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February 5, 2008

To: Rep. Edgar Mears, Chair  
House Labor, Industrial and Rehabilitative Services Committee

Members of the House Labor, Industrial and Rehabilitative  
Services Committee

Nancy LeVinus, Committee Researcher

From: Dean Michener, NH School Boards Association

Subject: Opposition to HB 1364, HB 1436, and HB 1469

As a result of schedule conflicts, I am unable to attend the February 5 public hearings on HBs 1364, 1436 and 1469. I would like to offer these written comments as NHSBA's opposition to the three bills.

HB 1469 is a re-introduction of SB 88 from last year's session. It seeks to make substantial changes to the collective bargaining process when there is no compelling need to change the law.

The number of personnel hired by school districts should clearly remain within managerial policy. School boards adopt policies regarding class size, within the confines of state laws and rules, and our principals and superintendents hire according to those locally adopted policies. Changing enrollments and program needs are the determinants of the number of staff we hire. Eliminating the managerial prerogative to determine staffing would be an enormous problem for school districts. It could prevent reductions-in-force when necessitated by declining enrollments, budget reductions or loss of state/federal revenue; it could also prevent the expansion of the labor force when warranted by increasing enrollments, different program needs or other factors. Simply put, our schools need flexibility to adjust the sizes of our work forces to provide the necessary services required by changing circumstances.

The overall safety of our students, staff and schools in general is a major concern to all school boards and their administrators. Local policies and emergency response plans are developed and coordinated with local fire, police and town officials to ensure a safe environment, and must be reviewed annually and updated as necessary: this is required by law and not something that would be a subject of negotiations.

School boards already oversee contracts for numerous bargaining units: teachers, support staff, custodians, bus drivers, etc. Allowing small new units of less than ten having a "common area of interest" will only create new financial burdens as negotiation requirements expand due to new small units.

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Another major troubling concern is the proposed new provision (also contained in HB 1436) requiring a continuation clause in all contracts, unilaterally implementing pay raises and bypassing local voter approval, increasing school district appropriations without a vote of the legislative body. NH law currently requires maintenance of the status quo between the expiration of a contract and the commencement of a successor agreement, and the NH Supreme Court has ruled that this does not include step raises. Statutorily requiring automatic renewal of collective bargaining agreements represents an unconstitutional unfunded mandate; it would impose financial obligations on the school district beyond the negotiated duration of the contract. When multi-year contracts are noticed to the voters, estimates are provided of the cost for each year of the proposed agreement, and voters are noticed of a specific end-point. Extending pay provisions beyond the expiration date of the contract represents an unfunded mandate being placed on taxpayers.

HB 1364 also proposes a drastic and unworkable change to the bargaining process and, similar to HBs 1436 and 1469, would mandate school district expenditures without legislative body approval. The bill proposes that an outside 3<sup>rd</sup> party make financial decisions that are forced upon the school district, bypassing local taxpayer approval. RSA 273A provides a roadmap for the public bargaining process; it provides for dispute resolution and requires parties to negotiate in good faith. Mediation and factfinding are provided for, and any agreement, including one resulting from mediation, is presented to the voters. If the parties fail to agree to a fact-finder's recommendations, those cost-items are also presented to the voters.

Collective bargaining, and dispute resolution, are best resolved at the local level, and represent one of the primary responsibilities of locally elected school board officials. The simple fact is that most bargaining is settled in a timely fashion, and most all disputes are settled through mediation. Based on a survey of our members, over 93% of our school districts commenced the school year with a valid and current agreement. Most impasses are resolved by mediation and many, if not most, protracted impasses are a result of legislative body vote at a school district meeting where the cost items of a proposed agreement are not approved. Such a vote requires both parties to return to the table. The proposal in HB 1364 is to circumvent this process and have an outside party dictate and impose their terms on the taxpayers, bypassing the approval of local voters. The issue here is one of implementing public policy that allows an outside party to determine costs that local taxpayers will be obligated to fund.

Finally, the timeline proposed in HB 1364 would require negotiations to begin in the spring and stipulate impasse/mediation by late summer, with the new impasse panels convened in the fall. The proposal represents an unworkable schedule for school districts, which do not even start bargaining until the fall, after teachers return from vacation and districts are able to determine school year enrollment changes and staff turnover. The impossible schedule proposed in this bill would practically assure that the parties are at impasse in almost all cases.

NHSBA thanks you for the opportunity to share our concerns and strongly urges the committee to vote Inexpedient to Legislate on these three bills.