TAXATION OF PERSONAL PROPERTY IN NEW JERSEY

PART II

THE NEW LEGISLATION

CALENDAR OF LEGISLATIVE ADOPTION
ASSEMBLY BILL 198 (1960) BECOMES CHAPTER 51, LAWS OF 1960

January 18:	Assembly Bill 198 introduced under sponsorship of Assemblymen Matthews, Farrington, Kurtz, Barkalow, Beadleston. *
	Referred to Judicial Committee.
January 25:	Reported out of Judicial Committee without amendment and advanced to second reading in Assembly.
February 1:	Passed Assembly without amendment; vote - 49 for, 9 against.
February 1:	Received in Senate and referred to Judiciary Committee.
April 11:	Reported out of Judiciary Committee with amendments and advanced to second reading. *
May 2:	Amended further and passed in Senate; vote - 18 for, 1 against. *
May 9:	Received in Assembly with Senate amendments and referred to Education Committee.
May 23:	Reported out of Education Committee without amendment and advanced to second reading in Assembly.
June 6:	Passed Assembly as amended in Senate; vote 45 for, 9 against.
June 15:	Signed into Law (Chapter 51, Laws of 1960) by Governor Robert B. Meyner.

*Note: Original Bill and Amended Bills shown in Appendix_____.

PART II - THE NEW LEGISLATION

A. The Law

Chapter 51, Laws of 1960 was the first important change in New Jersey local property tax law since the adoption of the present State Constitution in 1947. The principal features of the new legislation and changes from existing property tax requirements are summarized as follows: (See Appendix 1 for full text of Chapter 51)

Real Estate (54:4-2.25)

Retains "true value" as the basis for assessing real estate, but provides for a new "taxable value" expressed as a percentage of "true value". The taxable value may vary as among counties.

Agricultural Real Estate (54:4-1)

Provides that in the assessment of acreage actively devoted to agricultural use the value shall not be deemed to include prospective value for subdivision or non-agricultural use. Here is a presumption that agricultural lands may be valued as agricultural lands until such time as they are sold for other uses.

County Choice of Assessment Level

Permits County Boards of Taxation to establish percentages of "true value" to determine "taxable value" with the provision that whatever percentage is established shall apply uniformly within the county. (54:4-2.25) Percentages must be multiples of 10, between 20 and 100 per cent. (54:4-2.26)

If the County Board does not establish a percentage level, the official level for the county becomes 50 per cent. (54:4-2.27)

Once established by the County Board of Taxation, the

percentage level must remain in effect for a minimum of three years and will continue in effect beyond the three year period until changed by the County Board.(54:4-2.27)

Business Personal Property (54:4-2.29)

Establishes taxable value of tangible personal property used in business as a percentage of "fair value", which is defined as the net book value shown by the records of the person assessed.

Business Inventories (54:4-11 (b))

Exempts from taxation business inventories of raw materials, supplies and small tools.

Makes business inventories taxable at a percentage of their fair value (book value) representing 1/4 the "common level" percentage of real estate assessments prevailing within the local taxing district.

Other Business Personal Property (54:4-11 (a))

Makes machinery, implements, equipment and all other personal property used in business other than inventories, farm machinery, farm livestock, crops and produce taxable at a percentage of their fair value (book value) representing the "common level" percentage of real estate assessments prevailing within the local taxing district.

Farm Personal Property (54:4-11 (c))

Makes all farm machinery, farm livestock, crops other than exempted growing crops and produce taxable at a percentage of their fair value representing 1/4 of the percentage level established for real property within the county or the level applicable to inventories within the local taxing district.

Common Level (54:4-11)

The "common level" is defined as the unweighted average ratio of assessed value to sales value of real estate samples compiled by the Local Property Tax Bureau for the purpose of equalizing local property valuations.

Household Personal Property (54:4-9.2)

Makes taxation of household personal property optional with local municipal governing bodies. If a municipality continues to tax household property, it will do so at the general tax rate for the preceding year. Assessed values of household property will be reported to County Boards of Taxation and to the State Division of Taxation, but they will not be used to apportion county taxes or state school aid.

Other Tangible Personal Property (54:4-9.1)

Makes tangible personal property not used in business (except household personal property) taxable at that percentage of its fair value corresponding to the percentage level for the taxation of real property within the county.

Equalization of Personal Property Assessments (54:3-17)

Brings business personal property into the equalization tables for the first time so that it will be reflected in the apportionment of county taxes and state aid to local schools.

Personal Property Taxpayer Returns (54:4-12, 54:4-13)

Provides for personal property returns that reflect book values, and for penalties for failure to comply.

B. Administrative Features

Although many of Chapter 51's administrative features are but a continuation or adaptation of old procedures, there are some innovations. These features implied that administering Chapter 51 meant more than simply developing new ways to do things which were already being done. For example:

Establishment of County Assessment Percentage Levels (54:4-2.27)

By April 10 of each year, the Secretary of the County Board of Taxation is to mail a copy of the resolution establishing a county assessment percentage level, or a statement that no resolution was adopted, to:

the Director of the Division of Taxation,
each assessor and board of assessors within the county,
and the municipal clerk of each municipality within the county.

Fair Value of Tangible Personal Property Used in Business (54:4-2.29)

The provision establishing "fair value" of tangible personal property used in business as book value also gives the Director of Taxation power to "promulgate uniform rules and regulations for the determination and reporting of costs, depreciation and net book value of such property as he may find necessary to provide for fair and equal assessment, and such rules and regulations may include provisions for averaging in a group or composite accounts in the case of a taxpayer holding items of like property in more than one taxing district where it is impractical to report with respect to each item separately...."

"Common Level" of Real Property Assessments (54:4-11)

The common level defined as the "unweighted average ratio of assessed to true value of real property in the taxing district" is to be determined by the Director of Taxation from data compiled in preparation of equalization tables. (Equalization tables, however, reflect "weighted" averages while the common level is unweighted.) The Director is to mail "a certified list setting forth the unweighted average assessment ratio determined by him for each taxing district" to:

> the secretary of each County Board of Taxation, the assessor or boards of assessors in each municipality and the municipal clerk of each municipality.

Distinction Between Real and Personal Property (54:4-2.31)

Because personal property is no longer to be assessed according to the same standard as real estate, the new law increased the importance of distinguishing between the two classes of property with a precision which was not necessary so long as all property was subject to assessment at the same standard of value.

The Director is required to "make, promulgate and enforce uniform rules and regulations for ascertaining whether property is real or personal...."

Classification of Tangible Personal Property Used In Business (54:4-11)

The classification of tangible personal property used in business as business inventories, farm personal property, or

other tangible personal property requires clear definitions of those classifications. The exemption of inventories of raw materials, supplies and small tools requires the further classification of inventories. Section 54:4-2.31 of Chapter 51 requires the Director to"make, promulgate and enforce uniform rules and regulations....for identifying and determining the several personal property classifications."

Taxpayer Returns (54:4-12)

Chapter 51 provides that each owner of business personal property shall file a return "in such form and containing such information relating thereto as the Director of the Division of Taxation shall prescribe."

Copies of returns filed during Chapter 51's first year are to be forwarded to the Director of Taxation. Although the law does not require it, there was a general understanding at the time of the law's adoption that the Director would conduct studies to appraise the application of Chapter 51 and its effect on taxpayers and on local government revenues.

Tangible Household Personal Property and Personal Effects (54:4-9.2)

A certified copy of every municipal ordinance exempting tangible household personal property is to be filed with the Division of Taxation and with the County Board of Taxation. Where such property is taxed, assessors are to file a separate tax list and duplicate with the County Board of Taxation by January 10.

County Equalization Tables (54:3-17)

The two way requirement of assessment of business tangible personal property at common level and, now for the first time, of the equalization of business personalty makes necessary a new form of county equalization table. The exclusion of tangible household personal property and personal effects from the "apportionment valuation" also helps make the old table inadequate. Chapter 51 specifies the contents of a new table and requires that a copy be mailed to the assessor of each taxing district and to the Director, and be posted at the County Court House at least one week before public hearings on the table.

This change in the form and content of the county equalization table implies that the Division of Taxation should develop the necessary table forms and procedures to implement them.

C. Real Estate

By permitting each county to determine the percentage of true value at which real estate is to be taxed, the Legislature sought to reconcile the constitution requirement of a uniform standard of value with variations in "taxable value". It sought to quiet apprehension about the prior statutory requirement of assessment at "true value" (100% assessment) by permitting the application of uniform percentages of true value within each county.

(1) Level of Real Estate Assessment

Real estate assessment statistics help to clarify both the reason for Chapter 51's provisions concerning real property and the likely effect of those provisions. Studies by the

Local Property Tax Bureau indicate a statewide average (weighted) of real property assessments at 29.88% of sales value ("true value") in 1960. As indicated below, this statewide average has remained at approximately this level since 1954, when state equalization tables were first prepared for the purpose of apportioning state aid to local schools.

Year	Ratio
1954	32.74
1955	29.44
1956	29.10
1957	28.46
1958	27.86
1959	29.48
1960	29.88

Like all averages, statewide average real estate assessment ratios are nothing more than arithmetic composites of various ratios in the 567 local taxing districts where New Jersey property is assessed. The 29.88% average ratio for 1960 is the composite of local ratios ranging from a low of 16.21% in Hunterdon County to a high of 61.57% in Cape May./ (see Table 2-1)

While each county average is itself a composite of the average assessments in the several local taxing districts within the county, the Legislature saw in county ratios the hope of achieving uniformity among taxing districts with a minimum of adjustment among local taxing districts. There is every indication that this hope rested more heavily on the political appeal of "local choice" than on any uniformity of assessment levels among local taxing districts within counties.

Table 2-2 shows how 1960 weighted average real estate assessment ratios vary within each of the 21 counties. Real estate

TABLE 2-1

AVERAGE RATIO (WEIGHTED) OF ASSESSED TO TRUE VALUE OF REAL PROPERTY

1954 - 1960

	1954	1955	1956	1957	1958	1959	1960
Atlantic	21.60	22.13	21.62	21.01	21.58	22.46	24.17
Bergen	25.53	22.98	23.23	22.49	22.24	24.03	23.66
Burlington	18.47	16.38	16.64	17.03	17.06	18.78	20.46
Camden	34.59	27.78	27.49	27.09	26.95	31.85	32.20
Cape May	22.64	19.50	18.79	17.75	18.13	39.54	61.57
Cumberland	25.24	20.36	20.24	19.62	19.08	31.56	31.63
Essex	47.45	43.98	42.94	42.09	40.85	41.05	41.41
Gloucester	22.90	18.44	18.08	19.16	18.65	18.26	19.69
Hudson	55.69	58.01	59.57	55.90	52.08	50.93	49.13
Hunterdon	20.63	16.76	16.67	16.32	15.83	15.84	16.21
Mercer	35.08	31.71	30.98	37.70	37.21	37.37	36.62
Middlesex	23.58	20.66	22.59	22.75	22.56	21.42	20.70
Monmouth	21.49	21.72	20.83	19.45	19.30	29.20	31.26
Morris	21.83	18.42	18.34	18.19	18.51	20.07	20.91
Ocean	15.45	13.53	13.22	13.66	13.59	21.29	24.22
Passaic	41.96	34.74	36.14	34.75	34.50	34.12	33.88
Salem	19.20	21.47	21.88	22.29	23.07	23.30	25.11
Somerset	20.50	17.78	17.14	16.28	16.23	16.86	16.71
Sussex	17.91	17.15	17.10	16.09	16.37	15.96	16.50
Union	36.15	32.04	30.35	29.51	29.19	28.00	27.19
Warren	23.74	23.05	23.16	22.44	22.29	22.36	21.99
State Totals	32.74	29.44	29.10	28.46	27.86	29.48	29.84

Source: Annual Report Division of Taxation - pp.240-248

TABLE 2-2

DISTRIBUTION OF MUNICIPAL REAL ESTATE ASSESSMENT RATIOS

BY COUNTIES - 1960

SHOWING COMPARISON WITH COUNTY AVERAGE

	Under 10	10-14.99	15-19.99	20-24.99	25-29.99	30-34.99	35-39.99	40-44.99	45-49.99	50-54.99	55-59.99	60-64.99	65-69.99	70-74.99	75-79.99	80-84.99	85-89.99	90-94.99	95-99.99	100-Over	Totals
ATLANTIC		8	4	6	2	2		1													23
BERGEN		1	27	26	9	3	1			1				1				1			70
BURLINGTON	1	11	13	10	4		1														40
CAMDEN		2	6	13	7	3	3	1				1					1				37
CAPE MAY		1	1	1														3	7	3	16
CUMBERLAND		1	5	6		1			1												14
ESSEX					1	6	9	3	3												22
GLOUCESTER		5	8	7	3												1				24
HUDSON			1				1	2	5		2		1								12
HUNTERDON		13	7	5			1														26
MERCER			1	4	6			1									1				13
MIDDLESEX		2	14	4		4			1												25
MONMOUTH		8	14	16	6	2	3	1	1									1		1	53
MORRIS		4	18	10	1	3	1	1							1						39
OCEAN	3	13	11	2	3															1	33
PASSAIC				6	5	2	2	1													16
SALEM			3	8	4																15
SOMERSET		6	9	6																	21
SUSSEX	1	6	13	2	2																24
UNION			2	4	11	2		2													21
WARREN		9	4	4	4	2															23
TOTALS	5	90	161	140	68	30	22	13	11	1	2	1	1	1	1	0	3	5	7	5	567

in 256 of the 567 New Jersey municipalities (local taxing districts) is, on the average, assessed below the 20 per cent of market value minimum established by Chapter 51. While these 256 municipalities are located in 20 of the 21 New Jersey counties (Essex excluded), Hudson and Mercer contain only one such municipality and Passaic and Union counties have only two each. In contrast, Ocean County contains 27 municipalities assessing below 20 per cent and Burlington County has 26.

On the other hand, 27 local taxing districts assessed real estate at average levels exceeding 50 per cent of market value in 1960. These 27 districts were located in 9 of the 21 counties every one of which also contained districts with average ratios under 20 per cent of market value. These variations in local assessment ratios illustrate why county selection of the percentage level of taxable values of real property has an appeal which no uniform state percentage level could hope to acquire. Still, it offers no promise that extensive adjustments among local taxing districts within each county can be avoided.

In New Jersey, the county is the largest jurisdiction over which any part of the local property tax is apportioned on the basis of valuation. This means that variation in "taxable value" among counties cannot affect the apportionment of tax liability among taxpayers or groups of taxpayers so long as all properties within each county are assessed uniformly. Recognition of this fact of property tax arithmetic was one factor behind the assumption that the provision in Chapter 51 permitting each county to select its own percentage level

of "taxable value" meets constitutional requirements of property assessment uniformity. In this way the Legislature sought to provide enough local autonomy to accomplish adoption of the law without incurring the theoretical objections associated with an earlier effort to permit local choice of assessment levels within each taxing district (ACR 36 (1958)).

(2) Classification vs. Uniformity

The provision that agricultural lands be valued without reference to prospective values for non-agricultural use is the only exception to the required valuation of all real estate at its "true value". This exception implies a classifidation of farm real estate that removes it from the traditional interpretation of "true value" as the price on which a willing buyer and a willing seller would agree. Even in this case, however, there is no departure from the market value concept so long as the market is restricted to agricultural use. This provision is the first effort to recognize in New Jersey property tax law any element of real estate classification according to use. As such, it raises the constitutional question of the compatibility of classification by use with the requirement that real estate be assessed "according to the same standard of value".

This and other questions concerning the constitutionality of Chapter 51 went to the Superior Court of New Jersey (1). On June 27, 1961, the Court ruled that the exemption of farm real estate from full application of the "market value"

(1) Olivia Wrightson Switz v. William Kingsley, Monmouth County Board of Taxation, Twp. of Middletown and William C. Johnson - Docket L-7018-60 P.W.

concept of "true value" was inconsistent with the constitutional requirement of uniform assessment "according to the same standard of value".

DETERMINED AND ADJUDGED:

1. The sentence contained in R.S. 54:4-1 reading as follows:

> "...In the assessment of acreage which is actively devoted to agricultural use, such value shall not be deemed to include prospective value for subdivision or non-agricultural use...."

be, and the same is hereby declared to be invalid and contrary to law and is hereby excised from Chapter 51 of the Laws of 1960.

This decision of the Superior Court is subject to review by the Supreme Court, and an appeal for such a review is now pending

Immediately following the decision, the New Jersey Farm Bureau expressed concern about the apparent failure of the new legislation to accomplish the intended restriction on the assessed value of farm land and suggested a constitutional amendment to permit such classification in the future:

> The effect of the court's decision in some parts of the state, without any doubt, will be to force farmers into quick sales where possible, sales of some of our richest and highest producing acreage.
>
> . . . .
>
> Now it appears some local tax assessors will be free to assess farmland without any thought as to what that land can produce in farming. This opens the way for land speculators and hungry developers besides normal development to be expected.
>
> . . . .

> If the farmland assessment feature of the law is unconstitutional, as it has been held to be, then it is time that the high-taxed farmer is provided a court-proof protection by way of the necessary constitutional amendments.

* * * *

(3) Uniformity Requirements Unchanged

Chapter 51 in no way modifies constitutional or statutory requirements for uniform assessments; nor does it lessen the continuing need to adjust existing levels so that they meet those requirements. In this respect, any potential "tax shifts" implied by equalizing unequal assessments are no less a part of the New Jersey property tax environment under Chapter 51 than they have always been.

Constitutional and statutory requirements for uniform real estate assessment have not precluded the unofficial and extra legal classification of such property by local assessors. For example, assessment ratio data compiled in 1960 by the Local Property Tax Bureau in preparation of annual equalization tables indicate that statewide average assessment ratios for four major classes of real estate vary from 19.4 per cent for farm real estate to 38.2 per cent for commercial and industrial real estate. Residential property is assessed, on the average, at 27% of its full value as compared to 38.2% for commercial and industrial real estate. This variation in the average assessment ratios for the four major classes of real estate helps to explain the fear that a successful equalization in compliance with uniformity would shift the burden of the real estate tax from business to residential property. The

present lack of assessment uniformity is indicated below:

Class of Property	Ratio
Farm	19.4 %
Vacant Land	22.5
Residential	27.0
Business	38.2

Table 2-3 shows that the relationship among average assessment ratios for the four principal classes of property is not the same throughout the state. For example, two counties (Cape May, Gloucester) assess residential real estate at an average 1/3 higher than the average for business real estate. In contrast, three other counties (Atlantic, Hudson, Ocean) assess business real estate at an average more than double the level for residential real estate. The remaining sixteen counties fall between those extremes as follows:

Group 1 - (Cape May, Gloucester) includes the 2 counties where residential real estate is assessed higher than business real estate. These counties contain 5.4 per cent of the assessed value of New Jersey residential real estate and 3.5 per cent of its full value. They also contain 3.1 per cent of the assessed value and 3.7 per cent of the full value of all business real estate. Residential real estate assessments average 41.6 per cent of full value as compared to 31.9 per cent for business real estate. Uniform assessments in these counties would mean a tax shift from residential to business real property.

Group 2 - (Salem, Sussex, Burlington, Monmouth, Mercer) includes 5 counties where residential assessments are not more than 1/10 less than business assessments. These counties contain

TABLE 2-3

AVERAGE ASSESSMENT RATIOS

COUNTY GROUP	Residential Real Estate Values		Business Real Estate Values		Vacant Land Values		Farm Values		AVERAGE ASSESSMENT RATIOS			
	Assessed	Full	Assessed	Full	Assessed	Full	Assessed	Full	Residence	Bus.	Vacant Land	Farm
1. Res. Higher Than Bus. (2 counties)*	$ 276.	$ 664.	$ 92.	$ 288.	$ 31.	$ 67.	$ 13.	$ 55.	41.6%	31.9%	46.3%	23.6%
2. Res. 90-99% Bus. (5 counties)*	862.	3,127.	277.	958.	55.	274.	51.	279.	27.6	28.9	20.0	18.3
3. Res. 80-89% Bus. (6 counties)*	1,155.	4,585.	526.	1,706.	51.	269.	39.	203.	25.2	30.8	19.0	19.2
4. Res. 70-79% Bus. (3 counties)*	1,908.	7,268.	1,140.	2,999.	77.	370.	11.	66.	26.3	38.0	20.8	16.7
5. Res. 60-69% Bus. (2 counties)*	392.	1,337.	228.	522.	19.	83.	8.	35.	29.3	43.7	22.9	22.9
6. Res. Under 60% Bus. (3 counties)*	481.	1,843.	681.	1,227.	58.	231.	11.	46.	26.1	55.1	25.1	23.9
State Total	$5,074.	$18,824.	$ 2,944.	$7,700.	$ 291.	$1,294.	$ 133.	$684.	27.0%	38.2%	22.5%	19.4%

*1. Cape May, Gloucester
2. Burlington, Mercer, Monmouth, Somerset, Sussex
3. Camden, Cumberland, Hunterdon, Morris, Union, Warren
4. Bergen, Essex, Middlesex
5. Passaic, Salem
6. Atlantic, Hudson, Ocean

17.0 per cent of the assessed value of all residential real property and 16.6 per cent of the full value . They also contain 9.4 per cent of the assessed value of business property and 12.4 per cent of its full value. Residential assessments average 27.6 per cent of full value as compared to 28.9 per cent for business. Equal assessments are no threat here.

Group 3 (Camden, Warren, Cumbe land, Hunterdon, Union, Morris) includes 6 counties where residential assessments lie between 8/10 and 9/10 of business assessments. These counties contain 22.8 per cent of the assessed value and 24.4 per cent of the full value of all residential real estate. They also contain 17.9 per cent of the assessed value of business realty and 22.2 per cent of the full value. Assessment ratios average 25.2 per cent for residential real property as compared with 30.8 per cent for business. Potential tax shifts from business to residential real estate are small enough that efforts to avoid them would probably create more problems than they would solve.

Group 4 (Middlesex, Bergen, Essex) includes 3 counties where residential assessments average between 7/10 and 8/10 of business assessments. These counties contain 37.6 per cent of all residential assessments and 38.6 per cent of all residential property at full value together with 38.7 per cent of all business realty at assessed value and 38.9 per cent at full value. Residential real estate assessments average 26.3 per cent of full value as compared to 38.0 per cent for

for business. Potential tax shifts are more apparent, but they are small enough to seem manageable.

Group 5 (Salem, Passaic) includes 2 counties where residential assessments average between 6/10 and 7/10 of business assessments. In this group is 7.7 per cent of the assessed value and 7.1 per cent of the full value of residential real estate. These counties contain 6.8 per cent of all business assessments and 6.9 per cent of all business realty at full value. Assessed values average 29.3 per cent of full value for residential real estate and 43.7 per cent for business real estate. The spectre of a potential tax shift becomes more clearly defined.

Group 6 (Ocean, Hudson, Atlantic) consists of 3 counties where residential assessments average less than 6/10 of business real estate assessments. Group 6 contains 9.5 per cent of all residential realty at assessed value and 9.8 per cent at full value together with 23.1 per cent of all business assessments and 15.9 per cent of all business realty at full value. Assessment ratios average 26.1 per cent of full value for residential real estate and 55.1 per cent for business property. These are the counties where residential property taxpayers have the greatest stake in avoiding uniform assessments for residential and business real estate. Turn the same coin over and they are also the counties where business taxpayers have the greatest stake in instituting uniform assessments.

It is also worth noting that county average assessment

ratios for residential real estate deviate much less from the statewide average of 27.0 per cent than ratios for business real estate deviate from the statewide average of 38.2 per cent. Far greater statewide uniformity exists in residential property assessments than in business assessments.

Conclusions based on county average assessment ratios are vulnerable to the criticism that each county average is itself a composite of various averages in the several local taxing districts within each county. The spread between average assessment ratios for residential properties and ratios for business properties among individual taxing districts (municipalities) is much wider than the spread among counties. Table 2-4 shows that in 1960 there were 23 local taxing districts with residential assessment ratios less than 1/2 their business real estate ratios. At the other extreme, one taxing district had 1960 residential ratios more than double its business ratios. Although a majority of taxing districts assess business real estate higher than residential, Table 2-4 shows that 87 of the 402 local taxing districts reporting both classes of property assess residential property higher than business property. This means that any effort to classify real estate as residential property or business property will not affect all municipalities alike.

Some of the apparent real estate classification for tax purposes is attributable to differences in location of the four principal classes of real estate. Table 2-5 shows that 53 local taxing districts (municipalities) with average real estate assessment ratios in excess of 40 per cent of "true

TABLE 2-4

RELATIONSHIP BETWEEN AVERAGE ASSESSMENT RATIOS

IN NEW JERSEY MUNICIPALITIES

1960*

Percentage	Municipalities	Percentage	Municipalities
Under 50%	23	125-129.99	2
50-54.99	14	130-134.99	2
55-59.99	23	135-139.99	3
60-64.99	20	140-144.99	2
65-69.99	29	145-149.99	3
70-74.99	25	150-154.99	2
75-79.99	40	155-159.99	2
80-84.99	27	160-164.99	1
85-89.99	38	165-169.99	1
90-94.99	44	170-174.99	2
95-99.99	32	175-179.99	---
100-104.99	18	180-184.99	---
105-109.99	20	185-189.99	1
110-114.99	12	190-194.99	---
115-119.99	4	195-199.99	2
120-124.99	9	Over 200%	1
			402*

*Excludes 154 with no business property sales sample
6 with no business or residential sales sample
4 with no business property ratables
1 with no residential property ratables
1 with no business or residential property ratables
166

Residential Higher 87
Business Higher 315

*Distribution of municipalities according to residential ratio as per cent of commercial and industrial ratio.

TABLE 2-5

COMPARATIVE REAL ESTATE ASSESSMENT RATIO BY PROPERTY CLASSIFICATION AND AVERAGE RATIO FOR DISTRICT
(Amounts in Thousands of Dollars)

1960

Average Assessment	Vacant Land	Residential Property	Farm Property	Commercial and Industrial	All Real Estate	Total Municipalities
Ratio Group & Item						
Assessed Value						
Under 10%	$ 1,391	$ 8,222	$ 330	$ 485	$ 10,428	4*
10.0 - 19.9	69,446	860,850	60,336	293,419	1,284,051	253
20.0 - 29.9	82,770	1,579,878	41,030	584,903	2,288,581	206
30.0 - 39.9	37,801	961,680	3,126	529,644	1,532,251	52
40.0 - 49.9	42,365	927,183	10,789	1,088,667	2,069,004	25
50 and over	59,142	735,122	16,978	447,435	1,258,677	28
Total	$ 292,915	$5,072,935	$132,589	$2,944,553	$8,442,992	568
True Value						
Under 10%	$ 19,134	$ 97,539	$ 4,153	$ 5,420	$ 126,246	4*
10.0 - 19.9	517,808	5,305,089	444,756	1,560,953	7,828,606	253
20.0 - 29.9	432,339	6,878,858	184,440	2,135,948	9,631,585	206
30.0 - 39.9	136,681	3,017,853	9,377	1,330,019	4,493,930	52
40.0 - 49.9	105,244	2,467,506	23,387	2,069,023	4,665,160	25
50 and over	72,314	1,051,102	16,900	570,962	1,711,278	28
Total	$ 1,283,520	$ 18,817,947	$683,013	$7,672,325	$28,456,805	568
Average Ratio						
Under 10%	7.27%	8.43%	7.96%	8.94%	8.26%	4*
10.0 - 19.9	13.41	16.23	13.57	18.80	16.41	253
20.0 - 29.9	19.14	22.97	22.25	27.38	23.76	206
30.0 - 39.9	27.66	31.87	33.34	39.82	34.10	52
40.0 - 49.9	40.25	37.58	46.13	52.62	44.35	25
50 and over	81.79	69.94	100.46	78.37	73.55	28
Total	22.82%	26.96%	19.41%	38.38%	29.67%	568

*Includes Island Beach Boro which has no property tax base.

value" contain approximately 1/3 of all commercial and industrial property at "true value" and 18.7 per cent of all residential real estate at "true value". The average assessment ratio for commercial and industrial real estate in these 53 taxing was 58.2 per cent in 1960 as compared with 47.2 per cent for residential real estate. The same 53 municipalities contain 5.9 per cent of all farm real estate "true values" with assessment ratios averaging 68.9 per cent. At the other extreme, Table 2-5 also shows that 253 local taxing districts average real estate assessment ratios between 10 per cent and 20 per cent of "true value". These 253 taxing districts contain 28.2 per cent of all residential "true values" and 20.3 per cent of all commercial and industrial "true values". Assessment ratios for residential properties in these taxing districts average 16.2 per cent for "true value" as compared to 18.8 per cent for commercial and industrial real estate within the same taxing districts. This group of municipalities contains 65.1 per cent of all farm real estate "true values" with assessment ratios averaging 13.6 per cent of such "true value".

(4) Revaluation

There is nothing in Chapter 51 which in any way alters the requirement that local assessments of real estate other than farm land be related to the property's "true value" defined as the market value established by a willing buyer and a willing seller. On the contrary, this new legislation places added emphasis on the responsibility of each local

taxing district to achieve equality in local property assessments as measured by "true value". Nowhere does Chapter 51 suggest a reduction in the need for revaluation programs which supply local assessors with the raw materials necessary to equalize the valuation of all parcels of real estate within their jurisdiction.

In 1960, William Kingsley, Acting Director of Taxation, emphasized the urgency of revaluation as an added incentive to pursue programs of property valuations.

> Enactment of Chapter 51, L. 1960, has confronted the assessor and the governing body of every one of the 568 taxing districts in our State with increased and inescapable responsibility for achieving equality in local property assessments. ...The foundation upon which such equality is to be based is the true value of the property.
>
> ...a revaluation program provides the assessor with the basis for revision of his assessment roll to any ratio that may be decided upon. Where adequate data are available to the assessor showing the true value of every parcel of property, assessment revision requires only the application of a common multiplier to such true values. Obviously no such method can be employed when only non-uniform assessments at a wide range of ratios exist. ... (1)

Specific provisions of Chapter 51 bearing on uniform real estate valuations and prompting the Kingsley statement may be summarized as follows:

1--All taxable real property in the State shall be assessed according to the same standard of value (Sec. 1).

2--The standard of value is the true value of the real property (Sec. 1).

(1) William Kingsley, "The Urgent Need for Revaluation", New Jersey Municipalities, Vol. XXXVII, No. 8 (November, 1960) pg. 21.

3--The true value is such price as, in the assessor's judgment, the real property would sell for at a fair and bona fide sale by private contract on October 1 next preceding the tax year (Sec. 25 amending N.J.S.A. 54:4-23).

4--The assessed valuation shall be expressed in terms of taxable value of the property (Sec. 1).

5--The taxable value shall be that percentage of true value as shall be established by each county board of taxation as the level of taxable value to be applied uniformly to all taxable real property throughout the county (Sec. 1).

6--The percentage level which may be established by a county board of taxation shall be expressed as a multiple of 10% and no level so established shall be lower than 20% or higher than 100% of the standard of value. (Sec. 2).

7--Any county board which proposes to establish a percentage level to be effective in the tax year 1962, must do so on or before April 1, 1961 (Sec. 3).

8--In the event that any county board of taxation shall fail to initially establish the percentage level for its county, then until the same shall be done, the level of assessment for such county shall be 50% of the true value (Sec. 3).

Table 2-6 shows a wide variation among the 21 New Jersey counties and the extent to which their local taxing districts have been revalued during the last ten years. Although a few taxing districts were revalued more than once during this period, approximately half of all the local taxing districts in the state have had no revaluation. Clearly, a large number of New Jersey local taxing districts are no more prepared to apply uniform percentages of "true value" now than they were to apply the "true value" standard itself before.(1)

Table 2-7 shows that while approximately 52% of all local taxing districts were revalued between 1951 and 1961, this

(1) A complete list of local taxing districts which placed revaluations into effect since 1951 is shown in Appendix ____.

TABLE 2-6

NUMBER OF REVALUATION PROGRAMS SHOWING THE YEARS IN WHICH THEY WENT INTO EFFECT

County	Total Districts In County	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	TOTAL
Atlantic	23	--	--	--	2	--	--	--	3	1	5	0	11
Bergen	70	2	1	2	--	--	5	8	8	6	6	3	41*
Burlington	40	--	--	--	--	--	--	--	2	4	8	2	16
Camden	37	--	--	--	--	--	--	--	--	5	11	3	19
Cape May	16	--	--	--	--	--	--	--	--	6	7	3	16
Cumberland	14	--	--	--	--	--	--	--	--	1	1	0	2
Essex	22	--	1	1	1	4	3	5	1	3	4	2	25*
Gloucester	24	--	--	--	--	--	--	--	--	--	7	7	14
Hudson	12	1	--	--	--	--	--	--	1	--	--	0	2
Hunterdon	26	--	--	--	--	--	--	--	--	--	2	1	3
Mercer	13	--	--	--	--	--	--	3	1	3	1	0	8
Middlesex	25	--	--	--	--	--	2	2	3	3	1	4	15
Monmouth	53	--	--	--	--	--	--	--	4	7	15	1	27
Morris	39	3	1	--	--	--	4	6	6	6	4	3	33*
Ocean	34	--	--	--	--	--	1	--	--	3	5	4	13*
Passaic	16	--	--	--	1	--	2	2	1	--	4	1	11
Salem	15	--	--	--	--	--	--	--	--	--	2	0	2
Somerset	21	--	--	--	2	1	--	1	1	5	5	4	19*
Sussex	24	--	--	--	--	1	--	--	2	3	5	3	14
Union	21	--	--	1	3	--	3	3	1	--	1	1	13
Warren	23	--	--	--	--	--	--	--	2	1	--	0	3
TOTAL	568	6	3	4	9	6	20	30	36	57	94	42	307**

*Includes districts which have revalued more than once -- see individual district listing for this county.

**Includes twelve districts which have revalued more than once during the period 1951 through 1961. The actual number of districts revalued is 295.

TABLE 2-7

PROGRESS OF REVALUATION IN NEW JERSEY TAXING DISTRICTS

1951 ------ 1961

COUNTY	Total Districts in County	Number of Districts Revalued	% of Revalued Districts	% of Aggregate Property Taxes in Revalued Districts
ATLANTIC	23	11	47.83 %	22.40%
BERGEN	70	39	55.71	46.57
BURLINGTON	40	16	40.00	46.10
CAMDEN	37	19	51.35	33.91
CAPE MAY	16	16	100.00	100.00
CUMBERLAND	14	2	14.29	43.16
ESSEX	22	22	100.00	100.00
GLOUCESTER	24	14	58.33	61.03
HUDSON	12	2	16.67	13.23
HUNTERDON	26	3	11.54	8.03
MERCER	13	8	61.54	32.31
MIDDLESEX	25	15	60.00	66.98
MONMOUTH	53	27	50.94	53.84
MORRIS	39	30	76.92	74.84
OCEAN	34	13	38.24	65.91
PASSAIC	16	11	68.75	56.99
SALEM	15	2	13.33	9.04
SOMERSET	21	17	80.95	83.43
SUSSEX	24	14	58.33	72.04
UNION	21	11	52.38	38.80
WARREN	23	3	13.04	28.17
STATE-WIDE	568	295	51.94%	55.51%

percentage varies among the counties from a low of 11.5 per cent of the taxing districts in Hunterdon County to a high of 100 per cent of the districts in Cape May and Essex Counties. The revalued districts accounted for approximately 55.5 per cent of all local property taxes levied in 1961. This overall percentage also varies among the counties from 8 per cent of all 1961 taxes in Hunterdon County to 100 per cent of all taxes levied in Cape May and Essex Counties. Revalued districts accounted for more than half of all local property taxes for 1961 in only nine of the 21 counties.

D. Business Personal Property

Among the most prominent features of Chapter 51 are those relating to the assessment and taxation of business personal property. The new law clearly separates business personal property from real estate and establishes different standards of value for the two classes. For real estate, the traditional "true value" standard has been retained as the base to which county percentages are to be applied. But for taxable personal property used in business, a new standard described as "fair value" has been established. That this distinction is more than nominal is indicated by the definition of "truevalue" for real estate as the market value, while the "fair value" of tangible personal property used in business is the net book value. In this respect, Chapter 51 is a direct descendant of expectations expressed in the deliberations of the Committee on Taxation and Finance at the New Jersey Constitutional Convention in 1947.

(1) Book Value Assessment

"Book value" assessment for business personal property was the common denominator in a variety of suggested methods for taxing personal property over a long period. Public hearings preceding the development of Assembly Bill 198 (later to become Chapter 51, Laws of 1960) indicated that "book value" assessment was easier to accept as a principle than to define as a tax measure. All businesses do not use the same methods of depreciation and therefore do not report the same "book values" at any given time even for the same kind of property. This was the basis for some competition between proposals to accept whatever "book value" may be reflected in a taxpayer's books of account and proposals to require uniform depreciation methods.

The conflict of approach centered on the apparently inconsistent objectives of simplified taxpayer compliance and uniform assessment of all property subject to an ad valorem tax. In the name of simplified reporting by taxpayers, the Legislature was urged to not only permit, but require that the taxable value of business personal property be expressed in terms of "book value" as reported by the taxpayer for other purposes. Uniformity of assessments for all property similarly situated was the basis for proposals to define all factors affecting "book value", such as original cost useful life expectancy and depreication method, and require all taxpayers to report "book value" as determined by the same method.

Except for the addition of a provision for averaging in group or composite accounts, the Section of Chapter 51 defining fair value of tangible personal property used in business as "book value" (Sec. 5) was adopted as originally introduced.

Recognizing that this definition could create the very problems of implementation which later developed, a Tax Study Committee of the Association of Municipal Assessors recommended the following substitute language:

> The fair value of tangible personal property used in business, other than business inventories, for the purposes of this act shall be a system incorporating original cost, price adjustment factors and uniform depreciation schedules applicable to the personal property affected and such depreciation tables shall not exceed a minimum residual of 25% for assets still in use.

Reasons offered by the Committee of Assessors in support of their amendment appear as follows:

> The use of net book value implies possible depreciation options inimical to sound assessment practices because they violate uniform assessment requirements. The use of net book values actually approves different assessments for two assets that may be identical in cost and age but owned by two different companies. The reason is simply the influence of varying depreciation tables. The presumption that all book values have the same uniform cost data in their original form is in direct conflict with sound assessment practices. Net book value completely defeats uniformity in assessment proceedures.

The assessors data modified their recommendations to exclude the adjustment of original cost to current prices. They continued to promote more rigid requirements for uniformity of assessment than they felt could be obtained from an unrestrained use of book value. At a subsequent hearing they introduced what later became known as the "uniform life - uniform depreciation" approach. They made this statement:

> The ideal method to be used is the one incorporating original cost, price adjustments and uniform depreciation schedules to the personal property...However, it is the opinion that this method is not administratively possible, at this time, and we are abandoning this previous recommendation for this method.

> We are of the opinion, however, that a system incorporating original cost less a uniform depreciation schedule to be the most uniform method to be achieved.
>
> Another alternate solution to this problem, and the simplest to accomplish and still give the overall effect... would be the use of a 50% depreciation factor to original cost and this value would remain constant for the 10 year period. It would have the effect of new industry benefitting for the first 5 years and picking up the balance during the second 5 years. This solution is the easiest to administer and is the one that is the simplest to understand. This would mean that all machinery and equipment would be valued at one-half of its original value and assumes that this amount of depreciation is the average that would be in existant in any plant, because of the continuous retirement and replacing of older equipment.

This proposal set the stage for the"depreciation debate" over the rules and regulations promulgated under Chapter 51 (see Section III).

(2) Business Inventories

In addition to placing business tangible personal property in a taxable classification separate from real estate, Chapter 51 established special classifications for business inventories. These were of two kinds:

First - Exempt inventories - Raw materials, small tools, and supplies.

Second - Taxable inventories - Machinery, equipment, etc., taxed at 1/4 the percentage of "book value" applicable to other business personal property.

The provision of Chapter 51 taxing business inventories at 1/4th the level established for other personal property is an outgrowth of a recommendation by the Commission on State Tax Policy. In its Ninth Report (1958), the Commission recommended that real estate be assessed at 40 per cent of its true value, business personal property other than inventories at 40 per

cent of its book value, and inventories at 10 per cent. This became known as the "40-40-10" proposal. Subsequent legislative proposals retained the idea of assessing inventories at 1/4th the level for other business personalty.

Governor Meyner's recommended exemption of inventories of raw materials, work-in-progress, small tools and supplies (Annual Message, January 12, 1960) suggested a middle course between taxing all inventories and exempting them. Here was a suggested partial exemption of inventories of particular significance to manufacturers and processors. The original Assembly Bill 198, which followed the Governor's recommendation, was subsequently amended to make goods in process taxable. This amendment was inspired by the claim of local assessors and other local officials that all inventory exemptions were a drain on local tax revenues.

Throughout the deliberations preceding the adoption of Chapter 51, there was strong resistance to taxing inventories at all. The desire for exemption, however, was not strong enough to overcome the lack of agreement concerning a suitable replacement revenue source. Business spokesmen suggested a "limited sales tax"; in 1958, the Commission on State Tax Policy had recommended a business net income tax. The sales tax replacement was never seriously considered because it involved replacing a tax on business property by a tax paid largely by consumers.

Partial exemption of inventories owned by manufacturers and processors seemed acceptable without replacement because there

was a growing concern in non-business circles over the prospect of losing manufacturing business to competing states. In this respect, the partial exemption of manufacturers' inventories was acceptable because of the same willingness to "shift taxes" to other property classes evidenced in the case of taxes on household personalty.

Russel T. Wilson, Chairman of the Tax Study Committee of the New Jersey State League of Municipalities was one who expressed concern about the future of the State's manufacturing:

> It is our feeling that ... the tax /to be/levied on business inventories should be broken down so that separate consideration will be given to inventories of service or retail organizations and inventories of processors or manufacturers. This particular provision and its effect on the various types of business must be carefully studied or we may very well accomplish what we are trying to avoid: that of driving manufacturing from this State. (1)

Favored tax treatment for taxable inventories and the outright exemption of raw materials, small tools and supplies did not meet all the objections to including business inventories within the tax base. The provision that taxable inventories be assessed at 1/4 thepercentage established for other business personal property was questioned by spokesmen of trades characterized by a heavy volume and a small profit (markup). Assembly Bill 198 provided for taxing business inventories on average values maintained in stock by the taxpayer. This type of a tax measure is most favorable to businesses with rapid inventory turnover created by high sales and low inventories. Thus is has precisely the opposite effect of a tax on gross

(1) Before the Legislative Conference Group on Full Assessment Problems on February 25, 1959.

receipts or sales. Some of the confusion associated with Assembly Bill 198 is indicated by the contention that such a tax would be burdensome to low inventory-high volume-low profit trading operations. For example, Monroe A. Lewis, representing the Tobacco Distributors Association of New Jersey:

> Now, we have advocated, and we sill advocate, that there must be some differential in the assessment of business inventory. It is manifestly unfair to tax a man solely upon the book value of inventory without any consideration at all of the net profit realized out of the turnover on the inventory... There is very little difference in our industry between a gross receipts tax and a business inventory tax, because our inventory is practically the same as our gross receipts. In the City of New York and in the City of Philadelphia, and in other States throughout the Union where gross receipts taxes have been imposed, invariably they exempt these products that are sold at such a small mark-up....
>
> ...The tax would be more than the gross mark-up on the cigarettes. ...
>
> ...this property which we receive solely for the purpose of immediately transmitting, or immediate transmission, to other wholesalers or retailers in the State of New Jersey is deserving of some consideration from this Committee, because otherwise we are faced with a confiscatory tax, an inequitable tax, and a tax that is unfair to my industry, and I hope that you gentlemen this year will give me a little consideration.

The New Jersey exemption for inventories stored in a public warehouse (R.S. 54:4-3.20) entered into almost every discussion leading to the development of Chapter 51. In contrast to suggested exemptions to be provided in the new law, these discussions concerned the possible elimination of an old exemption. The case for its elimination was presented by Thomas E. Hunt, Director of Revenue and Finance of the City of Newark, as follows:

> ...I stated that revenue was not the main object of this legislation; that it is fairness to our industrial

concerns and our industries. I showed you two particular cases in which properties are adjacent to one another and one gets exemption and the other doesn't and the only difference in that particular concern was that every one of their employees was turned over to the warehouse company, with the same manager, the same shipper and everything else.... there had been no change in that particular one that got exemption /except that/... instead of getting paid from the lumber company, they get paid from the warehouse.

(3) Potential Tax Shifts

The prospect of "book value" assessments for business personal property generated speculation concerning its effect on taxable valuations and on the distribution of local property taxes among classes of taxpayers. Beginning with the Second Report of the Commission on State Tax Policy (1947), various estimates of the probable personal property tax base were made. Most of them were based on ffagmentary tabulalations of assessed values and book values reported by corporations in their New Jersey corporation business tax returns. Although the returns contained a schedule for reporting such values, completion of the schedule by corporation taxpayers was voluntary. As a result, the information was rarely complete, and the returns proved an inadequate guide in appraising the impact of changed assessment standards. Efforts by business groups to substitute statistical accuracy for reasoned estimates were unsuccessful.

Because they were never more than estimates, predictions about the results of book value assessment never gained wide acceptance. A pattern of personal property assessments among taxing districts and among individual taxpayers within single districts was recognized. But no prediction could overcome the

skepticism of assessors or taxpayers who tested it against the small part of the total picture familiar to them. In this respect, the appraisal of potential changes was not unlike the appraisal of the elephant by three blind men. The following memorandum was prepared in the Division of Taxation on April 27, 1960 when Assembly Bill 198 was under consideration:

> Reliable data are not available to appraise the estimate by assessors that exemption of raw materials, goods in process and small tools would shift taxes from business personal property to the "homeowner".
>
> The attached table shows the best that can be done with state wide totals and estimates. Steps taken in the preparation of this table are these:
>
> First - The assessed value of business inventories as reported in the Abstract of Tax Ratables was assumed to be 43% upon manufacturers and 57% upon all other business. These are the percentages found in the case of real estate by the Local Property Tax Bureau.
>
> Second - Assessed values of all business personal property were raised to book values on the basis of assessment ratios of 18% for inventories and 21% for machinery and equipment. These ratios are the result of tabulations from Corporation Tax returns showing book values and assessed values divided as between inventories, machinery and equipment. A Table of ratios for each county is attached /See Table 2-8 & 2-9/
>
> Three - It was assumed that goods in process and raw materials constitute 63% of all manufacturers inventory /Based upon analysis of Federal Income Tax Reports/.
>
> Fourth - Full value of all taxable real estate other than Class II Railroad property was assumed to be that shown in the October 1959 equalization table promulgated by the Division of Taxation.
>
> In 1959 all taxable real estate other than Class II Railroad property represented 89.6% of the combined total assessed value of real estate and business personal property.
>
> Uniform assessments of all business personal property and all real estate at the same ratio (in this case assumed to be 100% for purposes of illustration) would cause real estate to carry 85.2% of the total.

Assembly 198, with assessment of inventories at 1/4 the level for real estate and exemption for goods in process and raw materials, would cause real estate to carry 90% of the total.

Assessment of personal property according to the "4-4-1" ratio with no exemption for any inventories would cause real estate to carry 89.6% of the total.

I only wish the reliability of the estimates shown here were up to the precision with which they show a lack of tax shift. In terms of statewide totals, the 0.4% difference in the proportions of tax base as between actual assessments and Assembly 198 for real estate and business personal property implies tax shifts of $2,954,000 from personalty to real estate.

	Actual Tax 1959 (000's)
Real Estate	$658,916
Business Personalty	79,600
Total	$738,516
	x .004
	$2,954,064

The percentages derived from assessed values cannot be applied directly to the tax amounts because of differences in tax rates as among local jurisdictions. This same reason qualifies the overall estimates as derived.

Other classes of property have been excluded because they involve potential shifts of their own not related to the issue here.

TABLE 2-8

AVERAGE PERSONAL PROPERTY ASSESSMENT RATIOS
ASSESSED VALUE TO BOOK VALUE

BY COUNTY - 1960

COUNTY	INVENTORY		MACHINERY AND EQUIPMENT		ALL BUSINESS PERSONALTY 1/		1957 NINTH REPORT 3/
	No.	Ratio	No.	Ratio	No.	Ratio	Ratio
Atlantic	45	12.25%	155	15.21%	229	12.06%	14.93%
Bergen	275	13.69	591	16.23	1041	19.61	9.76
Burlington	39	10.48	97	16.03	173	7.53	6.98
Camden	86	26.91	224	37.46	371	14.37	11.61
Cape May	9	27.25	37	15.04	57	13.49	8.62
Cumberland	19	20.28	68	13.90	137	11.81	11.25
Essex	417	28.23	932	26.10	2052	20.42	14.19
Gloucester	12	14.67	43	8.75	80	13.13	6.49
Hudson	258	21.33	563	28.09	1068	21.00	12.71
Hunterdon	10	4.71	38	14.19	67	9.07	12.38
Mercer	61	23.49	164	35.82	472	15.17	11.94
Middlesex	113	16.10	269	16.81	519	16.23	9.28
Monmouth	85	11.89	237	12.17	385	7.63	8.28
Morris	71	25.71	183	16.80	329	11.98	6.80
Ocean	44	13.36	109	25.61	162	9.98	10.05
Passaic	173	23.53	399	25.50	820	14.49	9.61
Salem	6	8.90	12	18.26	33	27.21 2/	7.78
Somerset	40	28.53	74	12.16	135	12.26	7.06
Sussex	23	11.25	54	15.32	78	8.04	14.73
Union	299	9.09	529	16.87	908	11.85	10.12
Warren	22	16.49	65	8.77	99	6.11	9.73
County not reported	127	24.99	378	26.54	584	32.17	
Total	2234	18.07%	5221	21.03%	9799	17.66%	10.81%

1/ Total includes properties not reported separately
2/ Includes high assessment for 1 large taxpayer
3/ Commission on State Tax Policy

TABLE 2-9

AVERAGE PERSONAL PROPERTY ASSESSMENT RATIOS
ASSESSED VALUE TO BOOK VALUE

20 Largest Municipalities - 1960

Municipality	INVENTORY		MACHINERY AND EQUIPMENT		ALL BUSINESS PERSONALTY 1/		1957 Ninth Report 2/
	No.	Ratio	No.	Ratio	No.	Ratio	Ratio
Newark	225	31.63%	476	32.43%	1115	24.78%	15.37%
Jersey City	86	26.53	178	24.95	338	36.79	16.95
Paterson	74	28.16	153	25.47	338	19.13	11.44
Trenton	34	25.09	76	30.22	280	18.51	16.01
Camden	41	50.39	98	53.33	163	17.09	12.43
Elizabeth	48	9.75	105	11.58	174	8.74	9.25
East Orange	15	17.88	49	32.67	115	14.21	11.30
Bayonne	14	24.20	30	68.97	65	8.06	12.18
Clifton	20	18.54	56	26.64	113	8.96	5.88
Atlantic City	10	28.24	63	17.06	97	14.10	15.18
Irvington	18	10.11	49	30.51	104	15.71	11.70
Passaic	26	27.51	62	43.09	2	18.81	12.60
Union City	38	11.28	78	33.82	132	13.66	15.71
Hoboken	22	13.43	40	32.86	98	22.07	13.63
Bloomfield	10	15.31	25	17.92	63	14.40	15.26
Montclair	11	10.27	36	37.19	80	11.92	12.45
Plainfield	33	5.22	47	17.69	90	9.11	14.35
North Bergen Twp.	19	10.35	49	11.22	88	5.92	8.43
Perth Amboy	31	12.41	53	13.40	115	11.60	9.43
Hamilton Twp.	5	11.23	17	6.70	43	8.94	5.43

1/ Total includes properties not reported separately
2/ Commission on State Tax Policy

Source: Compiled from Corporation Business Tax Returns.

TAX BASE	Assessed Value	Full Value Total 2/	Full Value Taxable 3/	Full Value Taxable 4/
1. Valuations (000's)				
Business Inventories:				
Manufacturers 1/	$ 159,794	$ 887,744	$ 82,116	$ 221,936
Others	211,819	1,176,767	294,192	294,192
Total	$ 371,613	$ 2,064,511	$ 376,308	$ 516,128
Business Machinery & Equipment	$ 542,737	$ 2,584,462	$ 2,584,462	$2,584,462
Real Estate 5/	$ 7,843,164	$26,723,940	$26,723,940	$26,723,940
Total	$ 8,757,514	$31,372,918	$ 29,684,710	$29,824,530
2. Percent Distribution				
Business Inventories:				
Manufacturers	1.8%	2.8%	.3%	.7%
Others	2.4	3.8	1.0	1.0
Total	4.2 %	6.6 %	1.3 %	1.7 %
Business Machinery & Equipment	6.2	8.2	8.7	8.7
Real Estate	89.6	85.2	90.0	89.6
Total	100.0 %	100.0 %	100.0 %	100.0 %

1/ Manufacturing 43% of total
2/ Estimated on basis of Ratios: Inventories 18% - Machinery & Equipment 21%
3/ Manufacturers inventories 63% exempt. All taxable inventories at 25% of full value.

4/ All inventories taxable at 25% value. No exemptions.
5/ October, 1959 equalization table excludes Railroad Property.

(4) Effect on State aid to Local Schools

Application of the state school aid formula also cast its shadow over the deliberations about "book value" assessments for business personal property. This is the equalization formula under which the State pays to local school districts foundation school program costs in excess of the "local share" calculated on the basis of equalized property assessments. The foundation program has two parts. The program for current operation receives State support to the extent that its cost exceeds a local share of 5 mills (50¢ per $100) on taxable equalized valuations, or $50 per pupil, whichever is greater. The program for capital outlay applies without any minimum aid and is supported by the State for costs exceeding a local share of 0.5 mills (5¢ per $100) on equalized valuations.

Equalized valuations certified to the Commissioner of Education by the Director of Taxation consist of the estimated full value of taxable real estate supplemented by the assessed value of personal property and class II railroad property. Book value assessment of business personal property seemed to offer a standard by which personal and class II railroad property could be equalized in the manner already provided for real estate. With or without such equalization, however, book value assessment suggested increased assessed valuations of personal property. Carrying these valuations into the equalization table would increase local shares of foundation program costs, thus reducing the amount of state support.

Because the problems of adjusting the state school aid

formula were not resolved when Chapter 51 was adopted, the Legislature assigned the school aid question to the Commission on State Tax Policy for study and recommendation (AJR-16). Those problems were the subject of one of numerous Division of Taxation memoranda concerning the application of Chapter 51, dated June 20, 1960, this memorandum reads as follows:

> Preliminary estimates indicate that the impact of equalization of tangible personal property upon State school aid may not be as great as is generally assumed.
>
> Actual effect of changed assessments upon the local fair share, and thus State aid to local schools, will vary as among districts. One of the principal reasons for such variations is the large number of districts now receiving State aid under the $50.00 per pupil minimum provided in the equalization formula. To the extent that local school districts remain under the minimum provisions that change in assessment standards or equalized values will in no way change their State aid.
>
> Calculations have been made on a Statewide basis assuming that all districts were under equalization and the minimum does not apply in any district. The local share tax base promulgated by the Director of Taxation in October 1959, indicate aggregate local fair shares of $140 million at the 5 mill rate. Similar computations based upon standards implied in Assembly 198 just passed, indicate aggregate local shares of $149 million. Translated into State aid amounts this implies a maximum reduction in State aid to local schools amounting to $9 million (excess of foundation program over local shares).
>
> These estimates relate to the foundation program only. Local shares under the school building aid program are 5/10's of 1 mill (or 10% of local share forfoundation aid program). This means a potential reduction in building aid of approximately $900. As contrasted to the foundation program, building aid applies without a minimum and these results are as valid as the estimated valuations upon which they rest.
>
> The combined foundation program aid and building aid reduction is thus expected to be something less than 9.9 million depending upon the application of minimum aid provisions.

Assumptions by which these calculations were made follow:

(1) Real Estate equalized values at 100% remain unchanged.

(2) Class II Railroad Property equalized values (State assessed) remain the same.

(3) Household personal property was eliminated from the equalization table and from the local fair share tax base.

(4) Farm personal property was adjusted to 25% of its estimated full value. Estimated full value was based upon assumption that farm personalty is assessed at 18% of its value (State average for farm real estate).

(5) Business inventories were equalized at 25% of book value with elimination of 1/3 of all manufacturing inventories to reflect exemption for raw materials.

Assessment ratio of 18% for business inventories was assumed. (see memorandum dated April 27, 1960)

(6) Other business personal property was adjusted to its full book value on the basis of an assumed 21% average assessment ratio. (see memorandum dated April 27, 1960)

There is nothing in Assembly 198 which changes the equalization table to apportion State school aid. These assumptions imply amendment of R.S. 54:1-35.2 to reflect these differences in the contents of the table.

BASIS FOR CALCULATING LOCAL SHARE OF FOUNDATION SCHOOL COSTS

	Actual Base	Estimated New Base 100-25%
	(amounts in thousands of dollars)	
Real Estate	$ 26,605,833	$26,605,833
Class II Railroad	165,768	165,768
Personal Property		
Household	306,714	None
Farm	10,181	14,140
Inventories	371,614	442,150
Other	542,737	2,584,462
Total	$ 28,002,847	$29,812,353
Local Share Rates		
Current Program	.005	.005
Capital Program	.0005	.005
Local Share of Costs		
Current Program	$140,010	$ 149,061
Capital Program	14,001	14,906
Total	$154,011	$ 163,967

Increase $9,957

E. COMMON LEVEL

Although New Jersey courts had been developing a concept of "common level" of assessment as a basis for granting taxpayers relief from above average assessments,[1] Chapter 51 was the first incorporation of this concept into the law. Under Chapter 51 (54:4-11) the common level is intended to maintain the anticipated balance between the taxable value of personal property used in business and the level of real estate assessments within each local taxing district, even in the absence of full compliance with official county levels.

(1) Development In Assembly Bill 198

Previous legislative proposals had called for the assessment of business tangible personal property at statewide uniform percentages of "book value" and of real estate at uniform percentages of "true value". Assembly Bill 198 (1960), as introduced (January 18, 1960), followed Governor Meyner's recommendation by defining taxable value of personal property used in business in terms of the official county level of taxable value for real estate:

> The taxable values of tangible personal property used in business in each county shall be of those percentage levels of the fair value thereof as are set forth in this section in relation to the percentage level established pursuant to law for expressing the taxable value of real property in such county. The taxable value shall be determined as of January 1, 1960, which shall be the listing date with respect to taxes payable during the year 1961, and as of a listing date of June 30 annually thereafter as hereinafter provided, which date shall be the date as of which the assessment is made. The said levels shall be as follows:
>
> (1) on all machinery, implements and equipment and all other personal property other than inventories, farm machinery and farm livestock, the level shall be the same level as

(1) See Part I, pp. 28-32.

is established for the taxable value of real property.

(2) on inventories, but inventories of raw materials, supplies, work in process and small tools shall not be taxable, the level shall be 1/4 of the level established for the taxable value of real property. (1)

The original Assembly Bill 198 also contained the following provision permitting property assessments not at the official county levels in local taxing districts unable to comply with county levels immediately:

> In the preparation of assessments of property for the year 1961, if the assessor of any taxing district shall find it impracticable to set forth his assessments at taxable values expressed in terms of the percentage levels for the county established pursuant to law, he may prepare his assessment list and assessor's duplicate according to the level of true value actually used by him in setting forth his assessed valuations, but in such case he shall include in the affidavit prescribed by Section 54:4-36 of the Revised Statutes a statement of the level which he has used. Upon application to the director of the division of taxation setting forth facts showing that it still remains impracticable to prepare the assessments of property for any subsequent year at such taxable value so established, and upon findings by said director that the assessments cannot be so prepared until the completion of a revaluation program meeting the standards set forth in section 54:1-30 at the Revised Statutes and that the level proposed to be set forth in the statement to be included in the assessor's affidavit fairly states the level actually used by him in setting forth his assessed valuations, the director may permit the assessment list and assessor's duplicate to be prepared and filed, together with the said affidavit, in the manner provided in this section for any such subsequent year. (2)

As sometimes happens in the legislative process, the measure adopted (Assembly Bill 198) was influenced by one which was not adopted. Senate Bill 2 (1960) regarded as a companion to Assembly Bill 198, was intended to assure its application in a manner that would protect taxpayers against discriminatory

assessments at above average levels. A "common level" assessment measure, Senate Bill 2 provided a standard for granting taxpayer appeals as follows:

> Where the petition of appeal alleges that the subject property has been assessed at a value in excess of the common level in the taxing district, it shall be presumed, subject to being rebutted by the taxing district, that the common level of assessments of real property is within the range determined by the unweighted average ratio of assessed to true value of real property in the taxing district plus and minus 15% of such average, to be determined by the Division of Taxation in the Department of the Treasury from data compiled for the purposes of chapter 86 of laws of 1954 (N.J.S.A. 54:1-35.1 et. seq.), as finally corrected by the Division of Tax Appeals, for the most recent year available at the time of the filing of the petition. It shall also be presumed, also subject to rebuttal by the taxing district, that discrimination has been established whenever the division is satisfied by the proofs that the ratio of the assessed valuation of the subject property to its true value exceeds the upper limit of such common level determined as above provided. Upon the basis of such presumptions, the taxable value of the property may be reduced or increased so that it will fall within the common level so determined. (1)

The importance which taxpayers attached to Senate Bill 2 as companion measure to Assembly Bill 198 is indicated by the following statement by the New Jersey Taxpayers Association:

> It is generally recognized that property taxation in its impact of individual taxpayers is rife with inequities. Assembly Bill 198 would establish procedures aimed toward a greater measure of equity among all taxpayers than would be afforded under court enforcement of the present 100% true value requirements on both real and personal property. Yet any such major change presents problems of transition and adjustment, particularly when, as in this case, it is effectuated under a weak administrative structure represented by nearly 1,000 assessing officers of varying competence and experience, inadequate administrative areas, and lack of the tools of good administration. Thus it is by no means certain that the desire equity would be assured. In fact, unless some means of practical self enforcement is provided, the bill could just as easily become the source of a whole new rash of inequities. Thereupon the value of

(1) Proposed amendment to N.J.L. 54:2-40.5, 54:3-22 and 54:4-62 (Senate Bill No. 2, Introduced January 12, 1960)

its many excellent features would be largely lost in the failure to realize the primary goal of equity.

Senate Bill 2 is designed to avoid this danger. It would place in the hands of the homeowner, the small businessman -- in fact all taxpayers -- a practicable means of obtaining equity. Barriers that too long have stood between them and fair treatment would be lowered. The bill would establish a method by which Assembly Bill 198 would be self-policing as to inequities in the taxation of real property. That is, the taxpayer would be in position to speak and be heard.

The provisions of Senate Bill 2 are therefore an essential element of the program of improvement represented by Assembly Bill 198. Without it the real property owner would be largely defenseless before the evils of maladministration. It would be a deplorable failure of legislative judgment for New Jersey to provide the vitally needed improvements contained in Assembly Bill 198 without giving the taxpayer assurance that he would be able to enjoy the benefits of these improvements, which is the express purpose of Senate Bill 2.

Taxpayer spokesmen were not alone in their recognition that the "common level" provisions of Senate Bill 2 were an important supplement to Assembly Bill 198. Speaking for the Tax Study Committee of the Assodiation of Muncipal Assessors, Alfred J. Greene, Jr. testified before the Senate Committee on Revision and Amendment of Laws:

> We also suggest, as part of an additional paragrah, 3-a (Section 3), that Senate Bill No. 2 be incorporated as an amendment to this bill, dealing with the so-called buffer as far as a common level would be concerned. And our feeling is that 15% is practical because under the true value concept or in our thinking of market value, in using wherever applicable three approaches to value you have many things to consider. If you can get it within this range, we think this is as much as can properly be effected by the assessor of the respective taxing districts.

(1) Public Hearing before Senate Committee on Revision and Amendment of Laws, Trenton, February 17, 1960 - pp. 40A, 41A

The "common level" provision reflected the fear of business taxpayers that because "book value" assessments were to be based on a rigidly enforced requirement that taxpayer returns be filed, business personalty would be assessed according to the letter of the law, while real estate continued to be assessed at levels below legally established percentages of true value. In such a situation, personal property used in business would carry a disproportionate share of the local property tax load.

As the new legislation was developed, this contingency, commonly referred to as a potential tax shift to business, became the counter-argument to forecasts that equalization of real estate assessed values would produce a tax shift to home owners. During the hearings preceding the adoption of Chapter 51, representatives of business interests expressed this apprehension and tried to have Section 37 of Assembly Bill 198 amended in the following way for application in local taxing districts where real estate assessments had not been equalized through revaluation:

> In the preparation of assessments of property for the year 1961, if the assessor of any taxing district shall find it impracticable to set forth his assessments at taxable values expressed in terms of the percentage levels for the county established pursuant to law, or if the taxing district shall not have completed and put into operation a revaluation program in the period January 1, 1954, to January 1, 1960, he (may) shall prepare his assessment list and assessor's duplicate (according to) expressed in terms of the percentage level of the true value of real property and the percentage levels of the fair value of taxable tangible personal property actually used by him in setting forth his assessed valuations, but in such case he shall (1) value business inventories at the applicable percentage level of fair value, derived from

equation A (provided in this section), and set forth in a table to be known as the Business Personalty Ratio Table, which table shall be on file in the office of the Division of Taxation with a copy thereof being sent to each assessor by the Director of the Division of Taxation on or before June 30, 1960 or at 1/4 of the percentage level of true value of real property actually used by him in setting forth his assessed valuations for the year 1961; whichever is lower; (2) value all machinery, implements and equipment and all other personal property other than inventories, farm machinery and farm livestock, at the applicable percentage level of fair value, derived from equation B (provided in this section), and set forth in the aforesaid Business Personalty Ratio Table or at the percentage level of true value of real property actually used by him in setting forth his assessed valuations for the year 1961, whichever is lower; and (3) include in the affidavit prescribed by section 54:4-36 of the Revised Statutes a statement of the percentage levels which he has used. (Upon application to) In the preparation of assessments of property for any subsequent year, if the assessor shall apply to the director of the division of taxation (setting) and set forth facts showing that it still remains impracticable to (prepare the assessments of property) set forth his assessments for (any) such subsequent year at (such) taxable values (so established) expressed in terms of the percentage levels for the county established pursuant to law, (and) upon findings by said director that the assessments cannot be so prepared until the completion of a revaluation program meeting the standards (set forth in) prescribed under Section 54:1-30 of the Revised Statutes and that the levels proposed to be set forth in the statement to be included in the assessor's affidavit fairly state(s) the levels actually used by him in setting forth his assessed valuations, the director may permit the assessment list and assessor's duplicate for any such subsequent year to be prepared and filed, together with the said affidavit, in the manner provided in this section (for any subsequent year.); but if the taxing district shall not have completed a revaluation program and put it into operation in the six year period prior to such subsequent year, the director shall require the assessment list and assessor's duplicate for any such subsequent year to be prepared and filed together with the said affidavit, in the manner provided in this section.

Equation A

$$\text{Assessment Ratio for Inventories} = \frac{P}{4M + 1}$$

Equation B

$$\text{Assessment Ratio for Machinery and Equipment} = \frac{P}{M + 1/4\ I}$$

In these equations P is the percentage that total assessed valuations of business personal property as of October 1, 1959, is of the total fair value of business personal property as of January 1, 1960; I is the percentage that the fair value of all business inventories as of January 1, 1960, is of the fair value of all business personal property as of January 1, 1960; and M is the percentage that the fair value of all machinery, implements and equipment and all other business personal property (other than inventories, farm machinery and farm livestock) as of January 1, 1960, is of the fair value of total business personal property as of January 1, 1960. (1)

This proposed amendment was accompanied by a set of "computing tables" to be used by assessors in implementing the provision. (2) The suggested process was described by John J. Mcgovern, Jr., speaking for the New Jersey State Chamber of Commerce at the Public Hearing before the Senate Committee on Revision and Amendment of Laws: (3)

> The amendment proposed by the State Chamber would impose certain requirements on any assessor who, in preparing his assessments of property for 1961, finds it impracticable to use his county's ratios, or whose taxing district has not had a revaluation in five years. Under either or both of those circumstances, the assessor would

(1) Testimony of John J. Magovern, Jr., at Public Hearing before Senate Committee on Revision and Amendment of Laws (Trenton, Feb. 17, 1960)

(2) See Appendix____

(3) Public Hearing, Trenton, February 17, 1960 (pp 29-31, 33-35)

prepare his real property assessments in terms of another ratio, and it would probably be the same ratio he has used in his 1960 assessments. The assessor would then be required to assess business machinery and equipment at a ratio, unrelated to his real property ratio, but designed to fit the specific situation in his taxing district, which ratio he would find through the use of a formula or by consulting a table called the "Business Personalty Ratio Table." The formula and the table which reflects the formula were developed by the Research Department of the State Chamber of Commerce. The assessor would assess business inventories subject to tax at one-fourth of the assessment ratio he used on machinery and equipment. He would also be required to include in the affidavit submitted to the county board along with his assessment list a statement of the three assessment ratios - that is, real property, machinery and equipment, and inventories - as used by him.

The "Business Personalty Ratio Table" is so designed that by applying to the fair value of machinery and equipment and to the value of inventories, respectively, the ratios in the Table which are applicable to his taxing district, the assessor would derive the same amount of business personalty assessed valuations for 1961 as he has for the year 1960. The 1961 distribution of the business personalty assessments, as between inventories on the one hand and machinery and equipment on the other, might differ from the 1960 distribution because of the impact of the 4 to 1 relationship between the machinery and equipment ratio and the inventories ratio; but the total business personalty assessments in 1961 would be the same as in 1960, apart, of course, from the tax exempt inventories.

Under the State Chamber amendment, in succeeding years, under state circumstances, the same ratios would be applied to machinery and equipment and to inventories, respectively, as were derived from the Table. In these future years the personal property ratios would continue to be used in districts where the Director of the Division of Taxation permitted, as under Section 37 of A 198, a real property ratio different from that of the county under A 198 and different from the state ratio under Senate 1. The ratios would also be used in all districts which had not completed a revaluation in a six-year period prior to the year in question.

The proposed amendment would also require that in any district, in which the personalty ratios which would flow from the real property ratio adopted by the district would be lower than those derived from the Table, the lower of the two sets of ratios would apply. In other words, if a district should use a ratio for real property of 16 per

cent ratio on machinery and equipment and a 4 per cent ratio on inventories and the Table should indicate ratios of 15 per cent on machinery and equipment and 3.75 per cent on inventories, the actual ratios to be used would be 15 per cent and the 3.75 per cent, respectively.

. . . .

Now, how does this Table work? We have Chart 4 and we have tried to do it here by steps. This is how the operation of the Business Personalty Ratio Table would work.

As indicated on the chart, the first thing the assessor does is to add up the fair values of the business personal property in his taxing district as found on the returns and as estimated by him in those instances in which the taxpayer fails to file a return. This gives him, as shown in the topmost bar on Chart 4, the fair value of all business personalty as of January 1, 1960. In this illustration it is assumed that the total fair value of all business personalty amounts to $10 million. That is at the top of that bar.

Secondly, the assessor compares the $10 million total fair value of all business personalty as of January 1, 1960, with total assessed valuation of business personalty in his taxing district as of October 1, 1959. As the middle bar on Chart 4 indicates, we are assuming that in this taxing district the total assessed valuation of business personalty on October 1, 1959 was $1.5 million. Comparing that figure with the $10 million of fair value of all business personalty as of June 1, 1960, the assessor finds that the assessments equal 15 per cent of the fair value total.

Thirdly, the assessor adds up the inventory fair values as found in the returns and as estimated by him and finds that they total $5 million, as indicated in the upper half of the third bar on Chart 4. Likewise he adds up the machinery and equipment fair values, as found on the information returns, and as estimated by him in cases where no return was filed. He finds that these, in this particular example, also total $5 million. Thus, the percentage that inventory fair values are of all business personalty fair values is 50 per cent.

The assessor then looks for 15 per cent in the Business Personalty Ratio Table. Now, this sounds complicated, but actually if you follow it step by step you read like a tax return, I hope, from one to the next.

> Now then the assessor goes and looks for 15 per cent in the first column of the Business Personalty Ratio Table. This is the column which is headed as follows: "If the average assessment ratio on business personalty on October 1, 1959 equalled." The percentages are there. In other words, this column represents the percentage that total assessed valuations of business personal property as of October 1, 1959 are of the total fair value of business personal property as of January 1, 1960. I am really speaking of this fourth area down here.
>
> . . . .
>
> The Table consists of three sheets, the first of which covers the percentages that business inventories constitute of all business personalty ranging from 1 per cent to 35 per cent, inclusive; the second of which covers inventory percentages ranging from 36 per cent through 70 per cent; and the third, from 71 on up through 100. Since, in this instance, the percentage that inventories constitute of the total fair value of all business personalty is 50 per cent, the assessor would turn to page 2 of the Table and proceed along the top row until he comes to 50%. Where the 15% row on page 2 meets the 50% column, the assessor finds the assessment ratio to be 24%. This is the ratio that he would apply to the fair values of machinery and equipment subject to tax. He would then apply 1/4 of this percentage, or 6 per cent, to the fair values of inventories subject to tax in making up his list of taxable values of business personalty.

This proposed amendment, along with the attempt to explain it, raised more questions than it answered. Although the amendment's purpose was to maintain existing assessment ratios between real estate and business tangible personal property during a year of transition, its discussion raised other questions concerning the "freezing" of aggregate assessments of business personal property. It is probable that few people ever really understood the proposed amendment . Public discussion of it left little doubt that any effort to apply the amendment would suffer from the same problems of communication associated with its initial explanation. Even so, spokesmen for the New Jersey State Chamber of Commerce informed the Senate Committee on Revision and Amendment of Laws that the acceptability of Assembly Bill

198 to their organization depended on the inclusion of the amendment. Here is an excerpt from the committee hearing: (1)

> SENATOR FOX: Mr. Magovern, I would like to ask you a very blunt question and then I would like to get a very blunt answer. In connection with this proposed amendment that you have made here, do I understand that this is the sole amendment that you have in mind as far as this bill is concerned? I ask you that because last year when we held the last meeting on 50-50-12½ of this committee, it was indicated quite clearly to us that if we made one amendment with reference to a filing date, the State Chamber would be in accord with that bill. And it was only within a few weeks afterward that they were kicking our brains out. Now I would like an answer to it.
>
> . . . .
>
> MR. MAGOVERN: The position of the State Chamber is that if favors this bill provided this amendment is incorporated in the bill. If the amendment is not incorporated in the bill, we are against the bill.
>
> SENATOR FOX: Totally?
>
> MR. MAGOVERN: Sir?
>
> SENATOR FOX: Totally?
>
> MR. MAGOVERN: Yes, sir, totally, no reservations.

This exchange led to further discussion about the amendment and its implication concerning potential tax distributions. The hearing ended on a note of doubt that so severe a position would be maintained: (2)

> MR. ARNOLD: I would like to ask one question that's been going through the minds of several people here - the opposition to both Assembly 198 and S-1: provided this amendment that you have been describing is not accepted would this mean that you would prefer no legislation at all?
>
> MR. MAGOVERN: We don't like to say that we would just give up the ship. We would hope that we --

(1) Public Hearing before Senate Committee on Revision and Amendment of Laws, Trenton, February 17, 1960 pp 52, 53.

(2) Ibid pp. 89,90

MR. ARNOLD: I mean if you had a choice between conditions as they are now and as they may become with no legislation or this legislation without the amendment, which choice would you make?

MR. MAGOVERN: With all due respect to the Chairman of this Committee, if I may apologize to you, we did have a President by the name of Roosevelt who did say upon occasion that that question was so "iffy" that he didn't know how to answer it, and I think this is that type of "iffy" question.

(2) The Common Level Decision

The discussions of section 37(the common level provision) and of the proposed amendment to it suggested a possible solution of the problem in terms of the "common level" itself.

The "Common level" provision which became a part of Chapter 51 was in no way tied to a point of transition or to a requirement that local taxing districts revalue their taxable real estate. It provided that, in deriving each annual property assessment roll, the "common level" percentage be directly applied to the fair value (book value) of business tangible personal property. There was one exception to the use of the common level in determining the taxable value of tangible business personalty:

> In the year in which a taxing district shall have completed and put into operation a district-wide adjustment of real property taxable valuations to conform to the percentage level established for expressing the taxable value of real property in the county, and if a statement to such effect has been included by the assessor in the affidavit prescribed by section 54:4-36 of the Revised Statutes, the common level shall be presumed, subject to rebuttal, to be the same level as is established for the taxable value of real property in the county. (Sec. 8:54:4-11)

This exception was designed to prevent undue tax shifts between personal property and real estate. It had been feared that such shifts would result from the use of common level

percentages based not on assessment levels reflecting recent district wide adjustments but on earlier assessments. By replacing the common level with the percentage level of real estate taxable value as established by the County Board of Taxation during the year of transition from one assessment level to another, the tax balance between personal and real property is maintained. Because this exception is provided only for the year of district wide adjustment, it subtracts nothing from the long range purpose of maintaining a balance between real and personal property assessment levels.

Chapter 51 defines the "common level" as the

> ...unweighted average ratio of assessed to true value of real property in the taxing district determined by the Director of the Division of Taxation as of October 1 of the year preceding the tax year, from data compiled for the purposes of chapter 86, laws of 1954 (N.J.S.A 54:1-35.1 et seq.); provided, nevertheless, that such common level shall not exceed the percentage level, in effect in the tax year, for expressing the taxable value of real property in the county.... (Section 8:54:4-10)

This definition may have implications beyond the provisions of Chapter 51 itself. As the first statutory definition of common level, it is a measure which may be used by the courts to make their "common level" decisions in tax discrimination cases effective. Judicial recognition of the measure may accomplish indirectly by court interpretation what the Legislature had failed to accomplish directly when it rejected proposals like those contained in Senate Bill 2 (1960 and 1961).

In the Kents case, the New Jersey Supreme Court ruled that the "common level" of assessments within a taxing district,

determined statistically from an averaging of assessment ratios, could be used as a basis for granting taxpayer relief on appeal from assessments at a higher ratio. This is another long step in the direction of judicial unwillingness to condone uneven assessments and an important one in the direction of making taxpayer appeals from uneven assessments easier than they have ever been before. (1)

Chapter 51, Laws of 1960 contained the first legislative recognition of "common level" assessments and provided for their annual determination within each local taxing district by the Director of Taxation as a basis for measuring the "taxable value" of personal property used in business. Fortified by a judicial recognition of the "common level" and a legislative definition of it, taxpayers who feel that they are bearing an undue portion of the property tax load can be expected to increase their tax appeal activities.

(3) Measurement of Common Level

Translation of the concept of "common level" of assessment into an effective measure capable of administrative application requires a recognition that any measure selected must be an average in some form. In its broadest sense, an average is nothing more than a single experience derived from a number of experiences and used to represent the general character of all experiences. Whatever words may be used to describe it -- such as common, typical, usual, normal--the average is a measure of

(1) In re Appeals of Kents 2124 Atlantic Ave., Inc., 34 N.J. 21 (1961)).

of central tendency of experience which vary among themselves and thus vary from the average used to represent them.

Every description is in some sense an average in that it generalizes information in a form to be communicated, understood and acted upon. Consider for example the way averages underlie such ordinary concepts as normal temperature, amount of rainfall, profits from sales, wage rates, automobile speed and others. Each of these concepts is based upon condensation of a mass of data to a single figure or a single measure. The concept of a common level of assessment is no exception to the rule and its application requires a choice of averages to be used.

Four Kinds of Averages

There are several different kinds of averages and each has its own meaning and use. The four most common and easily computed are known as the mean, median, mode and weighted average, defined as follows:

Mean - sometimes called arithmetic mean or arithmetic sum of the observation divided by the number of observations.

Median - sometimes called the midpoint--is the level which divides the observation into two parts with an equal number of observations falling above and below.

Mode - sometimes called most frequent occurrence--is the observation which occurs most frequently.

Weighted Average - is a modification of the mean in a manner to relate the influence of each observation to its importance as measured by another factor, independent of the observation itself. Various weighted averages can be developed depending upon the choice of weights and the method of their application. One form of this average is used in the New Jersey equalization table where assessment

ratios are weighted by property values within each of 4 classes of property.

Under what is commonly called a normal distribution of observations, each of the averaging method will yield the same result. This is illustrated by the following example of six property assessments:

Property	Assessed Value	Market Value	Assessment Ratio	Ratio X Market Value
A	$ 1,000	$ 10,000	10%	100,000
B	4,000	20,000	20	400,000
C	9,000	30,000	30	900,000
D	9,000	30,000	30	900,000
E	8,000	20,000	40	800,000
F	5,000	10,000	50	500,000
	$36,000	$120,000	180%	3,600,000

An average assessment ratio of 30% is obtained from application of each of the four averaging methods:

Mean = 30%; total ratios ÷ number of properties (180 ÷ 6 = 30)

Median = 30%; midpoint (greater than 10% and 20% but less 40% and 50%)

Mode = 30%; most frequent (2 observations)

Weighted Mean = 30% [total ratios x market values] ÷ total market values

(3,600,000 ÷ 120,000 = 30) or

with weighting by property market values — total assessed values ÷ total market values

(36,000 ÷ 120,000 = 0.30 or 30%)

Variation in Results

Such conveniently normal distribution of observations rarely occurs. This means that the four averaging methods will not always yield the same results. Consider, for example, results obtained from a sample of five properties with assessed values,

market values and assessment ratios as follows:

Property	Assessed Value	Market Value	Assessment Ratio	Ratio X Market Value
A	$ 2,000	$ 20,000	10%	200,000
B	2,000	10,000	20	200,000
C	3,000	10,000	30	300,000
D	6,000	10,000	60	600,000
E	60,000	100,000	60	6,000,000
Total	$73,000	$150,000	180%	7,300,000

The four averages appear as follows:

Mean = 36%; total ratios ÷ number of properties (180 ÷ 5 = 36)

Median = 30%; midpoint (greater than 10% and 20% and less than 60% and 60%.)

Mode = 60% most frequent (2 observations)

Weighted Mean = 48.67% /total of ratios x market values/ ÷ total market values (7,300,000 ÷ 150,000 = 48.67), or

with weighting by property market values: total assessed value ÷ total market value (73,000 ÷ 150,000 = 0.4867 or 48.67%)

Wide variations in average assessment ratios obtained for the five example properties by the four methods indicates the importance of the method itself to the choice of averages based upon dissimilar observations. The relationship among results obtained by the four averaging methods will change as the distribution of observations changes within the total of all observations.

Choice of Average

The choice among averaging methods depends upon what it is used to express. For example, the equalization table, prepared annually by the New Jersey Division of Taxation, has as its purpose the approximation of "full" or market value of all taxable real estate within each municipality. The weighted average is

superior to other averaging methods for this purpose. It provides an average ratio capable of indicating the total market value represented by total assessed values for any given sample of properties, however varied their individual assessment ratios may be. None of the other averaging methods can yield this result under all circumstances.

This advantage of the weighted mean over the other three basic averages from the standpoint of estimating market values is illustrated for the preceding example as follows:

Averaging Method	Total Assessed Value	Average Ratio Derived	Estimated Market Value (Assessed value ÷ Av. Ratio
Mean	$ 73,000	36%	$ 202,778
Median	73,000	30	243,333
Mode	73,000	60	121,667
Weighted Mean	73,000	48.6667	150,000

If it is the purpose to bring all property assessments to a common level defined as one capable of maintaining aggregate assessed values unchanged, as equalization occurs, the weighted mean is the only satisfactory average. For purposes of the New Jersey annual equalization table, additional assurance of reliability is accomplished by developing the weighted average separately for each of 4 classes of property.

Full or equalized (market) values are estimated separately for each class of property on the basis of total assessed values and the weighted average assessment ratio. Composite full or equalized (market) values are derived as the sum of the four separate calculations. The composite, or overall average assessment ratio represents the percentage of total assessed to total

estimated full or equalized (market) values. The composite average is thus weighted not only by the value of properties within the sample of observations, but also by the value of comparable properties within the entire assessment roll. Such weighting thus takes into account variations in sample coverage for each class of property as well as variations in property values.

It is also possible to develop a mean weighted only for differences in sample coverage as among classes of property without reference to variations in property values. This involves separate determination of unweighted means for each class of property and a weighting of each class mean by the number of properties of such class within the entire assessment roll. This kind of a weighted mean average is nothing more than a refined unweighted mean. The refinement serves only to adjust an unrepresentative sample to the characteristics of a known whole (assessment role). It serves the same purpose as an unweighted mean based upon a representative sample of observations.

Except as they may be applied to adjust for sampling coverage, weighted averages are not appropriate for determining the common level of assessment on terms of the most usual, most frequently occurring, or most descriptive level of assessment. For example, the weighted mean assessment ratio for the preceding illustration (48.67%) is substantially above ratios prevailing for 3 of the 5 properties and below ratios prevailing for the remaining 2 properties. It is not descriptive of assessment results obtained for any property.

The mean (or arithmetic average) takes into account all observations within the sample and gives equal weight to each according to its frequency of occurrence. In this sense, the mean represents true point of balance or equilibrium point and is used by engineers for this purpose. It is the point at which the sum of the differences of individual observations is equal to zero. This can be illustrated by the following example:

Property	Assessment Ratio	Deviation from Mean	
A	10%	-18	
B	10	-18	
C	10	-18	Mean = 28%
D	10	-18	(140 ÷ 5 = 28)
E	100	+72	
Total	140%	0	

By giving equal weight to each observation, the mean establishes a point of equilibrium which is technically most descriptive of common experience for all observations. In the above example, one assessment ratio of 100 per cent draws the mean (or average) toward itself to the extent of 18 percentage points greater than what appears to be the "common level" of assessment for all other properties.

Two Overages for Two Purposes

The mean is the most commonly used average. It is also the most appropriate in measuring "common level" of assessment. This is the "common level" described in Chapter 51 as the basis for determining taxable value of tangible personal property used in business. Adoption of this new "common level" average on a basis different from assessment ratio averages used for the purposes of apportioning State aid to local school districts means that

The mode stands out among the four basic averages as the one most consistent with the popular concept of "common level" of assessment. Remember this is the level occurring most frequently. But the frequency of modal observations must be sufficiently great to claim validity as something more than a random occurrence. It was this absence of any effective mode which prompted the court to deny taxpayer relief in the Lackawanna case on the ground that there was no common level of assessments.(1) The mode of 2 property assessments at 60 per cent of market value shown in the above example represents 3/5 of all properties sampled but carries a heavy burden of proof because of its position at the extreme of assessment range covered by all properties sampled.

The median, as its name implies, is a concept of common level based upon its position (or ranking) in relation to all observations. Its principal function is to provide a basis for comparison among observations within a single sample or as among samples. In the above example, the median assessment ratio of 30 per cent provides a basis for comparing the assessment ratio of 10 per cent for one property with ratios of 60 per cent for 2 properties and describing the range of assessments results as that between 1/3 and double the median. The median of 30 per cent also provides a basis for comparing the above sample of 5 property assessments with other samples. The median is most useful in comparing assessment levels as among municipalities where the range and distribution of individual assessments vary widely.

(1) Delaware, Lackawanna & Western R. R. Co. vs. Neeld 23 N.J. 561 (Sup. Ct. 1957)

New Jersey will have two official average assessment ratios. This is justified because the two averages are used for two different purposes:

First - There is the "equalization" average called the weighted ratio. The purpose of this ratio is to measure the extent to which each municipality assesses all true values of real estate available to it for purposes of taxation. It is determined by dividing the total of all assessed values by the total of all true values and arriving at a percentage. Because complete totals are rarely available, sales samples are used instead. The total true value for all property within a municipality can be approximated on the basis of the weighted ratio of a representative sample. No other kind of average will serve this purpose.

Second - There is the new "common level" average called the unweighted ratio. As its name implies, the purpose of this ratio is to show the one level of assessment which can be said to represent the level for all real properties without prejudice as between big ones and little ones. It is determined by dividing the total of all ratios computed separately for each property by the number of properties. The same sales samples can be used in both computations, but the results will, in most cases be different.

Application of the two average ratios can be illustrated by extreme examples. Consider two municipalities each containing six taxable properties assessed at ratios ranging from 10% to 60% of true value. The six properties are identical in the two

municipalities and they have true values aggregating $1,219,000 as follows:

True Value	--Municipality A-- Assessed	Ratio	--Municipality B-- Assessed	Ratio
$1,000,000	$600,000	60 %	$ 100,000	10 %
100,000	50,000	50	20,000	20
50,000	20,000	40	15,000	30
30,000	9,000	30	12,000	40
20,000	4,000	20	10,000	50
10,000	1,000	10	6,000	60
$1,210,000	$684,000	210%	$163,000	210%

Average Ratios	Weighted	56.52%	Weighted	13.47%
	Unweighted	35.00	Unweighted	35.00

Deviation From Standard

It is one thing to calculate an average, but it is something else again to determine how much validity to assign to the average once it is calculated. More important than the average itself is the probability that it represents a sound basis for generalization about the sample from which it is derived.

The range is the most simple of all measures of deviation. As its name suggest, this is nothing more than the difference between the lowest and the highest observation. For example, the averages computed above apply within a range of 50 percentage points (60-10 =50).

Average deviation is a simple measure of the variation of individual observations from their average. This is nothing more than the sum of differences between the average and each individual observation divided by the number of observations. Because differences will be both positive and negative (and

will always add to zero in the case of the mean) it is necessary to add only the numerical differences without regard to their sign (+ or -).

For example, average deviations from average assessment ratios for 5 properties (shown on page) appears as follows:

Property	Assessment Ratio	Deviations from Average			
		Mean 36%	Median 30%	Mode 50%	Weighted 48.67%
A	10%	26	20	50	38.67
B	20	16	10	40	28.67
C	30	6	0	30	18.67
D	60	24	30	0	11.33
E	60	24	30	0	11.33
T otal	180%	96	90	120	108.67
Average	36%	19.2	18	24	21.73

By this rough test, the median assessment ratio of 30 per cent appears most representative of the 5 property samples. With an average deviation of 18 percentage points, the median shows less variation from actual assessment ratio than the mean (19.2%), the mode (24%) and the weighted mean (21.73%).

In this case the average deviation was calculated as the mean of all deviations. It would, of course, be possible to apply other averaging methods, but the results would be difficult to interpret and use.

The average deviation is vulnerable to the same criticism as all means (average) in that it gives equal weight to all deviations however great they may be or whatever their frequency of occurrence.

Standard deviation is a more commonly used measure of deviation because it must be flexible in its application and interpretation. Unlike the average deviation, which may be calculated around any average, the standard deviation is always calculated around the mean.

Although it sounds complicated the standard deviation simply

calculated as the square root of the average deviation squared. This calculation is illustrated by the following example:

Property	Deviations from Mean	Deviations Squared	
A	26	676	
B	16	256	Standard deviation
C	6	36	
D	24	576	$\sqrt{424} = 20.59$
E	24	576	
Total	96	2,120	
Average	19.2	424	

In a normal distribution one standard deviation from the mean includes about 1/3 (34.134%) of the observations. This means that a range described as the mean plus or minus one standard deviation includes 68.268 per cent of all observations. The complete range of probable expectations appears as follows:

mean $\pm$ 1 standard deviation includes 68.268%

mean $\pm$ 2 standard deviations includes 95.450%

mean $\pm$ 3 standard deviations includes 99.730%

The size of the standard deviation thus indicates the width of the range about the mean which is required to include whatever portion of the total is required for the degree of accuracy that is sought. In the example shown above, it would require an assessment range between 15.43 per cent and 56.57 per cent to meet probability expectations that more than 2/3 (68.268%) of all assessments would be included:

$$36 \pm 20.57 = 15.43 \text{ to } 56.57$$

Even where the distribution is not normal, mathematical theory has demonstrated that the mean $\pm$ 2 standards will include at least 75 per cent of all observations and the mean $\pm$ 3 standard deviations will include at least 88.9 per cent

of all observations. This result rests upon a probability function which does not need to be demonstrated here. Assessment portions sometimes do not fall within normal distributions and such limits are therefore important to remember.

Coefficient of Variation

However it may be measured, the significance of any unit of deviation depends upon its relationship to the average from which it was determined. Thus, a standard deviation of 20.59 percentage points around a mean (average) assessment ratio of 36 per cent, implies a variability of more than 57 per cent ($20.59 \div 36 = 57.19$).

This percentage of variability is called the coefficient of variation. Low coefficients of variation imply reliability of estimates based upon the sample mean. In this way the coefficient is useful in determining the size of an adequate sample as well as the confidence with which the average can be regarded as a suitable measure of central tendency.

The Sample

Each of the illustrations shown in the preceding discussion has been based upon a small number of observations for purposes of simplicity. There is always some suspicion of inadequacy on small samples. Statisticians have learned, however, that small samples carefully selected can yield more accurate results than large samples which are not representative.

The basic criterion in selecting a scientific sample is that each item (or unit) in the universe from which the sample is selected must be free to enter the sample by chance. This

is a principle of probability based upon the free operation of chance. Where the characteristics of the universe are known, the sample can be selected in a manner to model the whole.

Where all characteristics of the universe are not known, validity of the sample can be proteced by sampling in segments representing such characteristics as are known. This feature of the sampling process underlies the computation of weighted average assessment ratios by 4 property classifications in the equalization tables prepared by the New Jersey Division of Taxation.

The size of sample required depends more upon the variability of experiences to be sampled than upon their number. Where assessment ratios vary widely, it takes a larger sample to insure reliability of averages than where the ratios fall within a narrow range or follow a clearly discernable pattern. There are various ways to approximate sampling errors based upon the probability that the sample is in fact random.

Property assessment ratios based upon property sales comprise adequate samples of all property assessment ratios to the extent that properties sold are representative of all properties. This condition is met in varying degrees in different municipalities and for different classes of property. It was an absence of active real estate markets for certain classes of industrial and commercial property which prompted the rise of appraisals to supplement available sales values in samples of assessment ratios used in preparation of equalization tables by the Division of Taxation.

F. Household Personal Property and Personal Effects

The tax on household personal property and personal effects had long been critized as impractical. Collection of the tax had often proved extremely difficult, sometimes impossible, and valuation of household personalty had been as great a problem. Thus, the long-standing recommendation for the abolition of the tax on household personalty attracted considerable support during the deliberations preceding the enactment of Chapter 51. At the February 11, 1959 public hearing of the Legislative Conference Group on Full Assessment Problems, Assemblyman Elmer Matthews noted that

> ...out of the four public hearings that we held last summer, the overwhelming majority of assessors and people who testified for us were against the household personal property tax because of the cost of collection....

A familiar list of specific difficulties inherent in the assessment of household personal property was outlined by Sydney E. Margolin, assessor of Morristown, who addressed the Committee on March 2, 1960. He stressed the difficulty of valuing household goods, and attributed it to the lack of a real market value for them, and to personnel and man hour requirements out of proportion to the revenue collected under the tax. He added that the household personal property tax accounts for most of the delinquencies on the tax rolls.

The only outspoken opposition to the exemption of household personal property was expressed by several groups from rural Warren County. This opposition was intended more as a criticism of any property tax exemption than as an expression of support for household personal property as a suitable property tax base. One spokesman for this group was H. Arthur Race, Tax Collector of White Township in

Warren County. As he put it:

> I do not believe that they /the Township Committee of White Township/ are in love with this particular tax, but I feel it should not be removed without something to take its place.

He added:

> It also appears that certain municipalities, by their own volition, have decided to discontinue this household goods tax. If they have the privilege of doing so, why should we pass a State law to eliminate it when, by their own volition, if they choose to consider it inequitable or undesirable they can do it themselves.

A natural compromise between the general desire to exempt household personal property and the articulate opposition to its exemption was the local option provision included in several legislative measures preceding Chapter 51 and, finally in Chapter 51 itself.