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On behalf of the New Hampshire School Boards Association, we are pleased to provide this Summary of the 2008 legislative session. This document is a synopsis of actions taken by the 2008 New Hampshire Legislature relative to public education.

An adequate education was once again a major focus for this year's session, as the legislature determined the cost of adequacy as well as corresponding fiscal capacity issues. Major retirement legislation was also considered in a complex omnibus bill that included fundamental changes to how benefits are funded. Another complex omnibus bill made broad changes to the special education statutes. Both of these issues will continue into the fall with study commissions established by legislation. This past session also made significant changes in the realm of labor relations and collective bargaining.

We would like to extend our appreciation to the many local School Board members and local school administrators who actively worked with their area legislators to assure that positions of NHSBA were communicated in an effective and timely manner, especially on the issues highlighted in this document. Particularly noteworthy were the outstanding efforts of NHSBA's Legislative Advocacy Network, comprised of local School Board members joining together with a common purpose. These combined efforts ensured that NHSBA's "voice" was heard.

The New Hampshire School Boards Association also offers appreciation to members of both the Senate and House of Representatives for their continued support of public education. We offer a special "thank you" to members of the Education Committees in both the House and Senate for their dedication and commitment to the youth of our State. We also want to complement and "thank" members of the House Executive Departments and Administration Committee for their hard work and focused deliberations on complex retirement issues. Chair Anne-Marie Irwin worked tirelessly to bring an objective and balanced

approach that not only considered our public employees but also the taxpayers who fund these benefits.

Based on your feedback, we have again incorporated last year's new feature to this Summary – a section following each enacted bill that summarizes the likely legal and policy impact of the new law. We trust that you will continue to find this useful as you consider the potential local impact of various sections of new laws.

Please contact our office for any additional information on items that appear in this document or to request copies of any newly enacted piece of legislation.

Sincerely,

Theodore E. Comstock, Esq.
Executive Director

R. Dean Michener
Associate Director

This Summary is intended to highlight the major education-related bills of the 2008 legislative session and provide a synopsis of significant new school laws. Language offered here is generic in nature and is not intended to cover specific circumstances, nor to offer legal advice on specific application of the new laws. Prior to taking any action related to new laws, the complete text should be reviewed with local district legal counsel.

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2008 LEGISLATIVE SUMMARY

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State Budget Impact for 2nd Year of Biennium

Executive Order by Governor Lynch

In response to insufficient revenues falling short of budgeted forecasts, the Governor, with Fiscal Committee approval, placed a freeze on agency purchases for FY 2009. In addition, certain reductions in expenditures were ordered for various state departments. The total statewide reduction for all departments was \$27,381,810. Health & Human Services received the largest cut at \$14,808,000 followed by Education at \$4,035,000.

The impacted areas for education include court-ordered placements, catastrophic aid, tuition and transportation aid, surpluses, consultants, and dues.

- \$2.5 million cut from Court Ordered Placements, based on an anticipated surplus;
- \$1 million cut from Catastrophic Aid, based on anticipated savings as a result of new programs and provisions in HB 766 (Special Education Omnibus Bill);
- \$500,000 cut from Vocational Tuition & Transportation aid, based on a potential surplus;
- \$35,000 cut from dues and consultant budgeted amounts.

The Public Employees Labor Relations Board (PELRB) was also cut by \$5,260 for current expenses, dues, consultants, temporary personnel services and in-state travel.

Major Education Legislation Enacted in 2008

The 2008 legislative session dealt with many controversial and complex issues, making it a very difficult year for all involved. The continuing saga of an Adequate Education took up the issue of costing the definition of adequacy that was adopted last year. The new formula for determining the per pupil cost of an adequate education, adopted this year in SB 539, will be the focus of funding in next year's budget bill. Retirement was also a continuing saga, as last year's correction to the actuarial funding formula was followed this year by an omnibus bill making changes to the special account, medical subsidy and funding of benefits, as well as certain administrative provisions. Labor relations also remained part of the mix as significant changes were made in the areas of teacher nonrenewal and contract negotiations. The brief summaries below attempt to highlight the major components of this year's new legislation.

Financial

The major bills affecting education financially that ultimately were enacted include:

HB 1446 – Chapter 289 makes changes to the process for proration of funds for school building aid grants, transfers authority over questions on the location of school buildings from the county commissioners to the state board of education, and requires the school building authority to work with the state board of education on matters concerning school facilities.

Legal Impact on School Boards.

The change makes clear that building aid is based on eligible construction costs approved by both the local legislative body and the Dept. Education. If the state aid appropriation is insufficient for full funding, aid for construction projects approved during the second year of the biennium may be deferred and included in a request for a future appropriation, or partial grants may be made to the extent of the available appropriation.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill. Any policies concerning location of school facilities should reference the State Board of Education for any appeals, rather than County Commissioners.

HB 1563 – Chapter 328 authorizes public academies to receive funds for renovation and expansion of regional vocational education programs. This bill makes public academies eligible to receive funds through the capital budget process.

Legal Impact on School Boards.

Public academies as defined in RSA 194:23, II, in the state of New

Hampshire, will now be included in the capital budget process for construction or renovation of regional vocational centers.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill. However, NHSBA encourages its members to review their district's policies relative to building construction.

SB 530 – Chapter 384 impacts districts that need to implement kindergarten. It extends the kindergarten construction aid program until all school districts in the state operate a kindergarten program: allows a school district to elect a construction grant to cover either 75 percent of the actual cost of construction of kindergarten facilities or 100 percent of the actual cost of design and construction of a basic code compliant kindergarten facility; provides classroom transition grants to eligible school districts which do not operate a public kindergarten program and which begin operation of such a program as of the beginning of the 2008-2009 or 2009-2010 school years for the actual cost of leasing and set up of temporary classrooms; requires that a school district providing a public kindergarten program as of the beginning of the 2009-2010 school year shall receive, in that same year, an additional adequate education grant amount based on the number of pupils attending kindergarten in the district as of the beginning of the school year; and requires certain school districts to submit a kindergarten implementation plan to the commissioner of the department of education detailing the district's plan to provide a public kindergarten program no later than the beginning of the 2009-2010 school year. The new law also clarifies the process for determining excess statewide property tax payments (donor towns), hoping to ensure that there will be no donor towns for the next two fiscal years.

Legal Impact on School Boards.

All school districts are required to offer kindergarten programs as of the 2009-2010 school year.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

SB 539 – Chapter 173 determines the per pupil cost of the opportunity for an adequate education which includes differentiated aid distributed to schools based on the number of pupils receiving special education services, or eligible for a free or reduced-price lunch, or who are English language learners. It requires schools receiving differentiated aid to use it to implement enhanced programs known to improve pupil achievement. The new law also establishes a joint legislative oversight committee on accountability for an adequate education. Fiscal capacity disparity aid, provided in addition to aid for the cost of the opportunity for an adequate

education, is based on a municipality's equalized valuation per pupil and median family income. Fiscal capacity disparity aid is also provided to state-approved charter schools. The new formula is constrained by a hold-harmless provision for the 2010 and 2011 fiscal years. It provides that no school district receive a total education grant exceeding that district's total education grant for the 2009 fiscal year by more than 15 percent and that no school district's total education grant be less than its total education grant for the 2009 fiscal year.

Legal Impact on School Boards.

The new formula establishes the amount of adequate education aid to be distributed. Beginning in 2009-2010, the per pupil cost of adequacy is set at \$3,450, plus differentiated aid based on numbers of pupils receiving special education services (\$1,856) or who are English language learners (\$675). Differentiated aid based on students eligible for free or reduced-price meals is determined by the proportion they represent of the school's ADM-Attendance. If the proportion of Free/Reduced is less than 12%, \$431/pupil; 12%-24%, \$863/ADM-A; 24%-36%, \$1,725/ADM-A; 36%-48%, \$2,588/ADM-A; more than 48%, \$3,450/ADM-A. Fiscal capacity disparity aid, above the cost of adequacy, is provided for communities in the lowest quartile of property wealth/pupil if the town is ALSO below average in median family income. Municipalities in the lower half of the lowest quartile receive \$2,000/ADM-Residence; those in the upper half of the lowest quartile receive \$1,250/ADM-R. However, the hold-harmless provision for the next two fiscal years ensures that no school district receive more than a 15% increase, nor any amount less, compared to current FY 09 funding. An additional provision for 2010 and 2011 should avoid any "excess statewide property tax payments", or donor towns, for those two fiscal years.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill. However, your school board may have a policy that specifically addresses educational adequacy. NHSBA recommends its members review their district's policies relative to educational adequacy and amend them accordingly.

Retirement

The 2008 legislative session also dealt with several bills that have a significant impact on public employee retirement issues. Major bills of interest to educators include:

HB 1313 – Chapter 116 clarifies the authority of the chairman of the retirement system board of trustees to vote on matters before the board. This bill clarified ambiguity in the law, specifically entitling the chairman to vote on all matters coming before the board of trustees.

Legal Impact on School Boards.

This bill has no legal impact on school boards.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

HB 1643 – Chapter 86 extends for one year the date for eligibility for retirement system payment of the medical benefit subsidy for eligible group I teachers and political subdivision employees. Group I members who meet the eligibility requirements by July 1, 2008 may now receive the medical subsidy if they retire by July 1, 2009.

Legal Impact on School Boards.

The contribution rates for school districts will have to cover the increased cost associated with the one-year extension of the deadline for this benefit.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

HB 1645 – Chapter 300 is the retirement omnibus bill that makes various changes to the administration of the retirement system, eligibility and funding of benefits, and provides for COLAs and temporary supplemental allowances paid from the special account. The medical subsidy will continue to be provided, but will now have a freeze on the benefit for the next 4 years, with annual 4% increases implemented for the subsequent 4-year period. Employers will now fund this benefit, which will be included in the new contribution rates. \$250 million will be transferred from the Special Account to the corpus of the pension fund to help offset the increase in employer rates resulting from funding this new additional requirement. Furthermore, the bill provides a \$500 additional payment to those members with pensions less than \$20,000 who take a single person health plan, or \$1,000 to those with a 2-person plan. A 1-1/2 percent COLA will also be provided next July on the first \$30,000 of a retiree's allowance, as well as a one-time supplemental payment of \$1,000 for those

with pensions under \$20,000, and a \$500 payment for those who retired before 1993. The Board of Trustees will have a new independent investment committee, consisting of five members, 3 of whom will not be Board members. All members of the investment committee are required to have substantial experience in the field of institutional investment or finance. The law also contains a new provision requiring employers (school districts) to pay more to NHRS for retirement bonus and incentive provisions that boost an employee's pension. When such allowances increase an employee's average base pay by more than 125%, employers will be assessed the cost of the excess benefit. This requirement will take effect with the next negotiated contract.

Legal Impact on School Boards.

The contribution rates for school districts will have to cover the increased cost associated with providing the medical subsidy benefit. School districts must also pay for any retirement severance package over 125% of base pay.

Impact on School Board Policies.

This bill has no impact on any NHSBA Sample Policies. However, your school board may have a policy that specifically addresses retirement severance. It is recommended you review any applicable policies and amend them accordingly.

Labor Relations

The 2008 legislature passed several bills that significantly change the collective bargaining process and teacher nonrenewal.

HB 1127 – Chapter 137 allows public employers to certify a bargaining unit of less than 10 members. The legislation is enabling: bargaining units of less than 10 are allowed only when approved by the governing body (school board).

Legal Impact on School Boards.

School districts may be asked to approve bargaining units with a community of interest less than 10; however there is no requirement to approve such a unit.

Impact on School Board Policies.

NHSBA has issued a new Sample Policy in response to this Bill. Please see NHSBA Sample Policy GDS, distributed to NHSBA Policy Subscription members September 2008.

HB 1330 – Chapter 246 changes the procedures for nonrenewal of a teacher contract. Current language making State Board review of teacher nonrenewals the exclusive remedy for an appeal was amended to include an additional option allowing nonrenewal appeals to be arbitrated under the terms of a collective bargaining agreement.

Legal Impact on School Boards.

Appeals of teacher nonrenewals may now go either to the State Board for review, or arbitrated under the terms of a collective bargaining agreement. Only one option may be utilized, not both.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill. However, NHSBA encourages its members to review their district's own policies relative to teacher non-renewal and non-renomination, and amend any policies as needed.

HB 1436 – Chapter 388 requires the continuation of the terms of a collective bargaining agreement if an impasse between public employers and employees is not resolved. This "evergreen bill" specifically continues the terms of "any pay plan" in a contract after its expiration when a new contract has not been settled. Cost of living increases are excluded from this provision.

Legal Impact on School Boards.

School districts will be required to pay salary increases to employees when contracts are at impasse.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill. However, NHSBA encourages its members to review their district's own policies relative to teacher collective bargaining, and amend any policies as needed.

Governance & Operations

HB 1282 – Chapter 234 requires the department of education to facilitate the development and implementation of a pre-engineering technology curriculum for public school students in grades 6-12.

Legal Impact on School Boards.

School districts may want to consider developing a pre-engineering program based on the Dept. Education curriculum.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

HB 1408 – Chapter 303 amends the Right-to-Know Law (RSA 91-A), clarifying the manner in which it applies to both governmental records kept in electronic form and electronic communication used to transact governmental business. Public meetings are defined as a quorum, or majority, of board members when participants are able to communicate with each other contemporaneously to discuss or act upon official business. All meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public. Chance, social or other encounters, not convened for the purpose of discussing business, do not constitute a meeting if no decisions are made. The new law also provides for one or more officials to participate by electronic means without being physically present. This may occur only if attendance in person is not reasonably practical, a quorum is physically present, and all discussions are audible to everyone, including the public.

Legal Impact on School Boards.

School boards need to remain vigilant regarding use of email and other electronic communications and adhere to adopted policies. Any communication outside a meeting, including, but not limited to, sequential communications among members of a public body, shall not be used to circumvent the spirit and purpose of the law.

Impact on School Board Policies.

NHSBA has amended Sample Policies BEA, BED, and BEDC in response to this Bill. These Sample Policies will be distributed to NHSBA Policy Subscription members in September 2008. NHSBA recommends its members review their applicable policies relative to the Right to Know Law.

SB 337 – Chapter 344 amends the notification requirements for commencing or continuing a home education program, adds legislative members to the

home education advisory council, and establishes a commission to examine New Hampshire's home education statutes. Parents commencing a home education program must now notify the commissioner of education, resident district superintendent, or principal of a nonpublic school within 5 business days of commencing the program: when continuing a home education program, notice must be given by the first school day according to the school calendar in the child's resident school district.

Legal Impact on School Boards.

Timely notice is now required of parents choosing to home educate their children.

Impact on School Board Policies.

NHSBA has amended Sample Policy IHBG in response to this Bill. This Sample Policy will be distributed to NHSBA Policy Subscription members in September 2008. NHSBA encourages its members to review their district's policies relative to home education.

SB 342 – Chapter 299 requires municipalities that exercise the power to adopt land use ordinances to provide opportunities for the development of workforce housing, and also establishes a mechanism for expediting relief from municipal actions that deny, impede, or delay qualified proposals for workforce housing.

Legal Impact on School Boards.

School districts need to consider the potential impact this will have within their district when anticipating future enrollments and building capacities.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

SB 359 – Chapter 251 updates the health education curriculum to include instruction on the effects of alcohol and other drugs, child abuse, human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS), and sexually transmitted diseases on the human system. The bill also requires a school district to adopt a policy allowing an exception to a particular unit of health or sex education instruction based on religious objections, provided such policy includes a provision for alternative learning sufficient to enable the child to meet state requirements for health education.

Legal Impact on School Boards.

School boards are required to have a policy allowing an exception to a particular unit of health or sex education instruction based on religious objections.

Impact on School Board Policies.

NHSBA has drafted a new Sample Policy and corresponding Appendix in response to this Bill. Sample Policy IHAM and Sample Appendix IHAM-R will be distributed to NHSBA Policy Subscription members in September 2008.

SB 376 – Chapter 91 requires local fire chiefs to annually inspect all school buildings within his or her jurisdiction and submit a report to the state fire marshal on the fire safety condition of such school buildings.

Legal Impact on School Boards.

School boards must coordinate with their local fire chief to ensure the provision of annual inspections.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

SB 377 – Chapter 264 extends the application of the prudent investor rule to trustees of trust funds under RSA 31:25.

Legal Impact on School Boards.

Trustees of trust funds may now manage and invest such funds in accordance with the prudent investor rule.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

SB 415 – Chapter 126 amends the effective date of HB 87 from the 2007 legislative session relative to the age of compulsory school attendance. The bill clarifies that on June 30, 2009, the age of compulsory school attendance shall be raised from 16 to 18 years of age.

Legal Impact on School Boards.

As originally intended by last year's legislation, the age of compulsory attendance increases from 16 to 18 on June 30, 2009. Districts may still establish policies and regulations concerning habitual truants and children between the ages of 6 and 18 years who are not attending school or who are not participating in an alternative learning plan (RSA 193:1, I(g)). Districts may also compel the attendance of such children at school.

Alternative learning plans should include age-appropriate academic rigor and flexibility to incorporate the pupil's interests and manner of learning. These plans may include extended learning opportunities, independent studies, private instruction, performing groups, internships, community service, apprenticeships, and on-line courses. Alternative learning plans shall be developed in consultation with the pupil, a school guidance

counselor, the school principal and at least one parent or guardian of the pupil. Authority to approve alternative learning plans rests with the school district superintendent.

If the superintendent does not approve the alternative learning plan, the parent or guardian of the pupil may appeal such decision to the local school board. A parent or guardian may appeal the decision of the local school board to the State Board of Education.

Impact on School Board Policies.

This bill has no impact on any NHSBA Sample Policies. The language does not require NHSBA Sample Policy JEA be amended. However, your school board may have a policy that differs from NHSBA's Sample. It is recommend you review any applicable policies and amend them accordingly, if necessary.

SB 429 – Chapter 352 modifies the circumstances under which a person completing a driver education course in another state may be issued a driver's license. Driver education reciprocity is allowed when the course is approved by the state in which the course is offered and it is determined that the course is essentially equivalent to NH's minimum standards.

Legal Impact on School Boards.

Driver education reciprocity has been clarified and the commissioner of safety must take all reasonable steps to facilitate appropriate interstate driver education.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill. However, NHSBA recommends its members review their district's policies relative to driver's education, and them accordingly, if necessary.

SB 502 – Chapter 297 defines "part-time" and "full-time" work for purposes of unemployment compensation. "Full-time work" is work in employment of at least 37.5 hours a week; "Part-time work" is work in employment of at least 20 hours a week but less than 37.5 hours a week.

Legal Impact on School Boards.

Part-time and full-time work is now defined for the purposes of unemployment compensation.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill. NHSBA recommends its members review their district's policies relative to unemployment compensation, if applicable, and amend them accordingly if necessary.

Special Education

The 2008 legislature adopted broad changes to the Special Education Statutes. Two bills, HB 679 and HB 766, were a product of five separate special education bills introduced during the 2007 session. HB 679 contains provisions primarily addressing neglected and delinquent children; HB 766 specifically updates the special education statute RSA 186-C.

HB 679 – Chapter 274 makes changes to the juvenile justice statutes. The bill makes changes relative to deadlines, referral for services, placement recommendations, etc.

Legal Impact on School Boards.

School boards need to work with their administrative team as well as local counsel to ensure compliance with all new laws and regulations.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

HB 766 – Chapter 302 makes significant changes to the laws governing special education. The bill incorporates revisions needed by the reauthorization of IDEA as well as several notable provisions, such as: a requirement for short-term objectives, provision for awarding expert witness fees, changes the determination for when extended school year services are provided, and changes the program monitoring and review process.

Legal Impact on School Boards.

School boards need to work with their administrative team as well as local counsel to ensure compliance with all new laws and regulations.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill. However, NHSBA recommends its members review their district's policies relative to special education, and make amendments where necessary.

Charter Schools

HB 1642 – Chapter 370 provides up to \$503,408 in additional funding for certain charter schools for the fiscal year ending June 30, 2009. The Academy for Science and Design Charter School, Cochecho Arts and Technology Charter Academy, New Hampshire Equestrian Academy Charter School, Seacoast Charter School, Strong Foundations Charter School, and Surry Village Charter School are each to receive an additional grant of \$1,168 per pupil.

Legal Impact on School Boards.

There is no legal impact on school boards.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

SB 418 – Chapter 354 replaces all references in statute to “charter school” with “chartered public school.”

Legal Impact on School Boards.

There is no legal impact on school boards.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

SB 539 – Chapter 173, relative to the cost of an adequate education, provides fiscal capacity disparity aid to state-approved charter schools. Charter schools approved under RSA 194-B:3-a will receive \$2,000 per pupil.

Legal Impact on School Boards.

There is no legal impact on school boards.

Impact on School Board Policies.

No NHSBA Sample Policies are affected by this Bill.

Legislative Studies

Many legislative study bills were enacted this session to further research specific details associated with the topic. The following represents major study bills of interest to school board members.

HB 1371 – Chapter 152 extends the reporting dates for certain previously enacted studies, specifically including the 2007 studies of dispute resolution (HB 89) and issues related to cooperative school districts (HB 914).

HB 89 – Chapter 28, 2007, establishes a committee to study dispute resolution between local political subdivisions and public employees in New Hampshire.

The legislative committee (three senators and three representatives) is charged to study: (I) The current status of labor relations, driving forces behind collective bargaining disputes, and relevant statistics; (II) Alternative methods of dispute resolution, including binding arbitration; (III) Evergreen clauses; and (IV) Other states' policies on dispute resolution. The committee must now report its findings and recommendations by November 1, 2008.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, especially if recommendations are made concerning binding arbitration or other proposals that may impact the bargaining process and local budgets.

HB 914 – Chapter 257, 2007, establishes a committee to study issues related to cooperative school districts.

This 5-member legislative study committee shall:

- (a) Study the procedure for withdrawal from a cooperative school district including any needed changes to the procedure for withdrawal from a cooperative school district.
- (b) Study the procedure for amending a cooperative school district's articles of agreement, specifically to reflect demographic changes in the towns comprising the cooperative school district.
- (c) Evaluate existing procedures for the division of assets, disposition of property and other equity interests of the withdrawing school district, and any other financial interest which a school district seeking withdrawal may have in the remaining cooperative school district, and recommend revisions to such procedures as necessary.
- (d) Study the feasibility of permitting the formation of cooperative school districts which would expire within a specified period of time.

The committee may consult with department of education

personnel or any other individual or organization with information or expertise relevant to the committee's objectives. The committee must now report its findings, and any recommendations for proposed legislation, on or before November 1, 2008.

Legal Impact on School Boards.

Cooperative school boards need to monitor the work of this study committee, and offer commentary on those particular areas that have been either troublesome, or worked well, for the school district. Particular attention should be paid to issues associated with the withdrawal of pre-existing districts.

HB 330 – Chapter 238 establishes a task force to study the feasibility of supplying laptop computers to all 7th grade children in the state.

This fifteen-member commission is charged to:

I. Study the Maine learning technology fund and solicit advice and input from Maine legislators and other individuals in Maine or in New Hampshire to assess the effectiveness of the Maine learning technology fund.

II. Study the economic effects of implementing the Maine learning technology fund program in New Hampshire and the associated economic effects in New Hampshire.

III. Study the benefits of the Maine program on students in Maine.

IV. Study the possibility of obtaining public or private grants for teacher training or other necessary start-up costs.

V. Solicit advice from teachers, principals, and school administrators in this state on the feasibility of implementing a program similar to the Maine learning technology fund in this state.

VI. Investigate whether computer companies offer grants or other school programs for providing laptop computers to public schools.

VII. Solicit advice or input from any individual with information and expertise relevant to the objective of the task force.

The commission is to report its findings and recommendations by November 1, 2008.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, especially if it identifies any strategies for increased funding to supply computers.

HB 678 – Chapter 135 establishes a committee to study issues related to cochlear implants. Four legislators are charged with studying the procedure and costs for inclusion of related services pertaining to medical services, including transportation, which are necessary for purposes of diagnosis and evaluation or the surgical implant or replacement of a medical device. They will also evaluate existing procedures and costs for maintenance,

programming, or mapping of such a device. The committee is to report its findings and recommendations by November 1, 2008.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, especially if it recommends new financial responsibilities for districts.

HB 765 – Chapter 276 establishes a four-member legislative committee to study the financial liability for placement of a child with a disability. The committee is to report its findings and recommendations by November 1, 2008.

Legal Impact on School Boards.

School boards, especially those that accept non-resident pupils, need to monitor the work of this study committee.

HB 1161 – Chapter 241 establishes a six-member legislative committee to study the truancy laws. The committee is to report its findings and recommendations by November 1, 2008.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, and whether any changes are proposed to the truancy statutes.

HB 1171 – Chapter 242 establishes an eleven-member commission to study air quality issues in public school buildings. Duties include:

- I. The commission shall study air quality issues in public school buildings, and the feasibility of implementing air quality standards and performing regular air quality inspections in public school buildings.
- II. The commission shall investigate and make recommendations regarding successful, cost-effective, alternative initiatives developed to address air quality issues in public school buildings elsewhere in New Hampshire and in other states.
- III. The commission may solicit, accept, and expend any grants, gifts, or donations from any source, provided such grants, gifts, or donations shall be used for the purpose of retaining consultants with relevant information and expertise as deemed necessary by the commission.

The committee is to report its findings and recommendations by November 1, 2008.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, and any proposals requiring increased expenditures to enhance air quality.

HB 1299 – Chapter 284 establishes a four-member legislative commission to study the feasibility of creating a preschool incentive fund program.

Duties include:

I. Study the feasibility of creating a preschool incentive fund program and determine priorities for the dissemination of such resources. Particular consideration shall be given to schools which have enhanced needs or which have expressed interest in participating in such programs.

II. Survey and confirm local school districts' interest in using federal, state, local, or private funds to establish high quality preschool pilot programs using evidence-based curricula and teacher certification and compensation standards.

III. Study and document availability of federal funds from Title I of the Elementary and Secondary Education Act, the No Child Left Behind Act, and any other education financial sources, including public/private partnerships, designated for direct services to students, particularly those living in school districts with enhanced educational needs.

IV. Research preschool curricula such as Perry Preschool, Chicago Parent-Child Centers, the New Hampshire Head Start and Even Start programs, and other programs that have demonstrated positive results for students that have been sustained beyond elementary school.

V. Research an appropriate model for evaluation of preschool programs. Particular attention shall be given to valid and reliable assessment that considers a child's physical, social, emotional, cognitive, language, and literacy development.

The committee is to report its findings and recommendations by November 1, 2008.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, and any proposals for preschool programs.

HB 1422 – Chapter 219 establishes a fourteen-member commission on the prevention of childhood obesity. Topics to be studied include:

(a) The efficacy of current laws, regulations, education and certification standards, and clinical protocols in promoting physical activity and healthy eating.

(b) An examination of evidenced-based or promising practices from other states and jurisdictions relative to statewide policy, local ordinance, and educational programming strategies.

(c) The health consequences and economic impact of childhood obesity in the state and the economic impact of any prevention policies or strategies.

(d) Strategies to address the needs of particular regions of the state or certain populations within the state most impacted by childhood obesity.

(e) Developing recommendations to assist schools in adopting and implementing school nutrition standards.

The committee is to report its findings and recommendations by November 15, 2009.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, and any proposals for school nutrition standards.

HB 1645 – Chapter 300, in addition to making changes to the NH Retirement System, also establishes two study commissions: one is established to propose a retiree health care benefits funding model, and another on the authorization and funding of COLAs.

Retiree Health Care Benefits Funding Model – This nineteen-member study commission is charged to:

- (a) Analyze the models in use by other states.
- (b) Collect information from experts in the field.
- (c) Consider different vehicles for such a plan including governmental trusts, Voluntary Employee Benefit Associations (VEBAs), 401(h) trusts, and Health Savings Accounts.
- (d) Consider and analyze the appropriate and effective use of bonding by the state in order to provide an affordable medical subsidy.
- (e) Consider the following principles, in designing a recommended plan that:
 - (1) Allows for member and employer contributions.
 - (2) Utilizes tax advantaged contributions, earnings, and benefit distributions.
 - (3) Includes pre-funding for cost-effectiveness, security, and to satisfy the Governmental Accounting Standards Board and the Internal Revenue Service.
 - (4) Permits employer contributions through negotiated matches for currently active members.
 - (5) Permits additional voluntary member contributions.
 - (6) Is administratively efficient.
 - (7) Is available and integrated with other benefits.
 - (8) Allows unused sick and vacation leave to be contributed toward the medical subsidy.
 - (9) Is viable long term.
- (f) Additionally, in designing a recommended plan, consider the following possibilities:
 - (1) Bonding to assist in the establishment of the trust and/or the transfer of medical subsidy eligible active members and/or retirees to the new health care funding model.
 - (2) Integrating the new trust with the existing subsidy-eligible state employees and the benefits provided by RSA 21-I:30.
 - (3) Moving all subsidy-eligible retirees into the new plan, bringing the current 401(h) subtrust funding with them, if permitted.
 - (4) Analyzing alternative retiree health care insurance programs for political subdivision retirees and Medicare retirees that would

reduce the overall costs of medical care.

(g) Seek technical assistance as necessary from the New Hampshire retirement system and from other independent financial, investment, actuarial, and retirement experts.

An initial report with recommendations is due December 1, 2008 with a final report due December 1, 2009.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, especially if recommendations are made to shift retiree health care costs onto employers.

Commission to study the feasibility of authorizing, and the depletion schedules for, future COLAs to be issued at different rates to or within each subgroup within the special account – This nine-member commission shall study the feasibility of authorizing, and the depletion schedules for, future COLAs to be issued at different rates to or within each subgroup within the special account. The commission shall consider proposals for defined benefit and defined contribution plans for COLAs. The study shall examine the possibility of issuing COLAs, funded from the special account, with such COLAs becoming permanent additions to the beneficiary's base retirement allowance.

An initial report with recommendations is due December 1, 2008 with a final report due December 1, 2009.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, especially if recommendations are made to add retiree COLA costs onto employers.

SB 321 – Chapter 296, in addition to making budget changes and other various provisions, establishes an eleven-member commission to study funding of school building aid. Topics to be studied include:

I. Appropriate funding methodology and sources for building aid, including whether building aid should be included in the state's capital plan.

II. Strategies for making it possible for all school districts to engage in necessary construction projects.

III. Standards for determining appropriate costs for state reimbursement and for cost-sharing.

The committee is to report its findings and recommendations by November 1, 2008.

Legal Impact on School Boards.

School boards need to monitor the work of this study committee, and any proposals for changes in state building aid.

SB 337 – Chapter 344, in addition to amending the notification requirements for commencing or continuing a home education program and adding legislative members to the home education advisory council, also establishes a ten-member commission to examine New Hampshire’s home education statutes. The commission is to report its findings and recommendations by November 1, 2008.

Legal Impact on School Boards.

School boards need to monitor the work of this study commission, and any proposals to change the home education laws.

Major Education Legislation Defeated in 2008

These major policy bills were intentionally killed by the legislature when either the House or Senate adopted a motion of ITL (Inexpedient to Legislate).

Financial

CACR 34 – This constitutional amendment, supported by the governor, would have required the general court to define an adequate education and distribute state funds for public education in a manner that would reasonably alleviate local disparities.
Inexpedient to Legislate.

HB 1224 – This bill amended the definition of an adequate education to apply to grades one through 12.
Inexpedient to legislate.

Labor Relations

HB 1328 – This bill required that all school employees receive due process protections as part of any disciplinary action.
Inexpedient to legislate.

HB 1344 – This bill mandated the use of binding arbitration for failed negotiations between public employees and employers.
Inexpedient to legislate.

HB 1515 – This bill required just cause for all employee terminations and would have created a statewide database of all employee terminations.
Inexpedient to legislate.

Governance and Operations

HB 1256 – This bill required public schools and schools subject to the rules of the New Hampshire Interscholastic Athletic Association to implement a safety training program for certain extracurricular activities
Inexpedient to legislate.

HB 1285 – The bill lowered the required voting margin to a simple majority when organizing, reorganizing, or withdrawing from a school

administrative unit.
Inexpedient to legislate.

HB 1331 – This bill allowed the town budget committee to request that information given to it be placed in a certain format.
Inexpedient to legislate.

HB 1390 – This bill integrated elements of the department of education's Follow the Child initiative into the statewide education improvement and assessment program and revised the procedure for determining whether a school or school district is meeting statewide performance targets.
Inexpedient to legislate.

HB 1435 – This bill required the sale of food and beverages in public schools to comply with Centers for Disease Control/Institute of Medicine standards.
Inexpedient to legislate.

HB 1482 – This bill required public schools and school libraries to install Internet filtering software.
Inexpedient to legislate.

SB 356 – This bill prohibited any person who is required to be registered as an offender against children from participating in, or being a spectator at, any activity or event organized principally for the participation of children under 13 years of age.
Inexpedient to legislate.

SB 479 – This bill changed the required majority vote for passage of notes or bonds issued by a non-SB2 school district from 2/3 to 3/5.
Inexpedient to legislate.

NHSBA Positions on Critical Legislation in 2008

Critical Bills Supported by NHSBA

HB 1645 – Revisions/changes to the NH Retirement System (see p. 5).

NHSBA actively advocated for significant changes to NHRS, including a restructuring of the Board of Trustees. A major concern was the anticipated shift in funding responsibility for the medical subsidy, with proposed increases in employer rates to cover this new responsibility. While efforts to achieve structural changes in the administration of NHRS were not accomplished, the transfer of \$250 million into the corpus of the pension fund was crucial to help offset the increased cost to employers for the new requirement to fund the medical subsidy.

SB 479 – Changing the required vote for passage of school notes or bonds from 2/3 to 3/5 (see p. 23).

Consistent with NHSBA resolutions, the Association supported this bill that would have lowered the required majority vote for passage of notes or bonds issued by non-SB2 school districts from $\frac{2}{3}$ to $\frac{3}{5}$. This long-standing NHSBA resolution was supported in the Senate, which passed the bill by a 14-10 vote, but was ultimately rejected by the House, which found the bill Inexpedient to Legislate.

SB 539 – Relative to the cost of an adequate education (see p. 3).

NHSBA closely monitored this legislation, offering input to legislators on the joint legislative oversight committee on costing, which issued a report during the fall, as well as legislative committees that drafted and worked on the bill. The cost of the opportunity for an adequate education consists of several elements, all of which must be provided in order to ensure the delivery of the state's constitutional duty. The universal cost represents the per pupil resources necessary to provide an adequate education where no additional aid is necessary to cover the increased costs of providing that opportunity to students who have special education needs, limited English language proficiency, or are in schools with significant concentrations of economically disadvantaged students. The bill further determines that additional aid, referred to as differentiated aid, is also required to fulfill the state's constitutional duty to provide the opportunity for an adequate education for certain students. Differentiated aid is allocated to special education students, English language learners, and students in schools with significant concentrations of economically disadvantaged students.

Critical Bills Opposed by NHSBA

CACR 34 – Revising the state commitment to education funding (see p.22).

Consistent with NHSBA Resolutions and support of the current state obligation to underwrite the cost of an adequate education for each educable child, the Association opposed all constitutional amendment proposals that would allow the state to diminish its financial commitment to districts or ignore obligations to some children. CACR 34 would have changed the state's commitment to one of distributing state funds for public education in a manner to reasonably alleviate local disparities. The proposal passed the Senate, was supported by the Governor and House leadership, but failed to pass the House.

HB 1330 – Revising the teacher nonrenewal appeal process (see p. 7).

NHSBA strongly opposed this bill that changes the process for appeals of teacher nonrenewals. The new law became effective August 23rd and now allows nonrenewals to be arbitrated. The bill stipulates that an aggrieved teacher may either petition the state board for a review, or request arbitration under the terms of a collective bargaining agreement, but not both.

When the bill was introduced, it also contained language changing the standard for state board review to "unjust or unreasonable", allowing a hearing officer to substitute his or her own subjective judgment for that of the local school board. The bill as introduced also attempted to delete current law specifying that school boards are not *required* to provide remedial assistance, making it ambiguous. These two provisions were deleted from the final version of the bill adopted by both the House and Senate and signed by the Governor.

HB 1436 – Implementing a state mandated evergreen clauses (see p. 7).

NHSBA strongly opposed this bill that requires the continuation of the terms of a collective bargaining agreement if an impasse between public employers and employees is not resolved. The new law stipulates that the terms of the collective bargaining agreement shall continue in force and effect, including but not limited to the continuation of any pay plan included in the agreement, until a new agreement shall be executed. However, the new law specifically excludes cost of living increases; it does not require payments of cost of living increases during the time period between contracts. The new law impacts collective bargaining agreements entered into after July 15, 2008.

New Hampshire School Boards Association

Resolutions for 2008

Adopted by the 2007-08 NHSBA Delegate Assembly – January 19, 2008

School Choice:

1. **NHSBA** urges the NH Legislature and Congress to oppose any efforts to subsidize elementary or secondary private, religious or home schools with public tax dollars. Specifically, NHSBA opposes the creation of vouchers, tax credits and tax subsidies that in any form are targeted to the tuition or expenses for non-public K-12 schools. Rather than diverting scarce tax dollars away from our public school classrooms, **NHSBA** urges the NH Legislature and Congress to support improvements in our public schools and meet current funding obligations and promises, benefiting the vast majority of America's children who are educated daily in our public schools. (2005)

Charter Schools:

2. **NHSBA** proposes that for any charter school authorized by the State Board of Education, state aid entitlements under RSA 198:42 should be paid directly to the charter school from state funds which are separate from local district grants. (2006)
3. **NHSBA** proposes that the State Department of Education develop evaluation and accountability criteria for the state's charter schools to ensure their financial stability as well as sound educational objectives. (2006)

Education Funding:

4. **NHSBA** opposes the dramatic and unpredictable changes in educational funding each year – often with solid information only coming to the school districts after the balloting or school district meetings are done.

The **NHSBA** opposes any new educational funding legislation, passed and enacted by the Legislature, which takes effect any earlier than the next biennium. School boards cannot be expected to work with legislation passed after the budget cycle for the following year is completed. (2005)

5. **NHSBA** urges the Legislature to utilize the resources of the NH Department of Education, including the Department's statistical data, to define a

curriculum that comprises an “adequate education” in the State of NH, and further to calculate the actual cost of an “adequate education,” and to develop an Adequate Educational Funding distribution formula which is consistent with the spirit of the Claremont decisions. (2005)

6. **NHSBA** urges the State to fully fund any minimum standards which require districts to offer kindergarten. (2005)
7. The **NHSBA** opposes any constitutional amendment that vacates the spirit and intent of the Claremont and Londonderry lawsuits and attempts in any way to limit or redirect funding in a manner that is contrary to the New Hampshire Supreme Court’s ruling and present interpretation of the New Hampshire Constitution. (2008)
8. **NHSBA** opposes transfer of the responsibility to provide and fund a free and appropriate education (FAPE) for special education students from resident districts attending districts when a non-resident student is placed in a district by a parent. (2008)

Health Care Funding:

9. **NHSBA** supports a statewide effort to work with legislative bodies to address the spiraling costs associated with health care benefits borne by the school districts in New Hampshire. (2005)

Local Control and School District Autonomy:

10. **NHSBA** supports legislation that allows local governing bodies to indicate their recommendation on any warrant article, in addition to those recommendation requirements already specified in the municipal budget law, RSA 32. (2006)
11. **NHSBA** opposes legislation that would directly or indirectly divert state costs or responsibilities to local school districts. (2006)
12. The **NHSBA** supports the NH Legislature amending the “SB 2” process to allow a legislative body to specifically vote by a supermajority of 60% on a Warrant Article to create and fund a program that would then continue beyond the single year and it’s costs would be included as part of the following years default budget. (2008)

School Attendance:

13. **NHSBA** supports legislation raising the age of compulsory attendance in school for children who have not graduated from age 16 to age 18. Such change in statute shall also require the establishment, and funding, per NH Constitution, Part Two, Article 28-a, of programs to support students at risk, including dropout prevention programs and other alternative options that allow students to continue a program of study to complete their high school education. (2006)

State Board of Education:

14. **NHSBA** supports the concept and duties of the State Board of Education as established in RSA 21-N:10-11. In its capacity to review all programs, advise on goals and hear appeals, the State Board of Education should have the authority to appoint the Commissioner of Education as well as confirm the Deputy Commissioner and division directors nominated by the Commissioner of Education. (2005)
15. **NHSBA** opposes the changes in student assessment at the state level which are resulting in fewer content and skill areas tested, especially the loss of the writing assessment. Basing assessment decisions on availability of funding rather than on what is best for the students of New Hampshire is not something that **NHSBA** can support. (2005)
16. **NHSBA** supports the inclusion of only students who have enrolled in a district continuously for the previous school year in the numbers calculated for AYP as defined by NCLB. (2005)

Federal Legislation:

No Child Left Behind

17. The New Hampshire School Boards Association (**NHSBA**) supports and applauds the stated objectives of the federal No Child Left Behind Act. While welcoming the interest of the federal government in joining school boards in the effort to improve public education, **NHSBA** objects to several key provisions in NCLB that are unworkable, too costly and inconsistent with effective efforts to raise student achievement. Specifically, **NHSBA** supports amendments to NCLB and revisions to Department of Education regulations that will provide full funding as well as flexibility in order to address the barriers facing local educational agencies (LEAs) in the successful and effective implementation of NCLB, including:
- provide federal funding consistent with the levels authorized for education programs and the expanded information systems that are needed;

- permit alternative methodology for determining AYP targets and progress for students with disabilities, and for students with limited English proficiency;
- authorize alternative assessments for students with limited English proficiency and for students with disabilities beyond that of “significant cognitive disability”, and provide flexibility to states as to the number of students whose alternative assessments may be counted for AYP purposes;
- provide states more flexibility in measuring AYP in smaller districts with small subgroups. In calculating AYP, students identified in more than one group may be represented in the count for each group as an equal fraction totaling one student, ensuring that a small number of students are not over-represented.
- provide states flexibility to adopt gain score or value-added measures for determining AYP;
- provide for waivers and extensions for LEAs in meeting the qualification requirements for teachers and paraprofessionals;
- when public funds under Title II, Part A are provided by LEAs to private school children, teachers, and other educational personnel for educational services on an equitable basis and in a timely manner, those private schools should be held to the same accountability standards that apply to public schools;
- ensure that the current law and subsequent revisions recognize that education is primarily a state and local responsibility.

If the Congress and the Department of Education do not make the proposed revisions to NCLB and its regulations, then Congress should suspend implementation of the relevant aspects of the law until the changes are made. (2003-2006)