

**New Hampshire School Boards Association  
Legislative Bulletin  
May 9, 2008**

---



***A Weekly Update of Important Activity in the Legislature***

***Labor Relations – Evergreen Clause: HB 1436***

The Senate failed to kill this bill that requires the continuation of any pay plan until a new successor agreement is implemented (see [NHSBA Testimony](#)). The roll call vote to defeat the bill failed 10-14. Senator Hassan then introduced an amendment providing that while the terms of “any pay plan” are to be extended, cost of living increases are specifically not included. This proposal passed on a 13-11 roll call vote. The bill now goes back to the House for concurrence.

**ACTION ITEM – OPPOSE HB 1436**

Please contact [your local representatives](#), urging them not to support any proposal that mandates pay raises without local voter approval. HB 1436 will lead to more impasse, with no incentive for labor to bargain a new contract when automatic pay increases are guaranteed, even when contracts are rejected by vote of the legislative body at a district meeting. Mandating pay increases undermines the power and authority of our locally based system of governance and should not be forced upon taxpayers.

***Retirement – Omnibus Bill: HB 1645***

The Senate adopted a proposal that addresses reform significantly less than the House position and adds additional benefits. The Senate version still contains a \$250 million transfer from the Special Account, but only implements a temporary 4 year moratorium on medical subsidy increases, which resume with 4% increases thereafter. It also provides a \$500 payment for retirees receiving a 1-person medical subsidy, and a \$1,000 payment for those with a 2-person benefit. A 2.5% COLA (included in the base) will be paid on pensions “up to” the first \$40,000. In addition, it also provides a temporary supplemental payment of \$1,000 for those retirees receiving a pension of \$20,000 or less. Funding for these increases is to come from the Special Account.

The Senate version increases liabilities associated with the retirement fund and removes language aimed at long-term cost savings on benefits, yet does not transfer any more money into the pension fund to cover these projected costs. The additional liability of extending the deadline another year for Group I retirees to receive the medical subsidy adds yet more costs to be placed on local taxpayers. We continue to request enough money be transferred to cover the obligation and include “hold harmless” language in the bill, ensuring that if projected estimates are less than actual costs, local taxpayers are protected from funding a new mandate. Finally, the Senate version deletes the changes to governance (Board of Trustees) adopted by the House. Instead, it simply adds audit and investment committees, empowered to invest system funds according to policies set by the Board. The committees would include non-board members with expertise, but who serve at the pleasure of the Board. The bill was supported by a unanimous vote and will not be subject to further review by the Senate Finance Committee. Instead, it will go to the House for concurrence or possible conference committee.

**ACTION ITEM – SUPPORT THE HOUSE VERSION OF HB 1645**

Please contact [your local representatives](#) and explain that passage of a balanced version of HB 1645 is critical. In addition to addressing the needs of our public employees and retirees, consideration of local property taxpayer burdens is also necessary. The Special Account was always intended to be the source of funding for the medical subsidy and the current bill needs an amendment to hold taxpayers harmless for any increase in costs due to this benefit. In addition, the bill should include a change in governance that acknowledges the complexity of a \$6 billion system: support the House recommendation of two new trustee positions with financial and investment expertise and the elimination of duplicate representation for Group I and II members, reducing their number from 8 to 4.

***Education Funding – Adequacy: SB 539***

The House and Senate have agreed on language for a new formula on the cost of an Adequate Education. The Senate concurred with the House action of adopting the Finance Committee proposal that sets the cost of adequacy and fiscal capacity aid at \$940 million. However, the proposal implements a transition period stipulating that for the next two years, no district shall receive less than its current grant, nor more than a 15% increase. This caveat applies to donor towns that pay excess property taxes: these towns would be held harmless and not pay any excess tax. The cost of adequacy continues to be based on \$3,450 plus differentiated aid based on free/reduced price meal eligible pupils, and students receiving English language learning or special education services. Fiscal Capacity Disparity aid is based on property and income wealth, and an inflation factor for future calculations is based on the consumer price index. Charter schools also receive \$2,000/ft within the fiscal capacity provision. (A listing of the [ESTIMATED impact](#) on each community is available on the NHSBA web site. These estimates WILL CHANGE when the calculations are implemented using

updated data.) The bill was adopted in the House on a 184-141 roll call vote, and the Senate concurred on an 18-6 roll call vote.

### **Education Funding – Kindergarten: SB 530**

The House adopted the Finance Committee proposal allowing districts to contract with private programs before having to create their own public kindergarten program. In addition to the state paying for up to 3 years of temporary leased portable classrooms, and covering 75% of the actual cost of construction or 100% of “basic, code compliant” construction, districts may contract with a private entity to provide a kindergarten program for a period not to exceed 4 years. The bill now goes back to the Senate for concurrence or possible conference committee.

### **Education Funding – Constitutional Amendment: CACR 34**

Amidst extensive caucusing and political negotiations, the House leadership offered a new proposal that received bipartisan support and was adopted by the Finance Committee 20-5. The proposed language calls for the legislature to “raise the funds that total the statewide cost [of an adequate education] and to distribute these funds in a manner that alleviates local disparities in educational opportunity and fiscal capacity provided that every school district shall receive a meaningful share of these funds.” The language still only refers to ‘adequacy’ and does not include any of the amounts in SB 539 regarding fiscal capacity or transition aids. It will allow any legislature to redefine adequacy and set an amount to distribute in any way it chooses to define ‘fiscal capacity’. The interpretation of a “meaningful share of” state funds will put the bulk of the state’s average wealth districts at risk of losing current levels of state support. A full House vote on the recommendation is expected next Wednesday.

### **ACTION ITEM – OPPOSE CACR 34**

Please contact [your local representatives](#). Share with them that NHSBA adopted a resolution in January opposing such an amendment. The Resolution is as follows: “The NHSBA opposes any constitutional amendment that vacates the spirit and intent of the Claremont and Londonderry lawsuits and attempts in anyway to limit or redirect funding in a manner that is contrary to the NH Supreme Court’s ruling and present interpretation of the NH Constitution.” Voice your concerns over potential state aid losses that will impact school budgets. While NH may have a few towns that are outliers on wealth factors, the bulk of our communities are of average wealth and currently rely on state aid. The proposed amendment would put that level of state support at risk. Historically, Foundation Aid was a “targeted” aid program, requiring over \$200 million in funding, yet usually \$30-\$50 million was appropriated, and at its best only \$60+ million, leaving “average” districts with little or no financial support.

---

### **Labor Relations – Teacher Nonrenewal: SB 374 and HB 1330**

HB 1330 had a public hearing before the [Senate Education Committee](#), but no action was taken. The [House Education Committee](#) adopted, on a 9-7 vote, an amended version of SB 374, recommending it have the same language as HB 1330. Both these bills change the nonrenewal process by removing current language making State Board review of nonrenewals the exclusive remedy for an appeal and allowing non-renewal appeals to be arbitrated under the terms of a collective bargaining agreement or reviewed by the State Board. The standard for a State Board review remains unchanged at “clearly erroneous”. HB 1330 includes the removal of language that stipulates there is no REQUIREMENT for a district to provide remediation, and this provision (deletion of language making it clear that remediation assistance is not required) was added to SB 374, which is now scheduled for a House vote next Wednesday. NHSBA continues to voice opposition to these bills that are strongly supported by the labor unions and the Dept. of Education.

### **ACTION ITEM – OPPOSE SB 374 AND HB 1330**

Please contact Senate committee members and [your legislators](#) and alert them to these bills. Arbitration provisions in most contracts were never intended to include nonrenewal. The current process has been working, with very few teachers actually non-renewed under the provisions in 189:14-a. Specific language was adopted in 2003 requiring written notice of unsatisfactory performance, opportunity to correct the deficiency, and proof that the teacher failed to correct the unsatisfactory performance. This language has been working and nobody has testified to any problems or controversy. The proposed change is unnecessary. Deletion of language making it clear that districts are not required to provide remediation will leave it vague and unclear, resulting in litigation of this issue for performance based nonrenewals.

**Please review the ACTION ITEMS above and contact your local representatives, senators, and committee members TODAY to voice your concerns regarding legislative proposals. Remember that you, through NHSBA, are the only locally elected officials that “speak” exclusively for public education in NH.**

For the complete text of any bill, go to <http://www.gencourt.state.nh.us/ns/billstatus/quickbill.html> and enter the bill number, e.g. HB1469, SB362 or CACR21 (no spaces!), and make sure the Session Year is 2008. For more information call Dean Michener, NHSBA Director of Governmental Affairs at 603-228-2061, or email: [deanm@nhsba.org](mailto:deanm@nhsba.org).