

House of Representatives, April 14, 1998. The Committee on Appropriations reported through REP. DYSON, 94th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING NURSING HOMES FINANCED WITH A SPECIAL CAPITAL RESERVE FUND GUARANTEE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7 of public act 97-11 of  
2 the June 18 special session is repealed and the  
3 following is substituted in lieu thereof:

4 The sum of \$4,000,000 is appropriated to the  
5 STATE Treasurer, from the General Fund, for the  
6 fiscal year ending June 30, 1997, for advances  
7 pursuant to section 40 of [this act] PUBLIC ACT  
8 97-11 OF THE JUNE 18 SPECIAL SESSION AND SECTION 4  
9 OF THIS ACT, for payment of principal and interest  
10 on nursing home bonds issued by the Connecticut  
11 Health and Educational Facilities Authority and  
12 secured by a special capital reserve fund. Such  
13 funds shall not lapse on June 30, 1997, and shall  
14 continue to be available for expenditure for such  
15 purpose during the fiscal years ending June 30,  
16 1998, and June 30, 1999.

17 Sec. 2. Section 39 of public act 97-11 of the  
18 June 18 special session is repealed and the  
19 following is substituted in lieu thereof:

20 As used in sections 39 to 42, inclusive, of  
21 [this act] PUBLIC ACT 97-11 OF THE JUNE 18 SPECIAL  
22 SESSION AND SECTION 4 OF THIS ACT, the following

23 words and terms shall have the following meanings  
24 unless the context indicates another or different  
25 meaning or intent.

26 (1) "Amount available for debt service"  
27 means, for any accounting period, the net revenues  
28 available for debt service for such period reduced  
29 by the qualified expenditures for such period.

30 (2) "Authority" means the State of  
31 Connecticut Health and Educational Facilities  
32 Authority as defined in section 10a-178 of the  
33 general statutes.

34 (3) "Bonds" means revenue bonds of the  
35 authority issued to finance a project at a  
36 participating nursing home, as defined in section  
37 10a-178 of the general statutes which are secured  
38 by a special capital reserve fund.

39 (4) "Bond documents" means all documents  
40 related to an issue of bonds including, but not  
41 limited to, the trust indenture, the loan  
42 agreement, the bonds, the mortgage and any other  
43 documents included in the closing transcript.

44 (5) "Deficiency" as used in connection with  
45 any bonds, means the total of the following: (A)  
46 For any completed accounting period, the  
47 difference between the amount available for debt  
48 service for such period and the payment required  
49 to be made to the subject special capital reserve  
50 fund during such period so that the subject  
51 special capital reserve fund is in compliance with  
52 the applicable bond documents; (B) the projected  
53 amount necessary, after taking into account the  
54 estimated amount available for debt service, to  
55 avoid a draw on the special capital reserve funds  
56 or such higher amount as provided in the bond  
57 documents for the period selected by the authority  
58 so that the state has no obligation to make  
59 payments to such special capital reserve fund; and  
60 (C) such additional amounts as the authority may  
61 deem advisable to prevent the state from being  
62 obligated to make any payment to the applicable  
63 special capital reserve fund.

64 (6) "Deficiency loan" means a loan made by  
65 the authority to a qualified nursing home to fund  
66 all or a portion of the deficiency. The principal  
67 amount of the deficiency loan shall not exceed the  
68 deficiency for the qualified nursing home  
69 receiving the deficiency loan. All other terms and  
70 conditions of the deficiency loan including the

71 rate of interest, if any, shall be set by the  
72 authority as it deems appropriate.

73 (7) "Net revenues available for debt service"  
74 means, for any accounting period, the excess of  
75 operating and nonoperating revenues of the  
76 qualified nursing home, including the proceeds of  
77 business interruption insurance over the operating  
78 and nonoperating expenses of the qualified nursing  
79 home for such period. For the purposes of this  
80 subdivision such revenues and expenses shall  
81 exclude any depreciation, amortization and current  
82 interest expense, as determined in accordance with  
83 generally accepted accounting principles, using  
84 either accrual or cash basis accounting, subject,  
85 to such adjustment for extraordinary,  
86 nonrecurrent, capital and other expenditures as  
87 the authority deems appropriate to determine  
88 actual funds available for debt service.

89 (8) "Qualified expenditures" means all  
90 expenditures of any kind and type of a qualified  
91 nursing home, including capital expenditures and  
92 repayment of debt, which are necessary or  
93 advisable for the continued operation of a  
94 qualified nursing home [outside of bankruptcy and]  
95 in compliance with all applicable laws.

96 (9) "Qualified nursing home" means a nursing  
97 home [required to make payments to] FINANCED BY  
98 BONDS ISSUED BY THE AUTHORITY AND SECURED BY a  
99 special capital reserve fund pursuant to  
100 applicable bond documents.

101 (10) "Special capital reserve funds" means  
102 the funds authorized under section 10a-186a of the  
103 general statutes and as incorporated in the bond  
104 documents.

105 (11) "Subject special capital reserve fund"  
106 means the Special Capital Reserve Fund to which a  
107 specific qualified nursing home is required to  
108 make payments under applicable bond documents.

109 Sec. 3. Section 40 of public act 97-11 of the  
110 June 18 special session is repealed and the  
111 following is substituted in lieu thereof:

112 There is established, within the office of  
113 the State Treasurer, a program to be known as the  
114 ["Nursing Home Loan Program"] "NURSING HOME DEBT  
115 SERVICE ASSISTANCE PROGRAM". The State Treasurer  
116 may, upon request of the Connecticut Health and  
117 Educational Facilities Authority advance funds TO  
118 THE AUTHORITY FROM AMOUNTS APPROPRIATED FROM THE

119 GENERAL FUND FOR DEBT SERVICE OR appropriated for  
120 [such] SAID program, [to the authority from said  
121 program to the extent funds are available to fund  
122 deficiency loans] FOR A DEFICIENCY LOAN OR PAYMENT  
123 OF DEBT SERVICE ON NURSING HOME BONDS ISSUED BY  
124 THE AUTHORITY AND SECURED BY A SPECIAL CAPITAL  
125 RESERVE FUND. The State Treasurer shall not  
126 advance funds unless there has been delivered to  
127 the State Treasurer in connection with such  
128 advance, a certificate of the executive director  
129 of the authority [and] OR any officer of the  
130 authority certifying: (1) That the board of  
131 directors of the authority has authorized the  
132 deficiency loan to be funded and made all findings  
133 required by this act; (2) the principal amount of  
134 the deficiency loan; (3) the requested amount of  
135 the advance from the Nursing Home [Loan] DEBT  
136 SERVICE ASSISTANCE Program; and (4) the amount of  
137 all previous advances made in respect of such  
138 deficiency loan. Upon receipt of such certificate,  
139 to the extent funds are available, the State  
140 Treasurer is authorized to make the appropriate  
141 payment to the authority for the purpose of  
142 funding the deficiency loan.

143 Sec. 4. (NEW) In the event that a qualified  
144 nursing home, as defined in section 39 of public  
145 act 97-11 of the June 18 special session, as  
146 amended by section 2 of this act, is disposed of  
147 as the result of a receivership, bankruptcy or  
148 insolvency, or upon determination by the State  
149 Treasurer that the state's liability for debt  
150 service has been reduced through sale of a  
151 qualified nursing home, or in order to otherwise  
152 avoid a draw on the special capital reserve fund  
153 for any bonds issued by the authority for such  
154 qualified nursing home, the State Treasurer may  
155 advance funds to the authority from amounts  
156 appropriated for the Nursing Home Debt Service  
157 Assistance Program, or from other General Fund  
158 debt service appropriations, for any principal and  
159 interest payments on bonds not retired from the  
160 proceeds of the sale of the home or which remain  
161 outstanding for any other reason. The State  
162 Treasurer shall not advance funds unless there has  
163 been delivered to the State Treasurer in  
164 connection with such advance, a certificate of the  
165 executive director of the authority or any officer  
166 of the authority certifying: (1) That the board of

167 directors of the authority has determined that a  
168 draw on the special capital reserve fund would  
169 occur in the absence of the advance; (2) the  
170 requested amount of the advance required; and (3)  
171 the amount of all previous advances made relative  
172 to the bond issue.

173 Sec. 5. Section 10a-186a of the general  
174 statutes is repealed and the following is  
175 substituted in lieu thereof:

176 (a) In connection with the issuance of bonds  
177 to finance a project at a participating nursing  
178 home OR TO REFUND BONDS PREVIOUSLY ISSUED BY THE  
179 AUTHORITY TO FINANCE A PROJECT AT A PARTICIPATING  
180 NURSING HOME, or to finance dormitories,  
181 residential facilities, student centers, food  
182 service facilities and other auxiliary service  
183 facilities and related buildings and improvements  
184 at a public institution of higher education, the  
185 authority may create and establish one or more  
186 reserve funds to be known as special capital  
187 reserve funds and may pay into such special  
188 capital reserve funds (1) any moneys appropriated  
189 and made available by the state for the purposes  
190 of such funds, (2) any proceeds of sale of notes  
191 or bonds for a project, to the extent provided in  
192 the resolution of the authority authorizing the  
193 issuance thereof, and (3) any other moneys which  
194 may be made available to the authority for the  
195 purpose of such funds from any other source or  
196 sources. The moneys held in or credited to any  
197 special capital reserve fund established under  
198 this section, except as hereinafter provided,  
199 shall be used solely for the payment of the  
200 principal of and interest, when due, whether at  
201 maturity or by mandatory sinking fund instalments,  
202 on bonds of the authority secured by such capital  
203 reserve fund as the same become due, the purchase  
204 of such bonds of the authority, the payment of any  
205 redemption premium required to be paid when such  
206 bonds are redeemed prior to maturity; provided the  
207 authority shall have power to provide that moneys  
208 in any such fund shall not be withdrawn therefrom  
209 at any time in such amount as would reduce the  
210 amount of such funds to less than the maximum  
211 amount of principal and interest becoming due by  
212 reasons of maturity or a required sinking fund  
213 instalment in the then current or any succeeding  
214 calendar year on the bonds of the authority then

215 outstanding or the maximum amount permitted to be  
216 deposited in such fund by the Internal Revenue  
217 Code of 1986, or any subsequent corresponding  
218 internal revenue code of the United States, as  
219 from time to time amended, to permit the interest  
220 on said bonds to be excluded from gross income for  
221 federal tax purposes and secured by such special  
222 capital reserve fund, such amount being herein  
223 referred to as the "required minimum capital  
224 reserve", except for the purpose of paying such  
225 principal of, redemption premium and interest on  
226 such bonds of the authority secured by such  
227 special capital reserve becoming due and for the  
228 payment of which other moneys of the authority are  
229 not available. The authority may provide that it  
230 shall not issue bonds secured by a special capital  
231 reserve fund at any time if the required minimum  
232 capital reserve on the bonds outstanding and the  
233 bonds then to be issued and secured by the same  
234 special capital reserve fund at the time of  
235 issuance, unless the authority, at the time of the  
236 issuance of such bonds, shall deposit in such  
237 special capital reserve fund from the proceeds of  
238 the bonds so to be issued, or otherwise, an amount  
239 which, together with the amount then in such  
240 special capital reserve fund, will be not less  
241 than the required minimum capital reserve. On or  
242 before December first, annually, there is deemed  
243 to be appropriated from the state General Fund  
244 such sums, if any, as shall be certified by the  
245 chairman or vice-chairman of the authority to the  
246 Secretary of the Office of Policy and Management  
247 and the Treasurer of the state, as necessary to  
248 restore each such special capital reserve fund to  
249 the amount equal to the required minimum capital  
250 reserve of such fund, and such amounts shall be  
251 allotted and paid to the authority. For the  
252 purpose of evaluation of any such special capital  
253 reserve fund, obligations acquired as an  
254 investment for any such fund shall be valued at  
255 market. Nothing contained in this section shall  
256 preclude the authority from establishing and  
257 creating other debt service reserve funds in  
258 connection with the issuance of bonds or notes of  
259 the authority which are not special capital  
260 reserve funds. Subject to any agreement or  
261 agreements with holders of outstanding notes and  
262 bonds of the authority, any amount or amounts

263 allotted and paid to the authority pursuant to  
264 this section shall be repaid to the state from  
265 moneys of the authority at such time as such  
266 moneys are not required for any other of its  
267 corporate purposes and in any event shall be  
268 repaid to the state on the date one year after all  
269 bonds and notes of the authority theretofore  
270 issued on the date or dates such amount or amounts  
271 are allotted and paid to the authority or  
272 thereafter issued, together with interest on such  
273 bonds and notes, with interest on any unpaid  
274 instalments of interest and all costs and expenses  
275 in connection with any action or proceeding by or  
276 on behalf of the holders thereof, are fully met  
277 and discharged. No bonds secured by a special  
278 capital reserve fund shall be issued to pay  
279 project costs unless the authority is of the  
280 opinion and determines that the revenues from the  
281 project shall be sufficient (A) to pay the  
282 principal of and interest on the bonds issued to  
283 finance the project, (B) to establish, increase  
284 and maintain any reserves deemed by the authority  
285 to be advisable to secure the payment of the  
286 principal of and interest on such bonds, (C) to  
287 pay the cost of maintaining the project in good  
288 repair and keeping it properly insured and (D) to  
289 pay such other costs of the project as may be  
290 required.

291 (b) NOTWITHSTANDING THE PROVISIONS OF  
292 SUBSECTION (a) OF THIS SECTION, AFTER THE  
293 EFFECTIVE DATE OF THIS ACT NO BONDS SECURED BY  
294 SUCH A SPECIAL CAPITAL RESERVE FUND SHALL BE  
295 ISSUED BY THE AUTHORITY TO FINANCE A PROJECT AT A  
296 QUALIFIED NURSING HOME, OR TO REFUND BONDS ISSUED  
297 TO FINANCE A PROJECT AT A QUALIFIED NURSING HOME,  
298 EXCEPT FOR REFUNDING BONDS THAT MEET THE FOLLOWING  
299 REQUIREMENTS: (1) THE REFUNDING BONDS MUST REFUND  
300 BONDS WHICH ARE ALREADY SECURED BY A SPECIAL  
301 CAPITAL RESERVE FUND PURSUANT TO THIS SECTION; (2)  
302 THE STATE MUST BE RELEASED FROM ANY OBLIGATION TO  
303 RESTORE THE SPECIAL CAPITAL RESERVE FUND FOR THE  
304 REFUNDED BONDS; AND (3) THE AUTHORITY AND THE  
305 STATE TREASURER MUST APPROVE THE REFUNDING BONDS  
306 AND MUST DETERMINE THAT THE AGGREGATE DEBT SERVICE  
307 ON THE REFUNDING BONDS WILL BE LESS THAN THE  
308 AGGREGATE DEBT SERVICE ON THE REFUNDED BONDS AND  
309 THAT THE ECONOMIC BENEFIT DERIVED FROM THE  
310 REFUNDING WILL INURE TO THE STATE. IN THE EVENT OF

311 A REFUNDING UNDERTAKEN IN THE CONTEXT OF A  
312 RECEIVERSHIP, BANKRUPTCY OR INSOLVENCY, ANY  
313 APPROVAL AND DETERMINATION BY THE AUTHORITY AND  
314 THE STATE TREASURER UNDER SUBDIVISION (3) OF THIS  
315 SUBSECTION SHALL BE IN LIEU OF (A) THE OTHERWISE  
316 REQUIRED OPINION OF SUFFICIENCY BY THE AUTHORITY  
317 SET FORTH IN SUBSECTION (a) OF THIS SECTION, AND  
318 (B) THE APPROVAL OF THE STATE TREASURER AND THE  
319 DOCUMENTATION OF THE AUTHORITY OTHERWISE REQUIRED  
320 UNDER SUBSECTION (a) OF SECTION 1-124. ANY OTHER  
321 REFUNDING OF OUTSTANDING BONDS SHALL REQUIRE SUCH  
322 OPINION, APPROVAL AND DOCUMENTATION.  
323 Sec. 6. This act shall take effect from its  
324 passage.

325 APP COMMITTEE VOTE: YEA 49 NAY 0 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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**FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5640**

STATE IMPACT                    Cost, see below

MUNICIPAL IMPACT            None

STATE AGENCY(S)            Office of the State Treasurer,  
Connecticut Health and Educational  
Facilities Authority (CHEFA)

	Current FY	1998-99	1999-2000
State Cost (savings)	:	:	: 5.1 million:
St Revenue (loss)	:	:	:
Net St Cost (savings)	:	:	:
Municipal Impact	:	:	:

EXPLANATION OF ESTIMATES:

In the PA 97-11 of the June 18 Special Session, the Legislature appropriated \$2 million for each of FY 1997-98 and FY 1998-99 for debt payments for nursing home bonds guaranteed through a Special Capital Reserve Fund. Since the public act was passed it has been determined that an additional \$2.9 million in FY 1997-98 and \$3.1 million in FY 1998-99 will be needed to service the bonds. These additional amounts have been included in the FY 1997-98 estimated General Fund debt service expenditure and the FY 1998-99 debt

service projection in the budget adopted by the Appropriations Committee.

In FY 1999-2000 and thereafter (for a total of up to 20 years), the appropriations will require sufficient funding to cover the \$5.1 million in debt service for these loans. The \$5.1 million estimate is for the full amount of the debt service on these bonds.

If some of the nursing home assets currently held by the state are sold, the proceeds will be used to pay debt service on the bonds. The amount of money that might be realized from such a sale cannot be determined at this time.

There may also be a reduction in the amount of annual debt service due on the nursing home bonds if they are refunded. The amount of the reduction cannot be determined because interest rates in future years cannot be predicted.

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#### OFA BILL ANALYSIS

sHB 5640

#### **AN ACT CONCERNING NURSING HOMES FINANCED WITH A SPECIAL CAPITAL RESERVE FUND GUARANTEE**

**SUMMARY:** The bill contains the following provisions:

Section 3 changes the name of the Nursing Home Loan Program to the Nursing Home Debt Service Assistance Program. The purpose of the Program is funding deficiency loans or payment of debt service on nursing home bonds issued by the Connecticut Health and Educational Facilities Authority (CHEFA) and secured by a Special Capital Reserve Fund (SCRF).

Section 4 permits the state treasurer to advance money to CHEFA for the payment of debt service for bonds secured by a SCRF, that were used to finance a nursing home that was subsequently sold. The proceeds from the sale of the home must be used to reduce the debt service on the bonds. The advance for debt service would be made only if CHEFA indicates to the treasurer that a draw on the SCRF would be made in the absence of

the advance.

Section 5 prohibits the future use of bonds backed by a SCRF to finance a project at a qualified nursing home. It also adds language that permits the refunding of bonds that are already secured by SCRF. In order to do so the State must be released from any obligation to restore the SCRF for the refunded bonds, and CHEFA and the state treasurer must approve the refunding of the bonds and must determine that (1) the aggregate debt service on the refunding bonds will be less than the aggregate debt service on the refunded bonds, and (2) that state will benefit from the refunding.

Section 1 and 2 make technical changes and conform the language of PA 97-11 of the June Special Session to the changes made in the bill.

EFFECTIVE DATE: Upon Passage

**FURTHER EXPLANATION:** A special capital reserve fund (SCRF) is a device in which the state pledges to fill up the debt service reserve fund required in the bond indenture when the fund is used to pay the debt service because project revenues are insufficient.

**BACKGROUND:** PA 97-11 of the June 18 Special Session creates a "Nursing Home Loan Program" through which CHEFA can obtain funds from the treasurer to pay debt service on nursing home bonds and any other amounts needed to avoid the state's paying into SCRFs set up to back these bonds. It establishes a procedure for CHEFA to: (1) determine the existence and extent of a home's deficiency, (2) set terms and conditions for the home's deficiency loan, and (3) certify the need to the treasurer.

PA 97-11 of the June 18 Special Session also appropriated a total of \$4 million to the state treasurer from the FY 1996-97 General Fund surplus for payment of debt service on nursing home bonds under the Program mentioned above. The public act specifies that \$2 million is available for debt service in FY 1997-98 and \$2 million is available in FY 1998-99.

**COMMITTEE ACTION**

Appropriations Committee

Joint Favorable Substitute  
Yea 49      Nay 0