

State of New Hampshire HOUSE RECORD

Second Year of the 155th Session of the General Court Calendar and Journal of the 1998 Session

Vol. 20 Concord N.H. Tuesday, June 30, 1998 No. 62

Contains: Hearings, Notices, Work Sessions, Governor's Veto Messages, Supreme Court Opinions, Order Form for 1998 Permanent Journal

HOUSE CALENDAR

NOTICE

MEMBERS OF THE HOUSE:

Today the House welcomes the 1998 Salem High School Varsity Softball Team, this year's class L State Champions. We welcome back to the House former Representative Everett "Al" Weare (R- Seabrook) who was sworn in last week.

Donna Sytek, Speaker

NOTICE

Please join your fellow House members on the steps of the
State House at 12:45 p.m. on Tuesday, June 30th for the 1997-1998 Class Photo.

Donna Sytek, Speaker

NOTICE

There will be a Republican Caucus on Tuesday, June 30th at 10:00 a.m. This caucus will be held in Rooms 201-203 of the Legislative Office Building. { PLEASE NOTE LOCATION CHANGE}

Rep. Robert L. Wheeler, Majority Leader

NOTICE

There will be a Democratic Caucus on Tuesday, June 30th at 11:30 a.m. in Rooms 305-307 of the Legislative Office Building.

Rep. Peter Hoe Burling, Democratic Leader

HOUSE DEADLINES

House Rule 64:

June 10, 1998

Last day to act on all bills, excluding those related to the Claremont decision.

June 16, 1998

Final day to sign-off all Committee of Conference Reports at 5:00 p.m., excluding those related to the Claremont decision.

June 18, 1998

Last day to act on Committee of Conference Reports, excluding those related to the Claremont decision.

June 22, 1998

All bills to the Governor, excluding those related to the Claremont decision.

After June 4, 1998, any bills or messages which are received from the Senate concerning the Claremont decision shall be subject to deadlines to be established at a future date.

September 9, 1998, Wednesday

First day for incumbents who are candidates for the House to file LSR's with complete information.

October 5, 1998, Monday

The 10-day sign-off deadline begins (Rule38 (b))

October 30, 1998, Friday

Final day to file, with the Clerk of the House, all 1998 interim study reports.

November 4, 1998, Wednesday

First day for new members to file LSR's with complete information.

November 6, 1998, Friday

Final day to file, with complete information, all bill drafting requests from 1998 interim study work.

GOVERNOR'S VETO MESSAGE ON hb 1310

June 26, 1998

To the Honorable Members of the General Court:

I have this day vetoed House Bill 1310, An Act relative to legislative approval of expenditure of federal and other funds and relative to proportionate share payments for county nursing homes.

The citizens of New Hampshire are fortunate that some of their needs are met through gifts, bequests, and grants that are made to the State. Under current law, the approval of the governor and council is required before any such gifts, bequests or grants can be accepted.

H.B. 1310 would impose yet another layer of bureaucracy to the process of the State accepting such gifts, bequests or grants by requiring the approval of the Fiscal Committee for any with a value in excess of \$100,000.

This legislation is bad public policy for a number of reasons.

By requiring that the acceptance of outside funding be approved by the Fiscal Committee, the process will be slowed considerably by this new and unnecessary level of bureaucratic intervention.

Let me illustrate how H.B. 1310 would operate in practice. Many federal grants require that the governor designate one state agency to apply for and administer grants that are intended to support the work of more than one state agency. The Office of the Attorney General, for example, administers many federal grants that support the work of other state criminal justice agencies. Under H.B. 1310, the Attorney General would not only have to get the approval of the governor and council to accept the federal grants and distribute them to other state agencies, as is required under current law, but would also have to get the approval of the Fiscal Committee to both accept and distribute the grants to other state agencies. Then, under the provisions of H.B. 1310, the other state agencies would *also* be required to obtain Fiscal Committee approval to accept the money from the Office of the Attorney General. This makes no sense.

H.B. 1310 will complicate what is already a time-consuming and labor intensive approval process for state agencies. This will unnecessarily interfere with executive agencies' efforts to seek new and creative sources of revenue enhancement in order to stretch limited state general funds, and will increase the time period before federal and private funds are available to serve the public. H.B. 1310 merely adds another layer of bureaucracy without any apparent corresponding benefit to the public. Legislation should be aimed at making government more efficient, not adding layers of bureaucratic review, paperwork and time for no compelling reason.

In addition, H.B. 1310 expands the role of the legislative Fiscal Committee into the day-to-day management of executive branch operations. The legislature now has overall policy authority over executive branch expenditures through the budget process. The provisions of H.B. 1310 skew our system of checks and balances by vesting inordinate day-to-day management authority in the legislative branch. This is unacceptable, and may well violate the separation of powers doctrine enshrined in our State Constitution.

Moreover, I believe H.B. 1310 would result in an unconstitutional delegation of the authority of the General Court to just a sole committee thereof.

I recognize that H.B. 1310 was amended in the senate to include the provisions regarding Medicaid proportionate share payments to counties for county nursing homes. It is estimated that if these provisions were enacted \$787,130 in total additional dollars would be shared by our ten county governments. I would support the enactment of the proportionate share provisions into law. It is unfortunate that these provisions were amended onto H.B. 1310, particularly since my administration had made known my opposition to H.B. 1310.

Our constitutional system of government is based upon a clear division of authority among the three branches and upon the principle that legislation is to be enacted only after consideration of the full General Court. In furtherance of my duty to uphold these constitutional mandates, I have found it necessary to veto House Bill 1310.

Respectfully
submitted,

Jeanne Shaheen

Governor

GOVERNOR'S VETO MESSAGE ON HB 1384

June 26, 1998

To the Honorable Members of the General Court:

I have this day vetoed House Bill 1384, An Act making an appropriation to the department of cultural affairs for the purpose of funding participation of the state in the Smithsonian Festival of American Folklife.

I support the work of the New Hampshire Commission on the Smithsonian Festival of American Folklife. I believe that New Hampshire's selection by the Smithsonian Institute to be featured "*on the mall*" in Washington D.C. next summer is an honor that all the citizens of New Hampshire can be proud of and will benefit from. I would like to personally congratulate all of those who are working so hard to raise from the private sector the dollars necessary to share New Hampshire with the world next summer in our nation's capital. I hope that many of our residents will visit our nation's capital to join in this celebration of New Hampshire's cultural history and folklife.

I, however, cannot support the funding of this important effort by the diversion of \$200,000 from our strategic travel and tourism marketing program. We have just begun what is forecasted to be our busiest summer tourism season ever, and we need to make every effort to ensure that this level of tourism activity continues.

My administration recognizes the importance of the travel and tourism industry to the people and economy of New Hampshire. Since I became Governor, the State has targeted unprecedented resources toward developing and promoting this industry. The biennial budget passed last year included an increase of one million dollars per year for advertising and marketing. These additional dollars are earmarked to fund a strategic promotional campaign to introduce new markets to the New Hampshire secret and are necessary to increase our meals and rooms tax revenues to the levels projected in the biennial budget. I believe that to interrupt this program by siphoning off a full twenty percent of its funding is penny wise but pound foolish.

Just this spring I convened the first ever Governor's Summit on Travel and Tourism. Of the many recommendations made by the more than seventy-five participants representing all sectors of the New Hampshire economy, one that rang the loudest was the need for continued and additional support for promotion and advertising of what New Hampshire has to offer to tourists from around the country and the world. The benefits to New Hampshire are tremendous. Recent studies show that for every dollar spent in tourism advertising over eight dollars are raised in state and local revenues and fees. Additionally, every new dollar introduced by the travel and tourism industry turns over more than 75 times in the New Hampshire economy. Promoting New Hampshire is a good investment.

Promoting New Hampshire as a travel and tourism destination and the Smithsonian Festival of American Folklife are not mutually exclusive, however, and should and will complement each other. The Office of Travel and Tourism Development has identified more than \$50,000 in contracted and in-kind services which it will provide to the Commission during fiscal year 1999. The chair of the Smithsonian Commission and the private sector fundraising leadership team welcome this alternative approach as they, too, recognize the importance of preserving the integrity of our existing marketing and promotion plan.

Following New Hampshire's presentation "*on the mall*" in Washington, the exhibit will come home for all of us to enjoy and appreciate. I am committed to seeing that there are state funds available in the next biennial budget to aid in the re-staging of this exhibit.

Because there is a more fiscally sound way for the State to participate in the work of the Smithsonian Commission, I am, today, vetoing H.B. 1384.

Respectfully submitted,

Jeanne Shaheen

Governor

GOVERNOR'S VETO MESSAGE ON SB 301

June 26, 1998

To the Honorable Members of the General Court:

I have this day vetoed Senate Bill 301, An Act relative to teacher renomination and the application of teacher professional and performance standards.

Professional improvement of our state's teaching corps is a high priority of my administration. Research has shown that the single most important measurable cause of increased student learning is teacher quality. Since I have become Governor, the State Board of Education has already taken steps to institute higher standards for people entering the teaching profession. These include a new competency testing requirement that will go into effect in September and a new content testing requirement that will go into effect next July.

In addition, the State Board of Education is undertaking a complete review of professional standards for the recertification of all educators, including teachers, instructional specialists, and administrators. The State Board already has begun drafting new rules that will increase both rigorousness and accountability in the recertification process for veteran teachers. The proposed rules will require an increase from a cumulative 50 hours to 75 hours of professional development for continuing educator recertification. More importantly, the State Board will require that educators engage in professional development work that is aligned with local district improvement plans adopted by local school boards, rather than being able to fulfill their professional development hours by attending seminars that are simply of interest to the individual teacher.

My administration is working on a Best Schools initiative that will be aimed at the professional development of teachers and administrators employed in our public schools to arm them with state-of-the-art skills and knowledge in educational leadership and instructional practices. By placing our children in the care of a better trained educational workforce, we can expect to see positive gains in student achievement.

The Advancing Better Classrooms legislation I submitted this session includes measures to improve performance and accountability in our schools. If those measures are enacted into law, the Department of Education will be required to issue an annual report card evaluating schools and school districts. Several states have found that this type of report card is the most effective motivator for improved performance of teachers and administrators, even more so than financial incentives. In addition, local school districts will develop local school improvement plans with the involvement of parents, employers, and other community members. Districts that do not make progress toward the goals set in their local school improvement plans will receive technical assistance from the State.

A lengthy and costly process for terminating ineffective teachers does not serve anyone. It does not serve our children, who deserve only highly competent teachers. It does not serve teachers themselves, who deserve to teach in a professional environment where they are surrounded by colleagues who strive to excel. Teachers should have no expectation of life-time tenure.

S.B. 301, however, offers a simplistic response to the complicated problem of ensuring good teachers.

S.B. 301 would prohibit local school districts from *agreeing* to provide probationary teachers with any explanation for their non-renewal and would prohibit local school districts and local teachers' associations from *agreeing* to include binding arbitration as a means of resolving disputed teacher terminations in future collective bargaining agreements. As such, S.B. 301 would conflict with our long tradition of local control.

S.B. 301 fails to address the need for sound teacher evaluation policies and does nothing to streamline the non-renewal process in districts that currently do not use binding arbitration.

Fewer than half of New Hampshire school districts currently have binding arbitration terms in their collective bargaining agreements. Therefore, S.B. 301 does nothing to streamline the process for teacher termination in most of our school districts.

All of the participants in our public school system must be made more accountable if we are to improve education

in New Hampshire. Parents, students, teachers, administrators, local school boards, and the State all share the responsibility for ensuring that the education we offer our children is excellent.

While it is teachers who provide direct instruction to our students, it is the responsibility of administrators to ensure the performance of teachers and other staff and the responsibility of local school boards to set standards and hire teachers and administrators.

S.B. 301 fails to address the responsibilities of administrators and school boards to ensure that only the best teachers are in our classrooms. School districts in New Hampshire that have sound teacher evaluation systems experience few challenges to their decisions to terminate teachers. When a school district has good teacher evaluation policies and administrators who carry out those policies, carefully monitoring and documenting the performance of teachers, teachers who are non-renewed understand and accept the reason for their termination.

A sound teacher evaluation system expedites the process of teacher non-renewal. When teacher evaluations are not done or if the evaluations are not conducted well, ineffective teachers remain in the classroom. It is the children who bear the burden when sound school management and governance practices are not in place.

It makes little sense to prohibit local school districts from *agreeing* to provide probationary teachers with any explanation for their non-renewal. Districts that would like to provide probationary teachers with reasons for their non-renomination should be able to do so. I understand that some districts hesitate to provide probationary teachers with explanations for their non-renewal because of a fear that stating a reason for non-renewal might be construed as grounds for an appeal. This problem can be addressed by prohibiting probationary teachers from using such reasons as grounds for appeals. This would preserve local control over teacher contracts while streamlining the process for terminating probationary teachers.

I recognize that there is more we can and should do to make sure that only qualified, competent teachers are in our classrooms. We need to find a more effective way to address the issues of streamlining teacher termination and the need for sound teacher evaluation policies. To accomplish this, I have established a committee of New Hampshire citizens consisting of representatives of all concerned parties to work on this problem over the next several months and make recommendations for necessary changes in state law. I am pleased to report that the Superintendent of the Merrimack Valley Regional School District, Randy Bell, has agreed to chair this effort.

S.B. 301 simply does not address the real problems in teacher performance, but rather diverts attention away from those real problems. Therefore, today I am vetoing Senate Bill 301.

Respectfully submitted,

Jeanne Shaheen

Governor

GOVERNOR'S VETO MESSAGE ON SB 417

June 26, 1998

To the Honorable Members of the General Court:

I have this day vetoed Senate Bill 417, An Act continuing the court modernization fund and its source of funding from penalty assessments and making an appropriation for maintenance of the new judicial branch administration building.

Over the last two years the three branches of government have come together in the Interbranch Criminal and Juvenile Justice Committee in an unprecedented effort to coordinate the State's efforts to address criminal and juvenile justice issues.

A working committee of the ICJJC has devoted considerable time and effort over the past year to the important task of assessing how the computer systems of the various criminal and juvenile justice agencies can better communicate with each other.

The legislative branch should be duly proud of the technological gains the judicial branch has achieved this decade because of the innovative funding method enacted by the legislature. It is apparent, however, that the computer needs of some agencies in the criminal justice system are still unmet.

In 1989 the legislature, in order to help fund technology and other equipment for the judicial branch, increased the penalty assessment added to fines imposed for criminal and motor vehicle offenses and violations of municipal ordinances pursuant to RSA 188-F:31, I by 3 percent. That 3 percent was dedicated to the court modernization fund established under RSA 502-A:37, which expressly limits use of the fund to the "development and upgrading of the judicial branch." RSA 502-A:37, I.

Recognizing that the both the use and the needs of the fund should be periodically reviewed, the legislature established a prospective repeal date of 1994.

In 1992, the legislature extended the prospective repeal of the 3 percent penalty assessment that is currently dedicated to the judicial branch to July 1, 1998. The three branches projected at that time that the revenue generated through

July 1, 1998 from the 3 percent penalty assessment would be sufficient to pay off in full the debt service incurred by the judicial branch in 1991 to purchase a state-of-the-art computer system.

Those projections proved correct. Indeed, they were conservative. The revenue stream generated by the 3 percent penalty assessment since 1992 has vastly exceeded the debt service incurred by the judicial branch to purchase its new computer system.

S.B. 417, however, would extend the judicial branch's entitlement to the 3 percent penalty assessment for three more years, despite the fact that the judicial branch, which has complete control over the court modernization fund, has used the fund in part for operating expenditures such as salaries, benefits and travel, rather than reserving funds for the continuing debt service for its new computer system.

Right now there is only \$73,656 in outstanding debt service payments due in FY 2002 and FY 2003 on the judicial branch's computer system that cannot be paid for out of the existing balance in the court modernization fund. This amount could have been more than offset by the \$178,860.62 the court took out of the modernization fund for salaries, benefits and travel in FY 1991 alone.

It must also be noted that the biennial budget passed last year by this legislature appropriated another \$1.3 million to the judicial branch for computers. At a hearing before the House Finance Committee on February 13, 1997, the judicial branch presented testimony that \$1.3 million in the biennial budget was needed for computers because of the fact that the court modernization fund was due to expire on July 1, 1998. One year later we are told that the court modernization fund and 3 percent penalty assessment - which has been generating in excess of \$400,000 annually - must be extended for the benefit of the judicial branch for another three years.

It is incumbent on all parts of state government, including the judicial branch, to prudently and wisely expend the limited financial resources we take from the pocketbooks of the citizens of New Hampshire. All three branches of state government must have the discipline to operate within their means.

Other state agencies in the criminal justice system have much more pressing technological needs than does the judicial branch. It would be better fiscal policy to re-instate the 3 percent penalty assessment for the benefit of those agencies in

the next session of the legislature than it would be to extend it now for the benefit of the judicial branch.

Because there is no sound reason to extend the judicial branch's entitlement to the 3 percent penalty assessment, I am today vetoing S.B. 417.

Respectfully submitted,

Jeanne Shaheen

Governor

STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 98-322, Request of the Senate for an Opinion of the Justices, the court upon June 23, 1998, made the following order concerning Senate Resolution 3:

To the Honorable Senate:

On May 21, 1998, we received Senate Resolution No. 3 seeking an opinion of the justices on the following question:

Would enactment of SB 508-FN as amended, and its funding allocation formula and method of dedicating such funding fulfill the mandates of Claremont II or violate Part II, Article 5 of the New Hampshire constitution?

We invited interested parties to file memoranda with the court on or before June 2, 1998. At a special session of the court on June 5, 1998, there was an opportunity for oral argument on the question presented. The undersigned justices of the supreme court return the following response to the senate.

In essence, Senate Bill 508-FN (the bill) preserves the system of State foundation aid provided to school districts under RSA 198:27-37 (1989 & Supp. 1997), but modifies the aid formula to achieve an increased level of aid per "weighted pupil." The bill proposes using a portion of the revenue raised from the meals and rooms tax, see RSA ch. 78-A (1991 & Supp. 1997), to establish an education trust fund that would provide monies for State foundation aid. Senate Resolution No. 3, however, states that the bill "does not alter the present property tax method for education." Thus, it appears that the bill is designed to use the increased State foundation aid to supplement the existing system of funding education with real estate property taxes.

In Claremont School District v. Governor, 142 N.H. __, __, 703 A.2d 1353, 1356 (1997) (Claremont II), we concluded that taxes levied to fund education "are in fact State taxes that have been authorized by the legislature to fulfill the requirements of the New Hampshire Constitution." Consequently, the court stated that "[t]o the extent that the property tax is used in the future to fund the provision of an adequate education, the tax must be administered in a manner that is equal in valuation and uniform in rate throughout the State." Id. at __, 703 A.2d at 1357.

To the extent that the bill contemplates continued reliance upon unreasonable and disproportionate real estate property taxes existing under the current property tax system to fulfill the State's obligation to fund public education, we conclude that it does not comply with Claremont II and violates Part II, Article 5 of the State Constitution.

David A. Brock

William R. Johnson

W. Stephen Thayer, III

Sherman D. Horton, Jr.

John T. Broderick, Jr.

We received written comments from legislators, attorneys, and citizens concerning this issue. The court extends its appreciation to all who provided comment. For a complete list of those persons and organizations filing comments, see our response to Senate Resolution No. 4 in Opinion of the Justices (School Financing), 142 N.H. __, __, __ A.2d __, __ (decided June 23, 1998).

THE SUPREME COURT OF NEW HAMPSHIRE

Request of the Senate

No. 98-322

OPINION OF THE JUSTICES

(School Financing)

June 23, 1998

Philip T. McLaughlin, attorney general, (Mr. McLaughlin, Steven M. Houran, deputy attorney general, Martin P. Honigberg, senior assistant attorney general, Anne M. Edwards, assistant attorney general, on the memorandum, and Mr. McLaughlin orally) in support of negative answers to the questions presented.

Paul McEachern, of Portsmouth, on the memorandum and orally, on behalf of Governor Jeanne Shaheen, in support of returning the questions unanswered or returning negative answers to the questions presented.

Joshua L. Gordon, of Concord, on the memorandum and orally, on behalf of State Senators Caroline McCarley, Allen Whipple, Clesson Blaisdell, Debora Pignatelli, Sylvia Larsen, John King, Katie Wheeler, Beverly Hollingworth, and Burton Cohen, in support of returning the questions unanswered or returning negative answers to the questions presented.

Peter Hoe Burling, Ann Torr, Merle Schotanus, Joseph Stone, and Richard Champagne, State Representatives, on the memorandum, and Mr. Burling orally, in support of returning the questions unanswered or returning negative answers to the questions presented.

John M. Lewis, Gail F. Paine, Joel C. Olbright, Ann McArdle, and Jeffrey M. Pollock, members of the State Board of Education, on the memorandum, and Mr. Lewis orally, in support of negative answers to the questions presented.

Stanley R. Arnold, commissioner, of Concord, on the memorandum and orally, on behalf of the New Hampshire Department of Revenue Administration, in support of negative answers to the questions presented.

John E. Tobin, Jr., of Concord, on the memorandum and orally, McLane, Graf, Raulerson and Middleton, P.A., of Manchester (Wilbur A. Glahn, III on the memorandum), and Stein, Volinsky and Callaghan, P.A., of Concord (Scott F. Johnson and Andru H. Volinsky on the memorandum), on behalf of the Claremont petitioners (except Franklin School District), in support of affirmative answers to the questions presented.

Kirkpatrick & Lockhart, of Boston, Massachusetts (John M. Edwards on the memorandum and orally), on behalf of the New Hampshire House Republican Alliance & a., in support of affirmative answers to the questions presented.

Frederic K. Upton, of Concord, on the memorandum and orally, in support of affirmative answers to questions 1 and 2.

James M. Rubens, State Senator, of Etna, on the memorandum and orally, and Edward C. Mosca, of Concord, on the memorandum, in support of affirmative answers to the questions presented.

Sheehan Phinney Bass + Green, of Manchester (Thomas J. Flygare on the memorandum), on behalf of Fredrick J. Bramante (Mr. Bramante orally), in support of affirmative answers to questions 1 and 2.

The following resolution, Senate Resolution No. 4, requesting an opinion of the justices, was adopted by the senate on May 21, 1998, and filed with the supreme court on May 22, 1998:

"Whereas, there is presently before the Senate HB 1280-LOCAL, an act clarifying the procedures for background criminal checks for school employees and volunteers; and

"Whereas, there is also presently pending before the Senate, an amendment to HB 1280-LOCAL (document number 1998-1849s), which would amend HB 1280-LOCAL to: an act implementing the Advancing Better Classrooms program to provide a constitutionally adequate public education to all the children of New Hampshire; and

"Whereas, the bill as amended is designed to respond to the recent Claremont decision (Claremont School District v. Governor, 142 N.H. __, 703 A.2d. 1353 (1997), hereinafter `Claremont II'); and

"Whereas, the bill as amended contains provisions regarding the calculation of a state education tax, the calculation of a per pupil cost of an adequate education, and special abatements for certain communities; and

"Whereas, a question has been raised that the adoption of the bill as amended, including the abatement provisions, may be in violation of the language of Claremont II, and of Part I, Article 28-a and Part II, Article 5 of the state constitution; and

"Whereas, the majority opinion of the honorable court in the Claremont II decision called into question the constitutional validity of the entire local property tax system for the periods after `the 1998 tax year' thereby creating an imminent risk of fiscal crisis for local school budgets throughout the state, which places a great premium on ensuring that any legislative solution adopted be consistent with the Claremont II decision prior to its implementation; and

"Whereas, HB 1280-LOCAL as amended reflects the efforts of the executive and legislative branches of our state government to address public education financing issues in response to the decision of the honorable court in Claremont II and therefore raises issues of constitutional dimension; and

"Whereas, HB 1280-LOCAL as amended would undertake substantial reevaluation of the traditional means of financing public education within New Hampshire, with great impacts on the traditional relationships among school districts throughout the state, and between the state and local governments, all on the assumption that such substantial reevaluation would be consistent with the decision in Claremont II; now, therefore, be it

"Resolved by the Senate:

"That the justices of the supreme court be respectfully requested to give their opinion upon the following important questions of law:

- 1. Would enactment of HB 1280-LOCAL as amended, and its funding allocation formula and property tax abatement scheme violate Part II, Article 5 of the state constitution requiring that all taxes be proportional and reasonable?**
- 2. Would enactment of HB 1280-LOCAL as amended, violate the express language of this court in Claremont II, that to the extent that the property tax is used to fund the provision of an adequate education, to be constitutional, the tax must be administered in a manner that is equal in valuation and uniform in rate throughout the state?**
- 3. Would enactment of the multi-variant funding allocation formula using both local income and property wealth factors in section 86 of HB 1280-LOCAL as amended as it amends RSA 198:27-37 violate Part II, Article 5 of the state constitution relative to uniformity and proportionality or the express language of Claremont II?**
- 4. Would enactment of the multi-variant funding allocation formula in section 86 of HB 1280-LOCAL as amended as it amends RSA 198:27-37, if coupled with the property tax abatement scheme in section 15 of HB 1280-LOCAL as amended, and resulting in continued disparity of effective property tax rates to support a constitutionally adequate education violate Part II, Article 5 of the state constitution or the express language of Claremont II?**
- 5. Would enactment of HB 1280-LOCAL as amended, violate Part I, Article 28-a of the state constitution by requiring in section 59 of the bill as amended that every school district prepare and implement a local education**

improvement and assessment plan by requiring in sections 48 and 54 of the bill as amended that every school district provide approved schools subject to mandatory minimum approval standards set by the state board of education without providing every school district funding sufficient to pay for such mandates?

6. Would the enactment of any other provision of HB 1280-LOCAL as amended: (a) result in a violation of the 'proportional and reasonable' requirements of Part II, Article 5 of the New Hampshire constitution; or (b) create an impermissible classification of property in violation of Part II, Article 6 of the New Hampshire constitution; or (c) violate any other provision of the New Hampshire constitution?

"That the senate clerk transmit copies of this resolution and HB 1280-LOCAL as amended (1998-1849s) to the justices of the supreme court."

The following response is respectfully returned:

To the Honorable Senate:

The undersigned justices of the supreme court submit the following reply to your questions of May 21, 1998. Following our receipt of your resolution, we invited interested parties to file memoranda with the court on or before June 2, 1998. Oral argument on the questions presented by the request took place at a special session of the court on June 5, 1998.

Before answering the specific questions raised in Senate Resolution No. 4, we address whether this request is appropriately the subject of an advisory opinion. Part II, Article 74 of the New Hampshire Constitution provides: "Each branch of the legislature as well as the governor and council shall have authority to require the opinions of the justices of the supreme court upon important questions of law and upon solemn occasions." There are several limitations in the operation of Part II, Article 74. We address the pertinent ones as follows.

First, "[a]dvisory opinions required by this constitutional provision are limited to advice upon important legal questions pending in, and awaiting consideration and action by, the body entitled to the advice in the course of its duty." Opinion of the Justices, 115 N.H. 329, 330, 340 A.2d 112, 114 (1975). There is no doubt that these requirements are met here. While it is suggested that an advisory opinion should not be allowed to proceed until the senate's consideration of the bill has reached the "penultimate stage" and is ready for an "ought to pass" vote, the constitution contains no such requirement. The only timing consideration imposed is that the justices are not ordinarily required to furnish opinions after the legislature has adjourned, except where requested for guidance at a possible special session of the legislature or at the next regular one. Opinion of the Justices, 105 N.H. 125, 127, 193 A.2d 880, 881 (1963).

Second, justices of the supreme court are not "empowered to give advisory opinions on legal questions involving resolution of questions of fact." Opinion of the Justices, 123 N.H. 510, 511, 463 A.2d 891, 892 (1983). The controlling questions before us, however, involve a determination of the proposed legislation's facial constitutionality.

Third, the supreme court is not permitted to advise the legislature "as to the meaning and scope of existing statutes." Opinion of the Justices, 102 N.H. 187, 188, 152 A.2d 872, 873 (1959). To allow otherwise would place the court in the position of giving "advice in matters that may come before the court for decision," Opinion of the Justices, 67 N.H. 600, 601, 43 A. 1074, 1074 (1892), or expressing its views "upon questions involving private rights." Opinion of the Justices, 76 N.H. 597, 600, 79 A. 490, 492 (1911). Our response to this request for an opinion of the justices does not require us to advise upon a presently effective statute. Thus, there is no conflict between rendering a non-binding advisory opinion for the senate while retaining jurisdiction in Claremont School District v. Governor, 142 N.H. __, __, 703 A.2d 1353, 1360 (1997) (Claremont II).

We conclude that Senate Resolution No. 4 presents important questions of law and a solemn occasion for which we are required to render an advisory opinion. "In giving such an opinion, the justices do not act as a court, but as the constitutional advisers of either branch of the legislature requiring their opinion . . ." Opinion, 60 N.H. 585, 585 (1881).

Your first question asks, "Would enactment of HB 1280-LOCAL as amended, and its funding allocation formula and property tax abatement scheme violate Part II, Article 5 of the state constitution requiring that all taxes be proportional and reasonable?" Your second question asks whether enactment of HB 1280-LOCAL as amended (the bill) would "violate the express language of this court in Claremont II, that to the extent that the property tax is

used to fund the provision of an adequate education, to be constitutional, the tax must be administered in a manner that is equal in valuation and uniform in rate throughout the state?" Because Claremont II simply explained the meaning and import of Part II, Article 5, we answer these two questions together. Both are answered in the affirmative. In reaching this conclusion, we do not revisit the merits of the issues raised in Claremont II. Rather, we advise on the constitutionality of the proposed legislation under the law of this State as expressed therein.

Part II, Article 5 of the State Constitution provides that the legislature may "impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and residents within, the said state." In Claremont II, the court concluded that taxes levied to fund education "are in fact State taxes that have been authorized by the legislature to fulfill the requirements of the New Hampshire Constitution," and are not, in fact, local taxes. Claremont II, 142 N.H. at __, 703 A.2d at 1356. Accordingly, the court held that "the varying property tax rates across the State violate part II, article 5 of the State Constitution in that such taxes, which support the public purpose of education, are unreasonable and disproportionate." Id. at __, 703 A.2d at 1357. The court offered further that "[t]o the extent that the property tax is used in the future to fund the provision of an adequate education, the tax must be administered in a manner that is equal in valuation and uniform in rate throughout the State." Id.

The bill, in addition to defining an adequate education, purports to establish a uniform State education tax rate based upon the equalized value of all taxable real property in the State. The tax rate is determined by calculating the total

statewide cost for educating all New Hampshire students and dividing this sum by the total statewide equalized property value. The bill also authorizes, however, a "special abatement" for "[t]he amount of state education tax apportioned to each town . . . in excess of the product of the statewide per pupil cost of an adequate education . . . times the average daily membership in residence for the town." HB 1280-LOCAL ¶ 15 (1998) (amended by senate). By the terms of the bill, the commissioner of revenue administration is directed to calculate each town's tax by multiplying the State education tax rate by the total equalized value of property within it, less any special abatement. See HB 1280-LOCAL ¶ 12 (1998) (amended by senate). Thus, the special abatement applies before any taxpayer within a given town receives a tax bill. We note that even if the bill provided for the actual collection of revenue raised through the uniform State education tax, and thereafter reimbursed certain qualifying taxpayers pursuant to the special abatement, our conclusions herein would remain unchanged.

As a result of the special abatement, the effective tax rate is reduced below the uniform State education tax rate in any town that can raise more revenue than it needs to provide the legislatively defined "adequate education" for its children. For example, in those towns where there are no children, the special abatement reduces the effective tax rate to zero. Meanwhile, in any town where the property value is insufficient to support the revenue required to educate local children adequately at the uniform State education tax rate, the effective tax rate remains equal to the uniform State education tax rate. Those towns receive a grant from the State to meet the otherwise unfunded costs of an adequate education. Although such towns would be fully funded, the owners of property therein would pay taxes at a higher rate than those in towns with a surplus of revenue, which would receive the special abatement.

Tax abatements and exemptions are not explicitly recognized in the New Hampshire Constitution. The court has, nevertheless, held that "[i]n the selective process of classifying certain property for taxation and exempting other property the Legislature has a wide discretion." Felder v. Portsmouth, 114 N.H. 573, 577, 324 A.2d 708, 710 (1974) (quotation omitted). Abatements and exemptions necessarily result in a disproportionate tax burden on the remaining property in the taxing district. See Opinion of the Justices, 105 N.H. 22, 23, 192 A.2d 22, 23 (1963). Therefore, to satisfy Part II, Article 5, abatements must be supported by good cause and exemptions by just reasons, see Opinion of the Justices, 117 N.H. 512, 515, 520-21, 374 A.2d 964, 965-66, 968 (1977), and thereby "reasonably promote some proper object of public welfare or interest." Felder, 114 N.H. at 577, 324 A.2d at 710 (quotation omitted); see Opinion of the Justices, 117 N.H. at 520-21, 374 A.2d at 969 (noting that phrase "for good cause shown" allows abatement if justice required, as consistent with constitution); Opinion of the Justices, 105 N.H. at 23, 192 A.2d at 23 (exemptions must be based on just reasons).

When determining whether good cause for an abatement or just reasons for an exemption exist, we leave matters of public policy to the legislature and do not "concern ourselves with the wisdom and practicality of proposed legislation." Opinion of the Justices, 131 N.H. 640, 642, 557 A.2d 273, 275 (1989); see, e.g., Opinion of the Justices, 115

N.H. 228, 231, 338 A.2d 553, 555-56 (1975) (incremental increase in elderly exemption supported by assumption that average earning capacity decreases with age); Briggs' Petition, 29 N.H. 547, 552 (1854) (recognizing inability to pay or other misfortune as "good cause" is consistent with policy of protecting towns from a contingent claim for taxpayer's support). The court's duty is to safeguard constitutional mandates, see Opinion of the Justices, 131 N.H. at 642, 557 A.2d at 275, by interpreting the plain and common meaning of the constitution in light of the framers' purpose and intent, see N.H. Munic. Trust Workers' Comp. Fund v. Flynn, Comm'r, 133 N.H. 17, 21, 573 A.2d 439, 441 (1990).

We are not persuaded that the special abatement provision is supported by good cause or just reasons consistent with the constitution. Proponents of the bill would have us construe Part II, Article 5 as permitting the special abatement in order to prevent social discord and because other tax resolutions could be divisive. That all three branches of government must struggle with difficult decisions which may cause social unrest cannot be a factor in the court's constitutional review of the bill. See University of California Regents v. Bakke, 438 U.S. 265, 299 (1978) (court's role is to lift constitutional principles above pragmatic political judgments of particular time and place). The duty of those of us who are constitutional officers, no matter in what branch of government, is to resolve important issues of the day within the confines of the constitution for the benefit of the people of New Hampshire.

Proponents of the bill also assert that the special abatement is designed to protect towns from financially contributing to the adequate education of children in other towns or school districts. Essentially, the proponents seek to measure proportionality and fairness on a municipality-by-municipality or district-by-district basis, rather than statewide. But, to the extent that a property tax is used to raise revenue to satisfy the State's obligation to provide an adequate education, it must be proportional across the State. See Claremont II, 142 N.H. at ___, 703 A.2d at 1357. While good cause or just reasons can be created by public policy determined by the legislature, public policy cannot undermine the constitutional requirement of proportionality. That is, the purpose of an abatement or an exemption can never be to achieve disproportionality for disproportionality's sake.

Because the diffusion of knowledge and learning is regarded by the State Constitution as "essential to the preservation of a free government," N.H. CONST. pt. II, art. 83, it is only just that those who enjoy such government should equally assist in contributing to its preservation. The residents of one municipality should not be compelled to bear greater burdens than are borne by others.

Id.; see also Claremont School Dist. v. Governor, 138 N.H. 183, 192, 635 A.2d 1375, 1381 (1993) (Claremont I) ("free government is dependent for its survival on citizens who are able to participate intelligently in the political, economic, and social functions of our system"). This obligation cannot be avoided or lessened by the mere circumstance of a town having few children or a town having a wealth of property value, including wealth generated by the presence of heavy industry. Cf. Barksdale v. Town of Epsom, 136 N.H. 511, 514, 618 A.2d 814, 816 (1992) ("[a] citizen cannot claim tax aggrievement merely because he or she does not personally add to the public education expense"); Union Transit Co. v. Kentucky, 199 U.S. 194, 203 (1905) (taxpayers cannot refuse to pay simply because they do not receive equal share of benefits; childless citizens must pay share of school tax).

It should not be forgotten that New Hampshire is not a random collection of isolated cities and towns. Indeed, all of us live in a single State. The benefits of adequately educated children are shared statewide and are not limited to a particular town or district. We live in a highly mobile society such that a child may be educated in Pittsfield and, as an adult, reside in Moultonborough. That adult may serve or influence the town or State as an elected or appointed official, a business or civic leader, or in various other endeavors. The benefits of that citizen's public education and contributions to community may be felt far beyond the boundaries of the educating town or district. Therefore, it is basic to our collective well-being that all citizens of the State share in the common burden of educating our children.

In conclusion, while the bill proposes a tax based on an equalized valuation and initially assigns a uniform rate, clearly some taxpayers would pay a far higher tax rate in furtherance of the State's obligation to fund education than others, due to the special abatement. Application of the special abatement guarantees that property owners paying the full rate bear an increased tax burden compared with property owners who are not assessed the full rate. Cf. Opinion of the Justices, 99 N.H. 525, 527, 113 A.2d 547, 548 (1955) (even though uniform rate applied, taxes produced are unequal and disproportional because effect is to tax one taxpayer upon one percentage of income while taxing another upon a different percentage). Because such disproportionality is not supported by good cause or a just reason, it violates both the plain wording of Part II, Article 5 and the express language of Claremont II.

Questions three and four of Senate Resolution No. 4 request review of section eighty-six of the bill, and question five seeks review of sections forty-eight, fifty-four, and fifty-nine. Because the bill provides that nearly the entire proposed legislation is rendered invalid if the abatement provision does not stand, including the sections identified in questions three through five, our opinion renders unnecessary answering these questions. See HB 1280-LOCAL ¶ 82 (1998) (amended by senate). We respectfully decline to answer question six because of its generality. See Opinion of the Justices (Weirs Beach), 134 N.H. 711, 717, 598 A.2d 864, 867-68 (1991).

In interpreting the constitution as we do today, we are mindful that those who crafted the words of Part II, Article 5 had lived under the taxation policies of the British Crown. The framers were thus cognizant of schemes of taxation which were oppressive, unpredictable, and grossly unfair. It undoubtedly was the specter of unfair taxation that prompted the requirement that taxes be both proportional and reasonable. Our interpretation of this language has been consistent and to advise otherwise now would be the first step down a dangerous path leading to frustration of the document upon which our government rests. The language of our constitution commands that taxes be no less than fair, proportional, and reasonable.

On December 17, 1997, when Claremont II was issued, the court was conscious of the magnitude of the tasks and challenges it had passed to its co-equal branches of government. Part I, Article 37 of the constitution, which in this case bears on our interpretation of Part II, Article 5, instructs that the legislative, executive, and judicial powers of our State should be kept "as separate from and independent of, each other, as the nature of a free government will admit." The framers' language continues by describing "that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity." It is in such spirit of union and amity that we retained jurisdiction in Claremont II.

Our task in the first instance is to interpret the constitution. We have done so in Claremont I and Claremont II. We repeat what we said in Claremont II, that "we were not appointed to establish educational policy, nor to determine the proper way to finance its implementation. That is why we leave such matters, consistent with the Constitution, to the two co-equal branches of government." Claremont II, 142 N.H. at __, 703 A.2d at 1360. It is neither our task nor intent to manage the public school systems of the State, or to suggest that the State education system cannot incorporate local elements. In this context, we note the commendable steps taken by the Governor and legislature in reaching their definition of a constitutionally adequate education. The legislature's involvement of a broad cross-section of the community in the process can only lead to a definition that will serve this State's school-age citizens well as they journey toward achievement in the world around them. We applaud the Governor and legislature for the work accomplished to date and in advance for that yet to be undertaken.

David A. Brock

William R. Johnson

W. Stephen Thayer, III

Sherman D. Horton, Jr.

John T. Broderick, Jr.

June 23, 1998

In addition to those to whom we granted oral argument, who are listed at the beginning of this opinion, we received written comments from the following legislators, attorneys, and citizens. The court extends its appreciation to all who provided comment.

Business & Industry Association of New Hampshire (Katharine Eneguess, vice president); Chapman Appraisal Company (Fran Chapman); City of Nashua (Donald C. Davidson, mayor); Corcoran Consulting Associates, Inc. (Wil Corcoran); Donahue, Tucker & Ciandella (Robert D. Ciandella, Esq. and Susan W. Chamberlin, Esq.) on behalf of the Town of Seabrook; NEA-New Hampshire (James F. Allmendinger, Esq.); Needham Associates, Inc. (Paul G. Needham); New Hampshire Association of School Principals (Peggy McAllister, executive director); New Hampshire School Administrators Association (Dr. Mark V. Joyce, executive director); New Hampshire School Boards Association (Dr. Paul Krohne, executive director); Northern New England Council of American Federation of Teachers (Judy Lavoie, legislative agent); Soule, Leslie, Kidder, Sayward & Loughman (Gordon B. Graham, Esq.), on behalf of the Derry School Board and the Derry Cooperative School District; Ralph L. Akins, State

Representative; John R. M. Alger, State Representative; Gordon Allen, State Representative; Clifton Below, State Representative; Ken Blevens; Sarah Bonneau, State Representative; Ralph Brewster; Robert P. Burke; Linda Camarota; Brian Christeson; Thomas J. Christie; Debbie Clough; Mike de Martelly; Dianne Kaplan deVries; Robert Dezmelyk; Sandra K. Dowd, State Representative; Patricia A. Dowling, State Representative; Robert M. Fesh, State Representative; Martin Feuerstein, State Representative; Robert E. Foster; Suzan L. R. Franks, State Representative; Marilyn A. Fraser, State Representative; Barbara C. French, State Representative; Dr. Robert L. Fried; M. Katharine Fuller; Paul A. Gibbons, State Representative; Barbara Gitlin; John P. Gleason, State Representative; Richard H. Goodman; Michelle R. Groleau; Paul E. Groleau; Joseph S. Haas, Jr.; Elizabeth Hager, State Representative; Nick Hart, State Representative; William G. Hasbrouck; Roland E. Hemon, State Representative; Francis M. Henry; Doris Hohensee; Alf E. Jacobson, State Representative; George N. Katsakiores, State Representative; Phyllis M. Katsakiores, State Representative; Jane Kelley, State Representative; Ellen Galarneau Kolb; John S. Langone, State Representative; John D. Lenaerts; Robert Letourneau, State Representative; Jay Lucas; Harold V. Lynde, State Representative; Margaret E. Lynott, State Representative; William C. Mackenzie; A. Richard Marple; Tom McCormick; Paul A. McGuirk, State Representative; Paul M. Mirski, State Representative; Bob Mulvaney; Donna Ohanian; Derek Owen, State Representative; Arthur Pelletier, State Representative; Andrew R. Peterson, State Representative; Thomas B. Place; John M. Pratt, State Representative; Barbara Hull Richardson, State Representative; Timothy N. Robertson, State Representative; Kathleen Rogers, State Representative; Michael Rollo, State Representative; Suzanne Ryan; Frank V. Sapareto, State Representative; Bill Sartori; Gilman C. Shattuck; Mark A. Stull, Esq.; Kathleen N. Taylor, State Representative; C. Robertson Trowbridge; Dennis P. Vachon, State Representative; Mary Vahey; Steve Vaillancourt, State Representative; Eugene M. Van Loan, III, Esq.; John Vogl, State Representative; Jean Wallin, State Representative; William Williams, State Representative; Colette M. Worsman.

LAID ON TABLE

HB 643-FN, establishing an industry average performance system for air pollution control and establishing certain pollution control funds. (Pending question is the adoption of the committee amendment.)

HB 1577-FN-A, relative to campaign finance expenditure and contribution reform. (Pending question is the adoption of the committee report.)

COMMITTEE MEETINGS

TUESDAY, JUNE 30

JUDICIARY AND FAMILY LAW, Room 208, LOB

10:00 a.m. Subcommittee work session on *HB 1549-FN*, granting a right to trial by jury in any controversy between a person or persons and a state board, commission, or agency when the amount in controversy is at least \$1,500.

LOCAL AND REGULATED REVENUES, Room 206, LOB

At the conclusion of the House session.

Full committee executive session on *HB 1566-FN-LOCAL*, providing that state-owned lands leased to or under an operating agreement with a private business entity are subject to the local property tax and *HB 1467*, establishing a study committee to determine the means and criteria for generating an analysis of New Hampshire's long-term strategic options regarding the sale and distribution of distilled spirits, beer, and wine.

TUESDAY, JULY 7

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. Subcommittee work session on *HB 1499*, establishing a committee to study the circumstances and investigation of the deaths of Janet and Steven Dow; providing an

exception from statutes of limitations for certain unlawful acts related to murders; relative to false reports to law enforcement officers; and nullifying the adoption of Steven Medeiros.

EDUCATION, Room 207, LOB

9:00 a.m. Subcommittee work session on *HB 1230-FN-LOCAL*, establishing a teacher improvement and evaluation program.

NEW HAMPSHIRE COMMISSION ON THE SMITHSONIAN FESTIVAL OF AMERICAN FOLKLIFE (SJR 20, Chapter 204, Laws of 1996), Room 307, LOB

3:00 p.m. Regular meeting.

MONDAY, JULY 13

BRAIN AND SPINAL CORD INJURY ADVISORY COUNCIL (RSA 137-K:2), Room 205, LOB

2:00 p.m. Public hearing.

TUESDAY, JULY 14

FINANCE - (DIVISION III), ROOM 210-211, LOB

10:00 a.m. Work session on *SB 409-FN*, relative to long-term care and extending the moratorium on new nursing home beds.

THURSDAY, JULY 16

ETHICS COMMITTEE (RSA 14-B:2), Room 304, LOB

9:00 a.m. Rescheduled regular meeting.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Utilities subcommittee work session on *HB 1560-FN-A*, reestablishing the New Hampshire energy authority, making an appropriation therefor, and directing it to explore the acquisition of the transmission and distribution system of the Public Service Company of New Hampshire, *HB 1662-FN*, restructuring the nuclear decommissioning finance committee and the office of the consumer advocate and amending laws relative to atomic energy to reflect the policies of electric utility restructuring, *HJR 20*, finding that the contract requiring Public Service Company of New Hampshire to assume financial responsibility for a decision by Northeast Utilities to acquire additional nuclear generating capacity has the potential to raise PSNH rates and was executed in violation of the 1989 Rate Agreement between Northeast Utilities and the state of New Hampshire and in violation of state law and *SB 326*, relative to representation and costs in utility rate proceedings.

FRIDAY, JULY 17

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Regular meeting.

MONDAY, JULY 20

OIL FUND DISBURSEMENT (RSA 146-D:4), Room 305, LOB

9:30 a.m. Regular meeting.

THURSDAY, JULY 30

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Utilities subcommittee work session on *HB 1560-FN-A*, reestablishing the New Hampshire energy authority, making an appropriation therefor, and directing it to explore the acquisition of the transmission and distribution system of the Public Service Company of New Hampshire, *HB 1662-FN*, restructuring the nuclear decommissioning finance committee and the office of the consumer advocate and amending laws relative to atomic energy to reflect the policies of electric utility restructuring, *HJR 20*, finding that the contract requiring Public Service Company of New Hampshire to assume financial responsibility for a decision by Northeast Utilities to acquire additional nuclear generating capacity has the potential to raise PSNH rates and was executed in violation of the 1989 Rate Agreement between Northeast Utilities and the state of New Hampshire and in violation of state law and *SB 326*, relative to representation and costs in utility rate proceedings.

WEDNESDAY, AUGUST 5

FISCAL COMMITTEE (RSA 14:30-a), Rooms 210-211, LOB

9:00 a.m. Regular business.

THURSDAY, AUGUST 13

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Utilities subcommittee work session on *HB 1560-FN-A*, reestablishing the New Hampshire energy authority, making an appropriation therefor, and directing it to explore the acquisition of the transmission and distribution system of the Public Service Company of New Hampshire, *HB 1662-FN*, restructuring the nuclear decommissioning finance committee and the office of the consumer advocate and amending laws relative to atomic energy to reflect the policies of electric utility restructuring, *HJR 20*, finding that the contract requiring Public Service Company of New Hampshire to assume financial responsibility for a decision by Northeast Utilities to acquire additional nuclear generating capacity has the potential to raise PSNH rates and was executed in violation of the 1989 Rate Agreement between Northeast Utilities and the state of New Hampshire and in violation of state law and *SB 326*, relative to representation and costs in utility rate proceedings.

THURSDAY, AUGUST 27

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Utilities subcommittee work session on *HB 1560-FN-A*, reestablishing the New Hampshire energy authority, making an appropriation therefor, and directing it to explore the acquisition of the transmission and distribution system of the Public Service Company of New Hampshire, *HB 1662-FN*, restructuring the nuclear decommissioning finance committee and the office of the consumer advocate and amending laws relative to atomic energy to reflect the policies of electric utility restructuring, *HJR 20*, finding that the contract requiring Public Service Company of New Hampshire to assume financial responsibility for a decision by Northeast Utilities to acquire additional nuclear generating capacity has the potential to raise PSNH rates and was executed in violation of

the 1989 Rate Agreement between Northeast Utilities and the state of New Hampshire and in violation of state law and *SB 326*, relative to representation and costs in utility rate proceedings.

OFFICIAL NOTICES

REVISED AMENDED FISCAL NOTES

The following HBs have a revised or amended fiscal note: HBs 111, 177, 204, 256, 443, 467, 485, 552, 559, 565, 579, 583, 587, 605, 606, 651, 670, 676, 686, 697, 707, 717, 730, 734, 736, 747, 749, 753, 774, 784, 1000, 1011, 1075, 1100, 1115, 1121, 1138, 1141, 1189, 1191, 1193, 1205, 1211, 1224, 1226, 1259, 1280, 1284, 1290, 1291, 1297, 1298, 1300, 1303, 1328, 1330, 1331, 1336, 1337, 1338, 1339, 1350, 1354, 1371, 1374, 1377, 1384, 1387, 1396, 1399, 1400, 1456, 1473, 1490, 1509, 1513, 1515, 1517, 1540, 1541, 1543, 1545, 1555, 1573, 1575, 1579, 1582, 1588, 1593, 1594, 1598, 1599, 1600, 1601, 1602, 1603, 1617, 1636, 1639, 1644, 1655, 1660, 1662, 1663, 1664, 1668, 1671, 1673, 1674, 1676, 1679, 1680, 1681, HJR 24 and SB 485.

Leo J. Callahan, Assistant Clerk

When the House Clerk's Office is aware of House Members who are hospitalized or homebound by serious illness, we will publish a list of names and addresses so that their colleagues who so desire may send cards and greetings.

Robert W. Foster, PO Box 602, Moultonborough, New Hampshire 03254-0602

Eugene L. Gagnon, 234 Joliette Street, Manchester, New Hampshire 03102-3019

Olive B. Morrill, 30 Morrill Court, West Franklin, New Hampshire 03235-2026

Richard Noyes, PO Box 75, N. Salem, New Hampshire 03073-0075

Leo P. Pepino, 73 Walnut Street, Manchester, New Hampshire 03104-4848

Paul W. Taylor, 214 Harris Road, Nashua, New Hampshire 03060-3708

Karen O. Wadsworth, Clerk of the House

MEMBERS' NOTICES

The following notices are published in the House record as a courtesy to the member(s) requesting publication. These are not official public notices and will be limited to legislative policy or social activities and political meetings or events. Publication should not be construed as support for either the events listed or the view espoused by the individual or organization sponsoring the event.

We invite all legislators and staff to an "End of Session Party" at the Upham Walker House, after session, on Tuesday, January 30th. Music , food and beverages. Please come, have fun, relax!

Reps. Peter H. Burling and Amanda A. Merrill

The Bedford Republican Committee cordially invites you to attend a reception for Senator Judd Gregg on Wednesday, July 1st from 5:30 to 7:30 p.m. at the CR Sparks Event Center, 18 Kilton Road, Bedford. Tickets are \$25 per person. Hors d'oeuvres will be served. For tickets please see Rep. Kathleen M. Flora or Rep. Maurice E. Goulet.

Rep. Kathleen M. Flora

The Dean of the House, Dan Healy on July 12 will celebrate his 90th birthday and his family is having a special celebration for him in Aberdeen, New Jersey where he is staying. Anyone wanting to wish him happy birthday can send a card or note in care of Ms. Ann Neville at 58 Aberdale Lane, Aberdeen, NJ, 07747. The phone number is 732-583-4130. I'm sure Dan would enjoy a card or a call.

Rep. Henry P. Sullivan

The Strafford County Democrats are holding their annual cook-out on Sunday, August 9 from 1:00 to 5:00 p.m. The event is being sponsored by the Barrington Democratic Committee at the home of Steve and Anne Whitney on France Road in Barrington. Tickets are \$5 per adult, \$3 for children and \$15 for family of 4. Candidates and families are welcome. Invited are Governor Shaheen and Congressman Patrick Kennedy. Please contact Barbara Morris at 749-6649 or Rep. Marlene DeChane at 335-0860.

Rep. Marlene DeChane

The Department of Transportation will hold the following meetings:

June 30 - Portsmouth City Hall Council Chambers, 1 Junkins Avenue, Portsmouth, 7:00 p.m. Combined public officials/public informational meeting, Portsmouth, Park and ride facility with bus terminal.

July 9 - Piermont Elementary School, NH Route 10, Piermont, 7:00 p.m. Public hearing (Commission) Piermont, NH Route 10 over Bean Brook.

Rep. Gene G. Chandler, Chairman

Public Works and Highways

NOTICE

The 1998 hard-cover permanent House Journal soon will be sent for typesetting and printing. Orders have to be placed in the House Clerk's office by September 18. Distribution is expected to be in early January of 1999.

Upon request, House and Senate members, as well as heads of state agencies are each entitled to one copy at no cost.

Additional copies plus all copies for non-legislators or non-state agencies will cost approximately \$45 each, plus mailing costs if there are any. If you are a member of the general public or if you are ordering multiple copies, please DO NOT send your money now. You will be billed.

In recent years, printing costs have continued to rise. Once again, an effort is being made to cut waste. The number to be printed will be determined by the number of orders placed. Please do not order a journal if you have no intention of claiming it.

Please clip this form and return it in person or via mail to:

House Clerk's Office, Room 317 - State House, Concord, NH 03301

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Leo J. Callahan

House Assistant Clerk