

**HR 28 - AS INTRODUCED**

2026 SESSION

26-2320

12/09

HOUSE RESOLUTION

**28**

A RESOLUTION requesting the opinion of the justices clarifying the scope of the state's constitutional obligations concerning education.

SPONSORS: Rep. McFarlane, Graf. 18; Rep. Morse, Merr. 3; Rep. Ulery, Hills. 13; Rep. Wherry, Hills. 13; Rep. Thibault, Merr. 25; Rep. Perez, Rock. 16; Rep. Moffett, Merr. 4; Rep. Popovici-Muller, Rock. 17

COMMITTEE: Judiciary

---

ANALYSIS

This resolution requests the opinion of the Justices of the New Hampshire Supreme Court to provide clarification as to the state's constitutional obligations to provide an adequate education.

-----

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty-Six*

A RESOLUTION        requesting the opinion of the justices clarifying the scope of the state's constitutional obligations concerning education.

1        Whereas, part II, article 83 of the constitution provides that “Knowledge and learning, generally  
2        diffused through a community, being essential to the preservation of a free government; and  
3        spreading the opportunities and advantages of education through the various parts of the country,  
4        being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in  
5        all future periods of this government, to cherish the interest of literature and the sciences, and all  
6        seminaries and public schools, to encourage private and public institutions, rewards, and immunities  
7        for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history  
8        of the country; to countenance and inculcate the principles of humanity and general benevolence,  
9        public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and  
10       all social affections, and generous sentiments, among the people”; and

11       Whereas, decisions of the supreme court of New Hampshire have interpreted this provision to  
12       impose an enforceable duty upon the state to define, fund, and ensure a constitutionally adequate  
13       education for all children; and

14       Whereas, questions remain concerning the textual and structural basis of such rulings, the  
15       proper limits of judicial review, and the exclusive constitutional authority of the legislature over  
16       taxation and appropriations; now, therefore, be it

17       Resolved by the House of Representatives:

18       That the justices of the supreme court of New Hampshire be respectfully requested to give their  
19       opinion on the following important questions of law:

20       1. Whether the duty “to cherish” literature, sciences, and public schools stated in part II,  
21       article 83 creates a judicially enforceable right to state funding of public education, or whether it  
22       expresses an aspirational duty to be discharged by the general court in its discretion.

23       2. Whether, under part II, article 56 (vesting the sole power of raising and appropriating  
24       monies in the House of Representatives), the judiciary may require the legislature to appropriate  
25       funds for education beyond what the elected branches determine.

26       3. Whether there exists a judicially discoverable and manageable standard for determining  
27       the adequacy of education under part II, article 83, or whether such determination is inherently a  
28       political question entrusted to and within the discretion of the general court.

29       4. Whether the constitutional duty to “cherish” education requires uniformity of educational  
30       opportunity across all towns or permits local variation, provided that the legislature enables

**HR 28 - AS INTRODUCED**

**- Page 2 -**

1 communities to establish and maintain their own schools or otherwise provides and maintains a  
2 baseline of opportunity to “cherish” education.

3 5. Whether the legislature may fulfill any constitutional duty to “cherish” education through  
4 means other than direct state funding, such as by means of regulatory standards, curriculum  
5 guidance, or enabling of local taxation; or whether direct state appropriation is the only permissible  
6 and constitutionally valid means.

7 6. In the event that the judiciary finds a statutory funding scheme unconstitutional,  
8 whether the remedial authority of the judiciary extends beyond declaring such law void, to include  
9 ordering specific appropriations or prescribing methods of funding.

10 7. Whether, given the Tenth Amendment to the United States Constitution and New  
11 Hampshire’s reserved powers, and in light of the historical practice in New Hampshire whereby  
12 public education was originally established, funded, and maintained by individual towns rather than  
13 by the state, part II, article 83 of the New Hampshire constitution obligates the state to provide  
14 education at all, or whether public education is simply an area the legislature has historically chosen  
15 to enter as a matter of policy.

16 8. Whether, in light of the historical practice in New Hampshire whereby public education  
17 was originally established, funded, and maintained by individual towns rather than by the state,  
18 part II, article 83 obligates the state itself to fund and administer education, or whether the  
19 constitutional duty to ‘cherish’ education may be fulfilled through local provision supported at the  
20 discretion of the legislature.

21 Resolved further, that the clerk of the house of representatives transmit this resolution and  
22 request respectfully to the justices of the supreme court of New Hampshire.