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MN Fiscal Disparities Act of 1971

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**Myron Orfield and
Nicholas Wallace**

THE MINNESOTA FISCAL DISPARITIES ACT OF 1971:
THE TWIN CITIES' STRUGGLE AND BLUEPRINT FOR REGIONAL
COOPERATION

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**THE MINNESOTA FISCAL DISPARITIES ACT OF 1971:
THE TWIN CITIES' STRUGGLE AND BLUEPRINT FOR
REGIONAL COOPERATION**

Myron Orfield[†] and Nicholas Wallace^{††}

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I. INTRODUCTION

The Minnesota Fiscal Disparities Program is a system that provides for the partial sharing of the commercial-industrial property tax base among all jurisdictions within a metropolitan area.¹ First implemented in 1975, the Minneapolis-St. Paul (Twin

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1. Charles R. Weaver Metropolitan Revenue Distribution Act of July 23, 1971, ch. 473F, 1971 Minn. Laws 2286 (codified as amended at MINN. STAT. § 473F.01 (2004)). See also *Tax-Base Pool Bill Advances*, MINNEAPOLIS STAR, June 2,

Cities) area is the only region in the United States where tax-base sharing has been attempted.² Created by the Minnesota Fiscal Disparities Act of 1971³ as an alternative to annexation and consolidation of local governments, the Twin Cities tax-base-sharing program was an attempt to respond to a number of concerns, including increasing property tax rates, tax-base and tax-rate disparities, and interjurisdictional competition for development.⁴

The Twin Cities program requires each taxing jurisdiction in a seven-county area to contribute to a regional pool forty percent of the growth in the value of its commercial-industrial tax capacity.⁵ Municipalities are assigned a portion of that pool, based on population and the ratio of the total market value of property per capita in the jurisdiction to the average market value of property per capita in the region.⁶ The formula assigns a share of the pool that is greater than a locality's population proportion to municipalities with lower-than-average market value per capita; whereas high-market-value localities receive a lower portion than their population share.⁷

The Twin Cities metropolitan region has benefited from tax-base sharing by reducing incentives for fiscal zoning and tax-base competition and associated negative outcomes.⁸ The program ensures that all residents enjoy a minimum standard of service for important local services like public safety.⁹ By reducing the need

1971, at 1A.

2. STEVE HINZE & KAREN BAKER, HOUSE RES. DEP'T, MINN. HOUSE OF REPRESENTATIVES, MINNESOTA'S FISCAL DISPARITIES PROGRAMS: TWIN CITIES METROPOLITAN AREA & IRON RANGE I (2005), <http://www.house.leg.state.mn.us/hrd/pubs/fiscaldis.pdf>. Minnesota added a smaller tax-base sharing program in the Iron Range section of northern Minnesota in 1996. *Id.* at 35. The Iron Range program, modeled after the metropolitan area program, covers what is known as the "taconite relief area" and is codified in Minnesota Statutes, chapter 276A. *Id.*

3. Charles R. Weaver Metropolitan Revenue Distribution Act of July 23, 1971, ch. 473F, 1971 Minn. Laws 2286 (codified as amended at MINN. STAT. § 473F.01 (2004)).

4. MINN. STAT. § 473F.01 subdiv. 1 (2004).

5. HINZE & BAKER, *supra* note 2, at 11 (identifying 1971 as the beginning of the program).

6. *Id.*

7. *Id.* at 11–12.

8. See UNIV. OF MICH.: TAUBMAN C. OF ARCHITECTURE & URB. PLAN., URB. & REGIONAL PLANNING ECONOMIC DEVELOPMENT HANDBOOK (2005).

9. MYRON ORFIELD, METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY 84–85 (1997) [hereinafter METROPOLITICS].

for local governments to “steal” revenue-generating land uses from each other, such policies allow them to engage in more thoughtful and beneficial land-use planning.¹⁰ By reducing tax disparities—therefore leveling the playing field in the tax-base competition—these policies encourage reinvestment in the central city and other fiscally stressed communities.¹¹ The result reduces the growth of those disparities.

Despite the benefits for the region as a whole, the passage of Minnesota Fiscal Disparities Act of 1971 (Act) was not a simple task. Debates that pitted cities versus suburbs, wealthy districts versus poorer districts, and party members versus fellow party members highlighted tensions that almost defeated passage of the Act.¹² The Act’s ultimate success required a “unique coalition of central-city and suburban legislators” working together to ensure the future economic vitality of the entire state.¹³ This article reviews the legislative and political history of the Twin Cities Fiscal Disparities Program, benefits of tax-base sharing, and arguments for the adoption of tax-base sharing in other metropolitan areas.

II. LEGISLATIVE AND POLITICAL HISTORY OF MINNESOTA’S TAX-BASE SHARING

A. *Voting in the House: Failure, Success, and “Metropolitan Socialism”*

The Minnesota Fiscal Disparities Act of 1971 was part of the larger property tax reforms passed in 1971 known as the “Minnesota Miracle.”¹⁴ The Minnesota Miracle was the culmination of ten years of efforts to restructure Minnesota fiscal policy. As best summarized by the Minnesota Historical Society:

Rising public discontent with soaring property taxes created the ferment for the needed reform of long-

10. *See id.* at 94–95.

11. *See id.* at 96–97.

12. Peter Akerburg, *Not Understood, Fiscal Disparity Proposal Delayed*, MINNEAPOLIS STAR, Apr. 17, 1971, at 14B.

13. Paul A. Gilje, *Minnesota’s Metropolitan Tax Pool*, 5 CITY (Nat’l Urban Coal., Wash. D.C.), Fall 1971, at 50. *See also* MYRON ORFIELD, AMERICAN METROPOLITICS: THE NEW SUBURBAN REALITY 106 (2002) [hereinafter AMERICAN METROPOLITICS].

14. Minnesota Historical Society, *History Topics: Public Education—The Minnesota Miracle*, http://www.mnhs.org/library/tips/history_topics/18public.html (last visited Feb. 23, 2007).

established policies: local governments and school districts were financed solely through autonomously levied property taxes; municipalities were forced to compete for commercial-industrial development to boost their tax base; and disparities in the quality of education between property-tax-rich and property-tax-poor districts were egregious. Reform laws enacted to resolve those issues, taken together, came to be known as the Minnesota Miracle of 1971.¹⁵

Led by Paul Gilje (then research director of the Citizens League), Representative Charles R. Weaver of Anoka, the newly formed Metropolitan Council, the 1967–1971 Republican legislatures, and state Senator Wendell Anderson (the future governor) of the Democrat-Farmer-Labor party (DFL), the Minnesota Miracle was a bipartisan achievement that resulted in the creation of local government aid (LGA).¹⁶ The Minnesota Miracle legislation shifted the majority of education funding from local property tax levies to the state.¹⁷ This change brought property tax relief while increasing income and state sales taxes.¹⁸

Gilje, also a former Minneapolis Star reporter, first chronicled the efforts to bring tax-base sharing to Minnesota in his 1971 article, “Minnesota’s Metropolitan Tax Pool.”¹⁹ Gilje credits F.

15. *Id.*

16. *Id.* Initially providing aid to a variety of local governments, currently LGA only extends funds to cities. House Res. Dep’t, Minn. House of Representatives, *The History of the City Local Government Aid (LGA) Program*, <http://www.house.leg.state.mn.us/hrd/issinfo/histlga.htm> (last visited Feb. 24, 2007). LGA has two components: base aid and formula aid. *Id.* Base aid, also known as the “grandfathered” aid, is equal to the amount of aid a city received in 1993 in LGA and other aid programs. *Id.* Base aid usually does not grow unless specifically provided for in legislation. *Id.*

Formula aid is based on a city’s unmet needs. *Id.* This refers to the difference between a city’s needs and its ability to pay. *Id.* Four factors determine a city’s needs in the formula: population, population decrease, percentage of its housing built before 1940, and percentage of its tax base that is commercial or industrial. *Id.* A city’s ability to pay is equal in the formula to the city’s tax capacity multiplied by the average city tax rate. *Id.*

A city’s LGA payment may not be less than its base aid amount in any given year. *Id.* The percent increase in LGA payments to the cities of Minneapolis, St. Paul, and Duluth may not exceed the percent increase in the total LGA appropriation for that year. *Id.* The LGA increase for any other city may not exceed ten percent of the city’s property tax levy in the previous year. *Id.*

17. See Minnesota Historical Society, *supra* note 14.

18. *Id.*

19. See Gilje, *supra* note 13, at 49.

Warren Preeshl, a suburban school board member in 1968 and a staunch advocate of local government, with conceiving of the “unique idea of tax-base sharing as a way to keep decisions local but still overcome the problems of concentration of the tax base in certain communities as against others.”²⁰ At the time, Preeshl was a member of the fiscal disparities committee of the Citizens League.²¹

In early 1969, the Citizens League adopted Preeshl’s tax-base sharing idea via a report presented to the legislature.²² Rep. Charles Weaver embraced the idea, prepared a bill, “and within a month after the introduction obtained House passage by a vote of 115 to 14.”²³ Despite taking the fast track to passage in the House, time ran out before the Senate could give the bill consideration.²⁴

As the fiscal disparities debate revived in the beginning of 1971, challenges to passage remained.²⁵ As expected, there continued to be opposition from those communities who anticipated they would fare better “with a go-it-alone approach.”²⁶ Moreover, although the bill applied only to the seven-county Twin Cities area, rural legislators were forced to align themselves with one side of the debate.²⁷ Some legislators outside of the Twin Cities metropolitan area (known as “outstate” or Greater Minnesota) worried voting “for the Weaver bill could be construed as a vote for regionalism”—a concept of significant controversy in Greater Minnesota.²⁸

On July 13, 1971, two days before the House would pass the bill, an article in the *Minneapolis Star* explained that the fiscal disparities legislation appeared to be in trouble because many Democrats said that they would not be voting for it.²⁹ According to

20. *Id.* at 50.

21. *Id.*; *Idea Caught on Quickly, Many Key Participants*, CITIZENS LEAGUE NEWS, July 1971, at 3.

22. Gilje, *supra* note 13, at 50.

23. *Id.* Rep. Weaver chaired a legislative subcommittee on fiscal disparities.
Id.

24. *Id.*

25. *Id.*

26. *Id.* See generally Steven Dornfeld, *Dakota County Officials Protest Tax-Sharing Plan for Metro Area*, MINNEAPOLIS TRIB., Apr. 18, 1971, at 10A (discussing the opposition the bill faced from the Dakota County Development Association).

27. Gilje, *supra* note 13, at 50. See Peter Ackerberg, *Tax-Base Sharing Likely for Area*, MINNEAPOLIS STAR, July 8, 1971, at 1A. The bill applied only to communities with a population greater than 2,500. *Id.*

28. Gilje, *supra* note 13, at 50.

29. Deborah Howell, *‘Disparities’ Bill in Trouble?*, MINNEAPOLIS STAR, July 13,

the article, the bill had become "enmeshed in controversy over other bills."³⁰ There did not initially appear to be great support on the other side of the aisle either.³¹

Representative Joseph Graw, a conservative House member from Bloomington, argued that the loss of tax base some communities would suffer under the bill might reduce their ability to borrow money.³² Rep. Graw said, "This is not a fiscal disparities bill. It's a share the wealth bill."³³ And Graw argued the bill could discourage communities from seeking new developments because they would not benefit from a portion of the growth.³⁴ Graw cited figures prepared by the House research staff showing that Minneapolis would gain \$515,000 a year in new tax revenue, St. Paul would gain \$617,000 and Bloomington, his home district, would lose \$97,000.³⁵ Weaver replied that any figures on who would gain and who would lose were misleading.³⁶ Weaver argued that individual communities would gain in some years and lose in others, depending on their respective stages of development.³⁷ The idea behind the bill was to mitigate the "winner take all" situation that then prevailed when, for example, a new shopping center was built in a community.³⁸

From the metropolitan area, strong opposition to the bill came from Dakota County.³⁹ G.F. Minea, representative of the Dakota County Development Association, equated the proposed legislation with "metropolitan socialism."⁴⁰ Minea believed tax-base sharing was "feeding weaker communities with the product of the work of

1971, at 6A.

30. *Id.* Rep. Martin Sabo, then Minneapolis House DFL minority leader and a cosponsor of Weaver's bill, said he and other Democrats would "not vote for the bill because of an 'indefinable frustration' over actions of the House conservative: on taxes and the refusal of the conservative leadership to permit some other bill: to reach the House floor." *Id.*

31. *Id.* (noting that Weaver had 57 conservative votes, but estimated he had "lost a few" and needed DFL votes for passage).

32. Ackerberg, *supra* note 27.

33. *Disparities Bill Gets First OK*, ST. PAUL PIONEER PRESS (Minn.), Mar. 31 1971, at 35.

34. Ackerberg, *supra* note 27.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. Dornfeld, *supra* note 26.

40. *Id.*

others.”⁴¹ Minea wondered: “Why should those who wish to work be forced to share with those who won’t or can’t help themselves?”⁴²

The House passed Senate File 10 on July 15, 1971.⁴³ While it appears that the House had an overwhelming majority voting in favor of the legislation, especially compared to the Senate’s one-vote margin, the minority House Democrats almost defeated the bill. The final vote was 83 to 39.⁴⁴ Surprisingly, the vast majority of outstate House members voted for the bill,⁴⁵ perhaps due to Weaver, a well-respected legislator who was never previously considered to be pro-metropolitan. Victory for Wayne Popham, Weaver’s coauthor in the Senate, proved to be far more difficult.

B. Voting in the Senate: No Room for Conservative vs. Liberal—This Was About Money

Senate supporters of Minnesota’s fiscal disparities legislation built coalitions of support based on municipal fiscal health rather than party identification. Like House author Charles Weaver, Senate author Wayne Popham (from Minneapolis) was also a conservative, while Governor Wendell Anderson, who also supported the fiscal disparities legislation, was a Democrat.⁴⁶ Conservatives who supported the legislation heard from their constituents that the bill “amounts to metropolitan socialism.”⁴⁷ Liberals who were against the legislation, such as Senator George Conzemius, spoke from a traditional conservative stance, complaining that the legislation would, “discourage efforts by communities to work for industrial development.”⁴⁸

The rural opposition became particularly apparent on the

41. *Id.*

42. *Id.*

43. JOURNAL OF THE HOUSE, 67th Leg., at 331 (Minn. 1971).

44. *Id.*

45. *Id.*

46. See Pat Pheifer, *Charles R. Weaver Sr., Former State Representative, Dies at 60*, STAR TRIB. (Minneapolis), Feb. 21, 1992, at 1B (quoting former Gov. Wendell Anderson recalling, with regard to the fiscal disparities bill, that “[t]ogether we were able to get the support to pass it”).

47. See Dornfeld, *supra* note 26 (quoting Dakota County Development Association’s representative G.F. Minea’s statement to the Urban Affairs Committee).

48. Robert J. O’Keefe, *Senate Passes Disparities Bill*, ST. PAUL PIONEER PRESS (Minn.), June 2, 1971.

floor of the Senate where, on final passage, opponents came close to garnering enough votes from outstate Senators to kill the bill.⁴⁹ The *Minneapolis Star* noted that “several rural senators, many of them opposed to the regional approach to solving problems, joined the suburban senators in opposition.”⁵⁰

As in the House, Dakota County also voiced displeasure in the Senate debates.⁵¹ Sen. George Conzemius, a Cannon Falls Democrat who represented southern Dakota County, said that his county had property taxes that ranked among the highest in the metropolitan area, but still would lose tax dollars under the bill.⁵² Conzemius also contended that it would “discourage communities that have gone out and worked to encourage commercial development.”⁵³ G.F. Minea further criticized the fiscal disparities bill during the Senate’s committee hearing, stating bills such as Senator Popham’s are like “Robin Hood, they take from the progressive communities such as Dakota County and give to the so-called backward ones.”⁵⁴

Senator Popham disputed the claim that communities would lose the incentive to attract commercial development, noting that they would retain more than half of the tax base.⁵⁵ Senator Joseph O’Neill, a conservative from St. Paul, encouraged suburban senators to look beyond the short-term losses their areas might experience.⁵⁶ O’Neill urged suburban senators to look forward, warning that their communities would be susceptible to “the same urban blight and reconstruction cycle” that the core cities were experiencing at the time.⁵⁷

The Senate passed Senate File 10 on June 1, 1971.⁵⁸ The bill needed thirty-four affirmative votes to pass, and it received exactly that with a final vote of 34 to 31.⁵⁹ Of the thirty-four affirmative

49. *Tax-Base Pool Bill Advances*, *supra* note 1.

50. *Id.*

51. METROPOLITICS, *supra* note 9, at 143.

52. Steven Dornfeld, *Metro Tax-Base-Sharing Bill Squeezes Through Senate*, MINNEAPOLIS TRIB., June 2, 1971, at 1A.

53. *Id.*

54. Peter Ackerberg, *Fiscal Disparity Proposal Delayed*, MINNEAPOLIS TRIB., Apr 17, 1971, at 14B.

55. Dornfeld, *supra* note 52.

56. *Id.*

57. *Id.*

58. JOURNAL OF THE SENATE, 67th Leg., 1st Extra Sess., at 50–51 (Minn. 1971).

59. *Id.*

teen were from conservatives and seventeen were from
⁶⁰ Of the thirty-one negative votes, fifteen were from
s and sixteen were Democrats.⁶¹ Twelve suburban
nd nineteen representing districts outside the
n area opposed the bill.⁶²

ARY OF THE MINNESOTA FISCAL DISPARITIES ACT OF 1971

cal Disparities Act, officially known as the Metropolitan
tribution Act,⁶³ states six main objectives:

To provide a way for local governments to share in the
resources generated by the growth of the area, without
removing any resources which local governments
already have;

To increase the likelihood of orderly urban
development by reducing the impact of fiscal
considerations on the location of business and
residential growth and of highways, transit facilities and
airports;

To establish incentives for all parts of the area to work
for the growth of the area as a whole;

To provide a way whereby the area's resources can be
made available within and through the existing system
of local governments and local decision making;

To help communities in different stages of
development by making resources increasingly
available to communities at those early stages of
development and redevelopment when financial
pressures on them are the greatest; and

To encourage protection of the environment by

eld, *supra* note 52.

⁶³ July 23, 1971, ch. 24, §§ 1-13, 1971 Minn. Laws 2286 (codified as
INN. STAT. § 473F (2004)).

reducing the impact of fiscal considerations so that flood plains can be protected and land for parks and open space can be preserved.⁶⁴

The Twin Cities fiscal disparities program identifies a seven-county metropolitan area,⁶⁵ which is guided by a metropolitan administrative auditor who is charged with making calculations relating to the distribution of valuations.⁶⁶ The auditor specifies the base year (1971 for the Twin Cities program) for considering value of commercial-industrial property and prescribes how increases in commercial-industrial valuation shall be treated in subsequent years.⁶⁷ The Act then designates forty percent of the commercial industrial growth as the “area-wide tax base.”⁶⁸ This base is distributed to municipalities on the basis of population.⁶⁹

Unlike separate programs that distribute state revenues to counties, cities, townships, and special districts, tax-base sharing simply redistributes the common base from which each local jurisdiction derives its revenues.⁷⁰ It helps to equalize the resources available to local governments without removing local control over tax rates.⁷¹ And by requiring local governments to relinquish some of their fiscal dividend from new commercial-industrial development, tax-base sharing weakens their incentive to waste taxpayer dollars by stealing it away from other communities.⁷² Similarly, including residential property in tax-base sharing dilutes local governments’ incentives to use fiscal zoning or its substitutes

64. MINN. STAT. § 473F.01 (2004). The bill’s authors included a seventh objective in the original language: “To provide for the distribution to municipalities of additional revenues generated within the area or from outside sources pursuant to other legislation.” HINZE & BAKER, *supra* note 2, at 5 n.1. This final objective was ultimately repealed because it referred to an aspect of the program that was never enacted. *Id.*

65. MINN. STAT. § 473F.02, subdiv. 2 (defining “area” generally as Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties).

66. *Id.* § 473F.03.

67. *Id.* § 473F.06.

68. *Id.* § 473F.07, subdiv. 1.

69. *Id.* at subdiv. 3.

70. *See id.* §§ 473F.07–08 (explaining the methods for tax-base sharing calculations and distributions).

71. Note, *Minnesota’s Metropolitan Fiscal Disparities Act—An Experiment in Tax Base Sharing*, 59 MINN. L. REV. 927, 954–60 (1975) (discussing the possible effects that the Fiscal Disparities Act might have on the development of the seven-county metropolitan area).

72. *See id.*

to restrict residential development to “profitable” types of housing, making efficient land-use planning easier.⁷³

IV. BENEFITS OF TAX-BASE SHARING

Minnesota’s experience illustrates the positive impact of tax-base sharing.⁷⁴ In the Twin Cities area in the early 1970s, reformers seeking to pass legislation for metropolitan land-use planning employed tax-base sharing as a quid pro quo to garner political support in the low-fiscal-capacity, developing suburbs.⁷⁵ The central concern for developing suburbs was the perceived need to increase their tax base through land development.⁷⁶ Faced with school overcrowding and the need to keep tax rates down, developing suburbs saw urban service lines—which decreased the amount of developable land by zoning areas outside urban service lines as agricultural—as severely limiting their ability to increase their tax base.⁷⁷ Not surprisingly, these communities were initially extremely reluctant to accept an exchange of land-use planning for regional tax-based sharing.⁷⁸ But when it was demonstrated that they would share in the metropolitan region’s tax base, and as a result, gain fiscal capacity per capita faster than they would by developing residential property, a compromise and final acceptance of the plan eventually emerged.⁷⁹

Flexibility is another advantage of tax-base sharing.⁸⁰ Tax-base sharing allows for the offsetting of intraregional variations in public service needs and costs, as well as distinct variations in revenue-raising capacity between communities.⁸¹ This system allows a

73. See Janice C. Griffith, *Regional Governance Reconsidered*, 21 J.L. & POL. 505, 532–33 (2005) (explaining that the sharing formula of the Fiscal Disparities Act provides disincentives to zoning property for commercial and industrial purposes).

74. AMERICAN METROPOLITICS, *supra* note 13, at 106.

75. *Id.* (citing Alan Dale Albert, *Sharing Suburbia’s Wealth: The Political Economy of Tax Base Sharing in Minnesota’s Twin Cities Metropolitan Area* (Mar. 1979) (unpublished B.A. thesis, Harvard College) (on file with State of Minnesota Reference Library)).

76. *Id.*

77. *Id.*

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.* This can be achieved without altering the disincentives for tax-base competition since only the distribution formula need be changed to achieve this result. *Id.* n.19.

regional implementation of aid formulas to both rural and urban areas, each with vastly different needs and costs.⁸² A true advantage of this regional approach is that such varying needs can be addressed simultaneously, and also avoid mitigation issues.⁸³

The tax-base sharing system requires that a portion of each of the region's communities contribute a portion of its tax base to a regional pool.⁸⁴ The collective pool is then redistributed back to the communities according to set criteria other than the original contribution rate.⁸⁵ A community's contribution can be set as a percentage of growth in tax base or as a percentage of total tax base.⁸⁶ The tax-base pool can be limited to particular types of tax base (e.g., commercial-industrial property), or it can include all types—sales tax, income tax, and property tax.⁸⁷ Distributions from the pool can be determined by tax capacity, service cost or need indicators, land-use decisions, or other criteria.⁸⁸ The essential features of tax-base sharing are that: (1) it distributes tax base or revenues by criteria other than the origin or collection point (unlike piggyback taxes, for instance); (2) it provides resources for the full range of local services (unlike special district assessments); and (3) it provides additional resources for the provision of local services (unlike county or state taxes).⁸⁹

The program's broad design balances local autonomy with regional interests.⁹⁰ Specifically, by taxing part of commercial industry at a consistent regional rate, it is focused on narrowing business tax-rate disparities among municipalities.⁹¹ And it also provides local discretion by permitting each locality to establish the rate at which it taxes its distribution from the pool.⁹²

82. *Id.* at 106.

83. *Id.*

84. *Id.* The program can be structured in a way that both allows localities to tax their distribution from the pool at local tax rates and taxes the pooled portion of the regional tax base at a uniform rate. The former maintains local control over tax rates while the latter narrows inter-local tax rate disparities. *Id.* n.20.

85. *Id.* at 106.

86. *Id.*

87. *Id.*

88. *Id.*

89. *Id.* at 106–07.

90. *Id.* at 107.

91. *Id.*

92. *Id.* See HINZE & BAKER, *supra* note 2, at 5–6. See also Thomas Luce, *Regional Tax Base Sharing: The Twin Cities Experience*, in LOCAL GOVERNMENT TAX AND LAND USE POLICIES IN THE UNITED STATES 234, 246–49 (Helen E. Ladd ed., 1998).

In 2000, the Twin Cities program shared about twenty-eight percent of the region's commercial-industrial tax base—an amount that represented roughly twelve percent of the total tax base.⁹³ This percentage of the commercial-industrial tax would have generated revenue of approximately \$300 million at the regional average rate.⁹⁴ As a result of the sharing program, local tax-base disparities narrowed significantly (by roughly twenty percent) and the ratio of the ninety-fifth to fifth percentile tax base saw a similar decrease (approximately twenty-five percent).⁹⁵ For cities with a population of at least 9,000, the ratio of the largest to the smallest tax base per capita dropped as a result of the tax-sharing program from 16-to-1 to 4-to-1.⁹⁶

V. ESTABLISHING TAX-BASE SHARING IN OTHER METROPOLITAN AREAS

Not all tax reform systems are as good as others. Some school aid systems give too much to rural areas, promoting sprawl. At their best, such systems should be based on need/capacity and should deter competition, promoting equity and supporting land-use planning.

Policies promoting greater equality by introducing reform measures designed to balance the distribution of regional tax revenue sources are often controversial and divisive.⁹⁷ The appearance projects the creation of winners and losers.⁹⁸ Those fearing the introduction of equity-enhancing measures typically argue that they will not only have direct losses, but also that more general losses will emerge, resulting from a less efficient regional economy and public sector.⁹⁹ Despite this argument, tax capacity and cluster analyses demonstrate that because resources are so imbalanced in metropolitan areas, winners are far more likely to

93. AMERICAN METROPOLITICS, *supra* note 13, at 107 (citing HINZE & BAKER, *supra* note 2, at 52).

94. *Id.* at 107.

95. *Id.*

96. Paul A. Gilje, *Minnesota's Tax Base Sharing Law Isn't Broken; Don't Fix It*, MINN. JOURNAL: A PUBLIC POLICY MONTHLY FROM THE CITIZENS LEAGUE (Citizens League, Mpls., MN), May 25, 2004, at 2.

97. AMERICAN METROPOLITICS, *supra* note 13, at 108.

98. *Id.*

99. *Id.* See also Ackerberg, *supra* note 27, at 2A.

outnumber losers.¹⁰⁰ Nor need we “appeal to unenlightened self-interest” for support of sharing programs.¹⁰¹ Coupling institutional reform with proper aid and tax-base sharing programs offers not only efficiency gains, but also equity benefits.¹⁰²

Advocates of institutional reform often cite resulting efficiency.¹⁰³ Government should design and finance public services on a “scale commensurate with the scope of their costs and benefits.”¹⁰⁴ If they are not designed on the appropriate scale, then local and regional interests diverge.¹⁰⁵ When a metropolitan region relies exclusively on a system of strict local control, waste is likely to result in a number of areas, including wasteful tax-base competition¹⁰⁶ and excessive depletion of water and other natural resources,¹⁰⁷ including the over-consumption of land.¹⁰⁸ Not to be overlooked is the segregation and concentration of impoverished populations in specific areas.¹⁰⁹ Combined, these areas of waste increase the social and public costs of income inequality.¹¹⁰ Such models of governance run counter to a growing body of research, which suggests a tie between suburban growth and the economic health of central cities.¹¹¹ Further, strict local control of land-use planning promotes a myopic, inward focus to the development of the locality resulting in an increase in the physical separation between rich and poor segments of the population.¹¹²

Similarly, policymakers can design aid and tax-base-sharing programs to enhance the efficiency of both local and regional

100. See AMERICAN METROPOLITICS, *supra* note 13, at 110. This analysis holds true for even the most modest of revenue-growth-sharing proposals. *Id.* See also Note, *The Minnesota Fiscal Disparities Act: A Model for Growth-Sharing in the 1980s*, 9 WM. MITCHELL L. REV. 410, 411–13 (1983) (discussing land use problems created by fiscal disparities).

101. AMERICAN METROPOLITICS, *supra* note 13, at 110.

102. *Id.* See also METROPOLITICS, *supra* note 9, at 84–87.

103. AMERICAN METROPOLITICS, *supra* note 13, at 110.

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.* (citing ALAN ALTSHULER ET AL., GOVERNANCE AND OPPORTUNITY IN METROPOLITAN AMERICA 34–36 (Alan Altshuler et al. eds., 1999)).

112. *Id.* (citing William A. Fischel, *Does the American Way of Zoning Cause the Suburbs of Metropolitan Areas to Be Too Spread Out?*, in GOVERNANCE AND OPPORTUNITY IN METROPOLITAN AMERICA 151–91 (Alan Altshuler et al. eds., 1999)).

economies as well as the public sector, thereby improving equity.¹¹³ Key to designing successful programs (and thereby reducing waste) is the ability to adequately diminish the connection between growth of certain land uses and the tax base made available to produce local services.¹¹⁴ One such example would include providing financial incentives focusing on development types which truly generate regional benefits, but lack in providing local fiscal dividends.¹¹⁵

The introduction of changes to traditional policies need not be radical.¹¹⁶ It is important to keep in mind that all states provide financial support in some form to local governments.¹¹⁷ Reform modifications to current policies can begin with modest, incremental changes to the allocation of current state aid.¹¹⁸ As the Twin Cities program demonstrates, regional tax-base sharing programs can be designed to capture a portion of the growth in the tax base as opposed to capturing a portion of the existing tax base. The result is an immediate benefit to the region via greater efficiencies and diminishing the impact of redistributive growth.¹¹⁹

Reform to traditional approaches does not necessarily mandate conceiving of a new regional government from whole cloth.¹²⁰ Rather, cooperative arrangements on regional issues such as water management or transportation are the likely building blocks for future reform measures.¹²¹

If taxes are raised—particularly income taxes—to buy down property taxes, almost everyone wins—except high-income individuals. While income tax is widely considered to be the fairest tax, it is often the least popular tax with some of the most powerful people in our society, and it is perhaps the hardest political tax to increase. Ironically, low- and moderate-income individuals are quite distrustful of the income tax as well. Not surprisingly, raising the income tax was not a popular proposition in Minnesota.¹²²

113. *Id.*

114. *Id.*

115. *Id.* By identifying and promoting such regional entities, the functioning of regional housing and labor markets will improve. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

122. *See, e.g.,* JIM JAFFE & MICHELLE BAZIE, CTR. ON BUDGET AND POLICY

Other sorts of general-purpose taxes are sales tax, real estate transfer taxes, or property taxes (a state-wide power equalizer). Generally, Republicans and moderate Democrats who have signed tax pledges resist these types of approaches.¹²³ Most politicians that have run on direct pledges to raise taxes have lost—although many of them have done so after they were elected.¹²⁴ Those who propose tax reform after an election have bipartisan cover and often get the support of the business community if there is a strong governor and legislative leadership.¹²⁵

Tax sharing sometimes stimulates the need to raise taxes.¹²⁶ But tax-base sharing both improves services and lowers taxes in most jurisdictions.¹²⁷ Metropolitan tax-base sharing makes sense for each of the three major sub-regions of a metropolitan area: at-risk suburbs (suburbs with stagnant or declining tax-base), bedroom-developing suburbs (suburbs with relatively little commercial and industrial tax-base) and affluent job centers (sub-region with high commercial and industrial tax-base).

A. *At-Risk Suburbs*

Regional tax equity means, to the older suburbs, what everyone promises in American politics, but almost no one can deliver: lower taxes and better services.¹²⁸ This is especially true in at-risk suburbs, which have high tax rates when compared to the public services these communities provide.¹²⁹ Often, without substantial state-supported school equity, taxes in at-risk suburbs can be the highest in metropolitan America.¹³⁰ In property-tax-

PRIORITIES, STATE TAX SYSTEMS ARE BECOMING INCREASINGLY INEQUITABLE, <http://www.cbpp.org/1-15-02sfp-pr.htm> (describing the increasingly regressive nature of tax schemes) (last visited Feb. 23, 2007).

123. See, e.g., The Americans for Tax Reform State Pledge, available at http://www.atr.org/content/pdf/pre2004/state_pledge_blank.pdf (requiring a promise to “oppose and vote against any and all efforts to increase taxes”).

124. See Myron Orfield, *The Region and Taxation*, 55 BUFF. L. REV. (forthcoming 2007). The states of Kentucky, Michigan, Texas (under George W. Bush), and Alabama provide recent examples of this tax-pledge phenomenon. *Id.* In Illinois Governor Jim Edgar raised taxes despite committing to a previous no-tax-hike pledge, but nonetheless defeated challenger state senator Dawn Clark Netsch. *Id.*

125. *Id.*

126. See AMERICAN METROPOLITICS, *supra* note 13.

127. *Id.*

128. *Id.* at 163.

129. *Id.* at 164.

130. *Id.* at 163–64.

sharing simulations conducted throughout the country, older suburbs appear to be the largest net gainers of resources of any of the subregions.¹³¹

With new equity resources, at-risk suburbs could become much more competitive in the metropolitan economy by providing essential services while possibly reducing tax rates.¹³² Many of these communities face enormous and overdue tasks such as the maintenance of old infrastructure, expensive sewer separation projects, public facility upgrades, brownfield clean-up, declining neighborhood housing, and abandoned commercial and industrial facilities.¹³³ Such new resources could not only address these issues but also help underfunded schools and, depending on the breadth of the equity, such measures could be implemented as the local tax rates were being lowered.¹³⁴

i. *Bedroom-Developing Suburbs*¹³⁵

Bedroom-developing suburbs, in addition to common interests in the health of the entire region, have three compelling bases to support regional cooperation.¹³⁶ First, it will reduce taxes and increase services, most notably in the area of education.¹³⁷ Second, it will help them build the infrastructure needed for development.¹³⁸ Finally, regional cooperation offers “a better alternative to local unilateral growth moratoriums or slow-growth action to respond to the increasingly negative reaction within these communities to the development status quo.”¹³⁹

Twenty-six percent of the population of U.S. regions lives in rapidly developing communities with a very high ratio of school-age children to households.¹⁴⁰ Without significant commercial capacity

131. *Id.* at 164.

132. *Id.* HINZE & BAKER, *supra* note 2, at 6 (stating, “[t]ax-base sharing equalizes the imbalance between some local governments’ public service needs and financial resources”).

133. AMERICAN METROPOLITICS, *supra* note 13, at 164.

134. *Id.*

135. Bedroom-developing suburbs are the prototypical suburb, with a mostly white population, low-density new housing, and a below-average tax capacity. *Id.* 42.

136. *Id.* at 168.

137. *Id.*

138. *Id.*

139. *Id.*

140. *Id.* at 34.

and with only a small number of local jobs, these communities' tax bases depend chiefly on residential property taxes.¹⁴¹ As a result, these communities often suffer from inadequate transportation and sewage infrastructure in addition to low per-pupil spending and stressed or inadequate schools.¹⁴² Coupled with these restraints is the realization that few jobs are available locally, which results in long distance commutes for the community's residents.¹⁴³ Understandably, many of those facing such conditions are questioning the status quo pattern of development.¹⁴⁴ Of the suburban jurisdictions that are entirely or partly within political swing districts,¹⁴⁵ fifty percent are moderate-capacity high-growth municipalities (containing thirty-four percent of the population of political swing municipalities).¹⁴⁶ Although this group has the second-highest number of political swing districts, it also has the highest proportion of such districts.¹⁴⁷

While bedroom-developing suburbs are comparatively low-poverty and low-diversity communities, their children-to-household ratio is high; sometimes two to three times higher than in the developed core.¹⁴⁸ Given that school funding is the most expensive public service a community can provide, a high children-to-household ratio results in a greater financial burden on each

141. See generally *id.* at 88 (stating that the amount of revenue a locality can generate depends largely on the value of the land within its jurisdiction). To make matters worse, commercial and industrial properties are generally believed to be a source of profit for the area, because commercial and industrial properties pay more in taxes than they use in terms of service provided. HINZE & BAKER, *supra* note 2, at 6.

142. AMERICAN METROPOLITICS, *supra* note 13, at 168.

143. *Id.*

144. *Id.*

145. Swing districts are defined as "legislative districts that regularly switch from one political party to the other." *Id.* at 3. Swing districts indicate a "political environment ripe for reform." *Id.* "About 80 percent of the swing districts in the 25 largest U.S. metropolitan regions are in fiscally or socially stressed suburban communities, which makes them true pivot points of American politics." *Id.* at 3-4. Swing districts are most frequently located in the at-risk and bedroom-developing suburbs. *Id.* at 153.

146. *Id.* at 158-60.

147. See *id.*; see also *id.* at 168 (stating that, together, the at-risk communities and the bedroom-developing suburbs represent two-thirds of the swing districts, and of these districts, forty-three percent are bedroom-developing communities).

148. *Id.* at 168. In Minneapolis-St. Paul, the at-risk low density and the bedroom-developing suburbs "have a 25 percent higher ratio of children per household than the central city." *Id.* at 42.

household.¹⁴⁹ Having to account for such costs, it should not be surprising that many of these rapidly developing communities are in school districts with some of the lowest per-pupil spending.¹⁵⁰ In an effort to deal with significant shortfalls in school equity, these communities resort to establishing high property taxes and significant reductions in school spending.¹⁵¹ As a result, their children often attend school in packed classrooms, or even in trailers, because they cannot afford to build new schools.¹⁵²

Through the use of school equity and other forms of tax sharing, bedroom-developing suburbs and at-risk suburbs are among the largest recipients of aid per student.¹⁵³ These communities are likely to use regional fiscal equity to provide both additional funding to schools and to lower taxes.¹⁵⁴ The combination of higher spending and lower taxes is a tough combination in American politics.¹⁵⁵ As a result, “[o]nce a system of significant school aids is established, both Democratic and Republican legislative leadership will compete to see which party can give the most money to developing suburban school districts.”¹⁵⁶

C. *Affluent Job Centers*

With increased road congestion and the seemingly endless consumption of regional open spaces, many of the nation’s metropolitan job centers are revolting against what has become typical or status quo regional development.¹⁵⁷ Tax-base sharing will give these affluent job centers,¹⁵⁸ like the bedroom-developing

149. *Id.* at 168.

150. *Id.*

151. *Id.* at 168–69. *See also* HINZE & BAKER, *supra* note 2, at 5–6 (stating that “[c]ommunities with low tax bases must impose higher tax rates to deliver the same services as communities with higher tax bases”). “In states without a significant aid system for equalizing the resources available to school districts, such as Illinois, Pennsylvania, and Ohio, these districts have extremely low spending, high school taxes, or both.” AMERICAN METROPOLITICS, *supra* note 13, at 43.

152. AMERICAN METROPOLITICS, *supra* note 13, at 42–43 (stating that during the 1990s, Georgia students who lived in communities without the tax base or resources to build new schools had to attend schools set up in trailers).

153. *Id.* at 169.

154. *Id.*

155. *Id.*

156. *Id.*

157. *Id.* at 171.

158. Affluent job centers are considered “the most attractive communities in a

suburbs, a far more effective growth-management regime, keeping them closer to the urban edge and less likely to be surrounded by sprawling development, than they are experiencing with local moratoriums.¹⁵⁹ Moreover, for the disproportionate number of regional business leaders and managers who live in these communities, tax-base sharing provides a more economically prosperous region.¹⁶⁰

With only about seven percent of regional residents and few political swing districts, the affluent job centers comprise a very small portion of metropolitan regions.¹⁶¹ These localities are distinct from many other regional communities in two respects: they have very little poverty and their fiscal capacity is generally more than twice that of the regional average.¹⁶² Similar to communities on the urban fringe, affluent job centers grow quickly, while also keeping the child-per-household number at the regional average.¹⁶³ The result is less strain on the locality's school system.¹⁶⁴

Despite these advantages, affluent job centers in some ways may be a victim of their own success. With a high concentration of jobs and their status as centers of job growth, these localities are often troubled by increased traffic congestion.¹⁶⁵ As property values increase and developable land becomes increasingly scarce, the pressure to develop remaining open space mounts and efforts toward land preservation become more difficult.¹⁶⁶ In certain cases across the country, many of these edge localities approach congestion and density rates rivaling those of central business

region." *Id.* at 3. They create a steady flow of jobs, contain upscale retail outlet and expensive housing developments. *Id.* But they also have congested roads and the constant consumption of the remaining open spaces. *Id.*

159. *Id.* at 171. See also HINZE & BAKER, *supra* note 2, at 6 (stating that tax-base sharing decreases local competition in attracting commercial and industrial properties which in turn discourages urban sprawl).

160. AMERICAN METROPOLITICS, *supra* note 13, at 171.

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

165. *Id.* Even though affluent job centers account for only seven percent of population, they account for seventeen percent of office space. *Id.* at 45. This is nearly two-and-a-half times their fair share, and more than four times the amount of any other group of suburbs. *Id.*

166. *Id.* 171-72.

districts.¹⁶⁷ Without a regional cooperative approach, it becomes exceedingly difficult for these localities to adequately address these negative externalities.¹⁶⁸

In many cases, the solution sought by affluent job centers is an anti-growth ballot initiative.¹⁶⁹ The result is a battle between the status-quo development pattern and alternative development patterns with a regional perspective that account for a neighboring community's poor planning decisions.¹⁷⁰ It is argued that regional cooperation is the only real way to truly address regional concerns, such as the maintenance of a suburban-to-rural edge and the development of workable plans to deal with traffic congestion.¹⁷¹

Finally, it is important to consider that a metropolitan region's economic leaders will often reside in these localities.¹⁷² The central concern with many of these community leaders is the economic health and prospects for growth of the region's economy.¹⁷³ Over time, it has become clearer that areas with economically healthy central cities also have stronger growth models.¹⁷⁴ Such urban vibrancy appears to have a direct influence on the health of the nation's economy as well.¹⁷⁵ It is likely that affluent job centers will support regional cooperation when the community's economic leaders and resident's from affluent job centers understand the connection between the health of the region's economy and health of all of the region's communities.¹⁷⁶

VI. CONCLUSION

All parts of a metropolitan area can benefit from a tax-base sharing program. As Minnesota demonstrated both in 1971 and today, regional cooperation is not an easy proposition. But if a region is faced with growing educational and economic disparity, there are two viable options: either allow the disparity to deepen or

167. *Id.* at 172.

168. *Id.*

169. *Id.* Often, residents in the affluent job centers are highly educated and willing to stand up for themselves. *Id.* at 45.

170. *Id.* at 172.

171. *Id.*

172. *Id.*

173. *Id.*

174. *Id.*

175. *Id.*

176. *Id.*

work to find solutions that can benefit all. As in Minnesota's case, this may require forming new alliances. Political cooperation indeed must be the first step towards regional cooperation.
