

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. Thursday, September 10, 1998 No. 71

Contains: Public Hearings, Notices, Work Sessions, Reports and Amendments for September 10 and Order Form for 1998 Permanent Journal

HOUSE CALENDAR

NOTICE

MEMBERS OF THE HOUSE:

The House will meet on Thursday, September 10 at 10:00 a.m. to take up Claremont related measures. Additionally there will be a motion to suspend the rules to consider SB 409, the long-term care bill, and another motion to allow introduction and passage of a new bill to correct conflicting sections of a law we passed earlier this year.

Our gratitude goes to all the candidates who were willing to put their name on the line on Tuesday. Whether you won or not, the state is better off as a result of your participation in the process.

Donna Sytek, Speaker

NOTICE

There will be a Republican Caucus on Thursday, September 10 at 9:00 a.m. in Representatives Hall.

Robert L. Wheeler, Majority Leader

NOTICE

There will be a Democratic Caucus on Thursday, September 10 at 9:00 a.m. in Rooms 305-307 of the Legislative Office Building.

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.

THURSDAY, SEPTEMBER 10

REGULAR CALENDAR

FINANCE

SB 409-FN, relative to long-term care and extending the moratorium on new nursing home beds. OUGHT TO PASS WITH AMENDMENT

Rep. Neal M. Kurk for Finance: This bill, as amended, is an initial step toward incrementally rebalancing the state's long-term care system and expanding choices available to recipients. It reflects a joint, summer-long effort by the Finance Committee, members of the Health and Human Services Committee and members of the Senate in conjunction with officials from the Department of Health and Human Services. The bill provides elderly and chronically ill adults who are Medicaid-eligible for nursing home services with a continuum of care more appropriate to their needs and more affordable to the state and its taxpayers. It adds mid-level care, such as assisted living and residential care services, to the currently available nursing home and home- and community-based care services and affirmatively establishes the right to consumer choice among these options,

subject to reasonable cost controls. A community-based information and referral network will be set up so all citizens will be more knowledgeable about long-term care options, and \$4 million is set aside from proportionate share funds to develop the necessary community infrastructure to improve long-term care services.

The bill, as amended, also establishes an acuity-based reimbursement system for nursing homes and a comprehensive needs assessment process to assure that appropriate services will be provided. Program management and cost controls require separate class lines in the biennial budget for each level of service and limit the average cost of mid-level and home-based care to a percentage of the cost of nursing home care.

A new cost-sharing partnership between the counties and the state is established, if approved by the legislative delegation of each of the counties, as required by Art. 28.-a of the state constitution. The counties will see their proportion of the non-federal share of nursing home costs reduced from 61% to 50% but that percentage will now also be applied to provider payments, mid-level care and home- and community-based care in excess of \$2 million per year. County liability for these costs is capped at specified dollar amounts each year until 2003, at which time these new cost-sharing provisions sunset. The committee recommends this bill as an important first step for the state and its counties to take in providing more appropriate and more cost-effective long-term care services to a rapidly growing elderly population. Vote 18-1.

CACR 44, relating to clarifying the phrase "proportional and reasonable" in the constitution. Providing that to the extent local property taxes are used to fund an adequate education, tax rates among different local taxing districts shall be proportional and reasonable if, utilizing real property valuations equalized throughout the state, the lowest tax rate utilized by any one local taxing district is not less than 50 percent of the highest tax rate utilized by any other local taxing district. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: The issues addressed by this CACR are interwoven with HB 1679 which has been recommended for interim study by the committee. The committee believes that separate study of this CACR is unnecessary. Vote 19-0.

CACR 46, relating to the right of each educable child to an adequate education, and the proportionality and reasonableness of local taxes for education. Providing that the right of every child to an adequate education shall be enforced by appropriate legislation, that the state may delegate to its political subdivisions the duty to provide an adequate education, and that a tax imposed to implement such a delegated duty shall be proportional and reasonable. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: The issues addressed in this CACR are in large measure covered in the House amendment to the Senate's CACR 45. Vote 19-0.

CACR 45, relating to the state's responsibility to provide to all citizens the opportunity for a public education. Providing that the general court shall have the exclusive authority to determine the content, extent, and funding of a public education and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, in whole or part, to a political subdivision, provided that upon delegation, such assessments, rates and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed. OUGHT TO PASS WITH AMENDMENT

Rep. Neal M. Kurk for Finance: This proposed amendment to CACR 45 achieves four important objectives: 1) The amendment restores the rights of the people and their elected officials to decide matters of educational policy and funding by restricting the opportunities for perpetual court intervention. This provision helps New Hampshire avoid the years of litigation which have caused well-publicized problems in many other states. 2) The amendment binds the state to providing at least \$225 million in state aid to public education every year, beginning in fiscal year 2001. Current state aid for education totals about \$127 million. This increase would be the largest in state history. State aid could go higher in any year, but could not fall below the baseline set in the amendment. Local districts could use state education aid for school spending, for property tax relief or for a combination of both. 3) The amendment clearly establishes local control over education decisions in all areas except those where explicit state law is written. 4) The amendment expressly preserves the protections from unfunded mandates afforded by article 28-A. Vote 13-7.

CACR 47, relating to use of personal income taxes. Providing that the general court shall use net revenues from personal income taxes exclusively for educational purposes. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: The issue addressed by this CACR is related to HB 1668 which has been recommended for interim study by the committee. The committee believes that separate study of this CACR is unnecessary. Vote 17-2.

CACR 48, relating to restricting any statewide property tax to education funding. Providing that all revenues resulting from a statewide property tax shall be used exclusively for elementary and secondary education. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: The issue addressed by this CACR is related to HB 1674 which has been recommended for interim study by the committee. The committee believes that separate study of this CACR is unnecessary. Vote 17-2.

CACR 51, relating to establishing a restricted education trust fund. Providing that an education trust fund be established, that all moneys designated for the purpose of state aid to education shall be directly transferred to such trust fund, and that the moneys in such trust fund shall be used exclusively for state aid to education. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: In view of the committee's support of CACR 45, as amended, it was felt that establishing a restricted education trust fund without a dedicated source of revenue raised issues that should more appropriately be addressed at a later time Vote 19-0.

HB 1666-FN-A-L, establishing a new statewide tax on land values to fund a constitutionally adequate education. REFER FOR INTERIM STUDY

Rep. Charles L. Vaughn for Finance: This bill proposed a statewide property tax on land values only to fund a constitutionally adequate education. This method of property taxation requires additional study. Vote 13-6.

HB 1668-FN-A-L, establishing a personal income tax and a statewide school property tax to fund public education and making an appropriation therefor. REFER FOR INTERIM STUDY

Rep. David J. Alukonis for Finance: The information and data which the sponsors and other interested parties provided as part of the testimony on this proposal is both comprehensive and valuable. The committee believes it wise to continue consideration of this bill in order to make more complete its understanding of this information as well as of the impacts and issues relevant to enactment of the proposal. Vote 13-6.

HB 1669-FN-A-L, adding a capital gains tax to the interest and dividends tax, and designating all revenues from the interest and dividends tax for funding education. INEXPEDIENT TO LEGISLATE

Rep. David J. Alukonis for Finance: This bill adds a capital gains tax to the interest and dividends tax and provides that all revenues from the interest and dividends tax be deposited to a fund dedicated for the purposes of public education. There was very little support for this sort of tax to be imposed upon the citizens of New Hampshire. Additionally, consideration of any tax increases in order to finance additional appropriations for public education should be made during the normal budget deliberations impacting the year for which the appropriations will be made. Vote 17-2.

HB 1670-FN-A-L, relative to a statewide school tax on income for purposes of funding a constitutionally adequate education and making an appropriation therefor. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: The Finance Committee had before it two income tax bills relative to funding for a constitutionally adequate education. The committee felt only one bill needed to be studied and believes HB 1668-FN-A-L to be the better vehicle. Vote 16-3.

HB 1671-FN-A-L, establishing a securities transfer excise tax to meet state obligations in funding education. INEXPEDIENT TO LEGISLATE

Rep. Avis B. Nichols for Finance: This bill establishes a securities excise tax to fund state education obligations. However, the tax can be easily avoided by locating or conducting transfers and sales out of state. The bill would also have a significant negative impact on the New Hampshire retirement system. Furthermore, the bill would discourage the expansion of the financial services industry in the state. For these reasons, the committee recommends the bill be voted inexpedient to legislate. Vote 19-0.

HB 1674-FN-A-L, establishing a proportional statewide property tax to provide equal per student funding for state-mandated education and funding for kindergarten and making an appropriation therefor. REFER FOR INTERIM STUDY

Rep. Avis B. Nichols for Finance: This bill establishes a proportional statewide property tax to provide funding for state-mandated education and funding for kindergarten. The committee felt the bill should be studied along with certain other proposals for funding education. Vote 14-5.

HB 1675-FN-A-L, establishing a referendum for a new taxation plan to fund public education. INEXPEDIENT TO LEGISLATE

Rep. David J. Alukonis for Finance: This bill would establish a procedure whereby the legislature may submit a question regarding the imposition of a statewide tax for funding education to the vote of the people by ballot. It would additionally allow the voters an opportunity to select an alternative tax plan to the tax designated by the legislature. In light of the Finance Committee's action on CACR 45 and numerous other Claremont-related bills, the committee feels that this proposal is not needed. Additionally, serious concerns were raised regarding the understandability and simplicity of the questions as they would be placed on the ballot. Vote 19-0.

HB 1676-FN-A-L, relative to collection by the state of local property taxes paid by business, industrial, and public utility properties and redistribution to municipalities for education purposes on a per pupil basis. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: This bill proposes that local property taxes owed by business, industrial and public utility properties be paid to the state and redistributed to municipalities on a per pupil basis to fund a constitutionally adequate education. The redistribution would require property tax increases on residential property owners in many communities and discourage business development. The committee believes both consequences are undesirable. Vote 19-0.

HB 1679-FN-A-L, relative to local property taxation and state aid to support public education. REFER FOR INTERIM STUDY

Rep. Charles L. Vaughn for Finance: This bill is a property tax-based funding plan to address the Supreme Court's decision in Claremont II. Its proponents have offered amendments and provided data that merit additional study. Vote 17-3.

HB 1681-FN-A, increasing the tobacco tax on all tobacco products and designating the increase in revenue for the advancing better classrooms program. INEXPEDIENT TO LEGISLATE

Rep. David J. Alukonis for Finance: This bill proposes to increase the rate of the tax on tobacco products in order to finance the Governor's ABC plan. Given that, pursuant to passage of either HB 1075 or CACR 45, additional appropriations for education will not take place until at least fiscal year 2000, there is no need to raise additional revenues at this time. Consideration of any tax increases, as well as budget reductions, in order to finance additional appropriations for primary and secondary education should be considered during the normal budget cycle in the next session of the legislature. Vote 12-9.

COMMITTEE OF CONFERENCE

HB 1075-FN-A-L, defining a constitutionally adequate public education, providing additional funding for education aid and/or property tax relief and relative to teacher renomination and the application of teacher professional performance standards.

REPORT FILED

COMMITTEE OF CONFERENCE STATEMENT

HB 1075-FN-A-L, defining a constitutionally adequate public education, providing additional funding for education aid and/or property tax relief and relative to teacher renomination and the application of teacher professional performance standards.

The Committee of Conference report on HB 1075 is an interim plan for responding to the Claremont suit. It is a compromise between the House and Senate versions of the bill. It includes the following provisions from the House version: the policy and purpose section; the definition of adequacy; the provisions for reporting of data and the state report card; the repeal of the cap on school district contingency funds. It includes the Senate provision establishing an education betterment fund for monies to supplement foundation aid amounts. The sum of \$72 million is appropriated for distribution through the current foundation aid formula. The compromise contains a new definition detailing the items which will comprise the state's general fund support of public education and a provision requiring the adoption of CACR 45 in order for HB 1075 to take effect.

Rep. Donnalee Lozeau

LAID ON TABLE

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

COMMITTEE MEETINGS

THURSDAY, SEPTEMBER 10

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

Immediately following the House session, time permitting.

Rescheduled 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, SEPTEMBER 11

COMMISSION TO STUDY SPECIAL EDUCATION ISSUES, (SB 462, Chapter 267:2, II, Laws of 1998), Room 207, LOB

8:30 a.m. Subcommittee meeting.

Room 102, LOB

10:00 a.m. Regular meeting.

IN-HOME SUPPORT SERVICES FOR CHILDREN WITH DISABILITIES FUNDING STUDY, (SB 443, Chapter 160:1, Laws of 1998), Room 101, LOB

1:00 p.m. Public hearing. Department of Health & Human Services Medicaid Program representative will present funding issues.

OSTEOPOROSIS ADVISORY COUNCIL (RSA 126-I:3), Room 103, LOB

10:00 a.m. Regular meeting.

MONDAY, SEPTEMBER 14

AUTHORITY, FUNCTIONS, DUTIES, FUNDING AND RESPONSIBILITIES OF THE BUREAU OF EMERGENCY MEDICAL SERVICES STUDY, (HB 1150, Chapter 30:1, Laws of 1998), Fire Standards and Training, Sheep Davis Road, Concord

1:00 p.m. Tour of facility.

2:00 p.m. Regular meeting.

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25), Room 201, LOB

1:00 p.m. Complaint hearings.

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

2:00 p.m. Regular meeting.

CANNON MOUNTAIN ADVISORY COMMISSION, (RSA 12-A:29-b), Park Headquarters Building, Cannon Mountain Franconia Notch State Park

10:00 a.m. Agenda will include a progress report on the master development plan and a status report on the Mittersill land transfer.

SUPERVISION OF JUVENILES ON PROBATION OR PAROLE STUDY, (SB 479, Chapter 219:1, Laws of 1998), Room 101, LOB

9:00 a.m. Regular meeting.

TUESDAY, SEPTEMBER 15

ADOPTION OF A SINGLE SALES FACTOR APPORTIONMENT METHOD FOR BUSINESS TAXATION PURPOSES STUDY, (HB 1497, Chapter 49:2, Laws of 1998), Room 209, LOB

10:00 a.m. Regular meeting.

DRIVER TRAINING PROGRAMS FOR OLDER DRIVERS STUDY, (SB 316, Chapter 212:1, Laws of 1998), Room 102, LOB

10:00 a.m. Regular meeting.

EARLY CARE AND EDUCATION REGULATION OF PERSONNEL STUDY, (HB 1438, Chapter 82:1, Laws of 1998), Room 202, LOB

1:00 p.m. Regular meeting.

HOME SCHOOL STUDENTS ACCESS TO PUBLIC SCHOOL FACILITIES AND PROGRAMS STUDY (HB 1247, Chapter 34:1, Laws of 1998), Room 205, LOB

3:00 p.m. Regular meeting.

LAND USE MANAGEMENT AND PROTECTION AND PRESERVATION OF THE STATE'S FARMLAND, RURAL CHARACTER AND ENVIRONMENTAL QUALITY AGAINST LOW DENSITY SPRAWL, URBAN AS WELL AS RURAL, AND THE LOSS OF SENSE OF PLACE STUDY, (HB 1238, Chapter 197:2, Laws of 1998), Room 305, LOB

11:00 a.m. Regular meeting.

MARINE PATROL SERVICES STUDY, (HB 1605, Chapter 178:1, Laws of 1998), Room 204, LOB

9:00 a.m. Regular meeting.

NEW HAMPSHIRE CONSERVATION NUMBER PLATE ADVISORY COMMITTEE, (RSA 261:97-d), Room 203, LOB

10:00 a.m. Organizational meeting.

NEW HAMPSHIRE COUNCIL ON APPLIED TECHNOLOGY AND INNOVATION (RSA 12-H:1), Room 304, LOB

9:00 a.m. Regular meeting.

10:00 a.m. Joint meeting with Telecommunications Oversight Committee (RSA 374:22-h).

PHARMACEUTICAL ASSISTANCE FOR THE ELDERLY STUDY, (SB 507, Chapter 221:2, Laws of 1998), Room 101, LOB

1:00 p.m. Regular meeting.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

11:00 a.m. Rescheduled telecommunications subcommittee work session on ***HB 1535***, relative to local

telephone calling areas and long distance access charges and ***HB 1632-FN-A-LOCAL***, promoting the development of telecommunications planning and coordination at a statewide level, establishing incentives for local government investment in telecommunications infrastructure, and permitting local governments to franchise or otherwise levy and collect payments for use of the rights-of-way.

SERVICES PROVIDED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE STATE SUBSTANCE ABUSE DELIVERY SYSTEM, (HB 1174, Chapter 247:1, Laws of 1998), Room 205,LOB

10:00 a.m. Organizational meeting.

SPECIAL EDUCATION SHORTAGE OF QUALIFIED PERSONNEL IN THE DELIVERY OF SERVICES STUDY (HB 1215, Chapter 144:1, Laws of 1998), Room 207, LOB

10:00 a.m. Organizational meeting.

TELECOMMUNICATIONS OVERSIGHT COMMITTEE (RSA 374:22-h), Room 304,LOB

10:00 a.m. Joint meeting with New Hampshire Council on Applied Technology and Innovation (RSA 12-H:1).

WEDNESDAY, SEPTEMBER 16

ALLOWING PRIVATE NONPROFIT SMALL BUSINESS HEALTH CARE INSURANCE PURCHASING GROUPS TO FORM AND CONDUCT BUSINESS IN NEW HAMPSHIRE STUDY, (SB 494, Chapter 259:1, Laws of 1998), Room 302, LOB

10:00 a.m. Regular meeting.

CABLE CONSUMERS AND THE ENHANCEMENT OF CABLE ELECTRONIC SERVICES PROTECTION STUDY, (HB 1651, Chapter 52:1, Laws of 1998), Room 304, LOB

10:00 a.m. Regular meeting.

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

9:00 a.m. Regular business.

INSURANCE COVERAGE FOR INFERTILITY STUDY, (SB 357, Chapter 92:1, Laws of 1998), Room 102, LOB

11:00 a.m. Regular meeting.

JOINT MAINTENANCE AGREEMENTS IN SCHOOL DISTRICTS STUDY, (SB 448, Chapter 131:1, Laws of 1998), Room 102, LOB

10:00 a.m. Regular meeting.

JUDICIARY AND FAMILY LAW, Room 208, LOB

9:30 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 and ***HB 1317***, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses.

LEGISLATOR ORIENTATION COMMITTEE (RSA 17-C:2), Room 305, LOB

10:00 a.m. Regular meeting.

LOCAL AND REGULATED REVENUES, Room 206, LOB

10:00 a.m. Public hearing on ***HB 1352-FN-A***, authorizing electronic games of chance at pari-mutuel licensee locations.

11:30 a.m. Executive session on ***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 and ***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, only

Continued public hearing on ***HB 1352-FN-A***, authorizing electronic games of chance at pari-mutuel licensee locations, if necessary.

LONG-RANGE CAPITAL PLANNING AND UTILIZATION (RSA 17-M), Room 201, LOB

1:00 p.m. Dredging subcommittee meeting.

PAROLE SYSTEM AND METHODS TO INCREASE ITS EFFICIENCY STUDY, (SB 319, Chapter 181:1, Laws of 1998), Room 204, LOB

1:00 p.m. Regular meeting.

WOMEN'S HEALTH CARE STUDY, (HB 1536, Chapter 118:1, Laws of 1998), Room 302, LOB

1:00 p.m. Rescheduled organizational meeting.

THURSDAY, SEPTEMBER 17

ADOPTION OF ARTICLES 41, 72-a AND 73-a OF THE SECOND PART OF THE NEW HAMPSHIRE CONSTITUTION STUDY, (HB 1338, Chapter 330:1, Laws of 1998), Room 208, LOB

10:00 a.m. Regular meeting.

CHILD CARE AND FAMILY RESOURCE GROUP STUDY, (SB 360, Chapter 122:2, Laws of 1998), Whole Village Center, 258 Highview Street, Plymouth

3:00 p.m. Public hearing.

DEAN MEMORIAL AIRPORT IN NORTH HAVERHILL UPGRADE STUDY, (HB 1340, Chapter 45:2, Laws of 1998), Room 201, LOB

9:30 a.m. Regular meeting.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

10:00 a.m. Subcommittee work session on incinerator closures.

PATIENTS' NEEDS COMMITTEE, (HB 1335, Chapter 111:4, Laws of 1998), Room 201, LOB

1:00 p.m. 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.

STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION STUDY, (HB 1159, Chapter 31:1, Laws of 1998), Room 207, LOB

10:00 a.m. Regular meeting.

MONDAY, SEPTEMBER 21

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 305-307, LOB (PLEASE NOTE ROOM CHANGE)

9:00 a.m. Rescheduled regular meeting.

OVERSIGHT COMMITTEE TO REVIEW ALLOCATION OF FUNDS FOR PERSONS WITH SEVERE DEVELOPMENTAL DISABILITIES, (RSA 171-A:1-b), Room 205, LOB

9:00 a.m. Regular meeting.

TUESDAY, SEPTEMBER 22

BUILDING TRADES CONSOLIDATING UNDER A SINGLE LICENSING BOARD FEASIBILITY STUDY, (SB 364, Chapter 123:1, Laws of 1998), Room 101, LOB

9:00 a.m. Organizational meeting.

JUDICIARY AND FAMILY LAW, Room 208, LOB

10:00 a.m. Subcommittee work session on ***HB 1433-FN***, relative to physician aid-in-dying for certain persons suffering from a terminal condition.

WEDNESDAY, SEPTEMBER 23

EVENING SESSIONS IN DISTRICT COURTS STUDY, (HB 734, Chapter 29:1, Laws of 1998), Room 305, LOB

10:00 a.m. Organizational meeting.

THURSDAY, SEPTEMBER 24

ADOPTION OF ARTICLES 41, 72-a AND 73-a OF THE SECOND PART OF THE NEW HAMPSHIRE CONSTITUTION STUDY, (HB 1338, Chapter 330:1, Laws of 1998), Room 208, LOB

10:00 a.m. Regular meeting.

ALTERNATIVE AGRICULTURAL PRODUCTS EFFECT AND JURISDICTION COMMISSION, (HB 1120, Chapter 103:1, Laws of 1998), Room 307, LOB

9:00 a.m. Regular meeting.

STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION STUDY, (HB 1159, Chapter 31:1, Laws of 1998), Room 207, LOB

10:00 a.m. Regular meeting.

FRIDAY, SEPTEMBER 25

BOARD OF CLAIMS (RSA 541-B:3), Room 202, LOB

9:00 a.m. Rescheduled regular meeting.

MONDAY, SEPTEMBER 28

CHILD CARE AND FAMILY RESOURCE GROUP STUDY, (SB 360, Chapter 122:2, Laws of 1998), University of New Hampshire Elliot Alumni Center (1925 Room), 9 Edgewood Road, Durham

3:00 p.m. Public hearing.

TUESDAY, SEPTEMBER 29

IN-HOME SUPPORT SERVICES FOR CHILDREN WITH DISABILITIES FUNDING STUDY, (SB 443, Chapter 160:1, Laws of 1998), Room 101, LOB

1:30 p.m. Public hearing. Department of Education and two school districts will present financial and special education issues.

TELEMEDICINE USE STUDY, (SB 383, Chapter 157:1, Laws of 1998), Concord Hospital, Conrad Auditorium

10:00 a.m. Regular meeting.

THURSDAY, OCTOBER 1

LONG-RANGE CAPITAL PLANNING AND UTILIZATION (RSA 17-M), Room 201, LOB

9:30 a.m. Skyhaven Airport subcommittee meeting.

STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION STUDY, (HB 1159, Chapter 31:1, Laws of 1998), Room 207, LOB

10:00 a.m. Regular meeting.

FRIDAY, OCTOBER 2

OSTEOPOROSIS ADVISORY COUNCIL (RSA 126-I:3), Room 103, LOB

10:00 a.m. Regular meeting.

MONDAY, OCTOBER 5

PERINATAL ALCOHOL, TOBACCO AND OTHER DRUG USE TASK FORCE (RSA 132:19), Room 101, LOB

9:00 a.m. Regular meeting.

TUESDAY, OCTOBER 6

ELECTION LAW, Room 308, LOB

10:00 a.m. Subcommittee work session on *HB 647-FN-A-L*, relative to a centralized computer checklist of voters and making an appropriation therefor.

JUDICIARY AND FAMILY LAW, Room 208, LOB

10:00 a.m. Executive session on all interim study bills.

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.

WEDNESDAY, OCTOBER 7

COMMERCE, Room 302, LOB

- 9:30 a.m. Subcommittee work session on ***HB 1546-FN***, extending consumer protection rights to purchasers of farm equipment.
- 10:00 a.m. Subcommittee work session on ***HB 263***, relative to viatical settlements which are settlements between an insurance provider and a policy holder or certificate holder with a life-threatening illness.
- 10:30 a.m. Subcommittee work session on ***SB 340***, relative to the filing fee for securities in a combined prospectus offered for sale in New Hampshire by a mutual fund.

THURSDAY, OCTOBER 8

STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION STUDY, (HB 1159, Chapter 31:1, Laws of 1998), Room 207, LOB

- 10:00 a.m. Regular meeting.

TUESDAY, OCTOBER 13

CHILD CARE AND FAMILY RESOURCE GROUP STUDY, (SB 360, Chapter 122:2, Laws of 1998), Nashua City Hall, Third Floor Auditorium, 229 Main Street

- 2:00 p.m. Public hearing.

IN-HOME SUPPORT SERVICES FOR CHILDREN WITH DISABILITIES FUNDING STUDY, (SB 443, Chapter 160:1, Laws of 1998), Room 101, LOB

- 10:00 a.m. Public hearing. Families will talk about their concerns of children with disabilities.

PUBLIC WATER ACCESS ADVISORY BOARD (RSA 233-A:2, I), Department of Fish and Game, Director's Conference Room, Hazen Drive, Concord

- 10:00 a.m. Regular meeting.

WEDNESDAY, OCTOBER 14

ELECTRIC RATE REDUCTION FINANCING COMMITTEE, (HB 651, Chapter 263:1, Laws of 1998), Room 304, LOB

- 10:00 a.m. Regular meeting.

THURSDAY, OCTOBER 15

STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION STUDY, (HB 1159, Chapter 31:1, Laws of 1998), Room 207, LOB

- 10:00 a.m. Regular meeting.

FRIDAY, OCTOBER 16

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

- 9:00 a.m. Regular meeting.

JUDICIAL COUNCIL (RSA 494), Room 208, LOB

12:00 p.m. Regular meeting.

TUESDAY, OCTOBER 20

IN-HOME SUPPORT SERVICES FOR CHILDREN WITH DISABILITIES FUNDING STUDY, (SB 443, Chapter 160:1, Laws of 1998), Room 101, LOB

10:00 a.m. Full committee review of draft report due November 1st.

THURSDAY, OCTOBER 22

STRATEGIES FOR INCREASING PARENTAL INVOLVEMENT IN PUBLIC EDUCATION STUDY, (HB 1159, Chapter 31:1, Laws of 1998), Room 207, LOB

10:00 a.m. Regular meeting.

MONDAY, OCTOBER 26

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

9:00 a.m. Hearing and regular meeting.

OFFICIAL NOTICES

The Nuclear Decommissioning Financing Committee (RSA 162-F:15) will be conducting hearings regarding North Atlantic Energy Service Corporation's (North Atlantic) Annual Decommissioning Update from September 28 through October 2 at 9:00 a.m. in Rooms 305-307, LOB. Further hearings on North Atlantic's Annual Decommissioning Update will be held as needed October 19 through October 23 at 9:00 a.m. at the same location.

Rep. Jeb E. Bradley

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.

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.

Prints of the 1997-98 class photo can be ordered from Susan Wood in the House Information Office, Room 314, or by calling 271-

3666. A copy of the picture is available in Room 314 for anyone who wants to look at a print before placing an order. The cost is \$10.00 for an 8 x 10 print. Only checks will be accepted for payment. Please place your orders as soon as possible and no later than Sept. 11 to ensure prompt delivery of the prints.

Donna Sytek, Speaker

Strafford County Republicans are scheduled to meet Saturday, September 12 at 9:00 a.m. at the Gateway Restaurant in Somersworth. The Strafford County Republican picnic is scheduled for Saturday, September 19. Details to follow.

Rep. Robert E. McKinley

Due to Labor Day, the monthly meeting of Manchester City Democrats will be moved to Monday, September 14 at 7:00 p.m., 27 Lowell Street, office on fifth floor (elevator accessible). Primary results will be reviewed and strategy for the November election will be outlined. The latest newsletter is scheduled to be mailed to a new list of 6,000 regular Manchester voters on September 3.

Rep. Steve Vaillancourt

The Legislative Caucus for Young Children will meet on Tuesday, September 15 at 10:00 a.m. in the Upham Walker House.

Reps. Julie M. Brown, Iris W. Estabrook, Mary Stuart Gile and James P. Pilliod

The House Republican Alliance will meet at the Upham Walker House (Park Street across from the State House) at 9:00 a.m. on the following Wednesdays: September 16, September 30, October 14 and October 28. Refreshments will be served.

Rep. Robert K. Boyce

Just a reminder for those who have signed up for the Golf Tournament.

The 25th Annual Bill White Memorial Legislative Golf Tournament is scheduled for Friday, September 18 at the John Cain Golf Club in Newport. Any questions please call Sandy Wheeler at the LOB Lobby desk 271-3321.

Reps. Gene G. Chandler and Peter H. Burling

In recognition of your support, the New Hampshire Law Enforcement Officers' Memorial Committee cordially invites all members of the House to the dedication ceremony of the New Hampshire Law Enforcement Officers' Memorial. The ceremony for the memorial will be held on Saturday, September 26, beginning promptly at 6:00 p.m. at the Legislative Office Building in

Concord. The ceremony will proceed rain or shine. Refreshments will be served immediately following the event. Please contact Amy Parker-Donovan at 539-1316 or Chief John Curran of the Meredith Police Department at 279-4561 if you have any questions.

Rep. Allen K. MacNeil

The 11th Annual Harry S. Truman Dinner, sponsored by the Coos County Democratic Party, will be held Saturday, September 26th at the Town and Country Motor Inn, Route 2, Shelburne. Social hour with hors d'oeuvres and cash bar 6:00 p.m. Dinner 7:00 p.m. Keynote speaker will be US Senator Paul Wellstone from Minnesota. Tickets \$25 per person. For tickets call Rep. Paula E. Bradley at 466-2574.

Rep. Paula E. Bradley

The Department of Transportation will hold the following meetings:

Sept 15 - Newport Town Hall Opera House, 15 Sunapee Street, Newport, 7:00 p.m. Public hearing (special commission), Claremont-Newport, NH Route 11.

Rep. Gene G. Chandler, Chairman

Public Works and Highways

NOTICE

LAST CALL! Those persons who have not yet placed an order for a 1998 hard-cover permanent House Journal may still do so but ***ORDERS CLOSE FRIDAY, SEPTEMBER 18th.***

REMINDERS:

- 1) If you have already ordered, there is no need to re-order. We have your name on file. If you can't recall placing an order and want to check, please call the House Clerk's Office at 271-2548.
- 2) Upon request, legislators and heads of state agencies are each entitled to one copy at no cost.
- 3) Non-legislators will be charged approximately \$45 per volume, plus mailing costs if there are any.
- 4) To cut waste, the number of printed Journals will be determined by the number of orders placed.
- 5) If you are a member of the general public, please ***DO NOT*** send money now. You will be billed.

Please clip and return to: House Clerk's Office, Room 317 - State House, Concord, NH 03301

-- *LastCall* -- *LastCall* -- *LastCall* -- *LastCall* -- *LastCall* -- *LastCall* -- *LastCall* -- *LastCall* --

- *** PLEASE PRINT *** -

- Representative Request -

NAME OF STATE REPRESENTATIVE only _____

NAME OF PERSON/OFFICE/STATE AGENCY/BUSINESS _____

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CONTACT PERSON (only if agency or business) _____

I WISH TO ORDER _____ 1998 HOUSE PERMANENT JOURNAL(S)

SIGNED _____

Leo J. Callahan
House Assistant Clerk

THURSDAY, SEPTEMBER 10

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

1998-2364h

Floor Amendment to CACR 44

Proposed by Rep. Hess

Amend the title of the resolution by replacing it with the following:

RELATING TO: clarifying the phrase "proportional and reasonable" in the constitution.

PROVIDING THAT: to the extent local property taxes are used to fund an adequate education, tax rates among different local taxing districts shall be proportional and reasonable if, utilizing real property valuations equalized throughout the state, the lowest tax rate utilized by any one local taxing district is not less than 33 1/3 percent of the highest tax rate utilized by any other local taxing district.

Amend the resolution by replacing all after the title with the following:

I. That article 5 of the second part of the constitution be amended to read as follows:

[Art.] 5 [Power to Make Laws, Elect Officers, Define Their Powers and Duties, Impose Fines and Assess Taxes; Prohibited from Authorizing Towns to Aid Certain Corporations.] And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, either with penalties, or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defense of the government thereof, and to name and settle biennially, or provide by fixed laws for the naming and settling, all civil officers within this state, such officers excepted, the election and appointment of whom are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this state, and the forms of such oaths or affirmations as shall be respectively administered unto them, for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and other punishments, and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and residents within, the said state; and upon all estates within the same, *provided that to the extent the local property tax is used to fund an adequate education, as defined by the state of New Hampshire, tax rates among different local taxing districts shall be deemed to be proportional and reasonable if, utilizing real property valuations equalized throughout the state, the*

lowest tax rate utilized by any one local taxing district is not less than 33 1/3 percent of the highest tax rate utilized by any other local taxing district; to be issued and disposed of by warrant, under the hand of the governor of this state for the time being, with the advice and consent of the council, for the public service, in the necessary defense and support of the government of this state, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be, in force within the same; provided that the general court shall not authorize any town to loan or give its money or credit directly or indirectly for the benefit of any corporation having for its object a dividend of profits or in any way aid the same by taking its stocks or bonds. For the purpose of encouraging conservation of the forest resources of the state, the general court may provide for special assessments, rates and taxes on growing wood and timber.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 1998.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 1998 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 1998 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be:

Are you in favor of amending the Constitution to provide that to the extent local property taxes are used to fund an adequate education, tax rates among different local taxing districts shall be proportional and reasonable if, utilizing real property valuations equalized throughout the state, the lowest tax rate utilized by any one local taxing district is not less than 33 1/3 percent of the highest tax rate utilized by any other local taxing district?

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 1998 General Court" shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

AMENDED ANALYSIS

This constitutional amendment-concurrent resolution provides that to the extent local property taxes are used to fund an adequate education, tax rates among different local taxing districts shall be proportional and reasonable if, utilizing real property valuations equalized throughout the state, the lowest tax rate utilized by any one local taxing district is not less than 33 1/3 percent of the highest tax rate utilized by any other local taxing district.

Please note that the title and the analysis of the following bill have been revised by OLS to more accurately reflect the content of the bill as adopted by the committee.

1998-2378h

Amendment to CACR 45

Proposed by the Committee on Finance

Amend the title of the resolution by replacing it with the following:

RELATING TO: state funding of public education.

PROVIDING THAT: beginning in fiscal year 2001, and every fiscal year thereafter, the state shall provide no less than \$225,000,000 in support of primary and secondary public education; judicial review of the state's duties with regard to education is restricted to the funding level provision of the proposed amendment; taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected; and matters pertaining to primary and secondary public education shall be determined locally.

Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; ***State Funding of Primary and Secondary Public Education; Judicial Review; Taxes Imposed by Political Subdivisions to be Reasonable and Proportional; Local Authority Over Educational Matters.***] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

Notwithstanding any other provision of this constitution, the state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. Beginning in fiscal year 2001 and in each fiscal year thereafter, in support of primary and secondary public education, the state shall appropriate and expend not less than \$225,000,000. Judicial review and enforcement of such duty shall be restricted only to the provisions of the preceding sentence. The specific purposes and method of distribution of such expenditure shall be determined by statute. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district providing such education, except as otherwise prescribed by statute in accordance with part I, article 28-a of this constitution.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the second part of the constitution to provide that, regardless of anything else in the constitution:

Starting in the year 2000, the state will fund an amount not less than \$225,000,000 each year for the purpose of discharging its duty toward public primary and secondary education;

The purpose and manner of distribution of this amount will be determined by law;

That local government will control all aspects of such education except those the state assumes by law, subject to the unfunded mandate protection provided in the constitution,

Local taxes used to support education shall be reasonable and proportional within the community where they are imposed; and

The court review and enforcement of the state's duty will be restricted to the funding level provision of the proposed amendment, which states:

"Notwithstanding any other provision of this constitution, the state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. Beginning in fiscal year 2001 and in each fiscal year thereafter, in support of primary and secondary public education, the state shall appropriate and expend not less than \$225,000,000. Judicial review and enforcement of such duty shall be restricted only to the provisions of the preceding sentence. The specific purposes and method of distribution of such expenditure shall be determined by statute. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and

reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district providing such education, except as otherwise prescribed by statute in accordance with part I, article 28-a of this constitution?"

AMENDED ANALYSIS

The constitutional amendment-concurrent resolution requires that beginning in fiscal year 2001, and every year thereafter, the state shall provide no less than \$225,000,000 in support of primary and secondary public education; restricts judicial review of the state's duties with regard to education to the funding level provision of the proposed amendment; requires that taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected; and requires that matters pertaining to primary and secondary public education shall be determined locally.

1998-2382h

Floor Amendment to CACR 45 - #1

Proposed by Reps. Franks, J. Clemons, Dawe, Cardin, D. Cote and C. Jean

Amend the title of the resolution by replacing it with the following:

RELATING TO: the state's responsibility to provide for full funding of foundation aid to education.

PROVIDING THAT: the general court shall ensure that sufficient funds are appropriated to provide for full funding of foundation aid to education, and ensure that proportionality and reasonableness of the local property tax effort to provide funding for primary and secondary public education is required statewide.

Amend the resolution by replacing all after the enacting clause with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; ***State's Responsibility to Provide For Full Funding of Foundation Aid to Education.***] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

In furtherance of its obligation to cherish the interests of public schools, the general court shall, through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, and periodically review the same, ensure that sufficient funds are appropriated to provide for full funding of foundation aid to education and ensure that proportionality and reasonableness of the local property tax effort to provide funding for primary and secondary public education is required statewide.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general

election to be held in November, 1998.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 1998 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 1998 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the constitution to include the following language: "In furtherance of its obligation to cherish the interests of public schools, the general court shall, through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, and periodically review the same, ensure that sufficient funds are appropriated to provide for full funding of foundation aid to education and ensure that proportionality and reasonableness of the local property tax effort to provide funding for primary and secondary public education is required statewide."

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 1998 General Court" shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the general court shall ensure that sufficient funds are appropriated to fully fund foundation aid to education, and that proportionality and reasonableness of the local property tax effort to provide funding for primary and secondary public education is required statewide.

1998-2389h

Floor Amendment to CACR 45 - #2

Proposed by Rep. Alger

Amend the title of the resolution by replacing it with the following:

RELATING TO: state funding of public education.

PROVIDING THAT: beginning in fiscal year 2001, and every fiscal year thereafter, the state shall provide no less than \$225,000,000 in support of primary and secondary public education; judicial review of the state's duties with regard to education is restricted to the funding level provision of the proposed amendment; taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected; and matters pertaining to primary and secondary public education shall be determined locally.

Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; ***State Funding of Primary and Secondary Public Education; Judicial Review; Taxes Imposed by Political Subdivisions to be Reasonable and Proportional; Local Authority Over Educational Matters.***] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination.

Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

Notwithstanding any other provision of part second of this constitution, the state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. Beginning in fiscal year 2001 and in each fiscal year thereafter, in support of primary and secondary public education, the state shall appropriate and expend not less than \$225,000,000. Judicial review and enforcement of such duty shall be restricted only to the provisions of the preceding sentence. The specific purposes and method of distribution of such expenditure shall be determined by statute. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district providing such education, except as otherwise prescribed by statute in accordance with part I, article 28-a of this constitution.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the second part of the constitution to provide that, notwithstanding any other provision of part second of the constitution:

Starting in the year 2000, the state will fund an amount not less than \$225,000,000 each year for the purpose of discharging its duty toward public primary and secondary education;

The purpose and manner of distribution of this amount will be determined by law;

That local government will control all aspects of such education except those the state assumes by law, subject to the unfunded mandate protection provided in the constitution,

Local taxes used to support education shall be reasonable and proportional within the community where they are imposed; and

The court review and enforcement of the state's duty will be restricted to the funding level provision of the proposed amendment, which states:

"Notwithstanding any other provision of part second of this constitution, the state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. Beginning in fiscal year 2001 and in each fiscal year thereafter, in support of primary and secondary public education, the state shall appropriate and expend not less than \$225,000,000. Judicial review and enforcement of such duty shall be restricted only to the provisions of the preceding sentence. The specific purposes and method of distribution of such expenditure shall be determined by statute. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district providing such education, except as otherwise prescribed by statute in accordance with part I, article 28-a of this constitution?"

AMENDED ANALYSIS

The constitutional amendment-concurrent resolution requires that beginning in fiscal year 2001, and every year thereafter, the state shall provide no less than \$225,000,000 in support of primary and secondary public education; restricts judicial review of the state's duties with regard to education to the funding level provision of the proposed amendment; requires that taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected; and requires that matters pertaining to primary and secondary public education shall be determined locally.

1998-2394h

Floor Amendment to CACR 45 - #3**Proposed by Rep. Alger**

Amend the title of the resolution by replacing it with the following:

RELATING TO: state funding of public education.

PROVIDING THAT: beginning in fiscal year 2001, and every fiscal year thereafter, the state shall appropriate and expend not less than \$185,000,000 in support of primary and secondary public education; judicial review of the state's duties with regard to education is restricted to the funding level provision of the proposed amendment; taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected; and matters pertaining to primary and secondary public education shall be determined locally.

Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; ***State Funding of Primary and Secondary Public Education; Judicial Review; Taxes Imposed by Political Subdivisions to be Reasonable and Proportional; Local Authority Over Educational Matters.***] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

Notwithstanding any other provision of part second of this constitution, the state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. Beginning in fiscal year 2001 and in each fiscal year thereafter, in support of primary and secondary public education, the state shall appropriate and expend not less than \$185,000,000. Judicial review and enforcement of such duty shall be restricted only to the provisions of the preceding sentence. The specific purposes and method of distribution of such expenditure shall be determined by statute. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district providing such education, except as otherwise prescribed by statute in accordance with part I, article 28-a of this constitution.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the second part of the constitution to provide that, notwithstanding any other provision of part second of the constitution:

Starting in the year 2000, the state will fund an amount not less than \$185,000,000 each year for the purpose of discharging its

duty toward public primary and secondary education;

The purpose and manner of distribution of this amount will be determined by law;

That local government will control all aspects of such education except those the state assumes by law, subject to the unfunded mandate protection provided in the constitution,

Local taxes used to support education shall be reasonable and proportional within the community where they are imposed; and

The court review and enforcement of the state's duty will be restricted to the funding level provision of the proposed amendment, which states:

"Notwithstanding any other provision of part second of this constitution, the state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. Beginning in fiscal year 2001 and in each fiscal year thereafter, in support of primary and secondary public education, the state shall appropriate and expend not less than \$185,000,000. Judicial review and enforcement of such duty shall be restricted only to the provisions of the preceding sentence. The specific purposes and method of distribution of such expenditure shall be determined by statute. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district providing such education, except as otherwise prescribed by statute in accordance with part I, article 28-a of this constitution?"

AMENDED ANALYSIS

The constitutional amendment-concurrent resolution requires that beginning in fiscal year 2001, and every year thereafter, the state shall appropriate and expend not less than \$185,000,000 in support of primary and secondary public education; restricts judicial review of the state's duties with regard to education to the funding level provision of the proposed amendment; requires that taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected; and requires that matters pertaining to primary and secondary public education shall be determined locally.

1998-2388h

Floor Amendment to CACR 45 - #4

Proposed by Rep. Alger

Amend the title of the resolution by replacing it with the following:

RELATING TO: state funding of public education.

PROVIDING THAT: beginning in fiscal year 2001, and every fiscal year thereafter, the state shall appropriate and expend not less than \$185,000,000 in support of primary and secondary public education; judicial review of the state's duties with regard to education is restricted to the funding level provision of the proposed amendment; taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected; and matters pertaining to primary and secondary public education shall be determined locally.

Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; ***State Funding of Primary and Secondary Public Education; Judicial Review; Taxes Imposed by Political Subdivisions to be Reasonable and Proportional; Local Authority Over Educational Matters.***] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate

the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

Notwithstanding any other provision of this constitution, the state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. Beginning in fiscal year 2001 and in each fiscal year thereafter, in support of primary and secondary public education, the state shall appropriate and expend not less than \$185,000,000. Judicial review and enforcement of such duty shall be restricted only to the provisions of the preceding sentence. The specific purposes and method of distribution of such expenditure shall be determined by statute. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district providing such education, except as otherwise prescribed by statute in accordance with part I, article 28-a of this constitution.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the second part of the constitution to provide that, regardless of anything else in the constitution:

Starting in the year 2000, the state will fund an amount not less than \$185,000,000 each year for the purpose of discharging its duty toward public primary and secondary education;

The purpose and manner of distribution of this amount will be determined by law;

That local government will control all aspects of such education except those the state assumes by law, subject to the unfunded mandate protection provided in the constitution,

Local taxes used to support education shall be reasonable and proportional within the community where they are imposed; and

The court review and enforcement of the state's duty will be restricted to the funding level provision of the proposed amendment, which states:

"Notwithstanding any other provision of this constitution, the state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. Beginning in fiscal year 2001 and in each fiscal year thereafter, in support of primary and secondary public education, the state shall appropriate and expend not less than \$185,000,000. Judicial review and enforcement of such duty shall be restricted only to the provisions of the preceding sentence. The specific purposes and method of distribution of such expenditure shall be determined by statute. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district providing such education, except as otherwise prescribed by statute in accordance with part I, article 28-a of this constitution?"

AMENDED ANALYSIS

The constitutional amendment-concurrent resolution requires that beginning in fiscal year 2001, and every year thereafter, the state shall appropriate and expend not less than \$185,000,000 in support of primary and secondary public education; restricts judicial review of the state's duties with regard to education to the funding level provision of the proposed amendment; requires

that taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected; and requires that matters pertaining to primary and secondary public education shall be determined locally.

1998-2398h

Floor Amendment to CACR 45 - #5

Proposed by Rep. Mirski

Amend the title of the resolution by replacing it with the following:

RELATING TO: taxes imposed by political subdivisions of the state to support public education.

PROVIDING THAT: all matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district and that taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected.

Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; ***Taxes Imposed by Political Subdivisions to be Reasonable and Proportional; Local Authority Over Educational Matters.***] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

The state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. Nothing in this article shall be construed to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the second part of the constitution to include the following:

"The state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district. Taxes imposed by political subdivisions of the state for

support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. Nothing in this article shall be construed to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution?"

AMENDED ANALYSIS

The constitutional amendment-concurrent resolution provides that all matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district and that taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected.

1998-2399h

Floor Amendment to CACR 45 - #6

Proposed by Rep. Mirski

Amend the title of the resolution by replacing it with the following:

RELATING TO: taxes imposed by political subdivisions of the state to support public education.

PROVIDING THAT: all matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district; that taxes imposed by political subdivisions in support of primary and secondary education may be raised by any method of proportional and reasonable taxation which the political subdivision raising said taxes may elect subject to the approval of the general court; and that taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected.

Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; ***Taxes Imposed by Political Subdivisions to be Reasonable and Proportional; Local Authority Over Educational Matters.***] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

The state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. Taxes imposed by political subdivisions in support of primary and secondary public education may be raised by any method of proportional and reasonable taxation which the political subdivision

raising said taxes may elect, subject to the approval of the general court. Nothing in this article shall be construed to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the second part of the constitution to include the following:

The state's duty to cherish the interest of literature and the sciences, and all seminaries and public schools, shall be governed exclusively by the provisions of this paragraph. All matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district. Taxes imposed by political subdivisions of the state for support of primary and secondary public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected. Taxes imposed by political subdivisions in support of primary and secondary public education may be raised by any method of proportional and reasonable taxation which the political subdivision raising said taxes may elect, subject to the approval of the general court. Nothing in this article shall be construed to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution.

AMENDED ANALYSIS

The constitutional amendment-concurrent resolution provides that all matters pertaining to primary and secondary public education shall be determined by the legally constituted authority of the local district; that taxes imposed by political subdivisions in support of primary and secondary education may be raised by any method of proportional and reasonable taxation which the political subdivision raising said taxes may elect subject to the approval of the general court; and that taxes imposed by a political subdivision in support of public education need be proportional and reasonable only throughout that part of the city, town, or unincorporated place within such political subdivision from which they are collected.

1998-2405h

Floor Amendment to CACR 45 - #7

Proposed by Reps. Mirski and Alger

Amend the title of the resolution by replacing it with the following:

RELATING TO: providing all citizens the opportunity for an education.

PROVIDING THAT: the general court shall have the exclusive authority to determine the extent of public funding of education and that the state may encourage the opportunity for all citizens to receive an education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, in whole or part, to a political subdivision, provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed.

Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; ***Exclusive Authority of General Court to Determine the Extent of Public Funding of Education; Powers; Duties; Delegation.***] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted

to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

The general court shall encourage the opportunity for all citizens of the state to receive an education, and in furtherance thereof, it shall have the exclusive authority to determine and set forth the extent of public funding of that education. The general court shall fulfill its responsibility directly or in concert with its political subdivisions through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions. To the extent that the general court may provide for the funding of said education it shall do so through its power to directly impose and levy assessments, rates, and taxes, or through a delegation of such power, in whole or in part, to the political subdivisions of the state, provided that the resulting assessments, rates, and taxes are fair and proportional throughout the state or political subdivision whose legislative body imposes the assessment, rate, or tax. Nothing in this article shall be construed to limit the amount the state or any political subdivision may expend on the funding of education or to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the constitution to include the following language: "The general court shall encourage the opportunity for all citizens of the state to receive an education, and in furtherance thereof, it shall have the exclusive authority to determine and set forth the extent of public funding of that education. The general court shall fulfill its responsibility directly or in concert with its political subdivisions through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions. To the extent that the general court may provide for the funding of said education, it shall do so through its power to directly impose and levy assessments, rates, and taxes, or through a delegation of such power, in whole or in part, to the political subdivisions of the state, provided that the resulting assessments, rates, and taxes are fair and proportional throughout the state or political subdivision whose legislative body imposes the assessment, rate, or tax. Nothing in this article shall be construed to limit the amount the state or any political subdivision may expend on the funding of education or to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution"?

1998-2404h

Floor Amendment to CACR 46

Proposed by Reps. M. Brown, Colburn and Henderson

Amend the title of the resolution by replacing it with the following:

RELATING TO: the state's responsibility to provide to all citizens the opportunity for a public education.

PROVIDING THAT: the general court shall have the exclusive authority to determine the content, extent, and funding of a public education and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, in whole or part, to a political subdivision, provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed.

Amend the resolution by replacing all after the enacting clause with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; **Exclusive Authority of General Court to Determine Content, Extent, and Funding of Public Education; State's Responsibility to Provide for Public Education; Powers; Duties; Delegation.**] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce,

trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

The general court shall have the responsibility to provide to all citizens of the state the opportunity to receive a public education, and in furtherance thereof, it shall have the exclusive authority to determine and set forth the content, the extent, and the funding of that education. The general court shall fulfill its responsibility directly or in concert with its political subdivisions through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions. The general court shall provide for the funding of said education through its power to directly impose and levy assessments, rates, and taxes, or through a delegation of such power, in whole or in part, to the political subdivisions of the state, provided that the resulting assessments, rates, and taxes are fair and proportional throughout the state or political subdivision whose legislative body imposes the assessment, rate, or tax. Nothing in this article shall be construed to limit the amount the state or any political subdivision may expend on the funding of education or to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 1998.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 1998 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 1998 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the constitution to include the following language: "The general court shall have the responsibility to provide to all citizens of the state the opportunity to receive a public education, and in furtherance thereof, it shall have the exclusive authority to determine and set forth the content, the extent, and the funding of that education. The general court shall fulfill its responsibility directly or in concert with its political subdivisions through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions. The general court shall provide for the funding of said education through its power to directly impose and levy assessments, rates, and taxes, or through a delegation of such power, in whole or in part, to the political subdivisions of the state, provided that the resulting assessments, rates, and taxes are fair and proportional throughout the state or political subdivision whose legislative body imposes the assessment, rate, or tax. Nothing in this article shall be construed to limit the amount the state or any political subdivision may expend on the funding of education or to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution"?

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 1998 General Court" shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes or by delegating this

power, in whole or in part, to a political subdivision provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the political subdivision in which they are imposed, and that the general court shall have the exclusive authority to determine and set forth the content, extent, and funding of public education in this state.

1998-2406h

Floor Amendment to HB 1675-FN-A-LOCAL

Proposed by Reps. Cushing and Burling

Amend the title of the bill by replacing it with the following:

AN ACT relative to state guarantee of school district indebtedness.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; State Guarantee of School District Indebtedness. Amend RSA 198 by inserting after section 37 the following new subdivision:

State Guarantee of School District Indebtedness

198:38 Statement of Purpose. The general court recognizes the mandate of the Claremont II decision rendered by the supreme court of this state as a call to create and implement a new system of funding public education in this state. The general court shall continue to diligently strive toward this goal, and intends that any changes to existing law necessitated by the Claremont II ruling be incorporated into the operating budget of the next biennium.

198:39 State Guarantee. In addition to the state guarantee of school district bonds or notes issued for the purposes of school construction, enlargement, or alteration as provided under RSA195-C, the governor, with the advice and consent of the council, may award an unconditional state guarantee with respect to all school district indebtedness, including all bonds or notes of a school district, outstanding as of the effective date of this section. The full faith and credit of the state are and shall be pledged for any such guarantees. The governor shall draw a warrant for such sums of money out of any money in the treasury not otherwise appropriated, for the purpose of honoring any guarantee awarded under this section.

2 Repeal. The following are repealed:

I. RSA 198:38, relative to the statement of purpose concerning the Claremont II decision.

II. RSA 198:39, relative to state guarantee of school district indebtedness.

3 Effective Date.

I. Section 2 of this act shall take effect June 30, 2001.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

The amendment provides that, through June 30, 2001, the state shall unconditionally guarantee all school district indebtedness, including all bonds or notes of a school district, in existence as of the effective date of this section.

1998-2370h

Amendment to SB 409-FN

Proposed by the Committee on Finance

Amend the title of the bill by replacing it with the following:

AN ACT relative to long-term care.

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Long-Term Care. Amend RSA by inserting after chapter 151-D the following new chapter:

CHAPTER 151-E

LONG-TERM CARE

151-E:1 Purpose.

I. The purpose of this chapter is to provide medicaid eligible elderly and chronically ill adults with a continuum of care appropriate to their needs and affordable to the state and its taxpayers.

II. To a great extent, the current system relies on nursing facilities to provide care for this group. While the quality of this care is high, an increasingly elderly and disabled population and a constrained public financial resource base require the state to reevaluate how long-term care services are provided. Moreover, many long-term care recipients and potential recipients prefer to be cared for at home or in other settings less acute than a nursing facility. Because far more may be spent on nursing facility care than on home and community-based care, there is an inherent difference between the state's present long-term care system and what recipients prefer.

III. This chapter is an initial step toward incrementally rebalancing the long-term care system and expanding choices available to recipients. It increases the continuum of care by adding mid-level care, including but not limited to, assisted living and residential care services. Through an acuity-based reimbursement system and a comprehensive needs assessment process, it encourages those eligible for medicaid nursing facility services to consider more appropriate, less costly mid-level services and home and community-based care. In this way, the state intends to serve this increasing medicaid eligible population more appropriately and more economically.

151-E:2 Definitions. In this chapter:

I. "Assisted living facility" means a facility with individual living units where medical and social support services are provided on the basis of an individualized plan of care and which provides other common social support services.

II. "Congregate housing" means public housing providing congregate services as defined in RSA 161-F:36.

III. "Department" means the department of health and human services.

IV. "Home-based care" means a range of medical and supportive services provided under the medicaid waiver to persons in their own homes or in the home of a relative or other person.

V. "Nursing facility" means an institution or facility, or a distinct part of an institution or facility, whether proprietary or non-proprietary, which is primarily engaged in providing 24-hour care for residents needing:

(a) Skilled nursing care, medical monitoring, and related services;

(b) Rehabilitation services for the rehabilitation of injured chronically disabled or sick;

(c) Medication administration or instruction and supervision; or

(d) On a regular basis, health-related care and services (above the level of room and board) which can be made available to them only through institutional facilities which provide 24-hour care.

VI. "Medicaid waiver" means the medicaid home and community-based care waiver for the elderly and the chronically ill.

VII. "Mid-level care" means care provided in an assisted living facility, congregate housing, or residential care facility under the medicaid waiver.

VIII. "Residential care facility" means a facility, including a supported residential care facility, which provides services to 2 or more individuals, beyond room and board care, in a residential setting, as an alternative to nursing facility care, which offers residents home-like living arrangements, social, health, or medical services, including but not limited to, medical or nursing supervision, or medical care or treatment by appropriately trained or licensed individuals, assistance in daily living, or protective care.

151-E:3 Eligibility.

I. A person is medicaid eligible for nursing facility services if the person is:

(a) Clinically eligible for nursing facility care because the person requires 24-hour care for one or more of the following purposes, as determined by the department:

- (1) Medical monitoring and nursing care;
- (2) Restorative nursing or rehabilitative care;
- (3) Medication administration or instruction and supervision of self-medication for discharge purposes only; or
- (4) Assistance with 2 or more activities of daily living; and

(b) Financially eligible as either:

- (1) Categorically needy, if monthly income is equal to or less than \$1,250 and resources are equal to or less than \$1,500, as calculated pursuant to rules adopted by the department under RSA 541-A; or
- (2) Medically needy, if income is equal to or less than the medicaid rate of the nursing facility and resources are equal to or less than \$2,500, as calculated in accordance with rules adopted by the department pursuant to RSA 541-A.

II. A person is eligible for services under the medicaid waiver if the person has been determined eligible under RSA 151-E:3, I.

151-E:4 Consumer Choice. A person who has been determined to be medicaid eligible for nursing facility services in accordance with RSA 151-E:3 shall have the right to receive nursing facility services; however, the person may choose to receive services in a less restrictive setting if such services are available and do not result in costs to the state and counties in excess of the limitations set forth in RSA 151-E:11, II. Such choice shall be subject to limitations imposed by federal and state laws and regulations.

151-E:5 Information and Referral. The department shall establish a system of community-based focal points that provide information and referral services to elderly and chronically ill adults. The information and referral network established under this section shall not be used for the purpose of political or legislative advocacy.

151-E:6 Acuity-Based Reimbursement System.

I. The department shall pursue as expeditiously as possible the development and implementation of a reimbursement system for nursing facility services based primarily on the acuity level of patients consistent with state and federal law and all appropriate notice requirements. All nursing facilities shall use best efforts to provide all information and data requested by the department in the course of its development of such a system and to assist the department in any manner reasonably requested by the department.

II. Unless otherwise required by state or federal law, the acuity-based reimbursement system developed by the department shall not create separate classifications for county and non-county facilities and shall be based on the concept of the cost of operating an efficient facility rather than actual costs.

III. The department shall implement the acuity-based reimbursement system on or before January 1, 1999 or as soon thereafter as practicable.

151-E:7 Needs Assessment for Applicants for Nursing Facility Services.

I. In order to determine the most cost effective and appropriate level of long-term care services, the department shall assess the clinical eligibility of each applicant to a nursing facility in a uniform manner throughout the state. The assessment shall be voluntary for all applicants, except those who have applied for or have been determined to be eligible for medicaid benefits.

II. The assessment shall be completed prior to admission or, if necessary for reasons of the person's health or safety, as soon after admission as possible, in accordance with rules adopted by the department pursuant to RSA 541-A.

III. The department in a uniform manner throughout the state shall determine whether the person is clinically eligible for nursing facility services.

IV. The department shall inform both the applicant and the administrator of the nursing facility of the department's determination of the services needed by the applicant and shall provide information and assistance to the applicant in

accordance with RSA 151-E:9.

V. If a nursing facility admits a person who at the time of admission was not determined to be clinically eligible for the level of services provided by a nursing facility and that person, within a 3-year period after admission, is determined to be financially eligible for medicaid benefits pursuant to RSA 151-E:3, I(b), the nursing facility shall be responsible for all costs of medicaid-funded long-term care services provided to the individual for the period of time, not to exceed one year, from the date of the determination of financial eligibility to the end of the third year of admission unless the individual is determined to be clinically eligible for nursing facility services.

VI. Any assessment of medical needs conducted under this section shall be conducted by a qualified medical professional.

151-E:8 Assessment or Reassessment at Time of Eligibility. The department shall perform an assessment or reassessment of the person's clinical eligibility when the person becomes financially eligible for medicaid benefits pursuant to RSA 151-E:3, I(b).

151-E:9 Information and Assistance. The department shall provide information and assistance to each applicant to a nursing facility. Such information and assistance shall:

I. Be based upon the principle that services shall be provided in the setting that is least restrictive of the applicant's ability to live independently;

II. Take into consideration the applicant's choice of service location;

III. Include information regarding the degree to which the services sought are available at home or in some other community-based setting;

IV. Explain the relative costs to the applicant of choosing care in the home or other setting rather than nursing facility care; and

V. Include advice as to whether receiving services in a home or other community-based setting is clinically appropriate for the applicant.

151-E:10 Notification by Hospitals. Prior to the discharge or referral of any person to any nursing facility, a hospital shall notify the department that such person requires nursing facility services which necessitate an assessment under RSA 151-E:7 or the provision of information and assistance under RSA 151-E:9.

151-E:11 Program Management and Cost Controls.

I. The department shall designate in its operating budget requests, specific class lines for nursing facility, mid-level, and home-based care provided for in this chapter. These class lines shall reflect, and the requesting documentation shall include, the anticipated number of persons to receive services. The department shall not increase expenditures in approved budgets for care class lines or the number of persons to receive mid-level or home care services without the approval of the legislative fiscal committee.

II. For the fiscal year beginning July 1, 1999, and each fiscal year thereafter the average annual cost for the provision of services to persons in the mid-level of care shall not exceed 50 percent of the average annual cost for the provision of services in a nursing facility. The average annual cost for the provision of services in home-based care shall not exceed 33 percent of the average annual cost for the provision of services to persons in a nursing facility. Average annual costs shall be the net medicaid costs exclusive of provider payments.

151-E:12 Rulemaking. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to the administration of this chapter.

2 Prohibition Added. Amend RSA 151-C:4, III to read as follows:

III. **(a)** No certificate of need shall be granted by the board for any nursing home, skilled nursing facility, intermediate care facility or rehabilitation facility from the effective date of ~~the 1995~~ **chapter 310, laws of 1995**, department of health and human services reorganization act, through the period ending December 31, 2001, except that a certificate of need may be issued for replacement or renovation of existing beds as necessary to meet life safety code requirements or to remedy deficiencies noted in a licensing inspection pursuant to RSA 151 or state survey and certification process pursuant to titles XVIII and XIX of the Social Security Act ~~[or for other good cause]~~.

(b) No certificate of need shall be granted by the board for any nursing home, skilled nursing facility or

intermediate care facility if it will result in the total number of licensed nursing facility beds in the region exceeding 40 beds per each 1,000 persons aged 65 and older living in the region.

3 New Paragraph; Nursing Facility; Certificate of Need. Amend RSA 151-C:6 by inserting after paragraph II the following new paragraph:

III. In any standards for nursing facilities, the board shall provide that priority for a certificate of need for additional nursing facility beds shall be given to any facility which after January 1, 1999, has surrendered its certificate of need for the same or greater number of nursing facility beds. A facility may transfer to any other entity its priority status for a new certificate of need.

4 New Paragraph; Residential Care Facility Licensing Rules. Amend RSA 151:2 by inserting after paragraph III the following new paragraph:

IV. Licensing rules for residential care facilities and supported residential care facilities, as defined in rules adopted by the department pursuant to RSA 541-A, which are licensed pursuant to RSA 151:2, I(e), shall permit such facilities to admit residents who have been determined eligible for nursing facility services under a medicaid home and community-based care waiver for the elderly and chronically ill and who have been referred to such a facility as an alternative to placement in a nursing facility, provided that the clinical services and supports required by the person can be provided or obtained in the facility. No bed may be licensed in both the nursing facility and residential care facility categories at the same time.

5 Patient's Bill of Rights. Amend RSA 151:21, V to read as follows:

V. The patient shall be transferred or discharged after appropriate discharge planning only for medical reasons, for the patient's welfare or that of other patients, if the facility ceases to operate, or for nonpayment for the patient's stay, except as prohibited by Title XVIII or XIX of the Social Security Act. ***No patient shall be involuntarily discharged from a facility because the patient becomes eligible for medicaid as a source of payment.***

6 New Paragraph; Patients' Bill of Rights. Amend RSA 151:21 by inserting after paragraph XIX the following new paragraph:

XX. The patient shall not be denied admission to the facility based on medicaid as a source of payment when there is an available space in the facility.

7 New Paragraph; Reserve Accounts. Amend RSA 24:13 by inserting after paragraph III the following new paragraph:

IV. Any county upon a majority vote of the county commissioners and subsequent majority vote of the county convention may establish a nonlapsing reserve account for the purposes of funding long-term care services.

8 Reimbursement of Funds for Persons Eligible to Receive Nursing Home Services; Limitation on County Payments. Amend RSA 167:18-b to read as follows:

167:18-b Reimbursement of Funds for ~~[Recipients in]~~ ***Persons Eligible to Receive*** Nursing ~~[Homes]~~ ***Home Services; Limitation on County Payments.***

I. All expenditures in carrying out the purposes of this chapter or RSA 161 relative to old age assistance or aid to the permanently and totally disabled recipients who are in nursing homes shall be made in the first instance from the public assistance fund hereby created, but each ~~[political subdivision]~~ ***county*** shall make monthly payments to the state for the amounts due under this section within 30 days from notice thereof and shall reimburse said fund for all assistance granted to persons for which such ~~[political subdivision]~~ ***county*** is liable, to the extent of ~~[61.1]~~ ***50*** percent of the non-federal share, except that no charges shall be made for the non-federal share for recipients in state institutions and intermediate care facilities for the mentally retarded (ICF-MR) serving developmentally impaired persons approved by the department of health and human services.

II. *Each county shall be liable in the same manner as provided for in paragraph I for old age assistance and aid to the permanently and totally disabled recipients who are eligible for nursing home care, but who are in another setting as an alternative to placement in a nursing home and are supported under the medicaid home and community-based care waiver for the elderly and chronically ill, as such waiver may be amended from time to time, except that no charges shall be made for services under the waiver to the extent the average cost of all such services exceeds the average cost for care that would have been provided in nursing homes.*

III. The counties shall have an aggregate credit of \$2,000,000 against amounts due under this section for each fiscal year beginning July 1, 1998. The \$2,000,000 shall be allocated among the counties based upon the proportion each paid under this section in the prior fiscal year and shall be made available as soon as possible after the start of the fiscal year. If the federal share of expenditures under this section is made available to the state in a method other than as a fixed percentage reimbursement, the non-federal share shall be the amount of expenditures remaining after appropriate application of federal funds.

IV. The total reimbursements by all counties made pursuant to this section for persons who have been determined eligible to receive nursing facility services shall not exceed the amounts set forth below for any of the state fiscal years 1999-2003:

(a) State fiscal year 1999-\$54,000,000.

(b) State fiscal year 2000-\$58,000,000.

(c) State fiscal year 2001-\$63,000,000.

(d) State fiscal year 2002-\$70,000,000.

(e) State fiscal year 2003-\$77,000,000.

V. In no event shall the financial obligation of any county for reimbursement of funds pursuant to paragraph I for state fiscal year 1999 exceed the amount that the county otherwise would have had to pay pursuant to paragraph I if this section were not effective prior to July 1, 1999.

VI. For purposes of this section all expenditures shall include all reimbursements made for medicaid services, including but not limited to, payments for skilled nursing, hospital, physician and pharmaceutical services.

9 Local Medical Assistance Contribution. Amend RSA 167:18-f to read as follows:

167:18-f Local Medical Assistance Contribution. In addition to any other reimbursement required by law, each county shall, within 60 days from notice thereof, reimburse the public assistance fund at the rate of \$6 per month for each recipient of old age assistance and \$23 per month for each recipient of aid to the permanently and totally disabled for whom the county would be liable under the provisions of RSA 166, except that no reimbursement shall be required for any recipient for whom the county has an obligation under RSA 167:18-b.

10 County Approval Required. Sections 8 and 9 of this act shall not take effect unless both are approved by the legislative body of each of the state's counties on or before December 31, 1998. The chairman of the board of county commissioners in each county shall notify the commissioner of health and human services of the date when such approval occurs, but no later than January 15, 1999. The commissioner of health and human services shall notify the director of legislative services of the date the commissioner receives notification of all 10 counties' approval.

11 New Subdivision; Long-Term Care Assistance Fund Established. Amend RSA 167 by inserting after section 93 the following new subdivision:

Long-Term Care Assistance Fund

167:94 Long-Term Care Assistance Fund.

I. There is hereby established in the office of the state treasurer a fund to be known as the long-term care assistance fund. The sum of \$1,000,000 is hereby appropriated to the long-term care assistance fund and such sum may be encumbered or expended during fiscal year 1999. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

II. For fiscal year 1999, payments from the proportionate share funds and any surplus carried forward from previous years shall be expended in accordance with the following priorities:

(a) All appropriations under 1995, 310:63 and 1997, 350:1, 05, 350:11 and 351:5 to accounts within the department of health and human services.

(b) Reimbursement from unappropriated proportionate share funds to the general fund for the \$1,000,000 expenditure.

(c) Up to an additional \$3,000,000 shall be deposited in and is hereby appropriated to the long-term care assistance fund.

III. The state treasurer shall invest and reinvest the assets of the fund in accordance with law, and the principal assets and accumulated income in the fund shall be nonlapsing and shall be continuously appropriated to the department of health and human services. The department shall not commit or expend any funds from the long-term care assistance fund, except as may be contained in an annual spending plan, without consultation with the oversight committee on health and human services and approval by the legislative fiscal committee.

167:95 Purposes of the Fund. The principal assets and interest earnings from the fund shall be used exclusively by the department of health and human services for the development of the community-based infrastructure needed to implement the community initiatives contained in the department's long-term care plan. No expenditures may be made for the purposes of political or legislative advocacy.

167:96 Available Assets. Commencing with the fiscal year ending June 30, 2000, the state treasurer shall annually, on or before October 1, certify an amount to the commissioner which shall be the sum of the market value of the principal assets and interest earnings held in the fund available to be expended under RSA 167:95. Notwithstanding any other provision of law, the funds authorized for expenditure shall not be reduced by any funds made available from other sources.

167:97 Restrictions on Support. In developing the community-based infrastructure pursuant to RSA 169:95 or in any other program, the department shall act as a single state agency on aging and shall not establish or provide support to area agencies on aging.

12 Applicability. Nothing in this act shall be construed to create a new right or entitlement on behalf of any person to receive a service provided by the state.

13 Request for Federal Waiver. The commissioner of the department of health and human services, shall request a waiver from the health care financing administration of the federal department of health and human services, which will allow purchasers of long-term care insurance policies that have been approved by the New Hampshire department of health and human services to be exempt from certain financial requirements of the medicaid program. If the waiver is approved then the commissioner shall adopt rules pursuant to RSA 541-A, to implement this program.

14 Requests for Amendment to Waiver. Except as otherwise provided in this act, the department of health and human services shall not request any amendment to the medicaid home and community-based care waiver for the elderly and chronically ill that on a net basis increases costs, without prior notice to all county commissioners, consultation with the oversight committee on health and human services, and prior approval of the legislative fiscal committee.

15 Reports Required; Copies.

I. On December 31 of each year, the department of health and human services shall make a report to the speaker of the house, the president of the senate, the governor, the house health, human services and elderly affairs committee, the senate public institutions, health and human services committee, and the oversight committee on health and human services, established in RSA 126-A:13, on the activities, services and outcomes which result from each section of this act, including, but not limited to efficiency and effectiveness.

II. Counties being an integral part of the long-term care plan, the department shall provide a copy of the annual spending plan approved by the legislative fiscal committee and a copy of the report required in paragraph I to each county commissioner.

16 Repeal. The following are repealed:

I. RSA 167:18-b, relative to reimbursement of funds for recipients of nursing facility services.

II. RSA 167:18-f, relative to local medical assistance contributions.

III. 1997, 309, relative to a residential care services program and a residential care oversight committee.

IV. Section 14 of this act, relative to requests for amendment to waiver.

17 Effective Date.

I. Sections 8 and 9 of this act shall take effect on January 1, 1999 or upon approval in accordance with section 10 of this act, whichever is later.

II. Paragraphs I and II of section 16 of this act shall take effect on July 1, 2003.

III. Paragraph IV of section 16 of this act shall take effect July 1, 2001.

IV. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

- (1) Changes the ratio of reimbursement funds required by the counties and state for nursing home care.
- (2) Requires the department of health and human services to establish an acuity-based reimbursement system.
- (3) Establishes a needs assessment process for individuals applying for long-term care services.
- (4) Requires the department of health and human services to submit a report on this act on December 31 of each year.