



## Legislative Fiscal Bureau

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May 13, 1999

Joint Committee on Finance

Paper #866

### **Farmland Preservation Program Changes (Shared Revenue and Tax Relief -- Property Tax Credits)**

[LFB 1999-01 Budget Summary: Page 543, #4, Page 544, #5 (part) and Page 547, #6]

#### **CURRENT LAW**

The farmland preservation credit received by eligible claimants depends on the interaction of household income and allowable property taxes and on the contract, zoning or planning provisions that cover the land. The initial step in the credit formula determines the income factor, which can be interpreted as the amount of income that a household can afford to contribute to payment of property taxes. By including higher percentages of income as income rises, the income factor introduces an element of progressivity to the program.

The income factor is then deducted from eligible property taxes (\$6,000 maximum) to determine what portion of the tax is "excessive" for a claimant with a particular income level. The "excessive" property tax is then prorated to determine the potential credit, which guarantees that claimants of all income levels continue to pay part of their property tax, with larger farms paying a higher percentage. The potential credit amount is then adjusted to 70%, 80% or 100% of that amount, depending on the degree of land use restriction, with larger credits given for more restrictive conditions.

Finally, regardless of income, claimants may receive 10% of their eligible property taxes if that amount is larger than the tax credit formula amount. These claimants are generally those with a high income level compared to their property taxes. As a result of their relatively higher income, their "excessive" property taxes are reduced to the point where it is more beneficial to receive the minimum credit.

agricultural zoning and decrease funding for the program by \$13,700,000 GPR to reflect this change. Prohibit DATCP from entering into any new farmland preservation agreements after the effective date of the bill (existing agreement holders would continue to receive the credit).

<u>Alternative A4</u>	<u>GPR</u>
1999-01 FUNDING (Change to Base)	- \$13,700,000
[Change to Bill]	- \$13,700,000]

5. Maintain current law.

**B. Other Farm Property Tax Relief Options**

1. *Property Tax Credit on Agricultural Land.* Create a property tax credit to be displayed on tax bills equal to ten percent of the total taxes levied for all purposes, net of school levy tax credits, on agricultural land, effective for tax years that begin after December 31, 1999. Require municipalities to notify DOR of the total amount of credits extended on tax bills by March 1 of the year that the taxes become payable and require DOA to reimburse municipalities for those amounts on the fourth Monday in March. Require municipal treasurers to settle for the amounts received with each jurisdiction levying taxes within the municipality or provide the amounts received to the appropriate county treasurer for settlement not later than April 15. Establish a sum sufficient, GPR appropriation for the payments and provide \$13,900,000 to reflect estimated credit payments in 2000-01. Decrease estimated funding in 2000-01 by \$1,000,000 GPR for farmland preservation tax credits and by \$1,800,000 SEG for farmland tax relief credits to reflect reductions in tax credits extended under those programs due to the newly-created tax credit.

<u>Alternative B1</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Base)	\$12,900,000	-\$1,800,000	\$11,100,000
[Change to Bill]	\$12,900,000	-\$1,800,000	\$11,100,000]

2. *Use Value Assessment of Agricultural Land.* Repeal current law provisions related to the phase-in of use value assessment of agricultural land and require agricultural land to be assessed according to the income that could be generated from its rental for agricultural use, effective for tax years that begin after December 31, 1999. Decrease estimated funding in 2000-01 by \$2,000,000 GPR for farmland preservation tax credits and by \$3,600,000 SEG for farmland tax relief credits to reflect reductions in tax credits extended under those programs due to the full implementation of use value assessment.

<b>Alternative B2</b>	<b>GPR</b>	<b>SEG</b>	<b>TOTAL</b>
<b>1999-01 FUNDING</b> (Change to Base)	- \$2,000,000	- \$3,600,000	- \$5,600,000
[Change to Bill]	- \$2,000,000	- \$3,600,000	- \$5,600,000

3. *Fractional Assessment of Agricultural Land.* Repeal current law provisions related to the use value assessment of agricultural land and require agricultural land to be assessed at 45% of its market value, as determined under procedures used to assess other classifications of property, effective for tax years that begin after December 31, 1999. Decrease estimated funding in 2000-01 by \$2,000,000 GPR for farmland preservation tax credits and by \$3,600,000 SEG for farmland tax relief credits to reflect reductions in tax credits extended under those programs due to the implementation of fractional agricultural land assessments.

<b>Alternative B3</b>	<b>GPR</b>	<b>SEG</b>	<b>TOTAL</b>
<b>1999-01 FUNDING</b> (Change to Base)	- \$2,000,000	- \$3,600,000	- \$5,600,000
[Change to Bill]	- \$2,000,000	- \$3,600,000	- \$5,600,000

4. Maintain current law.

**C. Property Development Rights**

1. Approve the Governor's recommendation that establishes statutory provisions and procedures related to the sale, donation and transfer of property development rights to the state, counties, municipalities and nonprofit organizations. Provide \$500 GPR in 1999-00 and \$1,000 GPR in 2000-01 to fund the estimated cost of the farmland preservation acreage income tax credit. Specify that the acreage credit would be a refundable income or franchise tax credit that would first be available in tax years beginning after December 31, 1998, with funding provided from a sum sufficient, general fund appropriation. Allow a claimant to receive both a farmland preservation credit and a farmland preservation acreage credit. Provide that if an acreage credit claimant sells, donates or transfers the development rights to the claimant's land, the amount of the acreage credit for such land would be: (a) 50 cents per acre, if the farming rights on the acreage are retained; or (b) 30 cents per acre, if the farming rights on the acreage are not retained. Specify that no new claims for the acreage credit could be made for a tax year beginning after December 31, 2002.

<b>Alternative C1</b>	<b>GPR</b>
<b>1999-01 FUNDING</b> (Change to Base)	\$1,500
[Change to Bill]	\$0

**Secretary Cate Zeuske**  
Testimony before Senator Robson  
December 16, 1999

Thank you Madam Chairman for this opportunity to speak on behalf of the Department of Revenue.

I have to confess, when I first contemplated taking this job over two years ago, I thought dealing with tax policy every day would be dry as dust. But I soon learned better.

Now I find it impossible to talk about policy without talking about people. Because our policies are not written in a vacuum. They affect real people.

On November 30 of this year, I issued an emergency rule to implement full use value in time for next year's property tax bills. I cited "the immediate preservation of the public peace, health, safety or welfare."

**The Farm Crisis**

On that very same day, dairy prices hit their lowest level since 1978. The price of milk in America's Dairyland plunged to \$9.79 per hundredweight. That's a \$7 free fall from the previous year. A 42 percent price hit.

But low farm prices should be news to no one in this great State Capitol.

Just 12 months ago, hog prices were at catastrophic, 30-year lows. Corn, soybeans, and wheat prices have been at or near historic lows for months.

And all the while, Wisconsin's farm real estate property taxes remain the highest in the United States, according to the Legislative Fiscal Bureau.

No wonder Wisconsin is bleeding farmers and farmland. In the last five years, Wisconsin has lost 500,000 acres of agricultural land and over 7,000 full-time farmers.

How many trips to Washington have our elected leaders taken, looking for action only to find excuses? How many have cried for reform of the dairy price support orders only to find refusal? How many filibusters have been threatened, never to materialize?

Madame Chairman, while Washington dithers, Wisconsin took action.

The Department of Revenue promulgated an emergency rule so that next year farmland will be assessed fully on its agricultural value – instead of on 70 percent of its speculative value for residential, commercial or industrial uses.

### **Our Legal Basis**

Our action was in accordance with Section 70.32 – Sub 2R – of State Statutes. This is language that the legislature wrote.

It states that farmland use value will be phased in until December 31, 2008 OR until the Farmland Advisory Council makes its recommendation.

That statutory council, acting in October, made its recommendation. It recommended without objection that the phase-in period end this year.

In addition, on October 25 the presidents of 12 farm organizations petitioned the Department under section 227.12 of the state statutes to fully assess land on its agricultural value in year 2000.

Assessors throughout the state were telling us that phasing in agricultural use value on 545,000 parcels of land every year was time-consuming and costly.

### **Urban Sprawl**

This isn't just about farmers. It's certainly not about assessors. It's about all of us.

When farmland is taxed for development, the only way to recoup those costs is through development, not corn and cows. That's a Catch 22 prescription for urban sprawl.

- Across the U.S., 3.2 million acres of land per year were developed between 1992 and 1997, more than double the acres from 1982 to 1992.
- Dane County taxpayers are being asked to spend \$40 million in the next 10 years on purchasing green space.
- If we could just keep farmers on the land, they will keep it green. Farmers want to farm. They don't want to grow houses or industrial parks. They want to grow crops and livestock.

- Valuing farmland according to its real usage poses no undue burden on the rest of us. It will increase the average net tax rate throughout the state by less than 1 percent.

### **The Progressive Tradition**

Madame Chairman, at the dawn of the Century, a Progressive movement arose. One of its most eloquent speakers, William Jennings Bryan, said:

*"Burn down your cities and leave our farms and your cities will spring up again as if by magic. But destroy our farms and the grass will grow in the streets of every city in the country."*

Losing Wisconsin's agricultural base would devastate much of our state's economy ... even in our cities.

Certainly, industries such as the Hormel plant in Beloit and Oscar Mayer here in Madison, Schreiber Cheese in Green Bay – and the thousands they employ – depend on farmers.

Certainly, this Legislature has the right to overturn Full Use Value.

And there is some irony here.

The big city interests led by Mayor Norquist of Milwaukee sued us for phasing IN Use Value.

But the people of Wisconsin sense that it is the right thing to do.

- In a survey conducted by the On Common Ground Foundation just this fall, 2/3rds said farmland should be taxed on its value for farming rather than its value for development.
- And 73% of respondents said, and I quote: "farmers deserve every break they can get."

It is the public will

As my colleague on the Cabinet, Agriculture Secretary Ben Brancel said recently:

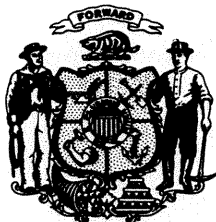
*"With today's depressed prices for farm commodities, going to full use value assessment today will keep more farmers in business by reducing their biggest cost of production – the tax burden."*

Clearly, something must be done and done now!

Something must be done to save Wisconsin's farmers while there are still some farmers left to save.

Senator Robson, our family farmers formed the bedrock of Robert M. La Follette's Progressive movement. In that tradition, I am proud to stand by them today in their hour of need.

Thank you!



# **BRIAN BURKE**

**WISCONSIN STATE SENATOR**

Senate Chair, Joint Committee on Finance

**Testimony Before the Senate Committee for Review of Administrative Rules  
December 16, 1999  
Senator Brian Burke**

Chairperson Robson and committee members, thank you for this prompt hearing. There is no question that we face an emergency. The emergency, however, is not about our commitment to the family farm. Today's emergency is about a direct threat to the state Constitution, to our cherished concept of separation of powers, to the integrity of the legislative process and to every member elected to the Legislature -- present and future. The emergency is created by the arbitrary action of a group of unelected state bureaucrats.

The question before the committee today is *not* whether farmers need relief. Everyone in this room believes in the family farm. More importantly, we understand that the people working on the family farm are facing enormous pressures. This is exactly why the Legislature, in passing use-value assessment of agricultural land, is attempting to reduce that pressure for at least some farm families. The question is whether we will can afford to stand idly by and allow an administrative agency to unilaterally overrule the intent of the Legislature. The answer to this question must be a resounding NO.

When a senior staff attorney of the Legislative Council advises us that the Department of Revenue has acted without statutory authority, this committee has a role to play in upholding the rule of law. This same senior legislative attorney asserts that the language of this legislation is unambiguous. Clearly, the change in assessment practices is to be phased in at 10% per year. The phase-in was key to securing legislative approval. The phase-in protects taxpayers from radical swings and mitigates against unintended consequences. It also protects those farmers who do not live near impending development from being forced to shoulder an additional burden shifted from farmers who live closer to town.

The Attorney General is currently reviewing this matter. An opinion is not expected before the end of January. In the interim, the prudent approach is to suspend the illegal emergency rule. High-handed actions by administrative agencies, regardless of purity of motive, must not go unchallenged. Left unchallenged, we will see a government by and for the people replaced by an all-knowing bureaucracy of ends justifying means. It is time to reassert the primacy of elected officials over the arrogance of faceless bureaucrats.



October 25, 1999

Secretary Cate Zeuske  
Department of Revenue  
PO Box 8933  
Madison, WI 53708

Dear Secretary Zeuske:

The undersigned hereby petition the Department of Revenue under 227.12 of Wis. Stats. to eliminate the phase-in provisions of Tax 18, relating to use value assessment of farmland. The undersigned comprise the coalition of agricultural groups that are intervening defendants in the use value lawsuit.

On behalf of Wisconsin's farm families, we urge the Department to act swiftly to enact the recommendation of the Farmland Advisory Council to eliminate the use value assessment phase-in. Our Coalition legal counsel agrees with Department legal counsel that the Department clearly has the statutory authority to eliminate the phase-in under sec. 70.32(2r).

Elimination of the phase-in would save our farm families an additional \$34 million in property taxes next year, according to the Legislative Fiscal Bureau. The impact on other taxable property would be minimal - \$16 on the median value home. While the overall impact to other property owners is relatively minor, elimination of the phase-in by the Department would have a major positive impact on a farm economy that is feeling the effects of record low prices for most of the commodities produced by Wisconsin farmers.

The Coalition strongly urges the Department to begin the necessary rulemaking to fully implement use value assessment of farmland beginning January 1, 2000. Thank you for considering our request and we look forward to your response as required under sec. 227.12(3).

Sincerely,

Howard D. Poulson, President  
Wisconsin Farm Bureau Federation, Cooperative

Bill Brey, President  
Farmers Educational and Cooperative Union of America, Wisconsin Division

Larry Brickner, President  
National Farmers Organization

James Gibson, Executive Director  
Wisconsin Agribusiness Council

Zeuske  
October 25, 1999

Ray Schmitt, Executive Director  
Wisconsin Agri-Service Association, Inc.

Ellery Jensen, President  
Wisconsin Cattlemen's Association, Cooperative

Bob Oleson, Executive Director  
Wisconsin Corn Growers Association, Inc.

Rod Nilsestuen, President and CEO  
Wisconsin Federation of Cooperatives

James P. Furlong, Jr., President  
Wisconsin Pork Producers Association, Cooperative

Michael Carter, Director of Government and Grower Relations  
Wisconsin Potato and Vegetable Growers Association, Inc.

Robert Karls, Executive Director  
Wisconsin Soybean Association, Inc.

Tom Lochner, Executive Director  
Wisconsin State Cranberry Growers Association

cc: John Rader  
Dale Peterson

## **On Common Ground Survey**

### **Public Support for Use Value**

- "If farmland should be assessed and taxed based on what it is worth for farming and not what it is worth for developing."**
- **83% agree**
  - **15% disagree**
  - **3% don't know**

## **On Common Ground Survey**

### **Public Support for Use Value**

- "Would you still agree with that statement if you knew that your property taxes would increase \$19 for each \$100,000 in property value?"**
- **73% still agree**
  - **23% now don't agree**
  - **4% don't know**

# MEMORANDUM

## Stroud, Willink & Howard, LLC

25 West Main Street, P.O. Box 2236, Madison, Wisconsin, 53701-2236  
(608) 257-2281, (608) 257-7643 (fax), email@stroudlaw.com

TO: Senate Committee for Review of Administrative Rules

FROM: Sverre David Roang & H. Dale Peterson, counsel for:  
Wisconsin Farm Bureau Federation, Cooperative  
Farmers Educational and Cooperative Union of America, Wisconsin Division  
National Farmers Organization  
Wisconsin Agribusiness Council  
Wisconsin Agri-Service Association, Inc.  
Wisconsin Cattlemen's Association, Cooperative  
Wisconsin Corn Growers Association, Inc.  
Wisconsin Federation of Cooperatives  
Wisconsin Pork Producers Association, Cooperative  
Wisconsin Potato & Vegetable Growers Association, Inc.  
Wisconsin Soybean Association, Inc.  
Wisconsin State Cranberry Growers Association  
Howard Poulson

RE: Immediate implementation of use-value assessment of agricultural land under WIS. STAT. § 70.32(2r)(a).

DATE: December 16, 1999

### INTRODUCTION/BACKGROUND

#### The Statutes.

In 1995, the Wisconsin Legislature established a new assessment system which will assess agricultural land at its "use-value," as opposed to its market value. The primary statute which establishes this new system is WIS. STAT. § 70.32(2r) (the "Use-Value Statute"). This new system will finally allow farmers to benefit from the 1974 amendment to the Wisconsin Constitution's uniformity clause. Attached to this memorandum are copies of the Use-Value Statute, along with WIS. STAT. § 73.03(49)(the "Farmland Advisory Council Statute").

On October 18, 1999, the Farmland Advisory Council recommended that the Department of Revenue implement rules to assess agricultural land at its use value as of January 1, 2000. Pursuant to this recommendation and upon finding that an emergency existed because of the increasingly

inequitable property tax burden faced by farmers and the need to immediately change the assessments, the Department of Revenue on November 30, 1999, adopted an emergency rule creating WIS. ADMIN. CODE § (Tax) 18.08(4), stating that ". . . in 2000 and thereafter, the assessment of each parcel of agricultural land shall be its use value. . . ."

### **The Unsuccessful Challenges Against the Use-Value Statute.**

The authors of this Memorandum have successfully defended the constitutionality of the Use-Value Statute in a series of court proceedings. First, in an original action before the Wisconsin Supreme Court, the challenge was turned back for failure to develop a complete record. *Norquist v. Zeuske*, 211 Wis. 2d 241, 564 N.W.2d 748 (1997). The challengers attempted to develop such a record before the Dane County Circuit Court, but again did not prevail. The Court of Appeals, in an unpublished opinion, likewise rejected the challenge to the Use-Value Statute, ruling earlier this year that the statute was constitutional. The challengers have appealed once again to the Wisconsin Supreme Court, which is in the process of deciding whether to hear the appeal.

It is important to note that no party has attacked the validity of use-value assessments. In fact, such an attack would not be successful under the law because the Wisconsin electorate specifically amended the Wisconsin Constitution in 1974 to permit a separate system of assessments for agricultural land. The attacks were solely against the "phase-in" provisions of the Use-Value Statute. The legal challengers have acknowledged that the use-value assessment system following elimination of the phase-in period is both uniform and constitutional.

### **The Issue.**

This Memorandum discusses whether the Farmland Advisory Council and the Department of Revenue are legally permitted to establish and promulgate rules that put the use-value assessment system in place immediately, without further phase-in of the new system. After reviewing the Use-Value Statute and the Farmland Advisory Council Statute, it is clear that such a phase-in period is not mandatory. The Farmland Advisory Council and the Department of Revenue are well within the law to immediately establish and promulgate final use-value assessment rules which forgo any further phase-in period. Such action would fulfill the policy and provisions enacted by the Wisconsin Legislature.

## **DISCUSSION.**

### **Interpretation of the Use-Value Statute and the Farmland Advisory Council Statute.**

Any interpretation of any statute must be based on established rules of statutory interpretation. "The cardinal rule in statutory interpretation is to discern the intent of the legislature. We ascertain legislative intent by *examining the language of the statute*, as well as its scope, history, context, subject matter, and purpose." *State v. Rosenberg*, 208 Wis. 2d 191, ¶6, 560 N.W.2d 266 (1997) (citations omitted; emphasis added). Furthermore, the goal when examining a statute is to ascertain the "plain meaning" of the language. *See, e.g., State v. Sweat*, 208 Wis. 2d 409, ¶6, 561

N.W.2d 695 (1997). Sources other than the language of the statute generally are not considered unless the statute is ambiguous. *See, e.g.*, Department of Trans. v. Transportation Comm'n, 111 Wis. 2d 80, 87-88, 330 N.W.2d 159 (1983).

A. *The prevailing assumptions about the Use-Value Statute are not supported by the plain terms of the Use-Value Statute.*

The Use-Value Statute generally has been assumed to require three distinct phases in the implementation of use-value assessments: (a) a "freeze" period, (b) a "phase-in" period, and (c) final implementation of use-value assessments. The first primary assumption is that the Use-Value Statute requires that assessments of agricultural land be frozen at 1995 levels for at least two years (hereinafter, the "Freeze"). The second primary assumption is that after the Freeze, a mixed assessment system would last for 10 years, until 2009 (hereinafter, the "Phase-In"). The third assumption is that final implementation of use-value assessments will occur only in 2009, after the Phase-In runs its course. However, careful reading of the Use-Value Statute shows that these assumptions are not correct.

(i) *The Freeze is not required to last for two years.*

Subsection (a) of the Use-Value Statute states:

For the assessments as of January 1, 1996, and January 1, 1997, or until the farmland advisory council under s. 73.03(49) makes its recommendation, *but not to extend beyond January 1, 2009*, the assessed value of each parcel of agricultural land is the assessed value of that parcel as of January 1, 1995.

At first blush, this subsection appears to create a two-year freeze, with the possibility that it could extend to 2009. This is not the case. Instead, the Use-Value Statute clearly states that the Freeze shall apply to assessments as of January 1, 1996, the effective date of the statute, but will last only as long as dictated by the Farmland Advisory Council, but not to extend beyond January 1, 2009. **In other words, the Farmland Advisory Council has the power to determine how long the Freeze would last.**

(ii) *The Phase-In may be avoided by the Farmland Advisory Council.*

The second incorrect assumption about the Use-Value Statute is that the Phase-In is required to run until 2009. Subsection (b) of the Use-Value Statute states:

For each year beginning with 1998 or upon completion of the farmland advisory council's recommendation and promulgation of rules and ending *no later than* December 31, 2008, the assessed value of the parcel shall be reduced . . . .

The remainder of subsection (b) contains an equation for progressively implementing use-value assessment at 10% each year during a phase-in period not to extend beyond December 31, 2008.

The plain meaning of these provisions does not support the prevailing assumption about the Phase-In. In fact, the Use-Value Statute contemplates that the Farmland Advisory Council might establish final rules more quickly than 2009 and permits the Farmland Advisory Council to alter the mechanics of or even eliminate the Phase-In. The key concept in this subsection is that the Phase-In is intended to end "*no later than* December 31, 2008." This recognizes the fact that the Farmland Advisory Council might establish final rules that would make the Phase-In, as enacted, no longer applicable. **In other words, the Farmland Advisory Council might be able to find a more practicable method to obtain full use-value assessments before 2009. Again, the Farmland Advisory Council is given broad authority to dictate the mechanics of implementing the new assessment system.**

Some have argued that subsection (b) of the Use-Value Statute can more reasonably read as applying only to when the Phase-In *begins*. This interpretation is incorrect for several reasons. Initially, the provision clearly states that the Phase-In is to end *no later than* 2008. If the Legislature had intended that the Phase-In run for 10 years regardless of the Farmland Advisory Council's recommendation, the phrase *no later than* would be unnecessary and meaningless. If that were the intent, the Legislature would have said that the Phase-In was to end "in" 2008 or "on" January 1, 2009. This would have ensured that the Phase-In run until 2009 regardless of the Farmland Advisory Council's recommendations.

A Wisconsin Legislative Council Staff Memorandum prepared by Mr. William Ford in September 1999 focuses on the Phase-In subsection, largely ignoring the remainder of the Use-Value Statute. As discussed in more detail below, subsection (c) of the Use-Value Statute lies at the heart of the Farmland Advisory Council's powers. To read the Use-Value Statute as suggested by Mr. Ford would render portions of subsection (c) meaningless. That subsection states that full use-value assessments begin when the Phase-In "no longer applies." Mr. Ford would argue that this phrase is intended to govern only the situation where the Phase-In began early and no longer applied because it would have run for 10 years before January 1, 2009. This is a strained reading. If that had been the intent, subsection (c) would have clearly stated that the Phase-In would run until the earlier of 10 years after the Phase-In began or January 1, 2009. It does not. Subsection (c) is much broader, as discussed below. Mr. Ford's interpretation would render meaningless many of the implications of the phrases "no longer applies" and "no later than," a result not permitted under governing rules of statutory construction. "[I]t is a basic rule of statutory construction that effect is to be given to a statute's every word, if possible, so that no portion is rendered superfluous. When construing a statute, we examine the language in the context of the statute as a whole. It is also a fundamental rule of statutory construction that any absurd or unreasonable result must be avoided." *Granada v. Sentry Ins.*, 228 Wis. 2d 794, 599 N.W.2d 62, 64 (Ct. App. 1999) (citations omitted). Mr. Ford's reading would violate each of these rules of construction.

(iii) *Use-value assessments may be fully implemented by the Farmland Advisory Council when practicable.*

The final section of the Use-Value Statute contains the strongest evidence that the Legislature contemplated that the Farmland Advisory Council and the Department of Revenue could accelerate

implementation of a full use-value assessment system. Subsection (c) states that use-value assessments shall be fully implemented "as of the January 1 after the valuation method under par. (b) *no longer applies.*" The phrase "no longer applies" indicates that the Legislature anticipated that there were several possibilities when subsection (b) would no longer apply. For example, the Phase-In might "no longer apply" if (a) it is January 1, 2009, (b) the Phase-In were stricken down or repealed, or (c) most importantly, once the Farmland Advisory Council and the Department of Revenue promulgate rules which make the Phase-In no longer applicable.

If the Legislature had intended that the use-value assessment system would be fully implemented only after the Phase-In had run its course, the language would have been strikingly different. For example, the Legislature might have stated that the system would begin on the January 1 after the valuation method under par. (b) "ended" or "was exhausted" or "ran for 10 years." Or, as Mr. Ford would like the Use-Value Statute to read, it would have simply said that full use-value assessments begin on January 1, 2009. **The Farmland Advisory Council determined that immediate implementation of use-value assessments is practicable, made a recommendation to that effect, the Department of Revenue promulgated an emergency rule, and the Phase-In "no longer applies."** This immediate implementation of the new system clearly is permitted and contemplated under the Use-Value Statute.

*B. The Farmland Advisory Council Statute provides further evidence that the Legislature gave the Farmland Advisory Council authority to implement use-value assessments of farmland as soon as possible.*

The Farmland Advisory Council Statute gives the Farmland Advisory Council broad authority and responsibilities. The charge of the Farmland Advisory Council is not simply to establish interim rules that are limited in scope. To the contrary, the Farmland Advisory Council is directed to, among other things, "advise the department of revenue . . . on rules to implement use-value assessment of agricultural land and to reduce expansion of urban sprawl" and to "report to the legislature on the usefulness of use-value assessment as a way to preserve farmland." WIS. STAT. § 73.03(49). The Legislature recognized that the Farmland Advisory Council would be made up of the leading experts on use-value assessment of farmland and was best situated to fully analyze and implement the mechanics of the new assessment system. The Legislature fully expected the Farmland Advisory Council to analyze the problem and help to establish practicable, final, and binding use-value assessment rules. This authority is clear and buttresses its authority under the Use-Value Statute.

*C. Conclusion.*

The key element in every aspect of these statutes is the Farmland Advisory Council. The Farmland Advisory Council is given the power and authority to advise the Department of Revenue on final rules for use-value assessments. Once it does so, the Department of Revenue is empowered to establish and promulgate rules to effectuate the ultimate purpose of the Use-Value Statute. The Legislature clearly intended that the Farmland Advisory Council have control over the timing of implementation of the new use-value assessment system.



## **The Interpretation of the Use-Value Statute Set Forth Above Is Supported by the Scope, History, Context, Subject Matter, and Purpose of the Use-Value Statute.**

Although the Use-Value Statute is clear and unambiguous, full implementation of use-value assessments prior to 2009 is fully supported by the background and policy of the Use-Value Statute.

Wisconsin's electorate has recognized that certain classes of taxpayers should be afforded preferential treatment. This preferential treatment was extended to farmers when Wisconsin adopted the 1974 amendment to the Uniformity Clause, permitting the Legislature to establish preferential taxation of farmland to preserve Wisconsin's agricultural heritage. The Use-Value Statute represents the Legislature's long-awaited fulfillment of this constitutional promise to Wisconsin farmers.

This legislative response was long overdue. Wisconsin farmers increasingly are faced with economic pressures which are exacerbated by Wisconsin's system of property taxation. Farmers shoulder the greatest weight of the property tax system. For example:

1. The number of Wisconsin farms decreased from 110,000 in 1970 to 80,000 in 1990, and acreage diverted from agricultural uses totaled nearly 36,000 in 1992, the highest amount in 20 years.
2. A December 11, 1999, article in the *Wisconsin State Journal* reports that this disturbing trend has worsened. Wisconsin lost more farmland to development in the last five years than in the previous 10, and the rate is accelerating. In fact, development consumed an average of **56,560 acres per year from 1992 to 1997**, the equivalent of **250 farms per year**.
3. Between 1983 and 1987, the value of Wisconsin's farmland fell 35%, while property taxes declined only 10%. Between 1987 and 1991, farmland value increased 9%, while property taxes increased 34%.
4. By the 1990s, agricultural property taxes reached their highest levels in Wisconsin history, despite a 50% reduction in agricultural assets' real value.
5. Wisconsin farmers face property tax rates 2 to 4 times greater than those in Illinois, Indiana, Iowa, and Minnesota, and Wisconsin dairy farmers pay 2.5 to 4 times the property taxes paid in other major dairy states.
6. Wisconsin farm households pay 2.7 times more property taxes as a percentage of their income than non-farm households.
7. While agriculture paid over 30% of its earned income in property taxes in 1991, commerce and manufacturing together paid less than 5%. Between 1989 and 1991, farm income actually dropped 20%.

8. Between 1987 and 1991, Wisconsin farmers' property taxes rose from \$239.1 million to \$320.4 million, an increase of 34 percent.
9. Tying property taxes to market value creates great hardships for farmers because it is not uncommon for farmland values to be rising at a time when farmland income is declining.
10. The recent plight of Wisconsin hog farmers shows that the economic perils facing farmers continue to wreak havoc on Wisconsin's agricultural community. And, it is sadly ironic that the Department of Revenue announced its emergency rule on the same day that farm milk prices crashed to their lowest levels since 1978.

These trends affect the quality of life for all Wisconsin residents and underscore the need to modify the farmland assessment system. The Use-Value Statute helps stem these negative trends.

Support for the Use-Value Statute has been widespread, including the Department of Revenue, the Department of Agriculture, Trade and Consumer Protection, the Department of Natural Resources, and, of course, the Wisconsin governor, legislature, and electorate.

The Use-Value Statute will generate positive results throughout Wisconsin. First, the Use-Value Statute will curb "urban sprawl" caused when farmers near urban areas face increasing property tax burdens which outpace increases in their farming income. Second, the Use-Value Statute will alleviate the inequitable and anti-competitive burden carried by farmers, especially compared to the burdens carried by other Wisconsin taxpayers and farmers in other states. Third, use-value assessments will preserve farmland and safeguard the Wisconsin environment. Finally, use-value assessments provide direct tax relief in a consistent, centralized, and fair manner.

By no means is Wisconsin alone in recognizing the importance of use-value assessments. Before the 1974 Amendment, 34 states had enacted use-value assessment statutes. By 1988, all 50 states had enacted a program giving preferential treatment to farmland.<sup>1</sup> Nearly all of Wisconsin's neighboring states have protected farmland with use-value assessment statutes, including Illinois, Indiana, Iowa, Minnesota, Missouri, North Dakota, Ohio, and South Dakota.

This worsening economic condition for farmers has reached critical levels, and the Farmland Advisory Council and the Department of Revenue recognized that action is needed now.

The Wisconsin Legislative Council Staff Memorandum ignores all of this public policy and provides only a discussion of largely irrelevant materials. First, it cites a Legislative Fiscal Bureau report that apparently was prepared *after* the Use-Value Statute was enacted. Quoting a long passage from the report, Mr. Ford concludes that the Fiscal Bureau document only contemplates an earlier

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<sup>1</sup>Wisconsin is included in this number due to the Farmland Preservation Program which generally provides tax credits to farmers whose land use is restricted.

end of the Phase-In if the Phase-In would result in a value less than the property's use value. Mr. Ford ignores the fact that such an interpretation is not supported by any language in the Use-Value Statute. Instead, the Fiscal Bureau states only that "presumably" this result would occur. It must be presumed because it is not in the statute. It also is hard to recognize the validity of an interpretation of the Use-Value Statute that patently misstates a key term of the statute. Throughout the passage quoted by Mr. Ford, the Fiscal Bureau regards 2008 as the first year for use-value assessments, when the clear terms of the Use-Value Statute state that 2009 is the absolute last date for use-value assessments.

Mr. Ford then makes the erroneous argument that because the original Department of Revenue rules did not forecast that the Farmland Advisory Council might call for immediate implementation of full use-value assessments, that is evidence of the intended schedule for implementation of the Use-Value Statute. The Department of Revenue rule cannot be considered an "interpretation" of whether the Use-Value Statute permits immediate implementation of the new assessments. Arguing that the rule must have called for every possible contingency is ridiculous. The rule did not predict many things. That does not make those things untrue. In fact, the Department of Revenue's adoption of an emergency rule is much clearer evidence of the agency's true intent.

There is no legislative history or policy contrary to the actions taken by the Farmland Advisory Council and the Department of Revenue. Full implementation of use-value assessments is sound public policy, fully supported by the scope, history, context, subject matter, and purpose of the Use-Value Statute.

## **CONCLUSION**

The Legislature intended that the Farmland Advisory Council and the Department of Revenue take a leading role in promulgating final use-value assessment rules as quickly as practicable. This conclusion is supported by the plain language of the Use-Value Statute and the Farmland Advisory Council Statute, as well as the purpose, history, and scope of such statutes.

## SECTION 70.32(2r)

(a) For the assessments as of January 1, 1996, and January 1, 1997, or **until the farmland advisory council under s. 73.03(49) makes its recommendation, but not to extend beyond January 1, 2009**, the assessed value of each parcel of agricultural land is the assessed value of that parcel as of January 1, 1995.

(b) For each year beginning with 1998 or **upon completion of the farmland advisory council's recommendation** and promulgation of rules and **ending no later than December 31, 2008**, the assessed value of the parcel shall be reduced as follows:

1. Subtract the value of the parcel as determined according to the income that is or could be generated from its rental for agricultural use, as determined by rule, from its assessed value as of January 1, 1996.

2. Multiply .1 by the number of years that the parcel has been assessed under this paragraph, including the current year.

3. Multiply the amount under subd. 1. by the decimal number under subd. 2.

4. Subtract the amount under subd. 3. from the parcel's assessed value as of January 1, 1996.

(c) For the assessment as of the January 1 **after the valuation method under par. (b) no longer applies** and for each assessment thereafter, agricultural land shall be assessed according to the income that could be generated from its rental for agricultural use.

## SECTION 73.03(49)

[It shall be the duty of the department of revenue, and it shall have the power and authority] To appoint a farmland advisory council that shall do the following:

(a) Advise the department of revenue on the supplement to the assessment manual's guidelines for assessing agricultural land, **and on rules to implement use-value assessment of agricultural land and to reduce expansion of urban sprawl.**

(b) Recommend to the legislature an appropriate penalty for converting agricultural land to another use to discourage urban sprawl.

(c) **Annually report to the legislature on the usefulness of use-value assessment as a way to preserve farmland and to reduce the conversion of farmland to other uses.**

(d) Recommend a method to adjust the shared revenue formula and other formulas one factor of which is equalized value to compensate counties, municipalities and school districts that are adversely affected by use-value assessment.

(dg) Calculate the federal land bank's 5-year average capitalization rate and per-acre values based on estimated income generated from rental for agricultural use.

(dm) Carry out its duties in cooperation with the strategic growth task force of the governor's land use council.

# **1995-97 WISCONSIN STATE BUDGET**

## **STATE ASSEMBLY**

### **Modifications to Recommendations of the Joint Committee on Finance**

**Legislative Fiscal Bureau**

**June 23, 1995**

## 5. COUNTY ASSESSMENT AID

Modify the Joint Committee on Finance proposal to set the 1996-97 aid payment to Kenosha County equal to half of the amount generated under the current formula and instead set the payment at \$475,700. That amount equals the payment estimated under the Joint Committee on Finance proposal. The Assembly amendment would allow Kenosha County to reduce its 1995 expenditures for the assessment function without affecting the estimated payment.

## 6. PROPERTY TAX -- ASSESSMENT OF AGRICULTURAL LAND ON THE BASIS OF ITS USE

Provide for the assessment of agricultural land as follows:

A. Phase-in use value assessment of agricultural land. For 1996 assessments, "freeze" assessments of agricultural land at the 1995 amount. Continue to value agricultural land at that amount until the assessment for 2008 or until the Farmland Advisory Council makes its recommendation. (The amendment requires the Council to make recommendations on implementing a penalty and on adjusting state aid formulas.)

For 1997 assessments, value agricultural land at its 1995 assessment minus a percentage of the difference between the property's 1995 assessment and its use value assessment. Set the percentage at 10% times the number of years the property has been assessed under this provision. Continue to value agricultural land under this provision until the assessment for 2008. Presumably, the assessment on agricultural land would equal its use value assessment if the adjustment under this provision would cause the property's assessment to fall below its use value. Agricultural land could be valued under this provision in 1996 if the Council has made its recommendation and if DOR has promulgated administrative rules by the 1996 assessment date. Presumably, the phase-down provision would take precedence over the freeze provision in this case.

For assessments beginning in 2008, require local assessors to value agricultural land based on the income that is or could be generated from the land's rental for agricultural use. Presumably, this would occur sooner if the phase-down provision results in a value that would be lower than the use value.

B. Define agricultural land as land devoted primarily to agricultural use. Require agricultural use to be defined through administrative rule. Establish an additional classification of property to be called "other" for land that is currently classified as agricultural, but would no longer meet that definition as a result of this provision.

C. Require DOR to do the following: (1) include in the property assessment manual, or a supplement to the manual, guidelines for categorizing and valuing agricultural land within each municipality and per acre value guidelines for each municipality; (2) determine, on or before each August

15, the full value of agricultural land using the same procedures established for local assessors; (3) appoint a Farmland Advisory Council consisting of nine individuals; (4) adopt administrative rules to implement use value assessment of agricultural property, which shall include definitions of agricultural use and the capitalization rate; and (5) administer penalties on agricultural land that is transferred.

D. Create a Farmland Advisory Council consisting of the Secretary of DOR, an agribusiness person, a person knowledgeable about agricultural lending practices, an agricultural economist employed by the University of Wisconsin System, a farmer, a mayor of a city that has a population of more than 40,000, an expert in the environment, a nonagricultural business person and a professor of urban studies. Provide that the Council remain in existence until December 31, 2007. Direct the Council to do the following: (1) advise DOR on use value assessment and on ways to reduce urban sprawl; (2) recommend a penalty for converting agricultural land to another use to discourage urban sprawl; (3) create a review process for objections to use value assessment; (4) report annually to the Legislature on the usefulness of use value assessment as a way to preserve farmland and to reduce the conversion of farmland to other uses; (5) recommend a way to adjust state aid formulas to compensate counties, municipalities and school districts adversely affected by use value assessment; (6) calculate the federal land bank's five-year capitalization rate; (7) calculate per acre values based on actual or estimated income generated from rental for agricultural use; and (8) cooperate with the strategic growth task force of the Governor's Land Use Council.

E. Establish a penalty for the owner of property that has been assessed on a use value basis and is sold if the seller has owned the property for less than five years. Set the penalty at 5% of the difference between the property's sale price and the property's value under use value during the last year of ownership. This provision would not be affected by the penalty to be recommended by the Farmland Advisory Council.

F. Establish a reimbursement program for technical college districts which apply for a grant and which have a property tax rate for operations at the 1.5 mill rate limit under current law. Calculate the reimbursement for each district as 1.5 mills times the difference between the current year value of agricultural land and the value of agricultural land in 1996. Establish a sum sufficient, GPR appropriation to make these payments. Discontinue reimbursements after December 31, 2001. The first payment under this provision would occur in 1997-98, so there is no fiscal effect in the 1995-97 biennium.

G. Modify the assessment standards program to include "other" property and exclude agricultural property.

## **7. TAX INCREMENTAL FINANCING**

Under the Joint Committee on Finance recommendations, a city or village could adopt an amendment to a TIF district project plan to modify the boundaries of that district so as to add contiguous territory



# **1995-97 WISCONSIN STATE BUDGET**

## **SENATE REPUBLICAN CAUCUS AMENDMENT**

### **Modifications to Recommendations of the Assembly**

**5. PROPERTY TAX -- FORMAT FOR TAX BILL**

Modify the proposal by the Joint Committee on Finance to revise the format for the property tax bill to require the tax bill to report the property's assessed value for the current tax year.

**6. PROPERTY TAX -- ASSESSMENT OF AGRICULTURAL LAND ON THE BASIS OF ITS USE**

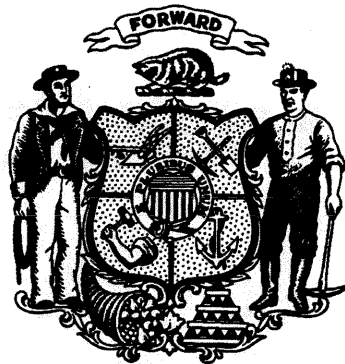
Extend the "freeze" on assessments of agricultural land through 1997 and begin the "phase down" of assessments from their frozen level to their assessment under use value in 1998 rather than 1997. Delay the other directives associated with use value assessment for one year with the exception of the creation of the Farmland Advisory Council and the submission of administrative rules.

# **1995-97 WISCONSIN STATE BUDGET**

## **Comparative Summary of Budget Provisions**

**Enacted as 1995 Acts 27 and 113**

### **Volume II**



**State of Wisconsin**

h. Require all municipalities (or counties, where appropriate) to use the tax bill design prescribed by DOR, except authorize DOR to permit the use of other forms where those forms display the same information as on the prescribed bill.

**Senate/Legislature:** Modify the provision to require the tax bill to report the property's assessed value for the current tax year.

**Veto by Governor [E-19]:** Delete the requirement that the net tax rate be shown after application of the lottery credit, retaining only the requirement that the bill must show the net tax rate. This would allow DOR to design a bill that retains the current practice of calculating the net tax rate using assessed values and taxes before deduction of the lottery credit.

[Act 27 Sections: 3446g, 3446r, 3446s, 3446t, 3446u, 3446v, 3446w, 3446x, 3510h, 9148(3x) and 9348(10x)]

[Act 27 Vetoed Section: 3446r]

## **10. PROPERTY TAX -- ASSESSMENT OF AGRICULTURAL LAND ON THE BASIS OF ITS USE**

**Assembly:** Provide for the assessment of agricultural land as follows:

A. Phase-in use value assessment of agricultural land. For 1996 assessments, "freeze" assessments of agricultural land at the 1995 amount. Continue to value agricultural land at that amount until the assessment for 2008 or until the Farmland Advisory Council makes its recommendation. (The bill requires the Council to make recommendations on implementing a penalty and on adjusting state aid formulas.)

For 1997 assessments, value agricultural land at its 1995 assessment minus a percentage of the difference between the property's 1995 assessment and its use value assessment. Set the percentage at 10% times the number of years the property has been assessed under this provision. Continue to value agricultural land under this provision until the assessment for 2008. Presumably, the assessment on agricultural land would equal its use value assessment if the adjustment under this provision would cause the property's assessment to fall below its use value. Agricultural land could be valued under this provision in 1996 if the Council has made its recommendation and if DOR has promulgated administrative rules by the 1996 assessment date. Presumably, the phase-down provision would take precedence over the freeze provision in this case.

For assessments beginning in 2008, require local assessors to value agricultural land based on the income that is or could be generated from the land's rental for agricultural use. Presumably, this would occur sooner if the phase-down provision results in a value that would be lower than the use value.

B. Define agricultural land as land devoted primarily to agricultural use. Require agricultural use to be defined through administrative rule. Establish an additional classification of property to be called

"other" for land that is currently classified as agricultural, but would no longer meet that definition as a result of this provision.

C. Require DOR to do the following: (1) include in the property assessment manual, or a supplement to the manual, guidelines for categorizing and valuing agricultural land within each municipality and per acre value guidelines for each municipality; (2) determine, on or before each August 15, the full value of agricultural land using the same procedures established for local assessors; (3) appoint a Farmland Advisory Council consisting of nine individuals; (4) adopt administrative rules to implement use value assessment of agricultural property, which shall include definitions of agricultural use and the capitalization rate; and (5) administer penalties on agricultural land that is transferred.

D. Create a Farmland Advisory Council consisting of the Secretary of DOR (who would serve as a nonvoting chairperson), an agribusiness person, a person knowledgeable about agricultural lending practices, an agricultural economist employed by the University of Wisconsin System, a farmer, a mayor of a city that has a population of more than 40,000, an expert in the environment, a nonagricultural business person and a professor of urban studies. Provide that the Council remain in existence until December 31, 2007. Direct the Council to do the following: (1) advise DOR on use value assessment and on ways to reduce urban sprawl; (2) recommend a penalty for converting agricultural land to another use to discourage urban sprawl; (3) create a review process for objections to use value assessment; (4) report annually to the Legislature on the usefulness of use value assessment as a way to preserve farmland and to reduce the conversion of farmland to other uses; (5) recommend a way to adjust state aid formulas to compensate counties, municipalities and school districts adversely affected by use value assessment; (6) calculate the federal land bank's five-year capitalization rate; (7) calculate per acre values based on actual or estimated income generated from rental for agricultural use; and (8) cooperate with the strategic growth task force of the Governor's Land Use Council.

E. Establish a penalty for the owner of property that has been assessed on a use value basis and is sold if the seller has owned the property for less than five years. Set the penalty at 5% of the difference between the property's sale price and the property's value under use value during the last year of ownership. This provision would not be affected by the penalty to be recommended by the Farmland Advisory Council.

F. Establish a reimbursement program for technical college districts which apply for a grant and which have a property tax rate for operations at the 1.5 mill rate limit under current law. Calculate the reimbursement for each district as 1.5 mills times the difference between the current year value of agricultural land and the value of agricultural land in 1996. Establish a sum sufficient, GPR appropriation to make these payments. Discontinue reimbursements after December 31, 2001. The first payment under this provision would occur in 1997-98, so there is no fiscal effect in the 1995-97 biennium.

G. Modify the assessment standards program to include "other" property and exclude agricultural property.

**Senate/Legislature:** Extend the "freeze" on assessments of agricultural land through 1997 and begin the "phase down" of assessments from their frozen level to their assessment under use value in 1998 rather than 1997. Delay the other directives associated with use value assessment for one year, with the exception of the creation of the Farmland Advisory Council and the submission of administrative rules.

**Veto by Governor [E-16]:** Delete references to the actual income from the rental of property for agricultural use, so that the use value assessment would be made based on the estimated income from the rental of property for agricultural use. Establish the Secretary of DOR as a voting chairperson of the Farmland Advisory Council, delete the sunset date for the Council and delete the requirement that the Council create a review process for objections to use value assessment. Delete the reimbursement program for technical college districts.

[Act 27 Sections: 3343wb, 3362b thru 3362h, 3367c, 3434g, 3439m, 3446y, 3459m, 3488m, 6611b, 7215m, 9148(1x) and 9448(1x)(a)]

[Act 27 Vetoed Sections: 473 (as it relates to s. 20.292(1)(am)), 615r, 1803m, 3362h, 3434g, 3439m, 9148(1x) and 9448(1x)(b)]

## Other Credits

### 1. EARNED INCOME TAX CREDIT [LFB Papers 103 and 104]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov.)	Net Change
GPR	\$11,700,000	- \$100,000	\$11,600,000

**Governor:** Provide \$3,100,000 in 1995-96 and \$8,600,000 in 1996-97 for the estimated costs of the state earned income tax credit. Funding for the credit would total an estimated \$60.3 million in 1995-96 and \$65.8 million in 1996-97. Proposed changes to the credit are shown under "General Fund Taxes."

**Joint Finance/Legislature:** Increase funding by \$200,000 in 1995-96 and decrease funding by \$300,000 in 1996-97 to reflect recoupling the state EITC to the federal EITC.

#14

## **Property Tax Administration**

**Legislative  
Fiscal  
Bureau**

*State of Wisconsin  
January, 1997*

**Equalized Values.** The total value of taxable property in the state and in each taxing jurisdiction is determined annually by DOR. The Department employs various methods to determine the full, or equalized, value of property, including on-site appraisals and studies that compare actual selling prices with locally-established assessed values.

**Manufacturing Property.** Since 1974, DOR has assessed all manufacturing property in Wisconsin. Before that, manufacturing property was assessed locally. Due to the complex nature of this property, it was believed that more uniform values would result under DOR assessment. Manufacturing property differs from other types of property because it is sold less often and individual properties may have unique characteristics.

Manufacturing property assessments are conducted under a five-year field audit cycle. Once every five years, DOR personnel perform on-site valuations. During the intervening years, values are adjusted based on reports submitted by property owners to the Department by March 1 of each year.

**Agricultural Land.** The 1995-97 biennial budget requires agricultural land to be valued on the basis of its use for farming, as opposed to its market value, no later than 2009. Agricultural land values are "frozen" at their 1995 amounts for 1996 and 1997. Between 1998 and 2008, use value assessments will be "phased-in" based on a formula where assessments equal the property's 1995 value minus a percentage of the difference between the 1995 assessment and the use value assessment. While local assessors will continue to be responsible for classifying and assessing agricultural land, DOR has a number of administrative duties related to use value assessment. First, DOR is directed to include in the property assessment manual, or a supplement to the manual, guidelines for categorizing and valuing agricultural land. Second, DOR will develop agricultural land values under the use value approach on a per acre basis for each municipality containing agricultural land beginning in 1998. Local assessors will use the per acre values as guidelines in assessing parcels of agricultural land. Third, DOR is directed to adopt administrative rules to implement use value assessment. Finally, DOR is directed to appoint and staff a Farmland Advisory Council, consisting of nine individuals, that will assist the Department in administering the use value assessment requirements.

### **Procedures for Appealing Assessed or Equalized Values**

Several procedures exist for appealing assessed and equalized values.

**Individual Appeals.** To be successful, an appeal must demonstrate that the property's assessed value is substantially different from market value and that its assessment level differs from the level for other properties within the municipality.

Each year, individual property owners receive notices if their assessments increase more than \$300. If dissatisfied, taxpayers should contact their local assessor to discuss the procedures used



**Informational Paper #14**

**Property Tax Administration**

January  
1999

Wisconsin Legislative Fiscal Bureau

violating the state constitution's requirement of uniform taxation.

The constitution's uniformity clause has been interpreted to permit property tax exemptions as long as entire classes of property are exempted. Currently, a number of property tax exemptions exist. These exemptions include the property of religious, educational and other nonprofit organizations, governmental property and most personal property. Additional exemptions have been established for very specific classes of property. These property tax exemptions are listed in sections 70.11, 70.111 and 70.112 of the statutes.

### The Local Role in Assessing Property

Property in the state is assessed as of January 1 of each year, even though values may increase or decrease during the year. If a building is partially constructed on January 1, its partial value is used as the value for that assessment year. The assessment function is performed by local assessors who may be elected or appointed and frequently serve more than one municipality on a part-time basis. Assessors must be certified through an examination administered by DOR.

**County Assessor Option.** Assessors serve at the municipal level, although state law also permits county assessor systems, if authorized by a 60% vote of the county board. County assessors are appointed and are responsible for valuing property in all towns, villages and cities in the county. A county may discontinue its county assessor system by a majority vote of the county board. Currently, this system is not being used by any counties, but was employed by Kenosha County prior to 1995.

**Assessment Methods.** Assessors determine the value of property using one of two methods, depending on the type of property.

a. *Highest and Best Use.* Most property is assessed according to its highest and best use, or that use which will produce the greatest net return to the property owner over a reasonable period of

time. The assessor determines that value by employing the sales comparison, cost or income approaches to valuation. Each approach is intended to produce a value comparable to the property's price if sold. Under the sales comparison method, value is determined by analyzing sales of properties similar in size, age, use, location and other factors. Under the cost method, the value of the land is estimated and added to the cost of replacing any attached structures. Under the income method, the present value of a property is determined from the estimated future income of the property (for example, rent minus expenses). Although all three are used, the sales method is the preferred approach.

b. *Use Value.* A 1974 amendment to the state constitution's uniformity clause permits agricultural land to be treated differently from other types of property for property tax purposes. Provisions enacted under 1995 Act 27 require land that is "devoted primarily to agricultural use" to be assessed on the basis of that use. Through administrative rule, agricultural use has been defined to include:

- producing crops, plants, vines and trees, but not forestry;
- keeping, grazing or feeding livestock for the sale of livestock or livestock products;
- growing Christmas trees or ginseng; and
- maintaining land eligible for enrollment in various federal agriculture programs.

Because use value assessment is limited to agricultural property, other farm property is valued according to its "highest and best use." This includes the homestead and other farm buildings, the land necessary for the location of those buildings, private roadways, forested lands, and swamp or wasteland.

Prior to 1996, state law required assessors to value agricultural land like all other property, at its

highest and best use. When agricultural land was located in areas where nonagricultural activities were also occurring, agricultural land assessments were affected by sales of comparable agricultural properties being converted to other uses. Buyers of those properties often paid more than buyers intending to keep land in an agricultural use. Sales of agricultural land intended for other uses caused increases in the assessments of surrounding agricultural land and higher property taxes, which eroded the land's profitability when used for agricultural purposes.

Under provisions in 1995 Act 27, agricultural land assessments were "frozen" at their 1995 levels in 1996 and 1997. Beginning in 1998, use value assessments began being phased-in over a ten-year period. After ten years, agricultural land assessments will be based entirely on the land's use for farming. The procedures to be used in valuing agricultural land have been adopted by the Farmland Advisory Council, which is staffed by DOR. Those procedures estimate values on a per acre basis using the income that could be generated by the land divided by a capitalization rate.

Income is measured on a county-by-county basis and equals the average corn yield (bushels per acre) multiplied by the average price per bushel, minus average operating expenses. Each of these measures utilizes a five-year average ending three years prior to the assessment year. For example, 1998 values were based on yields, prices and expenses for the period between 1991 and 1995. Averaging these measures is intended to remove short-term fluctuations due to weather and market factors that do not significantly influence buyers' long-term decisions. The income for land used for pasture is estimated at 30% of the income of land used to grow crops. Data on yields, prices and expenses is compiled annually by the Wisconsin Agricultural Statistics Service and the U.S. Department of Agriculture.

The capitalization rate equals the sum of two components. The first component is the five-year

average interest rate on one-year, medium-sized agricultural loans extended by federal land credit associations and agricultural credit associations operating in Wisconsin. The second component is the effective property tax rate. A separate tax rate is calculated for each municipality, equal to the total taxes levied for all purposes within the municipality, net of state property tax credits, divided by the municipality's equalized value, as determined by DOR. While net income is calculated on a county-by-county basis, the unique capitalization rates for underlying municipalities, which are attributable to variation in municipal tax rates, result in different per acre values for municipalities within each county.

For 1999, the Farmland Advisory Council proposed a modification to this procedure, which DOR adopted. The values produced under the prior formula are "blended" with values calculated from land rental information compiled by University of Wisconsin Extension agents. The "blended" values are lower than the values produced under the prior procedure in most cases.

The use value procedures will not be fully implemented until 2007. Between 1998 and 2006, use value assessments will be "phased-in" based on the difference between each property's "frozen" 1995 value and its current year's use value. For 1998, the "frozen" value was adjusted by 10% of the difference between the two values. For 1999, the adjustment factor equals 20%. This factor will increase in 10% increments in each subsequent year until use value is fully implemented. For example, if land had a 1995 value of \$700 per acre and a 1999 use value per acre of \$500, a \$40 downward adjustment would yield a 1999 taxable value of \$660 per acre:

$$\$700 + [ (\$500 - \$700) \times 20\% ] = \$660$$

Under this procedure, a new use value is calculated each year because the input data changes from year to year.