 1987 legislature on "first consideration", abolishes the use of the property tax for school operations in the public schools from kindergarten through high school (called "common schools" in the constitution).

The abolition will be implemented over a period of 10 school budget years. In each school district, the property tax levy for school operations (excluding capital expenditures) is frozen at the amount levied during the first school budget year which begins after ratification. For each of the 10 years following, each school district's property tax levy for operations must be reduced by at least 1/10 of the amount levied in the year in which the levy is frozen. Beginning with the 11th year, the proceeds of the property tax cannot be used for school operations.

The amendment does not affect "capital expenditures" because such expenditures are usually financed through bonding and those bonds are backed by an "irrepealable" tax; see sections 67.05 (10) and 120.12 (4) of the statutes.

The amendment is not self-executing. Upon its ratification by the people, the legislature will have to enact laws providing for the funding of public school operations. Such legislation may, but is not required to, permit continued use of the property tax to fund public school capital expenditures.

The amendment clarifies that, notwithstanding the source of funding for public school operations, each school district may determine its own curriculum "subject only to this constitution and to such enactments by the legislature, of statewide concern, as with uniformity shall affect every school district."

In addition to the substantive change, this resolution also breaks section 1 of article VIII into subsections to facilitate future amendment and to avoid conflict with other proposed amendments to that section which may be considered by this legislature.

To help offset the loss of property tax revenues, the legislature may authorize municipalities, pursuant to Article X, Section 4 of the constitution, to raise additional revenues from taxes on income, privileges and occupations.

If the legislature enacts laws that authorize municipalities to levy such additional taxes, the revenues collected must be not less than one-half of the amount received by the municipality as its share of the income of the state's "school fund" established under Section 2 of Article X of the constitution and Section 24.76 of the Wisconsin Statutes.

**B. Text**

(NOTE: Scored material would be added; stricken material would be deleted.)

SECTION 1. Section 1 of article VIII of the constitution is amended to read:

[Article VIII] Section 1. The rule of taxation shall be uniform ~~but the~~ except as follows:

(1) (a) Except as authorized by law for capital expenditures, the proceeds of the tax on property shall not be used to operate the common schools.

(b) The legislature may empower by law authorize cities, villages or towns to collect and return taxes on real estate located therein by optional methods.

(2) Taxes shall be levied upon such real property with such classifications as to forests and minerals including or separate or severed from the land, as the legislature shall prescribe prescribes by law. Taxation of agricultural land and undeveloped land, both as defined by law, need not be uniform with the taxation of each other nor with the taxation of other real property.

(3) Taxation of merchants' stock-in-trade, manufacturers' materials and finished products, and livestock need not be uniform with the taxation of real property and other personal property, but the taxation of all such merchants' stock-in-trade, manufacturers' materials and finished products and livestock shall be uniform, except that the legislature may provide by law that the value thereof shall be determined on an average basis. Taxes may also be imposed

(4) The legislature may by law impose taxes on incomes, privileges and occupations, which. Such taxes may be graduated and progressive, and reasonable exemptions may be provided.

SECTION 2. Section 3 of article X of the constitution is renumbered section 3 (1) of article X.

SECTION 3. Section 3 (2) of article X of the constitution is created to read:

[Article X] Section 3 (2) School districts may determine school curriculum, subject only to this constitution and to such enactments by the legislature, of statewide concern, as with uniformity shall affect every school district.

SECTION 4. Section 4 of article X of the constitution is amended to read:

[Article X] Section 4. Each town, village and city ~~shall be required to, if authorized by a law enacted under section 1 (4) of article VIII, may raise by tax, annually, for the support of common schools therein, a sum not less than one-half the amount received by such town, village or city respectively for school purposes from the income of the school fund.~~

SECTION 5. Section 17 of article XIV of the constitution is created to read:

[Article XIV] Section 17. Section 1 (1) (a) of article VIII, as created by the 1987/1989 amendment relating to abolishing the use of the property tax for school operations, shall be implemented over a period of 10 school budget years as follows:

(1) In each school district, the property tax levy for the operation of the common schools, excluding any amount for capital expenditures, shall be frozen at the amount levied:

- (a) During the 1989-90 school budget year if ratification occurs at the spring election in 1989;
- (b) During the 1990-91 school budget year if ratification occurs at the spring election in 1990; or
- (c) During the 1991-92 school budget year if ratification occurs at the general election in 1990.

(2) For the school budget year following the year for which the amount is frozen under sub. (1), the amount for common school operating expenses, excluding capital expenditures, shall in each school district be at least one-tenth less than the amount authorized in the year of the freeze.

(3) For each of the succeeding 9 school budget years, the amount for common school operating expenses budgeted for the current school budget year, excluding capital expenditures, shall in each school district be reduced for the succeeding school budget year by an amount not less than the required one-tenth reduction under sub. (2).

(4) Beginning with the 11th school budget year following the freeze year under sub. (1), except as authorized by law for capital expenditures, the proceeds of the tax on property shall not be used to operate the common schools.

SECTION 6. **Numbering of new section.** The new section of article XIV of the constitution, created in this joint resolution, shall be designated by the next higher open whole section number in that article if, prior to or simultaneously with the ratification by the people of the amendment proposed in this joint resolution, any other ratified amendment has created a "section 17" of article XIV of the constitution of this state.

### C. Background

Property tax relief — how to ease the tax burden on Wisconsin property owners — is an issue that has received much attention from taxpayers, public officials and legislators.

In the public arena, criticism of the rising property tax burden has led such groups as the Coalition for Property Tax Reform to launch a property tax reform initiative of their own. The group has proposed the removal of vocational/technical and public school (K-12) funding from the property tax. The property tax would be replaced with increased state aid and a local income tax on a three-fourths state/one-fourth local basis.

In the legislative and executive branches of state government, a myriad of proposals have been submitted to reduce the burden of the property tax on the Wisconsin taxpayer. However, agreement within the legislature and between the executive and legislative branches on a feasible and effective property tax relief formula has been elusive.

School costs consume the major share of revenue generated by property taxes levied in the state. Statistics indicate that the burden on property taxpayers is continuing to rise despite efforts by the legislature to reduce it. According to the Legislative Audit Bureau, school costs during the last decade have increased 84% between 1977-78 and 1986-87 due largely to the growth in staff salaries and fringe benefits.

Proponents of a substantial increase in property tax relief claim that unless aid is provided soon, Wisconsin may well develop a 2-level educational system. The wealthier

districts will continue to provide necessary funding, while the poorer districts will be forced to reduce spending to the point where educational equality may be lost.

1. Cost Estimate Projections for Phasing-Out the Property Tax

The phasing-out of the property tax as a revenue source for local public schools would be a sizable undertaking. According to a July 25, 1988, Wisconsin Taxpayers Alliance memorandum, in 1987 Wisconsin property taxpayers paid about \$1.5 billion in operating costs for local schools.

Assuming the proposed constitutional amendment was fully in effect in 1987, the state would have to raise that amount [\$1.5 billion] to finance local education. This would require a massive tax increase at the state level. For example, to finance schools through the sales tax would require the rate to increase from the current 5% to 10%. To finance through the individual income tax would require a 67% increase in collection.

In a November 1988 memorandum, the Wisconsin Legislative Fiscal Bureau provided estimates of the fiscal impact of 1987 AJR-118. The bureau stated that the major premise behind their estimates is that the state would substitute revenue from other sources in order to replace the amounts which would have been funded by the property tax. Although the bureau did not suggest any particular revenue source, the memo did list several options such as raising the general tax revenues, reallocating GPR spending, creating an alternate local revenue source for school districts or some combination thereof. The overall intent of the bureau's cost estimates is to identify the amount of revenue necessary in each fiscal year to replace the property tax for school operations.

The following table prepared by the Legislative Fiscal Bureau summarizes the fiscal effect of AJR-118 compared to the cost of maintaining state support of schools at 46.3% of school costs. The first 4 columns of figures indicate the estimated cost related to AJR-118 and the last 2 columns show the annual cost of the state maintaining its share of school costs at 46.3%, given 6.5% annual growth in expenditures. The fiscal bureau made its computations and comparisons on the assumption that the constitutional amendment could be ratified in the April 1989 spring election.

**Comparison of Estimated State School Aid Under AJR-118 to  
Maintaining State Support at 46.3% of School Costs  
(Amounts in Millions of Dollars)**

Fiscal Year	Estimated Cost of AJR-118*				Estimated Cost of Maintaining 46.3%	
	State School Aid	Levy Phase-Out	Cost Growth	Total	State School Aid	Increase Over Prior Year
1988-89	\$1,749				\$1,749	
1989-90	1,861	\$ 0	\$112	\$112	1,861	\$112
1990-91	2,269	173	235	408	1,982	121
1991-92	2,691	173	249	422	2,111	129
1992-93	3,129	173	265	438	2,248	137
1993-94	3,585	173	283	456	2,395	147
1994-95	4,059	173	301	474	2,550	155
1995-96	4,552	173	320	493	2,716	166
1996-97	5,066	173	341	514	2,893	177
1997-98	5,602	173	363	536	3,081	188
1998-99	6,162	173	387	560	3,281	200
1999-2000	6,747	173	412	585	3,494	213

\*Assumes ratification of constitutional amendment in spring election of April, 1989.

The fiscal bureau also responded to a request to examine the potential impact of AJR-118 on the general fund to determine if the costs to reduce the property tax levy for schools could be entirely funded from state tax revenues without increasing state tax rates. The bureau's response was made with certain assumptions regarding the potential growth in general fund expenditures for other programs and the potential growth in state revenues over the phasing-out period.

Taking into account one set of assumed growth figures, the bureau made the following comparison of expenditures and revenues over the 10-year period of phasing-out the property tax:

The 8.6% annual increase in general fund revenues which would be required to: (1) replace the school levy with state funding over a ten-year period and (2) provide a 5.8% annual increase in other general fund expenditures would exceed the 6.5% average annual rate of general fund revenue growth experienced from 1980-81 to 1987-88. Based on these rates of growth, the annual amount of the revenue shortfall in fiscal year 1999-2000 would be approximately \$2.9 billion when the provisions of AJR-118 are fully phased in. That amount would be equivalent to approximately 21% of the projected total general fund budget under these assumptions.

The fiscal bureau concluded its memorandum with the caveat that the memo "is intended only as an exploratory analysis of the potential range of fiscal implications of the proposed constitutional amendment."

## 2. Prior Constitutional Amendment Proposals

During the past 2 decades, a number of constitutional amendment proposals relating to prohibiting the use of the property tax for school purposes have been introduced in the Wisconsin Legislature. The following table lists these proposals. The proposals are similar in content except for the 3 proposals (marked with asterisks) which provide that the

elimination of the property tax as a source for funding school operations would take place in a 10-year period. In addition, a number of resolutions were introduced in the 1970s to have the Legislative Council study the elimination of the property tax as a source of public school revenue. None of the resolutions was adopted.

**Recent First Consideration Constitutional Amendment Proposals To  
Eliminate the Use of the Property Tax for School Operations**

Joint Resolution and Session	Author(s)	Final Disposition
1977 AJR-101	Reps. Kincaid and Kedrowski	Died in Assembly committee
1979 AJR-113	Rep. Kincaid, et al. and co-sponsored by Sen. Krueger, et al.	Died in Assembly committee
1981 AJR-45	Rep. Lee, et al. and co-sponsored by Sen. Flynn, et al.	Reported out of committee but received no floor action
1983 AJR-17	Rep. Czarnezki, et al. and co-sponsored by Sen. Lee, et al.	Died in Assembly committee
1985 SJR-13*	Sen. Czarnezki, et al.	Received 2 public hearings but no floor action
1985 SJR-14	Sen. Czarnezki, et al. and co-sponsored by Rep. Barrett, et al.	Adopted in Senate but died in Assembly committee
1985 AJR-4	Rep. Barrett, et al. and co-sponsored by Sen. Lee, et al.	Died in Assembly committee
1987 SJR-8*	Sen. Czarnezki, et al. and co-sponsored by Rep. Krusick, et al.	Reported favorably out of committee but received no floor action
1987 SJR-9	Sen. Czarnezki, et al. and co-sponsored by Rep. Barrett, et al.	Received a public hearing but no floor action
1987 SJR-25*	Sen. Kreul, et al. and co-sponsored by Rep. Porter, et al.	Received a public hearing but no floor action
1987 AJR-6	Rep. Krusick, et al. and co-sponsored by Sen. Czarnezki, et al.	Died in Assembly committee
1987 AJR-7	Rep. Krusick, et al. and co-sponsored by Sen. Czarnezki, et al.	Died in Assembly committee

\*The elimination of the property tax as a source for school operations would be done over a 10-year period.

**3. Differing Views on Replacing the Property  
Tax for School Operations**

The discussion concerning whether or not to abolish the property tax as a source of revenue for school operations involves a number of issues in addition to finding alternative ways to finance school operations. Questions arise as to who will ultimately control schools if the state pays the costs currently borne by local schools. Will the local school board continue to exercise control over budgets, curriculum and the like? What will happen to collective bargaining negotiations? Will the locally-elected school board continue to function in the same autonomous manner if the property tax is replaced by some other revenue source?

Proponents of alternative approaches include Senator Joseph Czarnezki, the author of several joint resolutions to abolish the property tax for school operations, and the Coalition for Property Tax Reform, which has argued that public schools in Wisconsin should not be funded solely by the property tax. They have argued that elderly people

living on fixed incomes, financially troubled farmers, and other property taxpayers can no longer tolerate being the primary funding source for public schools. Others proposing alternatives to the property tax state that the financing of public schools should be the function of the state, through income taxes or sales taxes. The property tax should continue to finance such local government costs as police and fire protection, street maintenance, garbage pickup, and snow removal.

Those supporting the present system of financing public schools, such as George Tipler, former executive director of the Wisconsin Association of School Boards, claim that local control and accountability of school districts would end if all educational financing and program decisions are shifted to the state.

In a 1986 article that appeared in *Education Forward*, Barbara Meyer, former president of the Wisconsin Association of School Boards, emphasized the importance of maintaining the local tax levy to support school operations: "If local school districts are relieved of all responsibility for funding, we are likely also to lose the responsibility for operating decisions. That would not be in the best interest of students or taxpayers."

State Superintendent of Public Instruction Herbert Grover, in a December 5, 1988, *Milwaukee Sentinel* article, assessed the constitutional amendment proposal and concluded that there should not be a total pickup of local education costs; rather, the goal should be 66%. He stressed the importance of local school boards to the health of education and of the role they have played in the democratic process.

#### **D. Legislative Action**

1987 Assembly Joint Resolution 118 was introduced on April 20, 1988, by the Assembly Committee on Organization. The Assembly adopted the resolution on an 84 to 14 vote (April 20, 1988; Assembly Journal, p. 1016).

The Senate, by unanimous consent, suspended the rules and withdrew the resolution from the Senate Committee on Education so that it could be taken up immediately. The Senate concurred in the resolution on a 21 to 11 vote (April 20, 1988; Senate Journal, p. 830).