

# *New Hampshire School Boards Association*



**N H S B A**  
NEW HAMPSHIRE  
SCHOOL BOARDS  
ASSOCIATION  
Incorporated 1946

## *2004 Legislative Summary*

# **2004 LEGISLATIVE SUMMARY**

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# NEW HAMPSHIRE SCHOOL BOARDS ASSOCIATION

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June 2004

On behalf of the New Hampshire School Boards Association, we are pleased to provide this 2004 LEGISLATIVE SUMMARY. This document is meant to serve as a comprehensive summary of actions of the 2004 New Hampshire Legislature related to public education. We offer this document as a working reference tool for New Hampshire School Board members, school administrators, and legislators in hopes that it will assist all of us in staying current in the ever-changing field of New Hampshire school law.

The dominant issues of the 2004 legislative session were clearly those dealing with education funding, school choice and vouchers, and SB 2 and governance issues, including default budgets. While education funding for 2005 has finally been determined with approval of the conference committee report, the issue will surely be revisited next session when new bills will likely be submitted to alter the 2006 and 2007 funding levels.

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 aggressive and timely manner, especially on the variety of issues discussed in this document.

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 during extremely difficult economic times. 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.

This Summary is intended to highlight the major education-related bills of the 2004 legislative session. In many instances, the complexity of a new education law will demand an in-depth review; in other cases, the intent and implication of a particular piece of legislation may be quite clear. This document highlights the school laws with which you will most likely have contact. Language offered here

is somewhat generic in nature and doesn't cover specific circumstances. Prior to taking any action related to new laws, the complete text should be reviewed with local district council.

You are encouraged to 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 Comstock, Esq.  
Executive Director

Dean Michener  
Associate Director

**NEW HAMPSHIRE  
SCHOOL BOARDS  
ASSOCIATION**

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2004 LEGISLATIVE SESSION

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**SUMMARY OF**  
**MAJOR EDUCATION-RELATED LEGISLATION**  
**PASSED DURING THE**  
**2004 LEGISLATIVE SESSION**

***Adequacy and State Aid to Education***

The 2004 legislative session will long be remembered as another year that lawmakers could not reach closure on a long-term, or short-term, solution to the Claremont court ruling. Clearly, this issue dominated the entire session as legislators grappled with attempts to redistribute aid while lowering the overall funding level for adequacy. Lawmakers were unable to determine 2004-2005 funding until a vote on the conference committee report late in the session, once again changing revenue amounts for school districts after district meetings and budget adoption.

The major bills affecting education aid that ultimately passed include:

**SB 302** Chapter 200, making technical corrections to the education funding formula. This bill changed once again the funding formula used to determine adequate education grants, using a higher statewide education tax rate that resulted in over 50 donor towns and makes the following provisions:

- I. Establishes the education property tax rate at \$3.33 for the 2005 fiscal year.
- II. For the 2006 fiscal year and every fiscal year thereafter, requires the commissioner of the department of revenue administration to set the education property tax rate at a level sufficient to generate revenue equal to the revenue generated in the previous fiscal year.
- III. Revises the formula for determining adequate education costs and adequate education grants.
- IV. Provides targeted aid grants for low-income pupils in each municipality.
- V. Provides targeted aid grants for certain property poor municipalities based on the relationship between the statewide average equalized valuation per pupil and the municipality's equalized valuation per pupil.
- VI. Effective June 30, 2004, repeals certain sections of HB 608-FN-LOCAL

of the 2003 legislative session, relative to the statewide enhanced education tax.

VII. Provides that the education funding formula for the 2004 fiscal year shall take effect if any provision of sections 1-15 of SB 302-FN-LOCAL of the 2004 legislative session is found by the New Hampshire Supreme Court to be unconstitutional and invalid.

The new law returns to the original adequacy formula that is based on a per pupil cost of \$3,390 and a statewide education property tax rate of \$3.33. The formula distributes \$451.2 million in state grants to towns, with approximately 50 donor communities paying \$22.4 million, leaving the state a net obligation of \$428.8 million, the original funding level of grants when deliberations first began last fall. The formula has been changed to omit weighted pupils: there is no longer a 20% weight for high school pupils, no more consideration of special education pupils or ESL pupils, and no transportation costs. Future increases in the per pupil adequacy cost will be based on the northeast consumer price index. The cuts in weighted pupil counts effectively keep the state obligation down: the total cost of adequacy is \$802,360,116 or approximately \$100 million less than what otherwise would have been calculated. It is interesting to note that when the original formula was first adopted in 1999, the total cost of adequacy was \$825 million; somehow adequacy now costs less six years later! SB 302 also contains a provision allowing school districts to accept and expend unanticipated funds from the education trust fund. For fiscal year 2005, school districts may call a special meeting to appropriate these unanticipated funds.

- HB 1281** Chapter 244, requiring the department of education to notify a municipality of the estimated education grant amount to which it is entitled for the following school year on November 15.
- SB 324** Chapter 195, relative to the calculation of the statewide property tax, and setting the amount to be raised by this tax beginning in 2005. "Statewide Enhanced Education Tax. Beginning July 1, 2005, and every fiscal year thereafter, the uniform statewide enhanced education tax rate shall be set at a rate which shall raise \$363,677,547 based on [~~the most recent available state equalized valuation, and such rate shall be imposed on all~~] persons and property taxable pursuant to [~~RSA 72 and RSA 73,~~] RSA 76:8, except property subject to tax under RSA 82 and RSA 83-F. The commissioner of the department of revenue administration shall set the rate which shall be effective for the fiscal year in which the calculation is made."
- HB 1370** Chapter 88, establishing a committee to study property tax relief.
- SB 352** Chapter 124, providing that funds received from trusts, bequests, gifts or insurance policies shall not be eligible for computing building aid grants.

**SB 351** Chapter 151, clarifying the financial responsibilities for students concurrently enrolled in their regular high school and a regional vocational education center.

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***School District Governance***

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The 2004 legislative session considered many bills that would have an impact on how local districts, SAUs and towns operate. Major bills of interest to educators include:

**HB 1155** Chapter 75, clarifying the law regarding alternative budget adoption procedures in school administrative units. This bill clarifies alternative procedures allowing legislative bodies to vote on SAU budgets. Both the vote to adopt the voting method, as well as once adopted the vote to adopt a budget, require a simple majority of all votes cast.

**HB 1281** Chapter 244, which permits the adoption of an alternative cost apportionment method in a cooperative school district and also establishes a legislative oversight committee for the school administrative unit system. The new law permits cooperative school districts to “share” their adequacy aid by allowing the district to fix a specific percentage of the adequate education grant amount to be applied to the operating costs of the district. The new law requires each pre-existing district (town within the coop) to approve the change.

**HB 493** Chapter 113, which now defines an appropriation contained in a failed separate warrant article, as a purpose for which no appropriation is made, and no amount shall be transferred to or expended for such purpose.

**HB 285** Chapter 68, which clarifies that for municipal budget committee districts with official ballot referendum, the recommendation of the budget committee made for the first session of the meeting shall be used for determining the 10 percent limitation. The bill also allows governing body recommendations on special warrant articles to be revised if the article was amended at the first session of an official ballot district meeting.

**SB 407** Chapter 219, which provides for certain changes to the budget adoption procedure in political subdivisions which have adopted official ballot voting. The bill specifically attempts to clarify default budgets:

“Default budget as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget. For the purposes of this paragraph, one-time expenditures shall be

appropriations not likely to recur in the succeeding budget, as determined by the governing body...”

Default budgets must be disclosed at the first budget hearing and the governing body must complete a default budget form created by the department of revenue administration to demonstrate how the default budget amount was calculated. In addition, there is a new provision allowing voters to delegate the determination of the default budget to the budget committee instead of the governing body.

**SB 391** Chapter 254, clarifying the authority to approve municipal bonds by either a 2/3 or 3/5 vote in towns with a municipal charter.

**SB 508** Chapter 232, repealing the requirement to seek legislative body approval to continue grant-funded programs.

**SB 534** Chapter 257, a bill primarily re-organizing certain branches of state government, but also containing a provision that changes the appointment authority for department of education officials. Specifically, the new law stipulates that:

I. The governor, after consultation with the board of education, shall appoint the commissioner and the deputy commissioner of the department of education with the consent of council. Each shall serve for a term of 4 years. The commissioner and the deputy commissioner may succeed himself or herself, if reappointed. The commissioner and deputy commissioner shall be qualified to hold their positions by reason of education and experience.

II. The commissioner, after consultation with the board of education, shall nominate each division director for appointment by the governor and council. The division directors shall serve for a term of 4 years. They may succeed themselves, if reappointed. The directors shall be qualified to hold their respective positions by reason of education and experience.

**SB 357** Chapter 153, which authorizes municipalities to adopt quarterly billing of taxes.

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### *Policy Implications and Operations*

The 2004 legislative session considered several bills that would specifically impact local district policy and meeting operations under the right to know law. These bills include:

**HB 1162** Chapter 205, relative to school district policies on bullying. This bill requires school districts to notify the parents or legal guardians of the

district's policies on bullying and requires that a report of any bullying incidents be made by telephone and by a written report sent by mail to the parent or legal guardian of the pupils involved. The new law does allow a waiver of the notification requirement if the superintendent determines such waiver is in the best interest of the pupil.

**HB 1352** Chapter 33, requiring school districts to recommend daily physical activity to pupils. This bill requires the local school board and the department of education to develop and adopt a policy recommending that each pupil participate in developmentally appropriate daily physical activity and exercise as way of minimizing certain childhood health problems.

**HB 622** Chapter 42, which adds an exemption from the right-to-know law to the section based on discussion of matters that would "affect adversely the reputation of any person ...". The new language states, "This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant."

**HB 1295** Chapter 246, relative to certain court records and exempting certain documents from the right-to-know law. The new language:

I. Declares that certain court records involving an action against a governmental unit shall be available as a public record under RSA 91-A.

II. Exempts notes or other materials made for personal use that do not have an official purpose from the right-to-know law.

III. Exempts preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to certain entities from the right-to-know law.

**SB 338** Chapter 216, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions. Specifically, retirement contributions allowed by RSA 100-A:16, I(c) will no longer be allowed after December 30, 2004.

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### *Charter Schools*

There was one bill that passed the 2004 legislative session relative to charter schools. This bill specifically addressed the standard of review for those charter school applications directly submitted to the state board of education, as well as the required elements of applications for all charter schools.

**SB 421** Chapter 222 establishes criteria for the evaluation of charter school applications submitted directly to the state board of education and revises the general application requirements for charter schools. Curriculum that *meets or exceeds state standards in the subject areas offered* is now included, as well as *projected budgets*. A new section was also included requiring *an outline of the proposed accountability plan which clarifies expectations for evaluating the school's program and which contains an acknowledgement that a full accountability plan shall be developed and ready to implement prior to the date of opening*.

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***Other***

Obviously, many other bills passed during the 2004 legislative session, with several addressing operations in specific districts. Following are several bills of general interest, as well as some of interest only to specific districts.

**SB 333** Chapter 147 established a unique pupil identification system. The new law calls for the department of education, using federal funds only, to implement and maintain a unique pupil identification system on a statewide basis. The unique pupil identifier shall remain in the pupil's file throughout his or her elementary and secondary academic career in New Hampshire.

**HB 264** Chapter 178 establishes new state senate districts in accordance with the latest federal decennial census.

**HB 1355** Chapter 97 changes the name of the sweepstakes commission to the lottery commission.

**SB 391** Chapter 254 contains provisions specific to the Claremont and Keene school districts. It repeals the law that allows the Claremont school district to conduct elections in November, provides for a March 2005 school board election, and extends the terms of office of school board officers. It also repeals the law that allows the union school district of Keene to conduct elections in November, provides for a school board election at a regular annual meeting, and extends the terms of office of school board officers.

**SB 336** Chapter 27 permits the Bedford school district to issue bonds or notes in an amount up to \$10,600,000, which represents the capital costs paid by Bedford to the Manchester school district for the education of Bedford students for the 2003-2006 school years.

**HB 1226** Chapter 131 authorizes the Governor Wentworth regional school district to establish a debt retirement fund for the purpose of satisfying any debt

incurred as a result of construction of school buildings, including the purchase of sites and any additions or renovations of school buildings.

- SB 418** Chapter 160 enables the Hanover school district to adopt and implement a method of voting on warrant articles similar to the procedures used by the Dresden school district, and would allow passage of bond issues by a 3/5 majority vote. The bill also allows the voters of the Hanover school district to hold school district elections to coincide with voting in the Dresden school district.
- HB 133** Chapter 39 exempts the Fall Mountain regional cooperative school district from the 5-year waiting period required for amending those articles of agreement in a cooperative school district which refer to apportionment of operating expenses and apportionment of capital expenses, and permits such amendments to occur within a specific time period.
- SB 324** Chapter 195 defines the Penacook section of Concord to be a municipality for purposes of calculation of the commissioner's warrant for the statewide enhanced education tax, i.e. the statewide education property tax.

*Education Related  
Interim Study Bills  
Authorized by the  
2004 Legislative Session*

**Note to Reader:**

*These Bills will be studied further  
over the summer and fall months  
of 2004 by the Committee of assignment.  
Most work must be completed by November 1, 2004*

Interim Study Bills have been referred back to committee for further study. They generally require a report to be filed in November 2004.

The House Education Committee has four bills retained in interim study:

**HB 492**, establishing a statement of parental rights relative to school disciplinary measures, the content of educational materials and surveys, and the use of psychological testing and psychiatric drugs in schools.

**HB 754**, establishing an education certificate program in the department of education, which would allow the parent of a child to receive an educational certificate to be used for educational programs at a nonpublic school or home education program. This is the same choice language that was considered early in the session, ultimately losing by one vote in the House.

**HB 1232**, allowing a disabled person to enroll in a class free of charge at any institution within the university system of New Hampshire, provided a seat is available in the class.

**HB 1345**, establishing an education scholarship fund in the department of resources and economic development to assist students who wish to attend a public or nonpublic school outside of his or her resident school district and to pay for the costs associated with individual education plans for educationally disabled children.

The House Finance Committee has four education related bills retained in interim study:

**HB 612**, which changes the formula used to determine liability for catastrophic aid expenses.

**HB 645**, establishing a program to be administered by the postsecondary education commission for educational scholarship grants to be made annually to qualifying private education institutions. Grants are to be used for state residents and are limited to the lesser of education funds provided to students by each institution or the amount of property taxes paid by the institution.

**HB 785**, requiring the commissioner of the department of education to establish a public school choice initiative.

**SB 411**, relative to liability for special education transportation costs and revising the method of calculating transportation costs for educationally disabled children.

The House Ways and Means Committee has an education related bill in interim study:

**CACR 22**, relating to taxation, and providing that a  $\frac{2}{3}$  vote be required to pass a new tax or to increase a tax after it is levied, and that the maximum increase in any budget bill shall be limited by the rates of inflation and population growth.

*Education Related*  
*Legislative Studies*  
*Authorized by the*  
*2004 Legislative Session*

In addition to interim study bills, there are also legislative studies of various subject areas. One on-going study of interest to school boards is the Right-to-Know Study Commission. This commission is looking into issues associated with the right-to-know law, including the issue of electronic communications. The 2003 legislation that created this commission is also the same legislation that added to the list of what does not constitute a meeting, i.e. a caucus consisting of elected members of a public body of the same political party who were elected on a partisan basis at a state general election or elected on a partisan basis by a town or city which has adopted a partisan ballot system pursuant to RSA 669:12 or RSA 44:2.

Other legislative studies created during the 2004 legislative session include:

- HB 727** Chapter 204, establishing a committee to study the issue of school choice in New Hampshire.
- HB 551** Chapter 237, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.
- HB 1298** Chapter 134, establishing a committee to study local dispute resolution for public employee labor relations.
- HB 1370** Chapter 88, establishing a committee to study property tax relief.

***Education Related Bills***  
***Defeated During the***  
***2004 Legislative Session***

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

- HB 1171** This bill would have prevented the aggregation of several bond or note proposals into one vote.
- HB 1175** This bill would have prevented re-voting on the adoption of an official ballot method of voting for 3 years after an initial proposal for adoption of the official ballot method fails.
- HB 1179** This bill would have required a portion of the fees collected for the driver training fund to be allocated directly to students who had successfully completed private driver education courses as reimbursement, or to students who had successfully completed secondary school driver education as a credit toward, or reimbursement of, fees charged.
- HB 1181** This bill would have limited amendments of proposed budgets or proposed bonds to no more than 10 percent from the proposed amount.
- HB 1185** This bill would have given voters in official ballot districts the option of voting for the original article, the amended article, both articles, or neither article if the article was amended at deliberative session.
- HB 1188** This bill would have required the Department of Education to develop and implement indoor air quality and indoor environmental standards for public schools and required public schools to develop written building maintenance plans.
- HB 1214** This bill would have made filing an erroneous default budget a misdemeanor.
- HB 1255** This bill would have changed to 1/5 the number of voters necessary to petition for a special meeting
- HB 1258** This bill would have established supporting public schools number plates with fees to be deposited in the education trust fund.

- HB 1272** This bill would have allowed any town to have an official ballot vote on the issuance of specific bonds or notes.
- HB 1339** This bill would have required the balance of tobacco settlement funds received by the state, after deposits to the education trust fund and the tobacco use prevention fund, to be distributed 1/2 to the general fund and 1/2 to the counties.
- HB 1405** This bill would have required municipalities to use official ballot voting procedures for bond issues.
- SB 61** This bill addressed collective bargaining units at charter schools and charter conversion schools, and would have allowed leaves of absence for teachers to accept employment at a charter school. The content of the bill was changed in the House to provide targeted adequacy aid to charter school pupils, but it died in conference committee.
- SB 326** This bill would have required political subdivision employers under the retirement system to contribute 100 percent of the employer share of normal contribution made for the purpose of additional pay for extra or special duty of its employees.
- SB 410** This bill would have provided general fund money to implement the statewide education improvement and assessment program for the 2004 fiscal year. The bill also appropriated \$3,200,000 for the fiscal year ending June 30, 2004 to the department of education, contingent upon certification by the commissioner of the department of education that federal funds were unavailable to implement the testing program.

## **EDUCATION-RELATED BILLS LAID ON THE TABLE**

In addition to those bills specifically voted down (ITL), the Senate laid several bills on the table without taking any action on them, including:

- SB 474** This bill would have exempted real and personal property of private secondary and postsecondary educational institutions from the education property tax.
- HB 499** This bill would have expanded opportunities for teacher certification by requiring the state board of education to adopt rules:
- I. Recognizing certification by the American Board for Certification of Teacher Excellence as equivalent to a credential issued by the department of education.
  - II. Allowing school districts to elect to follow the guidelines of the American Board for certification of Teacher Excellence in the hiring of

school district staff and administrative personnel.

III. Recognizing master teacher certification issued by the American Board for Certification of Teacher Excellence as equivalent to the master teacher credential in this state.

**HB 1376** This bill would have defined "agency fee" for purposes of public employer collective bargaining and required the exclusive representative of the bargaining unit to provide certain information to non-member, agency fee paying employees.