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**HB 108: Relative to Minutes and Decisions in Nonpublic Sessions; an exemption for Items Falling Within the Attorney-Client Privilege or the Attorney Work Product Doctrine Under the Right-to-Know Law; and Remote Access to Public Meetings Under the Right-to-Know Law.**

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**Legal/Practice Impact:**

School boards will now be required to maintain a running list of all non-public sessions in which minutes were either fully sealed or partially sealed. This list is subject to public disclosure.

The list of sealed minutes requires certain information: name of the public body (e.g., school board, policy committee, etc.); date and time of the non-public session; and the provision of RSA 91-A:3 which the board cited to enter non-public session.

Sealed minutes under RSA 91-A:3, II(d) (Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community") shall be made public following the transaction or following whether the school board has decided not to proceed with the transaction.

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**Policy Impact for School Boards:**

NHSBA will update sample policies BEC and BEDG to reflect the new requirements. Additionally, because of the amendments to RSA 91-A:3, NHSBA will update several Right-to-Know law resource and training documents over the next several months according to the training calendar.

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**HB 140: Relative to Private Rights of Action Regarding Pupil Safety.  
This bill creates a private right of action for bullying and cyberbullying.**

**Legal/Practice Impact:**

This bill highlights that it is vital that school administrators and school district staff follow RSA 193-F and local policies regarding bullying prevention, reporting and investigations. The legal standard for liability under this statute is "gross negligence or willful misconduct." While this is a high burden for plaintiffs to establish, statutory and policy requirements must be followed.

**Policy Impact for School Boards:**

None.

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*Bills That Have Become Law*

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**SB 147: Adopting Omnibus Legislation Relative to Student Aid, the  
Central Registry, Transportation of Students, and Special Education Costs.  
*Federal Student Aid Programs***

**Summary:**

Beginning with the 2023-2024 school year, each student who is at least 18 years of age or legally emancipated, who is otherwise eligible to graduate from high school, or the parent of such a student who is under the age of 18 years, as a prerequisite to receiving a high school diploma from a public high school, shall either:

- (a) File a Free Application for Federal Student Aid with the United States Department of Education; or
- (b) File a waiver on a form created by the state board of education with the student's school district indicating that the parent or guardian or, if applicable, the student, understands what the Free Application for Federal Student Aid is and has chosen not to file an application.

**Legal/Practice Impact:**

This bill will require additional work for high school staff, most likely Principals and School counselors. Districts may need to develop forms or appropriate paperwork to verify and attest that the district has made a good faith effort to comply.

**Policy Impact for School Boards:**

Because the new FAFSA/waiver extends to all students eligible for high school graduation by age or academic criteria, NHSBA will amend sample policy IKF relating to high school graduation. Districts should review their own policies and student handbooks to assure that students, families and appropriate personnel are apprised of the new requirement.

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*Bills That Have Become Law*

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**SB 147: Adopting Omnibus Legislation Relative to Student Aid, the Central Registry, Transportation of Students, and Special Education Costs.**

*Transportation of Students*

**Summary:**

A school district may contract with a contract carrier of passengers, as defined by RSA 376:2, VII, that is designed to transport 16 or more passengers including the operator, to transport pupils to or from school activities.

**Legal/Practice Impact:**

In general, districts may only provide student transportation via “school buses” operated by licensed school bus drivers. This bill creates a limited exception allowing the use of vehicles other than school buses for “school activities” (e.g., field trips, sports competitions, extra/co-curricular activities). The exception does NOT apply to ordinary transportation to and from school.

**Policy Impact for School Boards:**

The NHSBA 2021 Fall Policy Update will include revisions to sample policies EEA, EEAEA and EEAG intended to reflect the new exception and to extend certain student protective provisions to contract carriers.

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*Bills That Have Become Law*

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**SB 147: Adopting Omnibus Legislation Relative to Student Aid, the Central Registry, Transportation of Students, and Special Education Costs.**

*Risk Management Association for Special Education*

**Summary:**

No fewer than 5 school districts, by resolution of their governing bodies and upon an affirmative vote of the inhabitants of each of the districts, may form an RSA 5-B special education cost recovery association under the laws of this state to develop and administer a risk management program for the purpose of recovering unanticipated costs of special education.

The members of the association may agree to pool self-insurance reserves, risks, claims, losses, and the expenses of administrative services associated with them. Each district shall be represented by its superintendent, or designee. The members of the association shall elect a governing board from among the members. The RSA 5-B special education cost recovery association governing board shall consist of no fewer than 5 member superintendents, or designees, with diversity in terms of district size and geographic region represented.

**Legal/Practice Impact:**

This provision of SB 147 authorizes school districts to create a special education pooled risk program, similar to other pooled risk programs such as PRIMEX or SchoolCare.

**Policy Impact for School Boards:**

None.

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*Bills That Have Become Law*

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**SB 148: Omnibus Bill Relative to Dual and Concurrent Enrollment Programs; Environmental Education; Emergency Plans for Sports Related Injuries; and Criteria for an Adequate Education.**

***Emergency Plans for Sports Related Injuries***

**Summary:**

The local board of each school district or the governing body of each nonpublic school that includes any of the grades 4 through 12, shall establish an emergency action plan for responding to serious or potentially life-threatening sports related injuries.

The plans shall be implemented by the beginning of the first full school year after September 1, 2022.

**Legal/Practice Impact:**

School districts will have to develop these plans over the course of this school year, to be implemented by the beginning of the 2022 school year. The plan has to be posted and notice to students, athletes and parents should be given. Further, school should identify trained personnel responsible for implementing the safety plan. Districts are encouraged to work with their school nurses, the NHIAA, and other health and medical officials to develop their plans.

**Policy Impact for School Boards:**

The 2021 Fall Policy Update will include a new policy JLCJA mainly to outline the requirements and to assign responsibilities. References to the new policy will be added to current samples EBCA and JLCJ.

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*Bills That Have Become Law*

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**SB 148: Omnibus Bill Relative to Dual and Concurrent Enrollment Programs; Environmental Education; Emergency Plans for Sports Related Injuries; and Criteria for an Adequate Education.**

***Environmental Education/Criteria for an Adequate Education***

**Summary:**

RSA 193-E:2, III is amended to read: Knowledge of the biological, physical, and earth sciences, **including environmental sciences that investigate the complex interaction of physical, chemical, and biological processes that take place on the earth**, to enable them to understand and appreciate the world **and the engineering, socio-economic, and geopolitical challenges around them.**

RSA 193-E:2, VI is amended to read: Sound wellness and environmental practices, **including outdoor recreation**, to enable them to enhance their own well-being, as well as that of others.

RSA 193-E:2, VII is amended to read as follows: Skills for lifelong learning, including interpersonal, **environmental education**, and technological skills, to enable them to learn, work, communicate, and participate effectively in a changing society and environment.

**Legal/Practice Impact:**

School districts may need to add new curricular materials or revise existing curricula to comply with these requirements. In addition, school districts may want to assess current facilities and resources to determine how the outdoor recreation component will be met, ensuring accessibility for all students.

**Policy Impact for School Boards:**

None.

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*Bills That Have Become Law*

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## HB 182: Relative to Approval of Coursework Completed at Other Approved Schools.

### Summary:

This bill requires the principal or other administrator of a high school to grant credit for courses and programs completed at other approved schools. If a course is not accepted for credit, the Principal of the local high school must provide reasonable justification for denying the credit.

### Legal/Practice Impact:

This bill requires school districts - specifically through their principals - to accept credits from other "approved" schools when a new student enrolls or transfers in. Under HB 182, "approved" schools include chartered public schools, public academies, approved public or private tuition program schools, and all schools in Vermont and Maine that are members of an interstate school district with schools in New Hampshire.

The phrase "approved" is not clear, as under NHDOE rules, some schools are approved for attendance only, while other schools have program approval. In the absence of clarifying language, it is presumed "approved" means either.

The requirement to award credit applies to "similar courses and programs", but the statute does not provide any guidance as to determining/measuring "similarity". In order to provide districts a workable framework, NHSBA will include in a revised sample policy IK a standard similar to that found in current policy IMDB relative to awarding credit to 7th and 8th grade students.

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## HB 182: Relative to Approval of Coursework Completed at Other Approved Schools.

### *Continued*

### Legal/Practice Impact:

While schools are now required to accept these credits, local school boards still have the authority to establish their own graduation requirements and their own competency-based standards. So, while the credit may transfer, the competencies may or may not. Such a determination will still have to be made by local administrators.

### Policy Impact for School Boards:

NHSBA will include with the 2021 Fall Policy Update revisions to sample policies IK, ILBAA and IMBC reflecting the requirement to grant credits for courses/programs from other approved schools.

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**HB 243: Relative to the Form of Municipal Budgets, Relative to Municipal Estimates of Expenditures and Revenues, and Relative to the Requirement that Certain Governing Bodies Submit Recommendations to the Budget Committee.**

**Legal/Practice Impact:**

This bill requires: (1) governing bodies to publish statements of estimated expenditures and revenues for the next fiscal year in sub-account detail; and (2) Governing bodies to submit to the budget committee information necessary for the preparation of the annual budget in whatever detail the budget committee requires.

If a town or district uses sub-accounts to budget or track financial data, it shall make that data available for public inspection at the public hearing.

Further, the information provided to the budget committee as required by this chapter shall be in a format acceptable to the budget committee. This requirement may be satisfied by the municipality by providing the assistance of a knowledgeable staff person who will attend the budget committee meetings with access to and the ability to provide the required information. The governing body shall incorporate any sub-accounts created by the budget committee into the software used to budget or track financial data.

**Policy Impact for School Boards:**

None.

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*Bills That Have Become Law*

*www.nhsba.org*

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**HB 278: Relative to the Use of Unused District Facilities by Chartered Public Schools.**

**Summary:**

This bill requires that, effective January 1, 2022, and on July 1 every year thereafter, the superintendent of each school district shall report to the department of education each unused facility owned by the school district for which the school district has no school board approved written plan for future use.

**Legal/Practice Impact:**

The bill is self-explanatory. School boards should ensure that any unused facilities within the district, for which there is a plan for future use, have approved written plans each year, prior to July 1st.

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*Bills That Have Become Law*

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## **HB 320: Relative to Requiring a Civics Competency Assessment as a High School Graduation Requirement.**

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### **Summary:**

This bill requires high school students to attain a grade of 70 percent or better on the civics naturalization examination developed by the United States Citizen and Immigration Service.

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### **Policy Impact for School Boards:**

A revised sample policy IKF, High School Graduation, will be included with the 2021 Fall Policy Update reflecting the new civic requirement.

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*Bills That Have Become Law*

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## **HB 321: Requiring School Districts to Submit an Annual Report Concerning Gifted and Talented Students.**

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### **Summary:**

This bill requires all public schools to submit annual reports to the department of education detailing the policies, programs, and procedures that are in place to identify and accommodate the needs of gifted and talented students. This bill also requires the department of education to develop a standardized format for reporting such information and to conduct an annual reassessment of such format to ensure that the information reported is useful.

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### **Legal/Practice Impact:**

This bill requires school districts to require yet another report to the NHDOE. There is no other requirement in this bill, aside from the reporting requirements. What may cause districts confusion is that the state does not have any standards or definitions for what constitutes “gifted and talented.” Presumably, districts are left to define this on their own and report accordingly.

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### **Policy Impact for School Boards:**

NHSBA will include a revision to sample optional policy IHBB with the 2021 Fall Policy Update. However, as that sample is more of a place holder and leaves to local districts the substance of what programs or offerings are offered to “gifted” students, administrators and school boards should review any local policies or handbook provisions relative to “gifted and talented” programs.

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*Bills That Have Become Law*

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## **HB 388: Relative to Changing a Pupil's School or Assignment Because of a Manifest Educational Hardship.**

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### **Summary:**

This bill amends two provisions of RSA 193:3. First, this bill now allows parents/students to request attendance at private schools and religious schools when petitioning the superintendent under the “best interest” standard or petitioning the school board under the “manifest educational hardship” process.

Second, this bill also amends what is referred to as “SB 8” or “the Croydon Bill.” Under RSA 193:3, VI, if a school district does not offer public school for the child's grade in the resident district, the school board may enter into a contract with a private school for those grade levels. HB 388 now allows these tuition contracts to include religious schools.

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### **Legal/Practice Impact:**

This bill does not change the legal standard or definition of “best interest” or “manifest educational hardship.” Rather, the primary change is that it allows parents/students to request – and districts to grant -assignment to a private or religious school. The best interest standard, and the manifest hardship standards remain unchanged (e.g., the parent/student still has to establish the hardship(s), as defined in the statute).

## **HB 388: Relative to Changing a Pupil's School or Assignment Because of a Manifest Educational Hardship.**

### *Continued*

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### **Legal/Practice Impact:**

Relative to the “school tuition programs” under RSA 193:3, VI, the bill requires the private or religious school to adhere to and follow all aspects of an adequate education found in RSA 193-E and Ed 306 – the Minimum Standards for Public School Approval. If a school board is entertaining an assignment under the new provision, it should seek to verify that that the private or religious school complies with RSA 193-E. The bill also allows the private or religious school to charge parents tuition, if so reassigned.

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### **Policy Impact for School Boards:**

NHSBA will include a revised sample policy JCA with the 2021 Fall Policy Update.

## **HB 566: Relative to the Discussion of Disclosure of the Minutes from a Nonpublic Session Under the Right-to-Know Law.**

### **Summary:**

This bill adds a paragraph to the non-public session statute allowing public bodies/school boards to enter non-public session to discuss "Consideration of whether to disclose minutes of a nonpublic session due to a change in circumstances under paragraph III. However, any vote on whether to disclose minutes shall take place in public session."

### **Legal/Practice Impact:**

School boards may enter non-public session for the purpose of discussing whether or not to unseal non-public minutes.

### **Policy Impact for School Boards:**

NHSBA will update sample policies BEC and BEDG to reflect the new non-public session criteria. (See also discussion relative to HB108 above.) Additionally, because of the amendments to RSA 91-A:3, NHSBA will update several Right-to-Know law resource and training documents over the next several months according to the training calendar.

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*Bills That Have Become Law*

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## **Miscellaneous Bills**

**HB 71** - This bill prohibits the superior court from allowing special school meetings for a collective bargaining agreement that was voted down at the regular meeting.

**HB 401** - Permits the designee of the superintendent of a school administrative unit to receive and review a report of an applicant's criminal history and record information.

**HB 500** - This bill permits a school to partner with a nonprofit to freeze leftover school food that was never served to send home with children who participate in a free or reduced-price meals program.

*Miscellaneous Bills*

[www.nhsba.org](http://www.nhsba.org)

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**HB 2 (Omnibus Bill/Trailer Bill to the State Budget).**  
***“Freedom from Discrimination in Education”***

**Summary:**

Originally presented to the legislature in House Bill 544, the language regarding the right to freedom from discrimination in the public workplace and in education has been added to the state budget. The language of this section leaves much room for interpretation, and the ambiguity of this section of the bill is cause of great concern for most educators, as a violation of this section can lead to a revocation of a staff member’s credential under the NH Educators Code of Conduct.

School districts are already working on dissecting this information as they plan their training, curriculum and courses for the fall of 2021.

Frequently Asked Questions/Guidance from the Department of Education, Commission for Human Rights and Department of Justice, released on July 21, 2021 can be found here:

<https://www.doj.nh.gov/civil-rights/documents/faq-educational-programs.pdf>

**Legal/Practice Impact:**

School boards and administrators are encouraged to review pertinent course curriculum to ensure that this new law is not inadvertently being violated. Further, administrators should have thorough discussions with all school staff relative to course offerings and methods of instruction, as well as the process for allowing parents to object to and opt their students out of segments/classes including objectionable course material.

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**HB 2 (Omnibus Bill/Trailer Bill to the State Budget).**  
***“Freedom from Discrimination in Education”***  
***Continued***

**Policy Impact for School Boards:**

Although the exact application of the new provision is hard to define, NHSBA will include in the 2021 Fall Policy Update revisions to several policies (i.e., GBI, IB, and IGE) to reflect and/or warn of the bill’s provisions.

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**HB 2 (Omnibus Bill/Trailer Bill to the State Budget).**  
***“Freedom from Discrimination in Public Workplaces”***

**Summary:**

HB 2 also contains a provision that “No public employer...shall teach, advocate, instruct or train any employee, student...[or] staff member that any one group of persons is inherently racist, sexist, or oppressive, whether consciously or unconsciously.”

Further, the bill states “No public employee shall be subject to any adverse employment action, warning, or discipline...for refusing to participate in any training...that advocates, trains, instructs or compels participants to express belief that...any one group of persons is inherently racist, sexist, or oppressive, whether consciously or unconsciously.”

**Legal/Practice Impact:**

In general, the inclusion of these provisions extends the same prohibitions from the classroom to all programs (e.g., athletic teams, clubs, etc.) and “speech” of the district.

School districts are still allowed to host or provide professional development opportunities, trainings, workshops and so forth on such topics, provided such trainings promote the idea that “all persons are entitled to be treated with equality, dignity and respect.” Districts will need to assure that all volunteers, coaches and such are apprised of the prohibition.

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*Bills That Have Become Law*

[www.nhsba.org](http://www.nhsba.org)

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**HB 2 (Omnibus Bill/Trailer Bill to the State Budget).**  
***“Freedom from Discrimination in Public Workplaces”***  
***Continued***

**Policy Impact for School Boards:**

No additional policy impact beyond those discussed above relative to the instructional prohibitions now included in RSA 193:40.

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*Bills That Have Become Law*

[www.nhsba.org](http://www.nhsba.org)

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## HB 2 (Omnibus Bill/Trailer Bill to the State Budget). “Education Freedom Accounts”/Vouchers

### Summary:

House Bill 2 also includes provisions for “Education Freedom Accounts”. This language was originally part of SB 130, which allows taxpayer funds to pay for private and homeschooling expenses through “Education Freedom Accounts (EFA’s),” i.e., vouchers, for families who earn less than 300% of the federal poverty guideline (approximately \$78,000 for a family of four in 2020). Families must meet the federal poverty guideline criteria only once (during the initial application.) There is no income cap/poverty criteria for families to reach, in order to remain eligible in subsequent years. When a child is enrolled as an EFA student, the adequacy monies for that student then are shifted from the district, to the Scholarship Organization for parents to access to pay for qualifying expenses.

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*Bills That Have Become Law*

[www.nhsba.org](http://www.nhsba.org)

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## Changes in School Funding FY 2022

- \$45 million will be distributed to district public schools for enrollment declines during the pandemic through that adequate education funding formula. The Department of Education will compare pre-pandemic (school year 2019-2020) Average Daily Membership numbers with the current school year data (2020-2021) and use the larger of the two numbers to determine State adequacy funding for SFY 2022 for all categories of aid, including base aid, free and reduced aid, special education aid, English language learner aid, and 3rd grade reading aid. Please note, this exact enrollment hold harmless provision is temporary and only applies to FY 2022.
- \$17.5 million will be distributed to district public schools in a program called “relief aid.” This aid is based on the percentage of free and reduced-price meal eligible population in your community. The higher the percentage, the higher the aid amount. This aid will continue beyond FY 23 under current law.
- \$1.9 million will retroactively reimburse districts that opened up a full-day kindergarten program in either FY 2020 or FY 2021. Due to a previous technical error in the State law, these districts were not paid a start-up grant. NHSBA’s understanding is that this bill only impacts three or four districts across the state.
- \$30 million in building aid was appropriated for new projects.
- \$33.2 million for Special Education Aid was appropriated which is projected to fully fund the program according to the statutory standards.
- \$9 million appropriated for CTE tuition and transportation.
- \$1 million appropriated to the public-school infrastructure fund.
- \$750k was appropriated to the robotics funds.

*Changes in School Funding*

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## Changes in School Funding FY 2023

- \$17 million may be distributed, if authorized by the Governor based on criteria established in law, to district public schools to address declines in free and reduced price meal eligible students for school year 2021-2022. The Department of Education will compare the pre-pandemic ratio of free and reduced-price meal eligible students to total student population and will modify free and reduced price meal eligible students counts used in the SFY 2023 adequacy payments to ensure counts don't fall below the pre-pandemic ratio.
- \$17.5 million will be distributed to district public schools in a program called "relief aid." This aid is based on the percentage of free and reduced price meal eligible population in your community. The higher the percentage the higher the aid amount. This aid will continue beyond SFY 23 under current law.
- \$33.9 million for Special Education Aid was appropriated which is projected to fully fund the program according to the statutory standard.
- \$9 million appropriated for CTE tuition and transportation.
- \$1 million appropriated to the public school infrastructure fund.
- \$750k was appropriated to the robotics funds.

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*Changes in School Funding**www.nhsba.org**Slide 24*

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## Updated/Revised Rules by the DOE: Remote Instruction

In response to many of the lessons learned during pandemic schooling, the definition of Distance Education was updated to include any instructional mode that is not in-person, including hybrid instructional models. The update to the rule also allows for cooperation between districts to provide delivery of distance education, if warranted, and allows districts to offer multiple instructional models, at any time, not just during times of emergency. In addition, the local school board shall be responsible for the approval, coordination, and supervision of distance education courses offered by their local district.

A copy of the Distance Education rule can be found here:

<https://nhsba.org/wp-content/uploads/2021/07/Remote-Instruction.pdf>

NOTE: The State Board is scheduled to consider further revisions to 306.18 and 306.22 at its August 2021 meeting. Accordingly, NHSBA will not issue any update to sample IHBG until the new proposals are acted upon one way or another. If a board/district has any questions regarding application of the current rule to developing circumstances associated with Covid-19, it should direct those to the Department of Education.

NHSBA will include a revised policy IHBG with the 2021 Fall Policy Update.

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*Updated/Revised Rules by the DOE**www.nhsba.org**Slide 25*

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