



DEVIN LEMAHIEU

STATE SENATOR

Assembly Committee on Children and Families Testimony on Assembly Bill 208 May 31, 2017

Chairman Kitchens and Members,

Thank you for hearing my testimony today on Assembly Bill 208, which makes two simple but important reforms to the adoption tax deduction in the state. This legislation will help ensure that the state's tax code does not discriminate against foreign or out-of-state adoptions when it comes to claiming this deduction.

Assembly Bill 208 is a collaboration between Representative Hutton and myself to improve the adoption tax deduction. We both were working independently to address issues with current law on behalf of two different constituents. We eventually determined both fixes benefited Wisconsin families and decided to combine our efforts. I worked specifically on the portion of the bill pertaining to international adoptions.

Adoptions are extremely expensive, and the state's \$5,000 deduction is a valuable tool to help offset a portion of the costs. By necessity, international adoptions usually involve the state, the federal government, and a foreign government. Thus, they are typically even more costly and cumbersome than domestic adoptions.

Last session, the Legislature passed 2015 WI Act 380. Among other changes, the bill stipulated that an international adoption is recognized by the State of Wisconsin with all of the same rights and obligations as an adoption granted in Wisconsin.

Despite this provision, the Department of Revenue believes a statutory clarification is needed to allow parents adopting a child internationally to claim the state's \$5,000 adoptive tax deduction. Hence, the need for this technical cleanup.

This bill does not allow parents who are not Wisconsin residents to claim this deduction. Instead, it ensures parity between adoptions finalized in Wisconsin versus those finalized within another state or country.

Adoption is not a partisan issue, and Assembly Bill 208 enjoys bipartisan support in both houses. Thank you for your consideration. I would be happy to answer any questions.

Rob Hutton

STATE REPRESENTATIVE • 13TH ASSEMBLY DISTRICT

May 31, 2017

To: The Assembly Committee on Children and Families
From: Rep. Rob Hutton
Re: Assembly Bill 208

Testimony of Rep. Rob Hutton in Support of Assembly Bill 208

Mr. Chairman and members of the committee, thank you for giving Assembly Bill 208 a public hearing. This bill is before you today due to citizens being engaged and active in our legislative process. Last year, Patrick Horning, a constituent of mine who you will hear from shortly, contacted my office and brought an adoption loophole to my attention. After discussion with Mr. Horning, Senator Lemahieu, and Legislative Council we now have a bill that would close the loophole in our tax law and provide a technical fix for 2015 WI Act 380. This legislation fixes the inconsistent tax treatment for Wisconsin families that adopt.

Under current law a Wisconsin family is eligible for Wisconsin's adoption tax deduction if they finalize the adoption in a Wisconsin court. While the majority of the cases are finalized in Wisconsin courts the phrasing of current law excludes those adoptions that are finalized in a court outside of Wisconsin. If a Wisconsin family adopts a child in Wisconsin, adopts a child from another state, or adopts a child from another country and the adoption is finalized in a Wisconsin court they are eligible to claim the Wisconsin tax deduction. However, some states require that if you are adopting a child from their state you must finalize the adoption in their court system. Since the adoption was not finalized in Wisconsin, the family is not eligible for the deduction. This means that two families who adopted a child from a different state could receive different eligibility based on another state's laws.

This legislation closes the loophole by allowing for the deduction to be claimed if the adoption is finalized in any state court. Further, it allows a Wisconsin parent to claim the deduction for international adoptions finalized by a foreign court. This is a technical clean up from 2015 WI Act 380 as Wisconsin law no longer requires a Wisconsin court order to finalize an international adoption granted by a foreign court. Unintentionally, our current state law is placing a value judgement on both the child and the family based on decisions that are outside of the control of both the adoptive parents and the child.

Adoption is a critical fabric to a healthy society. We want Wisconsin to continue to lead the nation by helping parents bless their family and bless others through the adoption process. By eliminating these loopholes we align the system so that it is fair for all families. Anything we can do to make adoption more feasible is a win for Wisconsin and Wisconsin families. Thank you again for hearing the bill today. I am happy to answer any questions that you may have.

Wisconsin Adoption Deduction

My wife and I were blessed to finalize the adoption of our son Jack earlier this year. As we went through this journey, I spent time working on the financial aspects of adoption, including the federal and state tax incentives.

Recognizing the intrinsic value of adoption, Wisconsin law provides a \$5,000 state income tax deduction upon finalization of an adoption. However, as currently written, the deduction is available only when the adoption finalization order is entered by a Wisconsin court. Some states and some foreign countries require that the finalization order be entered in that jurisdiction, meaning the deduction is not available for that set of adoptive parents. For example, Jack was born in Missouri, and we were required to finalize the adoption in Missouri, not Wisconsin. Therefore, we are ineligible for the deduction. A family we know of is adopting a child born in Iowa. That family informed us that Iowa allows finalization to occur in Wisconsin meaning they are eligible. Two families, both opening their hearts and homes, yet they receive different treatment under Wisconsin law based solely on where the child was born.

A brief summary of the statutes is:

- Section 71.05(6)(b)(22) authorizes the \$5,000 state income tax adoption deduction, and requires that the finalization order be entered under Section 48.91(3).
- Section 48.91(3) is the subsection granting a Wisconsin court the authority to enter a final order of adoption.
- The instructions to Form 1 correctly point out that these two sections, read together, mean that the adoption deduction is available only if the finalization order is entered by a Wisconsin court.

The text of both code sections and the instructions are on the following page.

This situation effectively creates multiple classes of adoptive parents.

1. Child born in Wisconsin, finalization occurs in Wisconsin = deduction available
2. Child born in another state, finalization occurs in Wisconsin = deduction available
3. Child born in another state, finalization occurs in that other state = deduction not available
4. Child born in a foreign country, finalization occurs in Wisconsin = deduction available
5. Child born in a foreign country, finalization occurs in that foreign country = deduction not available

The proposed change would merely treat all Wisconsin adoptive parents equally, irrespective of the law of the other state or foreign country. Thank you for your willingness to listen and I strongly encourage this technical fix in order to treat all adoptive families equally.

Patrick J Horning
12855 Lee Court
Elm Grove, WI 53122
414-559-0646
patrickhorning@gmail.com

§71.05 Income computation.

(6) MODIFICATIONS AND TRANSITIONAL ADJUSTMENTS. Some of the modifications referred to in s. 71.01 (13) and (14) are:

(b) Subtractions. From federal adjusted gross income subtract to the extent included in federal taxable or adjusted gross income unless the modification is an item, other than a capital gain deduction under s. 71.36 or interest on U.S. obligations, that is passed through to an individual from a tax-option corporation and would be included in that corporation's income if it were not a tax-option corporation:

22. For taxable years beginning after December 31, 1995, an amount up to \$5,000 that is expended during the period that consists of the year to which the claim relates and the prior 2 taxable years, by a full-year resident of this state who is an adoptive parent, for adoption fees, court costs or legal fees relating to the adoption of a child, for whom a final order of adoption has been entered under s. 48.91 (3) during the taxable year.

§48.91 Hearing; order.

(3) If after the hearing and a study of the report required by s. 48.88 and the recommendation required by s. 48.841 or 48.89, the court is satisfied that the necessary consents or recommendations have been filed and that the adoption is in the best interests of the child, the court shall make an order granting the adoption. In determining whether the adoption is in the best interests of an Indian child, the court shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order. The order may change the name of the minor to that requested by petitioners.

Instructions to Wisconsin Department of Revenue Form 1, Line 11, Other Subtractions

Adoption Expenses If you adopted a child for whom a final order of adoption was entered by a Wisconsin court during 2016, you may subtract up to \$5,000 of the amount you paid for adoption fees, court costs, and legal fees relating to the adoption. You may include amounts paid during 2014, 2015, and 2016. Don't count amounts reimbursed under any adoption assistance program. If you adopt more than one child during the year, you may deduct up to \$5,000 of adoption expenses for each child.



WISCONSIN FAMILY ACTION
Marriage|Family|Life|Liberty

PO Box 7486 • Madison WI 53707
608-268-5074 (Madison) • 866-849-2536 (toll-free) • 608-256-3370 (fax)
Email: info@wifamilyaction.org • Web site: www.wifamilyaction.org

Testimony in Support of Assembly Bill 208
Assembly Committee on Health
Public Hearing, May 31, 2017
Julaine Appling
President, Wisconsin Family Action

Thank you, Chairman Kitchens and committee members, for the opportunity to testify in support of Assembly Bill 208.

Wisconsin Family Action has long been a champion of adoption. We believe adoption provides a wonderful means of giving a child a forever family, who otherwise would be denied this life-changing opportunity. I speak passionately in support of adoption as someone who knows about it on a very personal level. I was adopted when I was just five months old.

I recently did some research to see what my adoptive parents may have had to spend to adopt me. Unfortunately, tracking that became pretty difficult, especially in an era of sealed adoption records. However, I suspect that in comparison to adoption costs today, I was pretty cheap. Wisconsin Family Action doesn't think cost should be the or even a strong deterrent for a couple thinking of adopting.

Wisconsin's current allowable tax deduction for domestic adoptions is very helpful in ameliorating at least some of the costs and reducing the likelihood that cost prohibits adopted-minded families from actually adopting. This bill, as authored by Representative Hutton and Senator LeMahieu, simply expands this \$5000 tax deduction to Wisconsin families adopting a child from another state or another country.

I understand why some might have niggling reservations when first thinking about this proposal. Why should the State of Wisconsin forego this money when the money spent for an out-of-state or international adoption did not profit any state business or agency. However, I believe this concern is easily addressed just from a demographics perspective.

State statistics show that Wisconsin has been below the replacement birth rate of 2.1 babies per woman since 1974. We have consistently been in that 40-plus-year period around 1.8 to 1.9. This means we have not naturally, through fertility, replaced our population, let alone grown it. Any growth we have experienced has been because of in-migration and also because of people living longer.

In addition to this sobering demographic reality, since 2006, as the Family Prosperity Index shows, Wisconsin has experienced an out-migration exceeding our in-migration. It is who is leaving that is especially troublesome. Those leaving are married with children and making over \$100,000 per year. The "with children" part is critical.

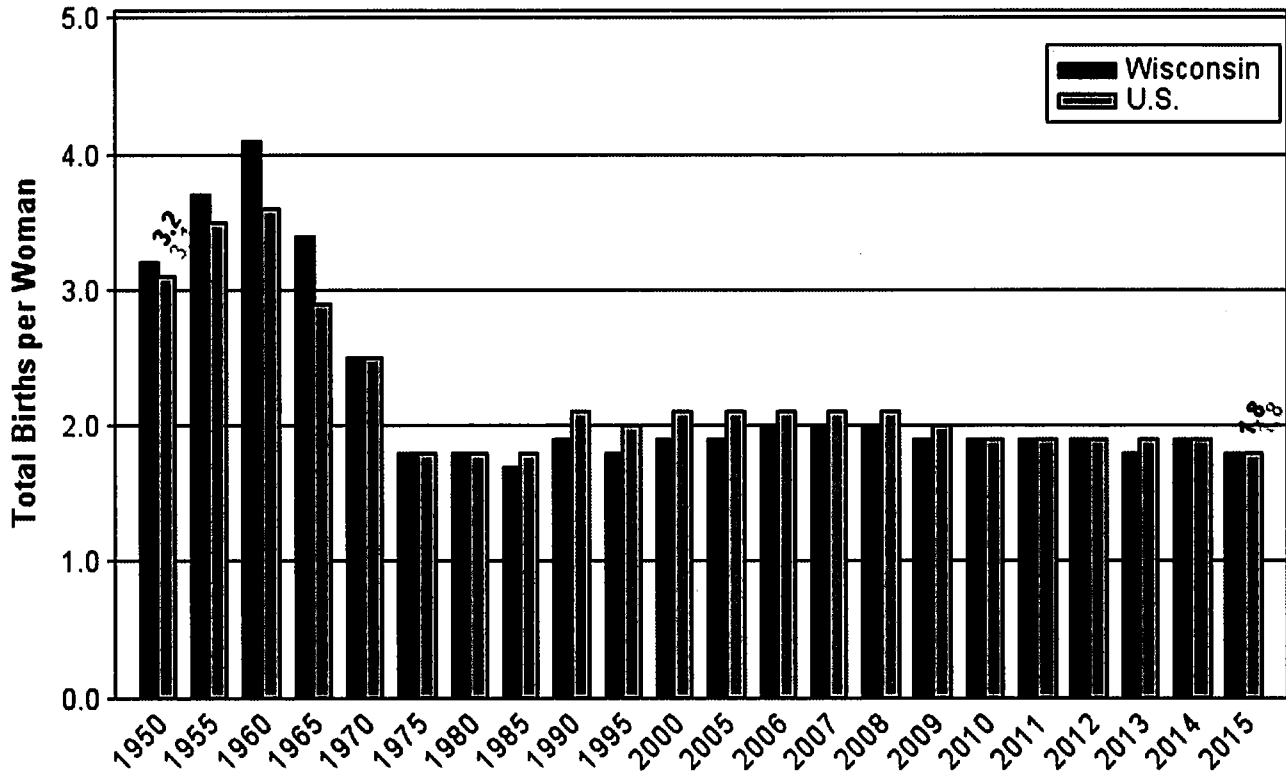
We all talk about children being Wisconsin's future, but too often in policy and practice we show we really don't believe it. Children become students in our schools, workers in our workforce, taxpayers adding to the state coffers, entrepreneurs creating new and innovative enterprises that hire others, and much more.

Simply put, Wisconsin needs children. Our future really does depend on them. Families who are willing to adopt children from other states or other countries and bring them up in Wisconsin are not just helping those children, they are helping our entire state now. Assisting these families with what is actually a rather modest tax deduction is in the children's best interest and the state's best interest.

I appreciate that this bill has bi-partisan support, and I urge this committee and the full Assembly to act quickly to pass this proposal.

Thank you for your time. I am happy to answer questions.

**Total Fertility Rate, Wisconsin and U.S.,
Selected Years 1950-2015**



Total Fertility Rate,
Wisconsin and the United States
Selected Years 1950-2015

Year	Wisconsin	U.S.
2015	1.8	1.8
2014	1.9	1.9
2013	1.8	1.9
2012	1.9	1.9
2011	1.9	1.9
2010	1.9	1.9

Year	Wisconsin	U.S.
2009	1.9	2.0
2008	2.0	2.1
2007	2.0	2.1
2006	2.0	2.1
2005	1.9	2.1
2000	1.9	2.1
1995	1.8	2.0
1990	1.9	2.1
1985	1.7	1.8
1980	1.8	1.8
1975	1.8	1.8
1970	2.5	2.5
1965	3.4	2.9
1960	4.1	3.6
1955	3.7	3.5

Year	Wisconsin	U.S.
1950	3.2	3.1

Note: The Total Fertility Rate for a given year estimates the number of children that would be born to each woman in a population during her lifetime if she were to have children throughout her childbearing years (considered ages 15 through 44) at the same rate as women of those ages actually did in that year.

The Total Fertility Rate summarizes the potential impact of current fertility patterns on completed family size. The TFR estimates the number of births that a hypothetical cohort of 1,000 women would have if they experienced throughout their childbearing years the same age-specific birth rates observed in a given year. The rate can be expressed as the average number of children that would be born per woman.

Source: Wisconsin data are from resident birth certificates, Office of Health Informatics, Division of Public Health, Wisconsin Department of Health Services.

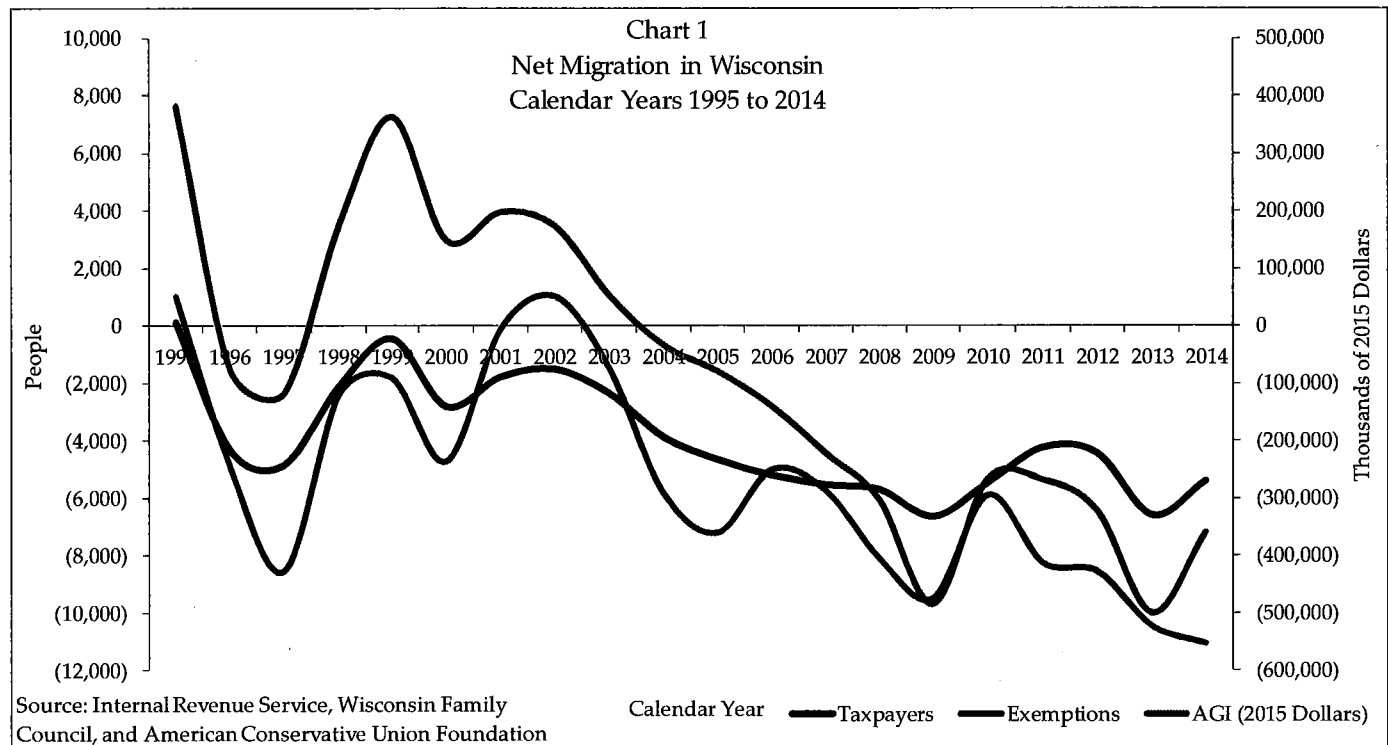
The U.S. rates for 1950-1965 are from the National Center for Health Statistics, "Vital Statistics of the United States, 2000, Volume I, Natality." The U.S. rates for 1970-2014 are from National Vital Statistics Reports, "Births: Final Data for 2014," Volume 64, Number 12, December 23, 2015. The U.S. rate for 2015 is from National Vital Statistics Reports, "Births: Preliminary Data for 2015," Volume 65, Number 3, June 2, 2016.

Family PROSPERITY INITIATIVE

Wisconsin Out-Migration Update

The June 2016 study, “Wisconsin Family Prosperity Index,” found that Wisconsin has a serious, and growing, out-migration problem. In particular, Wisconsin is losing its business and community leaders.¹ This further saps the state’s entrepreneurial vitality as well as its share of successful, intact families.

The IRS recently released new migration data for 2014 that brings good and bad news on the migration front. As shown in Chart 1 and Table 1, the good news is that the 2014 out-migration of households and people has slowed from 2013—one of the worst years for out-migration from Wisconsin. However, the bad news is that the out-migration of income increased. As a result, there is a growing income gap between people moving out of the state and those moving in.



In 2013, the average in-migrant household had income of \$55,067 while the average out-migrant household had an income of \$58,253—a difference of \$3,196. In 2014, the average in-migrant

¹ <http://www.familyprosperity.org/application/files/9314/6712/8986/WisconsinFPI-Paper-DRAFT4.pdf>

household had income of \$52,677 while the average out-migrant household had an income of \$60,142—a difference of \$7,465.

Calendar Year	In-Migrants				Out-Migrants				Net Migration			
	Taxpayers	Exemptions	AGI (\$ Thousands)	AGI (2015 Dollars)	Taxpayers	Exemptions	AGI (\$ Thousands)	AGI (2015 Dollars)	Taxpayers	Exemptions	AGI (\$ Thousands)	AGI (2015 Dollars)
1995	40,388	81,303	1,388,186	2,021,379	40,250	73,665	1,353,485	1,970,850	138	7,638	34,701	50,529
1996	39,834	79,410	1,450,893	2,074,875	44,173	80,927	1,622,258	2,319,939	(4,339)	(1,517)	(171,365)	(245,064)
1997	40,534	80,313	1,548,234	2,176,624	45,396	82,670	1,852,299	2,604,102	(4,862)	(2,357)	(304,065)	(427,478)
1998	42,854	84,301	1,755,415	2,441,413	44,964	80,809	1,841,331	2,560,905	(2,110)	3,492	(85,916)	(119,491)
1999	44,056	86,238	1,969,544	2,700,562	44,499	78,969	2,036,090	2,791,807	(443)	7,269	(66,546)	(91,245)
2000	43,606	84,575	1,972,316	2,644,093	46,421	81,598	2,148,583	2,880,397	(2,815)	2,977	(176,267)	(236,304)
2001	43,435	83,404	1,947,424	2,552,589	45,214	79,445	1,952,354	2,559,051	(1,779)	3,959	(4,930)	(6,462)
2002	42,561	81,371	1,859,785	2,400,881	44,073	77,896	1,820,474	2,350,133	(1,512)	3,475	39,311	50,748
2003	41,440	78,644	1,839,792	2,328,657	43,794	77,580	1,898,877	2,403,442	(2,354)	1,064	(59,085)	(74,785)
2004	42,171	80,809	1,960,891	2,415,567	46,057	81,483	2,198,359	2,708,098	(3,886)	(674)	(237,468)	(292,530)
2005	43,408	82,946	2,048,193	2,444,472	48,084	84,527	2,349,884	2,804,533	(4,676)	(1,581)	(301,691)	(360,061)
2006	42,498	81,002	2,138,561	2,476,221	47,722	83,796	2,354,708	2,726,496	(5,224)	(2,794)	(216,147)	(250,275)
2007	43,545	81,060	2,182,853	2,461,865	49,104	85,500	2,437,855	2,749,462	(5,559)	(4,440)	(255,002)	(287,596)
2008	41,507	76,166	1,951,687	2,159,488	47,229	82,223	2,317,636	2,564,401	(5,722)	(6,057)	(365,949)	(404,913)
2009	37,112	67,527	1,570,401	1,724,018	43,781	77,230	2,002,902	2,198,826	(6,669)	(9,703)	(432,501)	(474,808)
2010	39,974	73,884	1,847,363	2,003,509	45,464	79,212	2,119,463	2,298,608	(5,490)	(5,328)	(272,100)	(295,099)
2011	44,364	82,643	2,223,857	2,363,059	48,613	88,004	2,612,383	2,775,905	(4,249)	(5,361)	(388,526)	(412,846)
2012	46,696	87,392	2,604,965	2,717,908	51,147	93,836	3,014,977	3,145,697	(4,451)	(6,444)	(410,012)	(427,789)
2013	42,939	79,598	2,303,206	2,364,526	49,555	89,596	2,812,330	2,887,204	(6,616)	(9,998)	(509,124)	(522,679)
2014	30,412	53,697	1,586,144	1,602,021	35,824	60,882	2,133,167	2,154,519	(5,412)	(7,185)	(547,023)	(552,499)
Total	833,334	1,586,283	38,149,710	46,073,728	911,364	1,619,848	42,879,415	51,454,373	(78,030)	(33,565)	(4,729,705)	(5,380,645)

Source: Internal Revenue Service, Wisconsin Family Council, and American Conservative Union Foundation

As shown in Table 2, a compelling insight from this IRS data is that the majority of the net out-migration of income is from taxpayers over the age of 45 earning more than \$100,000—67 percent in 2011, 53 percent in 2012, and 57 percent in 2013, and 56 percent in 2014. As such, Wisconsin is suffering from out-migration of those most likely to be community and business leaders, who are the most entrepreneurial, have the highest marriage rates, and have the largest families.

Year	Percent	Amount (\$Millions)
2011	67%	-\$289
2012	53%	-\$230
2013	57%	-\$258
2014	56%	-\$287

Source: Internal Revenue Service, Wisconsin Family Council, and American Conservative Union Foundation

An examination of Wisconsin’s high rate of out-migration offers a starting point for state policymakers, activists, civic leaders and private individuals and institutions to attack the root of the problem. Reasons for this

phenomenon include Wisconsin’s higher state and local tax burden and its business-strangling union presence, both of which contribute to lower private sector job growth.

Progress has been made in addressing the obstacles posed by growth-suppressing union activity; the next step on Wisconsin’s path to prosperity is to tackle the tax issue. Lowering the state and local tax burden on families and on businesses should be an immediate policy priority.