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ERRATA AND ADDENDA

Note is made of the following amendments and addenda which bring the text into conformity with the official records of the assembly and the senate, correcting major clerical and printer's omissions. The list is divided into two parts: (1) Reference to proposals in numerical sequence; (2) Reference to other minor changes by page and line reference.

Assembly Measures

Assembly Bill 64 (p. 3358)

Under the Ayes vote: delete Lipscomb and insert Looby.

Assembly Bill 182 (p. 3159)

Delete: Assembly amendment 2 offered by Representative R. M. Thompson.

Assembly Bill 232 (p. 4012)

Delete: Under Amendments Offered—8th entry: Assembly amendment 1 to **Assembly Bill 232** offered by Representative Sicula.

Assembly Bill 541 (p. 355)

Add: As an author on bill—Quackenbush after Grover.

Assembly Bill 1356 (p. 2982)

Add entry: Revised copies of bill ordered and received.

Assembly Bill 1610 (p. 4416)

Add: Copy of Partial Veto, Dated 3-22-72 to be included as follows:

To the Honorable, the Assembly:

I am returning **Assembly Bill 1610** with my partial approval.

The parts vetoed are described below.

Tuition exemption for certain Vocational, Technical and Adult Education Students

Sections 56s and 143b restore a tuition exemption which

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was eliminated by the budget bill (Chapter 125, Laws of 1971). This exemption applies only to students taking liberal arts college transfer courses in VTAE district 16 at the Nicolet College. The rationale for striking this exemption in the last budget was to equalize tuition charged to students throughout the state. A uniform statewide tuition policy for VTAE schools and the UW System will not geographically discriminate among students in the state by giving one group a special advantage over another.

The policy of making a special exemption for students in one VTAE district is inconsistent with equitable statewide tuition policies. The fiscal effect of placing this discriminatory burden on local property taxes is not a responsible or defensible position.

Indian Scholarship Transfer

In the biennial budget (Chapter 125, Laws of 1971) the two separate Indian scholarship programs, at that time administered by the Department of Public Instruction and the State Board of Vocational, Technical and Adult Education, were consolidated into a single entitlement program and transferred to the Higher Educational Aids Board. This was a part of an overall effort to consolidate financial aid programs under HEAB and the financial aid offices of the various higher education institutions. Representatives of the Great Lakes Tribal Council have requested that these programs be transferred back because of the good working relationships existing with the Department of Public Instruction. The Indian students themselves appear to be split on this issue.

While I fully appreciate the concern of the Great Lakes Tribal Council, I believe all parties should give the expanded aid program under HEAB more than a six-month trial period. HEAB, since it administers a wide variety of programs, should be more able to assist Indian students in a variety of ways. If this proves not to be the case after a reasonable period of time, I will endorse a return to former administrative status.

Vocational Rehabilitation Matching Appropriation

The intention of the legislative action taken in this bill regarding the Division of Vocational Rehabilitation in the Department of Health and Social Services was to: (1) provide a funding level of \$4,125,000 in each year of the bien-

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nium for purchase of rehabilitation workshop services, utilizing the maximum available amount of federal funds, and (2) delete any GPR over and above the minimum state matching necessary to capture maximum available federal funds.

In calculating the minimum amount of GPR necessary to achieve the second objective, however, a certain level of federal funding was assumed which later proved to be incorrect. Available federal funds for the second year (1972-73) of the biennium are expected to increase significantly over the initial estimates which were used in the annual review deliberations. As a result, the decrease of \$65,000 GPR indicated for 1972-73 in appropriation 20.435 (5) (a) will result in a loss of \$260,000 in federal matching funds. To insure maximum available federal funds, the reduction in state funds in section 148 (3) (h) on page 91 is item vetoed.

Legislative Study of Mental Retardation Services

Section 150 (12) directs the assembly and senate committees on Health and Social Services to jointly study the subject matter area in Senate Bill 53. This provision was created in case Senate Bill 53 did not pass but with its passage, the study is no longer needed. The only need that remains is a study of the financing of mental health services, which is provided for in subsection 11, which directs the joint committee on Finance to explore state policies in the mental health and retardation field.

Commission on Interstate Cooperation

Section 3b changes the status of the Governor, his appointees, the Lieutenant Governor and the chief of the Legislative Reference Bureau to non-voting members on the Commission on Interstate Cooperation. It also provides that the chairmen of the committees on organization of each house shall serve as co-chairmen of the Commission.

This change was introduced on the last day of the session, did not have a public hearing and was not debated on the floor of either house. Subsequently, the primary author has asked that I veto the change in chairmanship. I have objection to eliminating the voting status of the executive branch membership since this body in its state responsibilities and its national affiliation clearly has executive-legislative responsibilities. I am vetoing the entire change and suggest that the subject be more carefully considered at a later date.

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Population Estimates

The budget review bill created s. 16.96 (2) (c) which provided that "population determinations shall be based upon the last previous decennial or special census or other official statewide census and shall take into consideration such records and facts that show population since that census." The purpose of this section was to provide general guidelines to the Department of Administration on population estimating. The senate substitute changed this section to provide specific criteria ("school statistics and actual growth rates of municipalities"), which would limit estimating to these two factors. School statistics may be one desirable factor to use in estimating and *actual* growth rates of municipalities is an unknown which is the reason for estimating in the first place.

I have vetoed this section in such a way as to make it less restrictive but it remains as an incomplete statement of the intent to consider those factors which reflect population changes.

State Central Services Facility

The Legislature, in the 1969-71 session, authorized \$1.4 million in building authority for a new Central Services Facility. Subsequently, the Building Commission has authorized the purchase of an existing building. Funds were requested in the annual review for the operation of and maintenance of this building, but were not approved in the final bill.

It would be inexcusable for the state to leave a much needed facility empty because \$60,000 for operating costs and \$130,000 for debt service were not provided. However, since the Department of Administration's budget is reduced in the budget review bill by \$240,000 in 1972-73, an item veto of this reduction will provide the necessary \$190,000 for the central services facility. The remaining \$50,000 will be placed in unallotted reserve.

Forest Crop Law Moratorium

I have decided to line veto Section 117cn of **Assembly Bill 1610** relating to a provision which requires the Department of Natural Resources to deny requests for lands to be included as part of forest crop lands.

The legislative intent was to impose a one-year mora-

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torium on the entries of forest crop lands under the provisions of the present statutes. The Natural Resources Board did not process applications for entry in 1972 because of pending legislation. Due to the fact that the 1972 applications cannot be entered on the 1972 tax rolls, a one-year moratorium has already been accomplished.

The continuation of this moratorium would, in effect, put economic pressures on forest land owners which would have resulted in environmentally harmful land use decisions. Over the last forty years the forest crop law has provided an incentive for wise land use management in Wisconsin. We should continue to provide this incentive to forest land owners.

Respectfully submitted,

PATRICK J. LUCEY,
Governor.

Dated March 22, 1972.

Assembly Joint Resolution 46 (p. 1550)

In the Health and Social Services committee report: Insert Assembly *substitute* amendment 1 instead of assembly amendment 1.

Senate Measures

Senate Bill 31 (p. 2319)

Vote: Ayes 64.

Senate Bill 58 (p. 4136)

Assembly Resolution 54 asks for an opinion of the Attorney General on the constitutionality of 1971 Senate Bill 58.

Add: Opinion of Attorney General received as follows:

The State of Wisconsin
Department of Justice
Madison

March 7, 1972.

To the Honorable, The Assembly
State Capitol
Madison, Wisconsin 53702

Dear Representatives:

By Assembly Resolution 54 you have asked my opinion on the constitutionality of 1971 Senate Bill 58 in the form

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in which it was passed by the senate on February 1, 1972, and, in particular, on whether or not 1971 Senate Bill 58 violates the uniformity rule of Art. VIII, sec. 1 of the Wisconsin Constitution.

1971 Senate Bill 58 provides for a different classification and valuation of agricultural land for property tax purposes, and is in violation of the uniformity clause.

The bill creates subch. VI of ch. 77 relating to the taxation of lands actively devoted to agricultural or horticultural use. Section 77.82 (1), Stats., is created to read:

"77.82 VALUE OF LAND ACTIVELY DEVOTED TO AGRICULTURAL AND HORTICULTURAL USE. (1) VALUATION. (a) For general property tax purposes, the value of land, not less than 10 contiguous acres in area, which is actively devoted to agricultural or horticultural use as defined in s. 77.81 (2) and which has been so devoted for at least the 5 successive years immediately preceding the tax year in issue is the value which the land has for agricultural or horticultural use.

"(b) All structures actively devoted to agricultural or horticultural use, the farmhouse and the land on which they are located shall be assessed and taxed by the same standards, methods and procedures as other taxable structures and other land in the taxing district."

The bill establishes a valuation for land used for agricultural or horticultural purposes which is not based on "fair market value." For tax purposes, property must be assessed at its "fair market value." *State ex rel. Evansville Mercantile Ass'n. v. City of Evansville* (1957), 1 Wis. 2d 40, 82 N.W. 2d 899. A different standard is acknowledged by the creation of a so-called "Roll-back tax" which is defined under sec. 77.82 (2), Stats., to mean:

"(2) ROLL-BACK TAX. 'Roll-back tax' means the difference, if any, between the tax paid or payable on the basis of the valuation, assessment and taxation authorized under this subchapter and the tax which would have been paid or payable had the land been valued, assessed and taxed in the same manner as other land in the taxing district."

As early as 1859, the Supreme Court determined in *Knowlton v. Supervisors of Rock County*, 9 Wis. *410, that the Wisconsin Constitution has fixed one unbending, uniform rule of taxation for the State, and property cannot

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be classified and taxed by different rules. All kinds of property must be taxed uniformly or be absolutely exempt. Thus, where the City of Janesville included within its limits a large quantity of farming land, which was not within a recorded plat, but provided that land used for agricultural or horticultural purposes would not be subject to the same rate of tax as other lands, the taxes thus levied were determined void in violation of Art. VIII, sec. 1 of the Wisconsin Constitution which provides that "the rule of taxation shall be uniform."

As recently as 1967 the Supreme Court determined in *Gottlieb v. Milwaukee*, 33 Wis. 2d 408, 147 N.W. 2d 633, that the following standards of tax uniformity are required by Art. VIII, sec. 1 of the Wisconsin Constitution:

"1. For direct taxation of property, under the uniformity rule there can be but one constitutional class.

"2. All within that class must be taxed on a basis of equality so far as practicable and all property taxed must bear its burden equally on an *ad valorem* basis.

"3. All property not included in that class must be absolutely exempt from property taxation.

"4. Privilege taxes are not direct taxes on property and are not subject to the uniformity rule.

"5. While there can be no classification of property for different rules or rates of property taxation, the legislature can classify as between property that is to be taxed and that which is to be wholly exempt, and the test of such classification is reasonableness.

"6. There can be variations in the mechanics of property assessment or tax imposition so long as the resulting taxation shall be borne with as nearly as practicable equality on an *ad valorem* basis with other taxable property."

Clearly, 1971 Senate Bill 58 establishes a separate class for property used for agricultural and horticultural purposes within the general class of taxable real property. It departs from the uniform manner of taxing such real property according to its fair market value, and requires such land to be valued according to its use. This is in violation of Art. VIII, sec. 1 of the Wisconsin Constitution.

It would appear that the most appropriate way to meet the constitutional difficulties inherent in taxing agricultural land at a different rate is through a constitutional amendment. I call to your attention 1971 Assembly Joint Resolu-

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tion 1, which has passed this session of the legislature. **Assembly Joint Resolution 1** is a constitutional amendment proposed for first consideration that would permit the Wisconsin legislature to provide for the taxation of agricultural and undeveloped land at rates which need not be uniform with each other nor with other real property.

Sincerely yours,

ROBERT W. WARREN,
Attorney General.

CAPTION: 1971 **Senate Bill 58**, providing for a different classification and valuation of agricultural land for property tax purposes, is in violation of Art. VIII, sec. 1 of the Wisconsin Constitution. 1971 **Assembly Joint Resolution 1** discussed.

Senate Bill 138 (p. 2416)

First move for reconsideration should read: Representative Miller moved reconsideration of the vote by which assembly amendment 13 to assembly substitute amendment 2 to **Senate Bill 138** was rejected.

Senate Bill 161 (p. 4363)

Add: Under the 'Ayes' vote on concurrence, *Roberts* after Quinn.

Senate Bill 188 (p. 2477)

Add: Representative Froehlich asked unanimous consent that **Senate Bill 188** be withdrawn from table. Granted.

Senate Bill 278 (p. 2503)

Delete: Assembly amendment 2 to **Senate Bill 278** offered by Representative Robertson.

Senate Bill 864 (p. 3818)

Under amendments offered: Assembly substitute amendment 1 offered by Representative Kessler.

Senate Bill 864 (p. 3857)

Correction—6th paragraph: Assembly amendment 2 to assembly substitute amendment 2 to **Senate Bill 864** offered by Representative Kessler.