

A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department for the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.)

The purpose of this information release is to provide guidance on school and municipal finance issues in light of current education financing reform efforts. As of this date, no legislation has been enacted to address the Supreme Court's decision in the Claremont case. The legislature continues working to resolve this issue. Therefore, school and municipal officials are advised as follows:

**PAYMENTS TO SCHOOL DISTRICTS:** Town and cities are obligated to continue making payments to school districts through June 30, 1999, up to the amount of the 1998 school district assessment. Property taxes necessary to support school operations through June 30, 1999, were assessed during the fall of 1998. Payment to the schools of those assessments is governed by RSA 198:5 which requires that towns pay over to the school districts the amounts necessary for the "maintenance of schools." Towns may not withhold school funding included in the 1998 property tax assessments.

**SCHOOL DISTRICT DEFICIT APPROPRIATIONS:** School districts which vote a deficit appropriation at an annual meeting usually receive payment for that appropriation from the town prior to June 30th. That appropriation is then included in the tax assessment the following fall. However, since property taxes for the support of schools are unconstitutional as of April 1, 1999, assessments for deficit appropriations voted at the 1999 district meeting are not valid. Until the legislature enacts a solution, towns are advised not to make payments to school districts for deficit appropriations. School districts are advised not to plan on receiving payments for deficit appropriations until such time as a solution has been enacted.

**SEMI-ANNUAL TAX BILLINGS:** The department recommends that the semi-annual bills due to be issued by June 15, 1999, not include any amount for the support of schools. Only the municipal, county and village district rates should be included on semi-annual tax bills. Including the school portion of the property tax rate on the semi-annual tax bills would be an assessment of an unconstitutional tax. Under their oath of office, municipal officials have agreed to support the constitution and laws of the State of New Hampshire. Assessing a tax that has been declared unconstitutional by the Supreme Court would appear to violate this oath.

Several plans being considered by the legislature include a state property tax as a component of the solution. It is possible that the ultimate solution may incorporate a uniform statewide property tax, at which time the assessment of school property taxes on the semi-annual bill would be constitutional and valid. However, until such a tax plan is enacted, the school portion of the property tax should not be included on the semi-annual bill. (Municipal officials may want to delay issuing a semi-annual warrant to the tax collector as long as possible in anticipation of the final resolution.)

PENDING LEGISLATION: HB 734, which has been passed by the House and is currently pending in the Senate would provide a state guarantee on tax anticipation note borrowing and temporarily suspend the teacher non-renewal notification date.

State Guarantee: If enacted, HB 734 would allow municipalities unable to borrow sufficient amounts due to the school funding uncertainty to petition the Legislative Fiscal Committee for a state guarantee on such borrowing. The state guarantee would also require Governor and Executive Council approval. Since the Fiscal Committee only meets once a month, municipalities in need of a state guarantee should contact the Municipal Services Division at (603) 271-3397 as soon as possible for information on Fiscal Committee petition format and justification. Note : The next fiscal committee meeting is April 21, 1999, with a deadline of April 14, 1999, for submission of petitions.

Teacher Non-Renewal Notification: If enacted, HB 734 would also suspend for one month the provisions of RSA 189:14-a for school districts with no specific non-renewal notice date in their existing teachers contract. As provided in HB 734, "This suspension [would be] limited to those decisions to non-renew teachers resulting from uncertainty as to the level of state funding for education." This suspension would terminate on May 15, 1999.